

**EX PARTE  
DOMESTIC VIOLENCE  
ORDER OF PROTECTION**

G.S. 50B-2, -3, -3.1

Case No.

Court General Court of Justice  
District Court Division

County  **NORTH CAROLINA**

**PETITIONER/PLAINTIFF**

*First Middle Last*

And/or on behalf of minor family member(s): *(List Name And DOB)*


**PETITIONER/PLAINTIFF IDENTIFIERS**

*Date Of Birth Of Petitioner*

Other Protected Persons/DOB:


**VERSUS**

**RESPONDENT/DEFENDANT**

*First Middle Last*

- Relationship to Petitioner:  spouse  former spouse  
 unmarried, of opposite sex, currently or formerly living together  
 unmarried, have a child in common  
 of opposite sex, currently or formerly in dating relationship  
 current or former household member  
 parent  grandparent  child  grandchild

Respondent's/Defendant's Address

**CAUTION:**

Weapon Involved

**RESPONDENT/DEFENDANT IDENTIFIERS**

<b>Sex</b>	<b>Race</b>	<b>DOB</b>	<b>HT</b>	<b>WT</b>
<b>Eyes</b>	<b>Hair</b>	<b>Social Security Number</b>		
<b>Drivers License No.</b>	<b>State</b>	<b>Expiration Date</b>		

Distinguishing Features

**THE COURT HEREBY FINDS THAT:**

This matter was heard by the undersigned  district court judge.  magistrate. The court has jurisdiction over the subject matter.

Additional findings of this order are set forth on Page 2.

**THE COURT HEREBY ORDERS THAT:**

- The above named Respondent/Defendant shall not commit any further acts of domestic violence or make any threats of domestic violence (G.S. 50B-1).  
 The above named Respondent/Defendant shall have no contact with the Petitioner/Plaintiff. No contact includes any defendant-initiated contact, except through an attorney, direct or indirect, by means such as telephone, personal contact, email, pager, gift-giving or telefacsimile machine. **[05]**

Additional terms of this order are as set forth on Pages 3 and 4.

The terms of this order shall be effective until   ,

**WARNINGS TO THE RESPONDENT/DEFENDANT:**

**This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, and any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).**

**This order will be enforced anywhere in North Carolina.**

**Only the Court can change this order. The plaintiff cannot give you permission to violate this order.**

**See additional warnings on Page 4.**

**ADDITIONAL FINDINGS**

1. As indicated by the check block under Respondent/Defendant's name on Page 1, the parties are or have been in a personal relationship.
2. That on *(date of most recent conduct)* \_\_\_\_\_, the defendant
- a.  attempted to cause  intentionally caused bodily injury to  the plaintiff  the child(ren) living with or in the custody of the plaintiff
  - b. placed in fear of imminent serious bodily injury  the plaintiff  a member of the plaintiff's family  a member of the plaintiff's household
  - c. placed in fear of continued harassment that rises to such a level as to inflict substantial emotional distress  the plaintiff  a member of plaintiff's family  a member of plaintiff's household
  - d. committed an act defined in G.S. 14-  27.21 (1<sup>st</sup> deg. rape)  27.22 (2<sup>nd</sup> deg. rape)  27.26 (1<sup>st</sup> deg. sexual off.)  27.27 (2<sup>nd</sup> deg. sexual off.)  27.33 (sexual battery)  27.31 (sexual activity by substitute parent) against  the plaintiff  a child(ren) living with or in the custody of the plaintiff by  
*(describe defendant's conduct)*

3. The defendant is in possession of, owns or has access to firearms, ammunition, and gun permits described below. *(Describe all firearms, ammunition, gun permits and give identifying number(s) if known, and indicate where defendant keeps firearms)*

4. The defendant
- a.  used  threatened to use a deadly weapon against the  plaintiff  minor child(ren) residing with or in the custody of the plaintiff
  - b. has a pattern of prior conduct involving the  use  threatened use of violence with a firearm against persons
  - c. made threats to seriously injure or kill the  plaintiff  minor child(ren) residing with or in the custody of the plaintiff
  - d. made threats to commit suicide
  - e. inflicted serious injuries upon the  plaintiff  minor child(ren) residing with or in the custody of the plaintiff in that *(state facts)*:

5. The parties are the parents of the following child(ren) under the age of eighteen (18). The child(ren) are presently in the physical custody of the  plaintiff.  defendant. The plaintiff has submitted an "Affidavit As To Status Of Minor Child."

**NOTE TO JUDGE:** *A copy of AOC-CV-609 for each child must be attached to the order.*

Name	Sex	Date Of Birth	Name	Sex	Date Of Birth

6. The minor child(ren) is exposed to a substantial risk of physical or emotional injury or sexual abuse in that:
7. It is in the best interest of and necessary for the safety of the minor child(ren)  that defendant stay away from the minor child(ren)  that the defendant return the minor child(ren) to plaintiff  and that the defendant not remove the minor child(ren) from plaintiff in that:
8. *(Check block only if plaintiff is entitled to physical care of child(ren).)* It is in the best interest of the minor child(ren) that defendant have contact with the minor child(ren) in that:
9. The  defendant  plaintiff is presently in possession of the parties' residence at \_\_\_\_\_

10. The  defendant  plaintiff is presently in possession of the parties' vehicle. (describe vehicle)

11. Other: (specify)

12. (for magistrate only) This matter was heard at a time when the district court was not in session and a district court judge was not available and would not be available for a period of four or more hours.

**CONCLUSIONS**

Based on these facts, the Court makes the following conclusions of law:

- 1. The defendant has committed acts of domestic violence against the plaintiff.
- 2. The defendant has committed acts of domestic violence against the minor child(ren) residing with or in the custody of the plaintiff.
- 3. It clearly appears that there is a danger of acts of domestic violence against the  plaintiff.  minor child(ren). [G.S. 50B-2(c)]
- 4. The minor child(ren) is exposed to a substantial risk of  physical injury.  emotional injury.  sexual abuse. [G.S. 50B-2(c)]
- 5. The Court has jurisdiction under the Uniform Child Custody Jurisdiction And Enforcement Act.
- 6. It is in the best interest of and necessary for the safety of the minor child(ren) that the defendant  stay away from the minor child(ren).  (and) return the minor child(ren) to the physical care of the plaintiff.  (and) not remove the minor child(ren) from the physical care of the plaintiff.
- 7. The defendant's conduct requires that he/she surrender all firearms, ammunition and gun permits. [G.S. 50B-3.1]
- 8. The plaintiff has failed to prove grounds for ex parte relief.

**ORDER**

It is ORDERED that:

- 1. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. **[01]**
- 2. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the minor child(ren) residing with or in the custody of the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. **[01]**
- 3. the defendant shall not threaten a member of the plaintiff's family or household. **[02]**
- 3a. the defendant shall not cruelly treat or abuse an animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.
- 4. the plaintiff is granted possession of, and the defendant is excluded from, the parties' residence described above and all personal property located in the residence except for the defendant's personal clothing, toiletries and tools of trade. **[03]**
- 5. any law enforcement agency with jurisdiction shall evict the defendant from the residence and shall assist the plaintiff in returning to the residence. **[08]**
- 6. the  plaintiff **[08]**  defendant **[08]** is entitled to get personal clothing, toiletries, and tools of trade from the parties' residence. A law enforcement officer shall assist the  plaintiff  defendant in returning to the residence to get these items.
- 6a. the plaintiff is granted the care, custody, and control of any animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.
- 7. the defendant shall stay away from the plaintiff's residence or any place where the plaintiff receives temporary shelter. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. **[04]**
- 8. the defendant shall stay away from the following places:
  - a. the place where the plaintiff works. **[04]**
  - b. any school(s) the child(ren) attend. **[04]**
  - c. the place where the child(ren) receives day care. **[04]**
  - d. the plaintiff's school. **[04]**
  - e. Other: (name other places) **[04]** \_\_\_\_\_

The sheriff must deliver a copy of this order to the principal or the principal's designee at the following school(s): (name schools)

- 9. the plaintiff is granted possession and use of the vehicle described in Block No. 10 of the Findings on Page 3. **[08]**
- 10. The plaintiff is awarded temporary custody of the minor child(ren) (Check any of a, b, or c that apply.)
  - a. and the defendant is ordered to stay away from the minor child(ren).
  - b. and the defendant is ordered to immediately return the minor child(ren) to the care of the plaintiff.
  - c. and the defendant is ordered not to remove the minor child(ren) from the care of the plaintiff.

11. (If No. 10 is checked and you are allowing visitation to defendant) The defendant is allowed the following contact with the minor child(ren):
12. the defendant is prohibited from  possessing or receiving [07]  purchasing a firearm for the effective period of this Order [07]  and the defendant's concealed handgun permit is suspended for the effective period of this Order. [08]  
 The defendant is a law enforcement officer/member of the armed services and  may  may not possess or use a firearm for official use.
13. the defendant surrender to the Sheriff serving this order the firearms, ammunition, and gun permits described in Number 3 of the Findings on Page 2 of this Order and any other firearms and ammunition in the defendant's care, custody, possession, ownership or control. **NOTE TO DEFENDANT: You must surrender these items to the serving officer at the time this Order is served on you. If the weapons cannot be surrendered at that time, you must surrender them to the sheriff within 24 hours at the time and place specified by the sheriff. Failure to surrender the weapons and permits as ordered or possessing, purchasing, or receiving a firearm, ammunition or permits to purchase or carry concealed firearms after being ordered not to possess firearms, ammunition or permits is a crime. See "Notice To Parties: To The Defendant" on Page 4 of this Order for information regarding the penalty for these crimes and instructions on how to request return of surrendered weapons.**
14. the request for Ex Parte Order is denied.
15. Other: (specify) [08]

Date	Signature	<input type="checkbox"/> District Court Judge <input type="checkbox"/> Designated Magistrate
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**NOTE TO PLAINTIFF:** If the judge signs this Order and gives it to you, take it to the Clerk's office immediately. If the magistrate signs this Order and gives it to you, follow the magistrate's directions.

**NOTE TO CLERK:** Give or mail a copy of this Order to the plaintiff and to the appropriate local law enforcement agency. Send copies to sheriff with Notice Of Hearing, Complaint and Summons for service on defendant. Send extra copies to the sheriff if required to deliver copy(ies) to the child(ren)'s school.

## NOTICE TO PARTIES

### TO THE DEFENDANT:

1. **If this Order prohibits you from possessing, receiving or purchasing a firearm and you violate or attempt to violate that provision, you may be charged with a Class H felony pursuant to North Carolina G.S. 14-269.8 and may be imprisoned for up to 39 months.**
2. **If you have been ordered to surrender firearms, ammunition, and gun permits and you fail to surrender them as required by this Order, or if you failed to disclose to the Court all information requested about possession of these items or provide false information about any of these items you may be charged with a Class H felony and may be imprisoned for up to 39 months.** If you surrendered your firearms, ammunition, and permits, you may file a motion for the return of weapons with the clerk of court in the county in which this Order was entered when the protective order is no longer in effect, except if at the time this Order expires criminal charges, in either state or federal court, are pending against you alleged to have been committed against the person who is protected by this order, you may not file for return of the firearms until final disposition of the criminal charges. The form, "Motion For Return Of Weapons Surrendered Under Domestic Violence Protective Order" AOC-CV- 319, is available from the clerk of court's office. The motion must be filed **not later than 90 days after the expiration of the Order that requires you to surrender the firearms or if you have pending criminal charges alleged to have been committed against the person who is protected by the domestic violence protection order, the motion must be filed not later than 90 days after final disposition of the criminal charges.** At the time you file the motion, the clerk will schedule a hearing before the district court for a judge to determine whether to return the weapons to you. The sheriff cannot return your weapons unless the Court orders the sheriff to do so. You must pay the sheriff's storage fee before the sheriff returns your weapons. If you fail to file a motion for return of the weapons within 90 days after the expiration of this Order, or the final disposition of criminal charges pending at the time this Order expired, or if you fail to pay the storage fees **within 30 days after the Court enters an order to return your weapons**, the sheriff may seek an order from the Court to dispose of your weapons.

### TO THE PLAINTIFF:

1. You should keep a copy of this order on you at all times and should make copies to give to your friends and family. If you move to another county or state, you may wish to give a copy to the law enforcement agency where you move, but you are not required to do so.
2. The court or judge is the only one that can make changes to this order. If you wish to change any of the terms of this order, you must come back into court to have the judge modify the order.
3. If the defendant violates any provision of this order, you may call a law enforcement officer or go to a magistrate to charge the defendant with the crime of violating a protective order. You also may go to the Clerk of Court's office in the county where the protective order was issued and ask to fill out form AOC-CV-307, Motion For Order To Show Cause Domestic Violence Protective Order, to have an order issued for the defendant to appear before a district court judge to be held in contempt for violating the order.

Name Of Defendant

File No.

**CERTIFICATION**

I certify this order is a true copy.

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC
		<input type="checkbox"/> Clerk of Superior Court	

**RETURN OF SERVICE**

**NOTE:** To be used when Magistrate issues ex parte protective order and order will be served on defendant separate from the complaint and civil summons. If complaint and summons are served with order, return on summons covers order.

I certify that this Ex Parte Domestic Violence Order of Protection was received and served as follows:

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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- By delivering to the defendant named above a copy of the order.
- By leaving a copy of the order at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left

- Other manner of service on the defendant (specify)
- Defendant WAS NOT served for the following reason.

Date Received	Signature Of Deputy Sheriff Making Return
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Date Of Return	Name Of Deputy Sheriff Making Return (type or print)
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County Of Sheriff
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