

## **How to Apply for a Harassment Restraining Order (Petitioner Instructions)**

### **Who May Apply?**

A person who is a victim of harassment (Petitioner) may seek a restraining order from the Court. The parent or guardian of a minor who is the victim of harassment may seek a restraining order on behalf of the minor. The restraining order prohibits harassment and may be issued against an individual (Respondent) who has engaged in harassment, or against organizations (Respondent) that have sponsored or promoted harassment. A restraining order ends on the date specified in the order. This is usually two years from the date the order is signed.

### **What is Harassment?**

Under Minn. Stat. § 609.748, harassment is defined as:

1. A single incident of
  - a. physical or sexual assault, or
  - b. stalking in which the victim's personal information is used by another without consent of the victim, to invite, encourage, or solicit a third party to engage in a sexual act with the victim (See Minn. Stat. § 609.749, subd. 2 clause (8)), or
  - c. intentionally disseminating a private image of the victim, without consent of the victim, that shows the victim in a sexual act or whose intimate parts are exposed, in whole or in part, and the victim is identifiable by the victim or by another person or from personal information displayed in connection with the image. (See Minn. Stat. § 617.261).
2. Repeated incidents of intrusive or unwanted acts, words or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security or privacy of another, regardless of the relationship between you and the alleged harasser.
3. Targeted residential picketing, which includes:
  - a. marching, standing, or patrolling by one or more persons directed solely at a particular residential building in a manner that adversely affects the safety, security, or privacy of an occupant of the building, and
  - b. marching, standing, or patrolling by one or more persons which prevents an occupant of a residential building from gaining access to or exiting from the property on which the residential building is located.
4. A pattern of attending public events after being notified that one's presence is harassing to another.

To get a temporary restraining order under 1 and 2 above, the Petition must also allege an immediate and present danger of harassment. The purpose of the harassment restraining order is to protect a person from future harassment. Therefore, to get a restraining order under 1 and 2, there must have been acts that meet the definition of harassment AND a likelihood that the harassment will continue.

Harassing actions may also be crimes that should be reported to the police.

## **How do I apply for a Restraining Order?**

### **Fill out Forms**

Fill out the **Petitioner's Affidavit and Petition for Restraining Order**. The Affidavit should be as complete and specific as possible. Dates, times, places, actions and conversations that lead the petitioner to feel harassed should be included in the narrative of the affidavit with the most recent acts listed first. If you called the police about an incident, you can get a copy of the police report from the police department, and attach it to the Petitioner's Affidavit and Petition.

The court administrator can provide forms and clerical assistance. The forms are also available on-line at [www.mncourts.gov/ctforms](http://www.mncourts.gov/ctforms).

### **File Forms**

File the Petitioner's Affidavit and Petition with the court administrator. The Affidavit and Petition may be filed in the county of residence of either party or in the county where the harassment occurred. A filing fee will be charged unless the petition alleges acts that would violate felony or gross misdemeanor harassment statutes as set forth in Minn. Stat. section 609.749, subd. 2, 3, 4, or 5 and sections 609.342 to 609.3451. If you are low income, you may request filing fees be waived by filing an "IFP form" that is available from the court administrator. In some cases, a Judge may order the respondent to pay the petitioner's filing fees.

### **Getting a Restraining Order**

After the forms are filed, Court Administration will give them to a Judge for review. The Judge might:

- Issue a restraining order
- Dismiss the case
- Schedule a hearing, with or without a temporary restraining order

If the Judge finds that the Petition stated facts to support a restraining order, the Judge will issue a restraining order for 2 years or less. The order stays in effect for the 2 years (or other time period) unless you requested a hearing or respondent requests a hearing. Respondent has a right to request a hearing to argue against the restraining order. Respondent must make this request within 20 days from service of the Petition or within 45 days of the date of the Order. The sheriff serves the order (see Service).

If the Judge decides that the Petition does **not** state facts to support a restraining order, the Judge will dismiss the petition. If dismissed, your case is over and you do not have a right to a hearing.

The Judge can also decide that the Petition states facts meeting the definition of harassment, but does not show that the harassment is likely to continue. If you asked for a hearing in this situation, or if the Judge wants to have a hearing for any other reason, the

Judge may schedule a hearing to allow you to explain your Petition more completely and to prove the truth of your statements.

### **Service**

A copy of any order must be served on the respondent (the alleged harasser). The Sheriff will serve the respondent without charging a fee to the petitioner. Service is complete when the sheriff's office personally delivers a copy of the papers to the respondent.

#### **Check with the Sheriff's office to make sure service is done.**

If the respondent is a juvenile and the parent or legal guardian is not the petitioner, the court will mail a copy of the order to the respondent's parent or legal guardian at their last known address.

If personal service cannot be completed because the respondent is avoiding service or you do not know the respondent's address, you may ask the court administrator's office to complete service by published notice.

### **Change of Address**

If you move, it is important that the court knows where you are. Please keep the court administrator informed of your address.

### **Hearing**

The court may issue a Temporary Restraining Order, granting temporary relief from harassment, without a hearing. If the court does not issue a temporary order, you may have the right to request a hearing within 20 days of service of the petition. Respondent also has the right to request a hearing within 20 days of service of the petition or within 45 days of the date of the Order. If a hearing is scheduled, you must attend the hearing if you want the court to issue a harassment restraining order. Be prepared to present your case to the court. Bring any witnesses and documents to support your case with you.

**Caution:** If you have a temporary restraining order and Respondent asks for the hearing, the temporary order could be dismissed or terminated if you do not attend the hearing and offer evidence about the harassment. If Respondent asks for a hearing, court administration will send you a notice with the hearing date and time, at least 5 days before the hearing.

**Hennepin County Notice:** In Hennepin County, you do not bring your witnesses to the first hearing. If witnesses are needed, there will be a second hearing.

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp> . For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.