

**CIVIL CASE INFORMATION STATEMENT
DOMESTIC VIOLENCE CASES
IN THE MAGISTRATE/FAMILY COURT OF _____ COUNTY, WEST VIRGINIA**

THE DOMESTIC VIOLENCE CIVIL PROCEEDING OF:

Petitioner: (First/Middle/Last) _____

By: (Parent/Guardian/Next Friend)
v. _____

Respondent: (First/Middle/Last) _____

Magistrate Court Case No.: _____

Family Court Civil Action No.: _____

Family Court Judge: _____

PETITIONER (Person in need of Protection)

Petitioner's Name (First/Middle/Last) _____

Petitioner's Street Address (Please do not list PO Box #) _____

Petitioner's City / State / Zip _____

Petitioner's Phone Number (Please include area code) _____

Hispanic or Latino Non-Hispanic or Non-Latino

SEX RACE DOB SOCIAL SECURITY #

		/	/	
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RACE: A=Asian or Pacific Islander; B=Black; I=American Indian or Alaskan Native; U=Unknown; W=White

*** Notice ***
If box below is checked, this page is sealed in the file and NOT TRANSMITTED with Petition and/or Order.

☐ Please keep my address and the addresses of other protected persons confidential because I fear for my/their safety.

Criminal charges filed against Respondent.

Firearm(s) involved.

Firearm(s) present on Respondent's property or in Respondent's possession.

If you are filing on behalf of the Petitioner, what is your relationship with the Petitioner?

Is the Petitioner over 18 years of age?

Yes No

What is the relationship between Respondent and Petitioner?

Proceeding without an attorney
or

I have an attorney (fill in below)

Is there an active Child Protective Services (CPS) investigation of the children?

Yes No

Do you or any of your clients or witnesses in this case require special accommodations due to disability?

Yes No

If Yes, Please Specify:

Wheelchair accessible hearing room and other facilities

Interpreter or other aid for the hearing impaired

Reader or other aid for the visually impaired

Spokesperson or other aid for the speech impaired

Other (specify): _____

Attorney Name: _____

Firm: _____

Address: _____

Telephone: _____

Dated: _____ / _____ / _____

Signature _____

THE DOMESTIC VIOLENCE CIVIL PROCEEDING OF: _____

Magistrate Court Case No.: _____
Family Court Civil Action No.: _____
Family Court Judge: _____

V.

Firearm(s) involved. Firearm(s) present on Respondent's property or in Respondent's possession.

Page 2 of 11

IN THE MATTER OF:

Magistrate Court Case No.: _____

Family Court Civil Action No.: _____

Petitioner (First/Middle/Last)_____
By Parent/Guardian/Next Friend

v.

Respondent (First/Middle/Last)

Law-Enforcement Completed Service Verification on Page 11 Yes No

DOMESTIC VIOLENCE PETITION

I, _____, hereby request that the Court issue an Emergency Order of Protection pursuant to West Virginia Code § 48-27-403 for (*Check All That Apply*) me, my minor child(ren) named herein, and/or a physically or mentally incapacitated family or household member(s), named herein.

1. The Respondent and person(s) for whom protection is sought are family or household members, as defined in West Virginia Code § 48-27-204, because they: (*Check All of the Boxes That Apply*)

The parties are or were:

Married to each other
Living together
Sexual Partners
Dating
Parents of a child together

AND/OR

One party is the other party's:

Parent; Stepparent; Brother or Sister; Half-brother or Half-sister; Stepbrother or Stepsister; Aunt, Aunt-in-law or Stepaunt; Uncle, Uncle-in-law or Stepuncle; Child or Stepchild;	Daughter-in-law or Son-in-law; Stepdaughter-in-law or Stepson-in-law; Grandparent; Stepgrandparent; Father-in-law or Mother-in-law; Stepfather-in-law or Stepmother-in-law; Niece or Nephew; First or Second Cousin;
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AND/OR

One party is a: (check below) of someone who is or was:

(check below) the other party.

Parent; Stepparent; Brother or Sister; Half-brother or Half-sister; Stepbrother or Stepsister; Aunt, Aunt-in-law or Stepaunt; Uncle, Uncle-in-law or Stepuncle; Child or Stepchild;	Daughter-in-law or Son-in-law; Stepdaughter-in-law or Stepson-in-law; Grandparent; Stepgrandparent; Father-in-law or Mother-in-law; Stepfather-in-law or Stepmother-in-law; Niece or Nephew; First or Second Cousin;
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Married to
Living with
Sexual partners with
Dating
Parents of a child with

Yes

No

Is there a Temporary Order in effect other than a Procedural Order in a Family Court Case?

If Yes --

STOP: If there is a Temporary Order in effect in a Family Court Case, you must complete form MDVTPET (previously SCA-DV-M1230), not this form.

(Check and Complete if Applicable)

2. An Order of Protection is sought for the following **minor children who have been abused or threatened with abuse by Respondent:**

List names, ages, and address, if address different from Petitioner's, and relationship to Petitioner and Respondent:

(DO NOT LIST CHILDREN'S ADDRESS IF YOU FEAR FOR THEIR SAFETY.)

CHILD'S NAME	DATE OF BIRTH	ADDRESS (If different than Petitioner's)	RELATIONSHIP TO PETITIONER	RELATIONSHIP TO RESPONDENT
	/ /			
	/ /			
	/ /			
	/ /			

PLEASE LIST ADDITIONAL CHILDREN ON A SEPARATE PAGE

During the last five years, if any of the children have lived at addresses other than their current address, use the space below to list where they lived, and for how long. *If there is not enough room in the space below, use an additional sheet of paper. I have attached _____ additional sheet(s).*

CHILD'S NAME	FORMER ADDRESS	DATE OF RESIDENCE
		/ /
		/ /
		/ /
		/ /

ANSWER THE FOLLOWING QUESTIONS:

Yes

No

Are you the biological parent of the child(ren) listed above?

If no, please explain: _____

Yes

No

Have you been a party, or a witness, or are you aware of any proceeding, in any State, concerning the custody of the child(ren) listed above?

If yes, please provide information about the other proceeding. (dates, parties, Court Order, if any) _____

Yes	No
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Are you aware of any person(s) other than you or the Respondent in this case, who has custody or claims custodial rights to the child(ren) listed above?

If yes, please describe: _____

Yes	No
-----	----

Are you aware of an active Child Protective Services' investigation (CPS) of the child(ren) listed in this Petition?

If yes, please describe: _____

Yes	No
-----	----

Are you aware of criminal charges related to the domestic violence described in this Petition?

If yes, please describe: _____

(Check and Complete if Applicable)

3. An Order of Protection is sought for the following physically or mentally incapacitated family or household member(s) who have been abused or threatened with abuse by Respondent:

List name(s) and address(es), if address is different from Petitioner's: **(DO NOT LIST ADDRESS IF YOU FEAR FOR THE SAFETY OF INCAPACITATED FAMILY OR HOUSEHOLD MEMBERS)** Name(s):

4. I am currently living temporarily or permanently in _____ County, State of _____.

5. The Respondent is currently living temporarily or permanently in _____ County, State of _____.

6. The abuse or threats of abuse occurred on or about (*date or dates*):

at _____, State of _____.

7. I have been abused or threatened with abuse by Respondent as follows:

The Respondent attempted to cause or intentionally, knowingly or recklessly caused physical harm to the Petitioner or other persons named herein with or without dangerous or deadly weapons.

The Petitioner or other persons named herein are in fear of physical harm by Respondent.

The Respondent created fear of physical harm by harassment, stalking, psychological abuse, or threatening acts.

The Respondent sexually assaulted or sexually abused the Petitioner or other persons named herein.

The Respondent held, confined, detained, or abducted the Petitioner or other persons named herein against the will of Petitioner or others named herein.

Describe in detail the abuse or threats of abuse that led you to file this PETITION. (Check this box if extra sheets are attached.)

If requesting a Protective Order for longer than 180 days, you are required to provide the following information below:

8. I am requesting a Protective Order for 1-year, pursuant to W.Va. Code § 48-27-505(b) due to the fact that:

The Respondent has materially violated a previously entered Protective Order.

The Respondent has had two or more Protective Orders entered against Respondent within previous five years.

The Respondent has one or more convictions for domestic battery or assault, or a felony crime of violence where the victim was a family or household member.

The Respondent has committed a violation of W.Va. Code § 61-2-9(a) (stalking and/or harassing) against a person protected by an existing Protective Order.

The totality of the circumstances require an Order of 1-year to protect the physical safety of the Petitioner or those persons for whom a Petition may be filed.

If requesting a Protective Order for longer than 1-year, you are required to provide the following information below:

9. I am requesting a Protective Order for longer than 1-year, pursuant to W.Va. Code § 48-27-505(c) due to the fact that:

The Respondent has materially violated an existing Protective Order.

The Respondent has materially violated a provision of a Protective Order in a Final Order of Divorce.

Yes

No

Respondents currently owns or possesses firearms?

If you answered "Yes" to the previous question, please provide additional firearm information below:

LIST OF FIREARMS

If there is not enough room in the space below, use an additional sheet of paper.

I have attached _____ additional sheet(s).

Type of Firearm (handgun/rifle)	Location of Firearm (bedroom/vehicle)

Yes	No
-----	----

Has a divorce action been filed by you or the Respondent?

If yes, in what County and State? _____

Yes	No
-----	----

Is there currently a separate Domestic Violence Protective Order in effect? If yes, in what

County and State? _____

WHEREFORE, based upon the foregoing, I request the Court grant the following relief:

I request that the Magistrate Court issue an Emergency Protective Order, and request that the Family Court issue a
(check one) 90-day **OR** 180-day **OR** 1-year **OR** longer than 1-year Domestic Violence Protective Order
 after a full hearing is held on my Petition.

MANDATORY RELIEF: I understand that if I am granted an Emergency Protective Order, the Magistrate will issue
 the following mandatory relief:

- ❖ **Direct Respondent to refrain from abusing, harassing, stalking, threatening, intimidating, or engaging in other conduct that places me and/or the other person(s) named in this PETITION in reasonable fear of bodily injury;**
- ❖ **Inform the Respondent that he/she is prohibited from possessing any firearm or ammunition, notwithstanding the fact that the Respondent may have a valid license to possess a firearm, and that possession of a firearm or ammunition while subject to the Court's Domestic Violence Protective Order may be a criminal offense under State and Federal Law; and**
- ❖ **Inform the Respondent that the Domestic Violence Protective Order is in effect in every County of this State.**

PERMISSIVE RELIEF: I understand that the Magistrate MAY grant the following additional relief:
(Check All That You Are Requesting)

1. Direct Respondent to refrain from telephoning, contacting, communicating with, harassing, or verbally abusing me.
2. Direct Respondent to refrain from entering any school, business, or place of employment for the purpose of violating any requirement of a Protective Order.
3. Grant me temporary possession of the residence or household that Respondent and I lived in at the time the violence or abuse occurred.

(Check If Requested) I give my consent for any law-enforcement officer to enter my separate residence or household that Respondent and I shared at the time the acts of domestic violence occurred for the purpose of enforcing a Protective Order.

Address: _____

4. Arrange for me to get personal items or property from **(List the Items and Address of Where the Property Is Located)**: _____

(Check If Requested) If such arrangements are ordered, I request that a law-enforcement officer accompany me when I go to get the property.

5. Require Respondent to participate in a treatment program for domestic violence.
6. Order the Petitioner and Respondent to refrain from transferring, conveying, alienating, encumbering or otherwise dealing with real or personal property which could be subject to Court action.
7. Grant me temporary custody of the following minor child(ren):

(Check If Requested) If I am granted custody, I request a law-enforcement officer accompany me when I go to get initial custody of the child(ren).

[Note to Petitioner: A Magistrate does not have authority to make a custody determination if the paternity of a child is in question or otherwise has not been established by law. The issue of paternity would need to be taken up with the Family Court.]

8. If I am granted temporary custody (*check only one box*):

Do not grant Respondent visitation.

OR

Grant only supervised visitation. Visitation will be supervised by _____,

OR

who is _____ (explain relationship).

Grant visitation with the following limitations: _____

9. If I am granted temporary custody, Order the Respondent to pay child support in the sum of \$ _____ in the following manner: _____

10. Require Respondent to pay PETITIONER temporary support and maintenance in the sum of \$ _____ in the following manner: _____

11. Order Respondent to reimburse me for the following medical expenses, transportation costs, shelter fees, or other expenses/costs incurred by me as a result of the domestic violence I have described in this PETITION: _____

12. Order Respondent to refrain from entering or being present in the immediate environs of the residence of the Petitioner or other protected persons named in the Petition.

_____ 13a. Grant me the exclusive care, possession, and control of any animal(s) owned, leased, kept by either the Petitioner, or the Respondent, or a minor child residing in the residence or household of either the Petitioner or Respondent. (Specify animal(s)):

_____ 13b. Prohibit the Respondent from taking, concealing, molesting, physically injuring, killing, or otherwise disposing of the animal(s).

_____ 13c. Prohibit the Respondent from any contact with the animal(s).

_____ 13d. Provide the Respondent with the following limited contact with the animal(s). (Describe in detail):

_____ 14. Grant such other relief the Court deems necessary to protect the physical safety of the Petitioner or those persons for whom the Petition has been filed.

_____ 15. Grant such other relief the Court deems necessary. (Describe in detail):

NOTICE GIVEN TO RESPONDENT (*check and complete one*):

I attempted to notify Respondent of this PETITION as follows:

OR

I did not attempt to notify Respondent of this PETITION because I fear for my safety and/or

VERIFICATION

STATE OF WEST VIRGINIA

COUNTY OF _____, TO WIT:

I, _____, on oath or affirmation, say that I am the Petitioner named in this DOMESTIC VIOLENCE PETITION and that the facts contained herein are true, except that where they are stated to be on information and belief, I believe them to be true.

Petitioner's Signature

Taken, subscribed, and sworn or affirmed before me this _____ day of _____, 2_____.

Notary Public/Magistrate/Assistant/Magistrate Clerk

My commission expires on _____.

You have the absolute right to file this Petition and to receive an Order granting or denying your Petition. Petitioner is strongly recommended to remain at the Magistrate office to receive the Order granting or denying the Domestic Violence Petition.

NOTICES TO PETITIONER:

IF YOU CANNOT AFFORD THE COSTS OF THESE PROCEEDINGS, YOU MAY FILE A FEE WAIVER AFFIDAVIT AT THE CIRCUIT CLERK'S OFFICE. IF YOUR PETITION IS DENIED, YOU HAVE THE RIGHT TO FILE AN APPEAL AT THE CIRCUIT CLERK'S OFFICE USING FORM MDVDNYE (PREVIOUSLY SCA-DV-FC-M1210). YOUR APPEAL MUST BE FILED WITHIN 5 DAYS FROM THE DATE YOUR PETITION WAS DENIED.

Magistrate Court Case No.: _____

Family Court Civil Action No.: _____

SERVICE BY LAW-ENFORCEMENT

Served on Respondent by _____ in _____ County, W.Va., on
_____, at _____.
(Date) (Time)

(Law-Enforcement Signature)

(Return of Service to Circuit Clerk within 5-days)

SERVICE BY CIRCUIT CLERK (by mail)

If Respondent not present at hearing and not served by law enforcement:

Served on Respondent on _____ by certified mail, restricted delivery, return receipt requested to Respondent's
(Date)
last known address: _____
(Address)

Clerk

SERVICE BY PUBLICATION (if Service by mail unsuccessful)

This Order was publicized on the _____ day of _____, _____ in the
_____ newspaper circulated in the county of
_____ the last known address of Respondent.

(Circuit Clerk's Signature)

For Court Use Only:

Law-enforcement agencies to which a copy of this Order was transmitted (*place an asterisk next to the agency responsible for completing service, if known*):

