

IN THE MAGISTRATE COURT OF \_\_\_\_\_ COUNTY, WEST VIRGINIA

IN THE MATTER OF: \_\_\_\_\_ v. \_\_\_\_\_  
 First Middle Last First Middle Last  
 Petitioner Respondent

Law Enforcement  
 Completed Service Verification on Page 5  Yes  No

Magistrate Court  
 Case No. \_\_\_\_\_  
 Family Court  
 Civil Action No. \_\_\_\_\_

**DOMESTIC VIOLENCE PETITION**

I hereby request that the court issue an order to protect me and/or children and/or physically or mentally incapacitated family or household member(s) named herein from family violence or abuse, pursuant to W.Va. Code §§ 48-27-304 & 403.

Respondent and person(s) for whom protection is sought are family or household members [W.Va. Code § 48-27-204] because they (*check all the boxes that may apply*):

1.  The parties are or were:
- Married to each other
  - Living together
  - Sexual partners
  - Dating
  - Parents of a child together

**OR**

2.  One party is the other party's
- Parent;
  - Stepparent;
  - Brother or sister;
  - Half-brother or half-sister;
  - Father-in-law or mother-in-law;
  - Stepfather-in-law or stepmother-in-law;
  - Child or step-child;
  - Daughter-in-law or son-in-law;
  - Stepdaughter-in-law or stepson-in-law;
  - Grandparent;
  - Step grandparent;
  - Aunt, aunt-in-law, step-aunt;
  - Uncle, uncle-in-law, step-uncle;
  - First or second cousin.

**OR**

3.  One party is a: \_\_\_\_\_ (Check below) of someone who is or was: \_\_\_\_\_ (Check below) to the other party.

- |   |   |   |
|---|---|---|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Parent;</li> <li><input type="checkbox"/> Stepparent;</li> <li><input type="checkbox"/> Brother or sister;</li> <li><input type="checkbox"/> Half-brother or half-sister;</li> <li><input type="checkbox"/> Stepbrother or stepsister;</li> <li><input type="checkbox"/> Father-in-law or mother-in-law;</li> <li><input type="checkbox"/> Stepfather-in-law or stepmother-in-law;</li> <li><input type="checkbox"/> Child or stepchild;</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Daughter-in-law or Son-in-law;</li> <li><input type="checkbox"/> Stepdaughter-in-law or stepson-in-law;</li> <li><input type="checkbox"/> Grandparent;</li> <li><input type="checkbox"/> Step grandparent;</li> <li><input type="checkbox"/> Aunt, aunt-in-law or step aunt;</li> <li><input type="checkbox"/> Uncle, uncle-in-law or step uncle;</li> <li><input type="checkbox"/> Niece or nephew;</li> <li><input type="checkbox"/> First or second cousin.</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Married to</li> <li><input type="checkbox"/> Living with</li> <li><input type="checkbox"/> Sexual partners with</li> <li><input type="checkbox"/> Dating</li> <li><input type="checkbox"/> Parents of a child with</li> </ul> |
|---|---|---|

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 RESPONDENT - COPY  
 PETITIONER - COPY  
 RETURN - COPY**

Magistrate Court Case No.: \_\_\_\_\_

Family Court Civil Action No.: \_\_\_\_\_

a. \_\_\_\_\_ I have been abused or threatened with abuse by Respondent.

b. \_\_\_\_\_ Respondent has abused or threatened to abuse a physically or mentally incapacitated family or household member(s).

Name(s): \_\_\_\_\_

c. \_\_\_\_\_ Minor children have been abused or threatened with abuse by Respondent. List names, ages, and address, if address different from Petitioner’s, and relationship to Plaintiff and Respondent:

**DO NOT list children’s address(es) if you fear for their safety.**

CHILD’S NAME	DATE OF BIRTH	ADDRESS <small>(If different from Petitioner’s)</small>	RELATIONSHIP TO PETITIONER	RELATIONSHIP TO RESPONDENT
1.				
2.				
3.				
4.				

**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).**

<u>Child’s Name</u>	<u>Former Addresses</u>	<u>Dates of Residence</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

**NOTICE GIVEN TO RESPONDENT (initial one):**

\_\_\_\_\_ I attempted to notify Respondent of the PETITION as follows: \_\_\_\_\_

\_\_\_\_\_ I did not attempt to notify Respondent of the PETITION because I fear for my safety and/or: \_\_\_\_\_

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Magistrate Court Case No.: \_\_\_\_\_

Family Court Civil Action No.: \_\_\_\_\_

**ANSWER THE FOLLOWING QUESTIONS:**

Yes  No

Have you been a party, a witness, or are you aware of any other court proceeding, in any state, concerning the custody of the minor children listed above?

Yes  No

Are you aware of any persons other than you or the Respondent in this case who has custody, claims any custodial right, concerning the minor children listed above?

Yes  No

Is a divorce pending? If yes, County \_\_\_\_\_, State of \_\_\_\_\_.

Yes  No

Is a temporary divorce order in effect at the time of this Petition?

Yes  No

Is a separate domestic violence order in effect? If yes, County \_\_\_\_\_, State of \_\_\_\_\_.

Please Fill In

I am currently living temporarily or permanently in \_\_\_\_\_ County, State of \_\_\_\_\_.

Please Fill In

The Respondent is currently living or permanently in \_\_\_\_\_ County, State of \_\_\_\_\_.

The abuse or threats of abuse occurred on or about \_\_\_\_\_ at \_\_\_\_\_, State of \_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RELIEF REQUESTED:**

I request that the magistrate court issue an emergency protective order, and request that the family court judge issue a (**check one**)  90-day **OR**  180-day 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**

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- **that places me and/or the other person(s) named in this Petition in fear of bodily injury.**
- **Prohibit Respondent from using or possessing any firearm or other weapon.**
- **Inform Respondent that having any firearms or ammunition while a protective order is in effect may be a federal offense for which a person who is convicted may be imprisoned for up to 10 years.**

**PERMISSIVE RELIEF:** I understand that the magistrate may grant the following additional relief, if I ask for it (*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 above occurred.  
 (*check if requested*) I give my consent for any law enforcement officer to enter my 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.  Petitioner and Respondent shall 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 (*list names of children, if any*): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

[*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 custody (*check only one box*):  
 Do not grant Respondent visitation. **OR**  
 Grant only supervised visitation. Visitation will be supervised by \_\_\_\_\_ who is \_\_\_\_\_ (explain relationship) \_\_\_\_\_, **OR**  
 Grant visitation with the following limitations: \_\_\_\_\_  
 \_\_\_\_\_
9.  If I am granted custody, require Respondent to pay temporary support and maintenance for the CHILD(REN) in the amount of \$ \_\_\_\_\_ per month in the following manner \_\_\_\_\_.
10.  Require Respondent to pay PETITIONER temporary support and maintenance in the amount of \$ \_\_\_\_\_ per month in the following manner \_\_\_\_\_.

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11.  Order Respondent to reimburse me for medical, transportation, shelter, or other costs incurred as a result of the domestic violence I have described in this PETITION: \_\_\_\_\_

**AFFIDAVIT**

STATE OF WEST VIRGINIA

COUNTY OF \_\_\_\_\_, TO-WIT:

I, \_\_\_\_\_, on oath or affirmation, say that I am the Petitioner named in this 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 Signature

Taken, subscribed, and sworn or affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Notary Public/Magistrate/Assistant/Magistrate Clerk

My commission expires on \_\_\_\_\_.

**For court use only:**  Petition granted  Petition denied

**SERVICE BY LAW ENFORCEMENT**

Served on Respondent by \_\_\_\_\_ in \_\_\_\_\_ County, W.Va., on \_\_\_\_\_, at \_\_\_\_\_ am/pm.  
(Date) (Time)

*(Return of Service to Circuit Clerk)*

**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 THE FORM (SCA-DV-FC/M-1210). YOUR APPEAL MUST BE FILED WITHIN 5 DAYS FROM THE DATE YOUR PETITION WAS DENIED.*

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