

MODIFIED HARASSMENT PROTECTION ORDER

IN THE DISTRICT COURT OF _____ COUNTY, NEBRASKA

Case # _____

Petitioner

MODIFIED HARASSMENT PROTECTION ORDER

vs.

Respondent

THIS MATTER came before the Court, pursuant to Neb. Rev. Stat. § 28-311.09, upon the petition of the petitioner. The petitioner (was) (was not) present in court (with counsel, _____). The respondent (did) (did not) appear (with counsel, _____). Evidence was adduced, and the court, being fully advised, finds that this court has jurisdiction of the parties and subject matter of this action.

IT IS ORDERED that unless further modified by the court, the harassment protection order issued on _____, _____, shall remain in effect for a period of one year from the date of the original order, as modified and restated in the following manner:

- _____ 1. respondent is enjoined and prohibited from imposing any restraint upon the person or liberty of the petitioner.
- _____ 2. respondent is enjoined and prohibited from harassing, threatening, assaulting, molesting, attacking, or otherwise disturbing the peace of the petitioner.
- _____ 3. respondent is enjoined and prohibited from telephoning, contacting, or otherwise communicating with the petitioner.
- _____ 4. this order shall also apply to the following family or household members: _____

IT IS FURTHER ORDERED that all costs of filing and service in this case are (taxed to the petitioner as the court finds, by clear and convincing evidence, that the statements contained in the petition were false and the harassment protection order was sought in bad faith) (taxed to the respondent) (waived).

DATED: _____, _____

JUDGE

GENERAL INFORMATION

A harassment protection order is a court order issued to a victim who has been harassed, pursuant to Neb. Rev. Stat. § 28-311.09 et seq. In order to qualify for a harassment protection order, the petitioner must show that the respondent has engaged in a knowing and willful course of conduct directed at the petitioner which seriously terrifies, threatens, or intimidates the petitioner and which serves no legitimate purpose. A course of conduct is defined as a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of, or stalking, telephoning, contacting, or otherwise communicating with the petitioner.

A protection order may prohibit the respondent from imposing any restraint upon the petitioner or family or household member, or liberty of the petitioner, harassing, threatening, assaulting, molesting, attacking, or otherwise disturbing the peace of the petitioner, and telephoning, contacting, or otherwise communicating with the petitioner.

Family or household member means a spouse or former spouse of the victim, children of the victim, a person presently residing with the victim or who has resided with the victim in the past, a person who had a child in common with the victim, other persons related to the victim by consanguinity or affinity, or any person presently involved in a dating relationship with the victim or who has been involved in a dating relationship with the victim. For purposes of this subdivision, dating relationship means frequent, intimate associations primarily characterized by the expectation of affection or sexual involvement but does not include a casual relationship or an ordinary association between persons in a business or social context. § 28-311.02 (c).

Fees to cover costs associated with the filing, issuance, or service of a protection order shall not be charged, except that a court may assess such fees and costs if the court finds that the statements contained in the application were false and that the protection order was sought in bad faith. The court may assess costs against the adverse party at the final hearing.

Once the protection order petition is granted, it may not be withdrawn except upon order of the court. The protection order shall be effective for one year unless otherwise modified by the court.

In order to qualify for a harassment protection order, the petition shall state the events and dates of acts constituting the alleged harassment.

NOTICE TO RESPONDENT

If there has been an **Ex Parte** Protection Order served upon you and you wish to request a hearing to show cause why

the order should not remain in effect, you must request a hearing on the provided "Request for Hearing" form by completing the form and returning it to the clerk of the district court at the address listed at the bottom of the form. You must return the form within five (5) days after you have been served. The court will schedule a hearing within thirty (30) days after reviewing your request and shall notify you and the petitioner of the hearing date. **Ex Parte** means "done for, in behalf of, or on the application of, one party only".

If there is a hearing scheduled and you wish to defend against the claims set forth in the application for a protection order, you must appear at the hearing. You are warned that if you fail to appear, the case will proceed without you and a final order may be entered against you for the relief requested in the petition. You are required to obey the terms of the protection order as soon as it is served upon you.

If you disobey the terms of the protection order, you will be subject to the following **Nebraska Revised Statutes**.

Violation of a Protection Order: Any person convicted of violating the terms of a harassment protection order after being served shall be subject to either Neb. Rev. Stat. § 28-311.04 or § 28-311.09(4).

If a protection order has been issued against you, the following **United States Federal Statutes** apply to the issuance of a valid protection order.

Full Faith and Credit Provision: Pursuant to the Violence Against Women Act of 1994, 18 U.S.C. § 2265, this order is enforceable in all fifty (50) states, the District of Columbia, tribal lands and U.S. territories. The penalties for violation of this order are determined by the existing penalty of the location in which the violation occurred. Nebraska's Harassment Full Faith and Credit provisions are found in § 28-311.10.

Interstate Domestic Violence: If you travel across state or tribal land with the intent to injure the petitioner and then intentionally commit a crime of violence causing bodily injury to the petitioner, you may be convicted of committing a federal offense under the VAWA, 18 U.S.C. § 2261(a)(1).

You may also be convicted of committing a federal offense if you cause the petitioner to cross state or tribal land lines for this purpose. 18 U.S.C. § 2262(a) (2).

Interstate Violation of a Protection Order: If you travel across state or tribal land lines with the intent to violate the final protection order and subsequently violate such order, you may be convicted of committing a federal offense under the VAWA, 18 U.S.C. § 2261(a)(1). You may also be convicted of committing a federal offense if you cause the plaintiff to cross state or tribal land lines for this purpose. 18 U.S.C. § 2262(a)(2).