

# INSTRUCTIONS FOR APPLYING FOR A SEXUAL ASSAULT ORDER OF PROTECTION IN WYOMING

These instructions can help you petition the court for an Order of Protection. You might choose to ask the court for an Order of Protection if you have been the victim of sexual assault. An Order of Protection will list certain rules that the Respondent (the person you want to be protected from) has to follow.

It is important for you to understand that this process does not guarantee you will be safe. A judge might decide not to issue an Order of Protection. If an Order of Protection is issued, the Respondent might not follow the rules.

A Sexual Assault Order of Protection should not be sought unless the Petitioner has been the victim of sexual assault as defined by law. You can read the legal definition of sexual assault in Wyoming Statutes 6-2-302 through 6-2-319. You do not have to read the statute before asking for a Sexual Assault Order of Protection. But it is important for you to know that sexual assault has a particular legal definition.

For help in developing a safety plan or learning about protection orders and how to get one, contact your local domestic violence program. You can call the **Wyoming Coalition Against Domestic Violence and Sexual Assault at (307) 755-0992** or the **Wyoming Division of Victim's Services at (888) 996-8816** or the **Rape, Abuse, and Incest National Network at (800) 656-4673**.

Advocates are trained to help you decide what actions may help keep you and your loved ones safe. Find your local domestic violence program at <https://www.wyomingdvsa.org/programs>. Learn more about safety planning at <https://www.thehotline.org/plan-for-safety/>.

## **INSTRUCTIONS FOR COMPLETING THE PETITION FOR SEXUAL ASSAULT ORDER OF PROTECTION**

READ THESE INSTRUCTIONS CAREFULLY.

It is best to fill out these papers completely and to give as much detail as you can. The court may deny your request if there is not enough information in the papers you file.

### **Before You Get Started**

Sexual assault includes many different kinds of behaviors.

It includes forcing someone to have sex by physically overpowering them or by threatening them. These are actions that are commonly called "rape." Wyoming does not

have separate laws for rape. Rape is a kind of sexual assault.

In some of the sexual assault laws, sexual assault is also called *sexual abuse*.

In addition to forcing a person to have sex, sexual assault also includes actions such as touching the sexual parts of another person's body without permission. The touching could be done with any body part (hand, mouth, penis, etc.). The touching could happen directly on the person's body or over the clothing that covers sexual parts.

Sexual assault also includes forcing someone to touch the sexual parts of a person's body.

Sexual assault also includes putting objects into the sexual parts of a person's body.

If any of these actions has been done to you, the Court might give you an Order of Protection to help keep you safer.

- ✓ You can ask for an Order of Protection even if the person who did these things did not get arrested.
- ✓ You can ask for an Order of Protection even if the person who did these things tells you that what they did is okay.
- ✓ You can ask for an Order of Protection even if you didn't tell anyone what happened. You do not have to have a police report or doctor's report.

At the end of these instructions, there is a section called *Important Things You Need to Know*. You can read some of the statutes (laws) there, if you want to see how they define sexual assault. You are not required to read the statutes.

### **The top of the page on a Petition for Order of Protection.**

The top of the page has blanks for the name of the county that the Court is in (for example, County of Big Horn) and the number of the judicial district (for example, Fifth Judicial District). When you file the Petition, the Clerk of Court can give you this information.

The next blanks are for the name of the Petitioner and the name of the Respondent. If you are the one who wants an Order of Protection, you are the **Petitioner**.

Important Note: These instructions will assume that you are the Petitioner. If you are filing the petition for someone who is 17 years old or younger, or for someone who is a disabled or vulnerable adult, that person is the Petitioner. Whenever these instructions say "you" or "your name" or "your address," etc., write the information for the Petitioner.

You will be explaining to the Court that someone sexually assaulted you. That is the person you want to be protected from. That person is called the **Respondent**.

The next blank is for the Case Number. When you file the Petition, the Clerk of Court will

give you the case number.

**Section 1 is for information about you, the Petitioner.**

The first box is for your name. It should be written Last name, First name, Middle initial.

The next box is called “Next Friend.” You will only use this box if you are filing this petition on behalf of someone who is 17 years old or younger, or on behalf of a disabled or vulnerable adult. That person is the Petitioner, and you are the Next Friend. (Even if you are the parent of the Petitioner, you’ll still be called the “Next Friend” in the court documents.)

Then there are blanks for your home address. **You are not required to write your address here**, but the Court does need a way to mail things to you. You have a few options:

You can write your address here. You might choose to do this if the Respondent already knows your address.

You can write the address of a friend or relative. Be sure to get that person’s permission first. Also, you need to be sure that you will get the mail if the Court contacts you using that person’s address.

**You can ask the Court to keep your address confidential.** If it is confidential, the Respondent won’t be able to see your address on the court papers. If this is your choice, put a checkmark in the small box near the address line. You must give the Court your address in an envelope. Write “confidential” on the envelope.

If you think it will help keep you safe, you can use a friend’s or relative’s address *and* ask for it to be kept confidential. Be sure to mark the small checkbox and give the Court an envelope with the address in it.

The next blank is for your telephone number. You have the same choices here as you had for your address. You can write in your phone number or the phone number of a friend or relative; you can also ask the Court to keep your phone number confidential.

If you want to write the phone number of a friend or relative, be sure to get that person’s permission first. Also, you need to be sure that you will get the messages if the Court contacts you using that person’s phone.

If you want the Court to keep your phone number confidential, put a checkmark in the small box. You must give the Court your phone number in an envelope. Write “confidential” on the envelope.

The next blank is for other names you use. This includes names you use now and names you used to use.

The next boxes are for your Date of Birth, Race, and Gender. This information is required.

The next blanks are for your Height, Weight, Eye Color, and Hair Color. It is okay to estimate your height and weight.

**Section 2 is for information about the Respondent, the person you want to be protected from.**

The first box is for the Respondent's name. It should be written Last name, First name, Middle initial. If you don't know the Respondent's full name, write in as much as you know.

The next blanks are for the Respondent's home address, mailing address, and phone number. Write in as much as you know.

The next blanks are for the Respondent's Date of Birth, Race, and Gender. If you don't know the respondent's date of birth, write in an estimate of the person's age. If you don't know the Respondent's race, you can write "unsure."

The next blanks ask for more information about the Respondent. Give as much information as you can. Estimating the Respondent's height and weight is better than giving no answer at all. If you don't know the Respondent's license plate number but you do know what county it's from, write that in.

If the Court issues an Order of Protection, law enforcement officers will use the information you shared to help them recognize the Respondent, which can help keep you safer.

The next blank is for other names used by the Respondent. List any other names you know the Respondent uses, even if they aren't "legal" names.

The next blank is for scars, tattoos, and marks on the Respondent's skin. Describe what they look like and where they are on the Respondent's body. You can also include other notable physical features.

In the next blank, if you can, list the firearms and ammunition the Respondent has in their possession. Be as specific as you can. List any information you know about the type of firearms, the company that made them, and whether they have been modified. If you can, explain where the firearms are usually kept. This information is very important for your safety and for the safety of the people involved in protecting you, including law enforcement.

The next blank is for information about the Respondent's parents. If the Respondent is under the age of 18, give any information you have that could help the Court contact the

Respondent's parents. If you know a parent's name, address, or phone number, or where the parent works, that will be helpful.

If you know that the Respondent is 18 or older, leave this part blank.

### **Section 3 is about your relationship with the Respondent.**

Many kinds of relationships are listed in this section. Select what best describes the relationship between you and the Respondent. It is okay to select more than one description. If you select "Other," write a short explanation in the blank.

### **Section 4 is about what happened.**

In the blanks, describe the assault in as much detail as possible. If the Respondent assaulted you more than one time, describe as many of the situations as you can. This information might feel difficult to share, but it's important. If you provide a lot of details, that helps the Court decide if you qualify for a protection order. As much as you can, include the days, times, and places where assault has occurred. Include the ages of the people involved. If there were any witnesses and you can give their names, that will be helpful. If the Respondent threatened you, try to write down the Respondent's exact words.

If you need more space to write everything out, attach additional papers to your Petition.

Share as much information as you can to help the Judge understand what happened.

### **Section 5 is about criminal matters.**

This section is asking for information that is related to the assaults you described in Section 4. Give as much information as you can. Here are a few important things to remember:

- You can ask for an Order of Protection even if you never told the police about what happened to you.
- Being arrested is not the same thing as being charged. It is possible your answers will be "yes, the Respondent was arrested" and "no, the Respondent was not charged." You can still ask for an Order of Protection.
- Having this information will help the Court decide if it will give you an Order of Protection, but it is not the only information the Court will consider. Answer honestly with as much information as you can.

### **Section 6 is about advocates.**

Victim Advocates (or "a victims' advocate") can help people who have been assaulted. They can help right after an assault happens – for example, by taking you to a safe shelter.

And they can help later – for example, by explaining court papers to you. If you have received any kind of help from a victims’ advocate, mark yes.

**Section 7 is about requesting protection.**

This section begins with a paragraph about two types of Protection Orders. When you file this Petition, you will be asking the Court to first give you an Ex Parte Order of Protection. (An Ex Parte Order of Protection is temporary. It takes effect only as soon as the Respondent receives a copy of it from the Court.) The Court will then hold a hearing. After the hearing, the Court may give you an Order of Protection that could last up to three years.

(You can read more information about these two types of Orders in the *Important Things You Need to Know* section at the end of these instructions.)

After that paragraph, there is a list with check boxes and some long blanks. This list is how you can let the Court know what you think will help. Please be very specific. Remember that the Court might not do the things you ask for.

**Section 8 is about a hearing.**

After the Petition is filed, the Court will schedule a hearing. That will be a meeting when you and the Respondent will both have the chance to tell the judge what happened. You are required to take part in the hearing. Select either A or B to let the Court know how you want to take part. If you select B, it is important to remember that you are asking the Court for permission to take part virtually. If the Court denies your request, it means you do not have permission and you must go to the courthouse for your hearing.

**Signature Section – Important!**

Do not sign this form until you are in front of the Clerk of Court or a Notary. The Clerk or the Notary must witness you signing the form.

By signing the form, you are telling the Court that everything you wrote on the form is true. If the information is not true, you might be criminally charged with perjury. Perjury is a felony punishable by imprisonment or a fine or both. Review your answers carefully before you sign the Petition.

**Important Things You Need to Know**

What can law enforcement (police or sheriffs) do to help me?

If you have been sexually assaulted, you can ask law enforcement officers to explain Orders of Protection and the sexual assault laws and also to explain how and in what situations criminal charges might be brought against a person who assaulted you. You can ask the law enforcement officers to help you get to a medical facility or to a

victims' shelter.

Law enforcement officers can also make plans for you to get a medical exam after a sexual assault. If you choose to do this, you will be examined by a specially-trained nurse or doctor, and you will not have to pay for the exam.

#### Does it matter if I got a medical exam after the assault?

Being examined by a specially-trained nurse or doctor after a sexual assault can be helpful in many ways. It can help law enforcement officers investigate the assault, and it can help the state's lawyers (prosecutors) decide whether to bring criminal charges against the person who assaulted you.

It can also help you because getting care from the nurse or doctor might make you feel safer and healthier.

There are good reasons to get a medical exam after a sexual assault. But it is important to know that **a medical exam is not required.** You can ask the Court for an Order of Protection even if you did not get a medical exam.

#### Does it matter what kind of sexual assault happened?

Yes.

The Wyoming statutes (laws) describe many situations that are considered sexual assault. The Court is allowed to give you an Order of Protection for most of those situations. There are two situations when the Court is not allowed to give you an Order of Protection. In the statutes, those situations are called "Sexual assault in the third degree" and "Sexual battery." The statute numbers are 6-2-304 and 6-2-313.

You can talk to a Victim Advocate if you want help figuring out which kind of sexual assault happened to you. (Information about advocates is in the box on Page 1 of these instructions.)

Important Note: If you truly believe you were sexually assaulted, you can ask the Court for an Order of Protection. Even if a judge decides that your situation is not a kind that qualifies for an Order of Protection, you will not get in trouble for asking – as long as you are honest on your Petition and at your hearing.

#### What is a redacted Petition, and how do I make one?

A redacted Petition is a document with certain information blacked out. The information is blacked out to keep people who are not part of the case from seeing it. When you file your Petition, you will also need to give the Clerk of Court a redacted version of the Petition.

You can make a redacted version of your Petition by using a black marker or pen or both to mark out (cover up) certain information on a copy of the Petition. Here's what to redact:

- Petitioner's address. Do not leave any of the address visible. In the redacted Petition, the address lines should all look like this: [REDACTED]
- Names of children under the age of 18. Leave only the child's initials visible. If the child's name is Jordan Johnson, the redacted Petition should show J [REDACTED]  
J [REDACTED].

Important Note: Make sure you redact a *copy* of the Petition. Do not redact the Petition itself.

Is redacting the Petition the same thing as keeping my address confidential?

No.

The Respondent will be given a copy of the **non-redacted** Petition.

If you need to keep your address a secret so the Respondent won't know where you live, follow the instructions for keeping your address **confidential**. Those instructions are in Section 1 above.

What is an Ex Parte Order of Protection?

An Ex Parte Order of Protection (which also might be called a temporary or emergency protection order) is a protection order that a judge might give you soon after you file your petition. An Ex Parte Order can help protect you for a few days. Ask the Clerk of Court to give you **certified** copies of your Ex Parte Order of Protection.

Before the judge can consider replacing the Ex Parte Order with an Order that lasts longer, there will need to be a hearing (a meeting at the court) where you and the Respondent each tell the judge your side of the events.

What happens if the judge doesn't grant an Ex Parte Order?

A judge might deny you an Ex Parte Order but also set a hearing to give you and the Respondent a chance to tell your side of the events. After this hearing, the judge might grant you an Order of Protection.

Remember: Being denied an Ex Parte Order does not mean the judge is refusing to give you a protection order.

Do I have to go to the hearing?

Yes.

Whether you got an Ex Parte Order or not, you **must** attend any hearing (a meeting at the court) that the judge schedules. The hearing is when the judge will get to hear what you have to say and what the Respondent has to say. If you do not attend the hearing, the judge is not allowed to grant you an Order of Protection that lasts for several months or years. Also, if you do not attend the hearing, the Ex Parte Order will expire.

What will happen at the hearing?

The judge will allow both sides a chance to speak. If there are witnesses who can talk about what happened, you may take them with you to give testimony at the hearing. If you have evidence about what happened, you may take it to the hearing and present it to the judge. Remember, the judge knows nothing about your case, except what you include in the Petition and what you provide in court.

After considering your side of the situation and the Respondent's side, the judge will make decisions about whether to give you an Order of Protection, what restrictions to include in it, and how long it will last.

What evidence can I use at the hearing?

Your evidence might include photographs of injuries, medical records related to the sexual assault, or photographs of damaged property. You also might want to show the judge text messages or recordings, for example, if the Respondent threatened you,



recorded the assault, or sent messages to other people about what happened. It is important to understand that you must bring your evidence in some form that the judge can keep and add to your file at the courthouse. If you are bringing medical records, make sure they are *copies* of the records you have. If you want to show the judge photographs or text messages, you will need to have them printed out on paper. You will not be able to just hold your phone up for the judge to look at. If you want to show the judge a video, you will need to have it saved on a flash-drive or some other sort of device that you can give to the judge.

If you need help getting your evidence ready to take to your hearing, contact your local domestic violence program. (Contact information is in the black rectangle on Page 1.)

#### What should I do with the Order if I get one?

Always carry the Order with you. This will make it easier for police or sheriff's officers to enforce the Order if you call them for help. It's also a good idea to keep pictures on your phone that show every page of the Order.

Ask the Clerk of Court to give you **certified** copies of your Order of Protection.

#### Does the Ex Parte Order still count after the judge gives me an Order of Protection?

The Order of Protection *replaces* the Ex Parte Order. The Order of Protection will last longer and may have more information or restrictions than the Ex Parte Order had.

#### Can I change an Order of Protection that I already have?

You can ask the Court to modify your Order of Protection. You might choose to do this if something has changed in your life and you need the Order of Protection to address that change. You could also ask for a modification if the Respondent has started doing something different that makes you feel unsafe. The Court might be able to add a new restriction to your Order to help protect you.

You will need to file a Motion to Modify Order of Protection at the Clerk of Court's office. (You can get a form for that Motion from the Clerk's office.)

It's important to remember that you cannot ask the Court to modify the Order if the Order has already expired.

#### What can I do if the Order of Protection doesn't last long enough?

If your Order of Protection is nearing its expiration date and you feel the Respondent is still a danger to you (or to other people included in the Order), you can ask the Court to extend the Order. You will need to file a Motion to Extend Order of Protection at the Clerk of Court's office. (You can get a form for that Motion from the Clerk's office.)

It's important to remember that you cannot ask the Court to extend the Order if the Order has already expired. It is helpful to file the Motion to Extend at least ten days before your Order expires.

#### Can the Order last longer if the Respondent spends some of the time in jail?

According to Wyoming law, a Sexual Assault Order of Protection **tolls** when the Respondent is in jail or prison. **Tolling** means the protection order will last longer than was originally planned. This is done to help protect you after the Respondent gets out of jail/prison. (It's important to know that tolling is different from getting an extension for your

Order. There's information about getting an Order extended in the paragraph above.) Tolling happens automatically, but the Order of Protection the Court gave you won't show the new expiration date. The Court needs to know the Respondent went to jail/prison. You can file a Notice of Incarceration or Imprisonment to let the Court know about that. (You can get a form for that Notice from the Clerk of Court's office.)

Important Note: It doesn't matter why the Respondent went to jail/prison. You can use this form even if the jail/prison time did not have anything to do with you or the protection order.

### What does Wyoming law say about Sexual Assault?

#### **You are not required to read the statutes (law) that define Sexual Assault.**

You can use the information in the section called *Before You Get Started* (which will be on Page 1 or Page 2 above) to help figure out if your situation is considered sexual assault according to the law.

If you want to read all of the statutes about sexual assault, you can find them online by visiting the Wyoming Legislative Service Office website or you can look at statute books at your local library. The statute numbers are 6-2-301 to 6-2-319. In some of the sexual assault laws, sexual assault is also called *sexual abuse*.

Below are a few of the statutes (6-2-301 to 6-2-303). It's important to remember that these are not all of the statutes. Other kinds of situations can also be sexual assault. (See the section above called *Does it matter what kind of sexual assault happened?* for more information.)

It's also important to know that the genders of the people involved do not matter. The ages of the people involved might matter.

It is okay if you don't understand everything the statutes say. If you think what happened to you was sexual assault, you can ask the Court for an Order of Protection. You can talk to a Victim Advocate if you want help figuring out whether what happened was sexual assault. (Information about advocates is in the box on Page 1 of these instructions.)

Here are a few statutes:

#### 6-2-301. Definitions.

(a) As used in this article:

- (i) "Actor" means the person accused of criminal assault;
- (ii) "Intimate parts" means the external genitalia, perineum, anus or pubes of any person or the breast of a female person;
- (iii) "Physically helpless" means unconscious, asleep or otherwise physically unable to communicate unwillingness to act;
- (iv) "Position of authority" means that position occupied by a parent, guardian, relative, household member, teacher, employer, custodian, health care provider or any other person who, by reason of his position, is able to exercise significant influence over a person;
- (v) "Sexual assault" means any act made criminal pursuant to W.S. 6-2-302 through 6-2-319;
- (vi) "Sexual contact" means touching, with the intention of sexual arousal, gratification or abuse, of the victim's intimate parts by the actor, or of the actor's intimate parts by

the victim, or of the clothing covering the immediate area of the victim's or actor's intimate parts;

(vii) "Sexual intrusion" means:

(A) Any intrusion, however slight, by any object or any part of a person's body, except the mouth, tongue or penis, into the genital or anal opening of another person's body if that sexual intrusion can reasonably be construed as being for the purposes of sexual arousal, gratification or abuse; or

(B) Sexual intercourse, cunnilingus, fellatio, anilingus or anal intercourse with or without emission.

(viii) "Victim" means the person alleged to have been subjected to sexual assault;

(ix) "Health care provider" means an individual who is licensed, certified or otherwise authorized or permitted by the laws of this state to provide care, treatment, services or procedures to maintain, diagnose or otherwise treat a patient's physical or mental condition;

(x) Repealed by Laws 2019, ch. 186, 2.

#### 6-2-302. Sexual assault in the first degree.

(a) Any actor who inflicts sexual intrusion on a victim commits a sexual assault in the first degree if:

(i) The actor causes submission of the victim through the actual application, reasonably calculated to cause submission of the victim, of physical force or forcible confinement;

(ii) The actor causes submission of the victim by threat of death, serious bodily injury, extreme physical pain or kidnapping to be inflicted on anyone and the victim reasonably believes that the actor has the present ability to execute these threats;

(iii) The victim is physically helpless, and the actor knows or reasonably should know that the victim is physically helpless and that the victim has not consented; or

(iv) The actor knows or reasonably should know that the victim through a mental illness, mental deficiency or developmental disability is incapable of appraising the nature of the victim's conduct.

#### 6-2-303. Sexual assault in the second degree.

(a) Any actor who inflicts sexual intrusion on a victim commits sexual assault in the second degree if, under circumstances not constituting sexual assault in the first degree:

(i) The actor causes submission of the victim by threatening to retaliate in the future against the victim or the victim's spouse, parents, brothers, sisters or children, and the victim reasonably believes the actor will execute this threat. "To retaliate" includes threats of kidnapping, death, serious bodily injury or extreme physical pain;

(ii) The actor causes submission of the victim by any means that would prevent resistance by a victim of ordinary resolution;

(iii) The actor administers, or knows that someone else administered to the victim, without the prior knowledge or consent of the victim, any substance which substantially impairs the victim's power to appraise or control his conduct;

(iv) The actor knows or should reasonably know that the victim submits erroneously

believing the actor to be the victim's spouse;

(v) Repealed By Laws 2007, Ch. 159, 3.

(vi) The actor is in a position of authority over the victim and uses this position of authority to cause the victim to submit;

(vii) The actor is an employee, independent contractor or volunteer of a state, county, city or town, or privately operated adult or juvenile correctional system, including but not limited to jails, penal institutions, detention centers, juvenile residential or rehabilitative facilities, adult community correctional facilities or secure treatment facilities and the victim is known or should be known by the actor to be a resident of such facility or under supervision of the correctional system;

(viii) Repealed by Laws 2018, ch. 80, 3.

(ix) The actor is an employee or volunteer of an elementary or secondary public or private school who, by virtue of the actor's employment or volunteer relationship with the school, has interaction with the victim who is a student or participant in the activities of the school and is more than four (4) years older than the victim.

(b) A person is guilty of sexual assault in the second degree if he subjects another person to:

(i) Sexual contact or sexual intrusion in the person's capacity as a health care provider in the course of providing care, treatment, services or procedures to maintain, diagnose or otherwise treat a patient's physical or mental condition;

(ii) Sexual contact and causes serious bodily injury to the victim under any of the circumstances listed in W.S. 6-2-302(a)(i) through (iv) or paragraphs (a)(i) through (vii) and (ix) of this section.

(c) Repealed By Laws 1997, ch. 135, 2.