

NORTH DAKOTA CIVIL PROTECTION ORDERS

Survivors across the country seek safety through civil protection orders. Courts use these vital orders to issue stay away orders, or order an abuser pay medical bills, and even make temporary custody decisions. The remedies are important, but jurisdictions often have several types of orders and the distinctions are not always clear. This resource provides a brief overview of the different types of civil protection orders in each jurisdiction, answering vital questions such as: who can apply; and who can be restrained? The orders included in this resource are limited to those where a survivor can apply themselves, other protective measures may exist in your jurisdiction—reach out to VRLC’s TA team if you have questions!

In North Dakota, there are 3 types of civil protection orders:

- ☐ **Domestic Violence Protection Orders** are available for individuals seeking protection from domestic violence committed by a family or household member, including someone with whom they are in a dating relationship (N.D. Cent. Code §§ 14-07.7-01 to 14-07.7-03; 14-07.7-06 to 14-07.7-07; 14-07.7-14).
- ☐ **Sexual Assault Protection Orders** are available for individuals seeking protection from from any individual who sexually assaulted them (N.D. Cent. Code §§ 14-07.7-01 to 14-07.7-03; 14-07.7-08 to 14-07.7-09; § 14-07.7-14).
- ☐ **Disorderly Conduct Restraining Orders** are available for individuals seeking protection from unwanted acts that impact their safety, this includes human trafficking (N.D. Cent. Code §§ 14-07.7-01 to 14-07.7-05; 14-07.7-14).

DOMESTIC VIOLENCE PROTECTION ORDER

Who can apply?	Any individual who has experienced domestic violence by a family or household member. <i>N.D. Cent. Code § 14-07.7-02(1)(a).</i> Domestic violence means committing, or inflicting fear of, any of the following by a family or household member not in self-defense: • Physical harm or bodily injury; • Sexual activity compelled by physical force; • Assault; or • Stalking <i>N.D. Cent. Code § 14-07.7-01(4, 8).</i> Stalking means two or more acts of intentional conduct directed at a person (or the person's immediate family), or the unauthorized electronic tracking of the person, that frightens, intimidates, or harasses that person and serves no legitimate purpose and would cause a reasonable person to experience fear, intimidation, or harassment. <i>N.D. Cent. Code §§ 14-07.7-02(8); 12.1-17-07.1(1).</i> See "Who can be restrained?" for the definition of family or household member.
Can minors apply?	Sometimes. According to the statute, "a minor of sufficient and competent age may petition for a civil protection order on their own behalf." Otherwise, a parent, guardian, or guardian ad litem may file on the minor's behalf. <i>N.D. Cent. Code § 14-07.7-02(3)</i>
Who can be restrained?	(1) A family or household member who has committed an act of domestic violence <i>continued on next page</i>

DOMESTIC VIOLENCE PROTECTION ORDER

Who can be restrained?	(2) Any other person if the court determines the relationship is such that a domestic violence protection order is appropriate; <i>N.D. Cent. Code §§ 14-07.7-01(5); 14-07.7-02(1)(a)</i> Family or household member is defined as: • A spouse or former spouse; • Family member; • Parent or child; • Persons related by blood or marriage; • Those currently or previously in a dating relationship; • Those currently or previously living together; or • Those with a child in common. <i>N.D. Cent. Code § 14-07.7-01(5).</i> If the respondent is a minor, the parent or guardian must be notified of the petition and any subsequent order. <i>N.D. Cent. Code § 14-07.7-02(4).</i>
What types of relief can the court order?	In a temporary order, the court can: • Restrain respondent from having contact with or committing domestic violence on another person; • Exclude the respondent from the residence of another individual or from a place necessary to ensure the safety of the protected individual; • Award temporary primary residential responsibility or establish temporary parenting time with regard to minor children; <i>continued on next page</i>

DOMESTIC VIOLENCE PROTECTION ORDER

What types of relief can the court order?	- Require the respondent to surrender a firearm or other specified dangerous weapon, if the court has probable cause to believe that the respondent is likely to use, display, or threaten to use it in further acts of violence. <i>N.D. Cent. Code § 14-07.7-06 (1)(a-d).</i> In a final order, the court can: - Restrain any party from threatening, molesting, injuring, harassing, or having contact with any other individual; - Exclude the respondent from the residence of another individual or from a place necessary to ensure the safety of the protected individual; - Award temporary primary residential responsibility or establish temporary parenting time with regard to minor children; - Recommend or require that the respondent complete a domestic violence offender assessment and attend a domestic violence intervention program; - Require a party to pay any support necessary for the support of a party and any minor children of the parties; - Require a party pay reasonable attorney's fees and costs; - Award temporary use of personal property to either party; and/or - Require the respondent to surrender a firearm or other specified dangerous weapon, if the court has probable cause to believe that the respondent is likely to use, display, or threaten to use it in further acts of violence. <i>N.D. Cent. Code § 14-07.7-07(2)(a-g).</i>
How long does the order last?	Unless otherwise terminated by the court, a temporary domestic violence protection order remains in effect until a final protection order is served. <i>N.D. Cent. Code § 14-07.7-06(6); N.D. Cent. Code 14-07.7-07(1)(c).</i> The statute does not specify a time limit on the life of a final domestic violence protection order.

DOMESTIC VIOLENCE PROTECTION ORDER

Can the order be renewed?	The statute does not specify.
Is a hearing with the respondent required?	The court may issue a temporary domestic violence protection order without giving notice to the respondent. <i>N.D. Cent. Code § 14-07.7-06(5).</i> A hearing with the respondent is required for the issuance of the final order, usually within 14 days after the issuance of the temporary order, or at a later date if good cause is shown. <i>N.D. Cent. Code § 14-07.7-07(1)(c).</i>

SEXUAL ASSAULT PROTECTION ORDER

Who can apply?

Any individual who is or has been the victim of **sexual assault**.

N.D. Cent. Code § 14-07.7-02(1)(b).

Sexual Assault means any nonconsensual offense in chapter 12.1-20 for which sexual act or sexual conduct is an element.

Such offenses include knowingly having **sexual contact** with a person, or causing another to have sexual contact with a person, if:

- The perpetrator compels the victim to submit by any threat or coercion that would render a person reasonably incapable of resisting;
- The perpetrator knows or has reasonable cause to believe that the contact is offensive to the victim;
- The perpetrator knows or has reasonable cause to believe that the victim is unaware that sexual contact is being committed on the victim.
- The perpetrator knows that the victim is substantially impaired due to the purposeful administration of intoxicants or other substances without the victim's knowledge;
- The perpetrator knows or has reasonable cause to believe that the victim suffers from mental disease or defect such that they are incapable of understanding the nature of their conduct;
- The victim is under fifteen years of age;
- The victim is a minor, fifteen years of age or older, and the perpetrator is an adult or responsible for general supervision of the victim's welfare; or
- The victim is in official custody or detained in a hospital, prison, or other institution and the perpetrator has supervisory or disciplinary authority over the victim.

N.D. Cent. Code §§ 12.1-20-07(1); 12.1-20-03; 12.1-20-04(1); 12.1-20-06; 12.1-20-07.

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SEXUAL ASSAULT PROTECTION ORDER

Who can apply?	Sexual contact means any touching, whether or not through the clothing or other covering, of the sexual or other intimate parts of the person, or the penile ejaculation or ejaculate or emission of urine or feces upon any part of the person, for the purpose of arousing or satisfying sexual or aggressive desires. <i>N.D. Cent. Code § 12.1-20-02(5).</i>
Can minors apply?	Sometimes. According to the statute, “a minor of sufficient and competent age may petition for a civil protection order on their own behalf.” Otherwise, a parent, guardian, or guardian ad litem may file on the minor’s behalf. <i>N.D. Cent. Code § 14-07.7-02(3)</i>
Who can be restrained?	An individual who has sexually assaulted the petitioner. <i>N.D. Cent. Code § 14-7.7-02(1)(b).</i> If the respondent is a minor, the parent or guardian must be notified of the petition and any subsequent order. <i>N.D. Cent. Code § 14-07.7-02(4).</i>
What types of relief can the court order?	Both temporary and final sexual assault protection orders must include provisions prohibiting the respondent from: • Harassing, stalking, or threatening the protected individual; • Appearing at the protected individual’s residence, school, and place of employment; and • Contacting the protected individual. <i>N.D. Cent. Code §§ 14-07.7-08(2); 14-07.7-09(2).</i>
How long does the order last?	A temporary order remains in effect pending a full hearing, usually within 14 days. <i>N.D. Cent. Code §§ 14-07.7-08(1); 14-07.7-09(1)(c) .</i> <i>continued on next page</i>

SEXUAL ASSAULT PROTECTION ORDER

How long does the order last?	The final order lasts for up to two years. <i>N.D. Cent. Code § 14-07.7-09(3)</i>
Can the order be renewed?	The statute does not specify.
Is a hearing with the respondent required?	The court may grant a temporary order prior to a full hearing. <i>N.D. Cent. Code § 14-07.7-08(1)</i> A hearing with the respondent is required for the issuance of the final order, usually within 14 days after the issuance of the temporary order, or at a later date if good cause is shown. <i>N.D. Cent. Code § 14-07.7-09(1)(c)</i>

DISORDERLY CONDUCT RESTRAINING ORDER

Who can apply?	Any individual who is or has been a victim of disorderly conduct. <i>N.D. Cent. Code § 14-07.7-02(1)(b).</i> Disorderly conduct means intrusive or unwanted acts, words, or gestures intended to adversely affect the safety, security, or privacy of another individual. Disorderly conduct includes stalking, human trafficking, and attempted human trafficking. <i>N.D. Cent. Code § 14-07.7-.01(3, 8).</i>
Can minors apply?	Sometimes. According to the statute, "a minor of sufficient and competent age may petition for a civil protection order on their own behalf." Otherwise, a parent, guardian, or guardian ad litem may file on the minor's behalf. <i>N.D. Cent. Code § 14-07.7-02(3)</i>
Who can be restrained?	An individual who has committed disorderly conduct. <i>N.D. Cent. Code § 14-7.7-02(1)(b).</i> If the respondent is a minor, the parent or guardian must be notified of the petition and any subsequent order. <i>N.D. Cent. Code § 14-07.7-02(4).</i>
What types of relief can the court order?	In both temporary and final disorderly conduct restraining order, the court may order the respondent to cease disorderly conduct or contact with the protected individual. <i>N.D. Cent. Code §§ 14-07.7-04(1); 14-07.7-05(1).</i>
How long does the order last?	Unless otherwise terminated by the court, a temporary restraining order remains in effect until a final order is served. <i>N.D. Cent. Code § 14-07.7-04(3).</i> If claims are found to be valid at the full hearing, a disorderly conduct restraining order may be granted for a period not to exceed 2 years. <i>N.D. Cent. Code § 14-07.7-05(3).</i>

ORDER 3 CONT

Can the order be renewed?	The statute does not specify.
Is a hearing with the respondent required?	The court may issue a temporary restraining order without giving notice to the respondent. <i>N.D. Cent. Code § 14-07.7-04(2)(b).</i> A hearing with the respondent is required for the issuance of the final order, usually within 14 days after the issuance of the temporary order, or at a later date if good cause is shown. <i>N.D. Cent. Code § 14-07.7-05(1)(c).</i>

HOW TO APPLY

Fill out and file the appropriate court forms, which can be found here along with instructions under Protection and Restraining Orders: <https://www.ndcourts.gov/legal-self-help>.

The Abused Adult Resource Center can help victims complete the petition. A link to the AARC's website is available here: <https://www.abusedadultresourcecenter.com/get-help/sexual-violence/>.

SCAN ME!



For specific questions about how to use this guide, or if you have any other questions, VRCLC is here to help!

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