

Case No.

Court General Court of Justice
District Court Division

County **NORTH CAROLINA**

**MODIFIED DOMESTIC VIOLENCE
ORDER OF PROTECTION**
 CONSENT ORDER

G.S. 50B-2, -3, -3.1

PETITIONER/PLAINTIFF

First Middle Last

PETITIONER/PLAINTIFF IDENTIFIERS

Date Of Birth Of Petitioner

And/or on behalf of minor family member(s): (List Name And DOB)

<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

Other Protected Persons/DOB:

<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

VERSUS

RESPONDENT/DEFENDANT

First Middle Last

Relationship to Petitioner: spouse former spouse
 unmarried, of opposite sex, currently or formerly living together
 unmarried, have a child in common
 of opposite sex, currently or formerly in dating relationship
 current or former household member
 parent grandparent child grandchild

Respondent's/Defendant's Address

CAUTION:
 Weapon Involved

RESPONDENT/DEFENDANT IDENTIFIERS

Sex	Race	DOB	HT	WT
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Eyes	Hair	Social Security Number		
<input type="text"/>	<input type="text"/>	<input type="text"/>		
Drivers License No.		State	Expiration Date	
<input type="text"/>		<input type="text"/>	<input type="text"/>	

Distinguishing Features

THE COURT HEREBY FINDS THAT:
 A Motion To Modify A Domestic Violence Protective Order was filed on _____ (date) in the above referenced case.
 This matter was heard by the undersigned district court judge, the Court has jurisdiction over the parties and subject matter, and the Respondent/Defendant has been provided with reasonable notice or service of process, and opportunity to be heard.
 The Court does does not find good cause to modify the Domestic Violence Order Of Protection previously entered in this matter on _____ (date).
 Additional findings of this Order are set forth on Page 2.

THE COURT HEREBY ORDERS THAT:
 The above named Respondent/Defendant shall not commit any further acts of domestic violence or make any threats of domestic violence (G.S. 50B-1).
 The above named Respondent/Defendant shall have no contact with the Petitioner/Plaintiff. No contact includes any defendant-initiated contact, except through an attorney, direct or indirect, by means such as telephone, personal contact, email, pager, gift-giving or telefacsimile machine. **[05]**
 Additional terms of this Order are as set forth on Pages 3 and 4.
 The terms of this Order shall be effective until , ,

WARNINGS TO THE RESPONDENT/DEFENDANT:
This Order shall be enforced, even without registration, by the courts of any state, the District of Columbia, and any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this Order may result in federal imprisonment (18 U.S.C. Section 2262).
Federal law makes it a crime for you to possess, transport, ship or receive any firearm or ammunition while this Order is in effect even if this Order does not prohibit you from possessing firearms (18 U.S.C. Section 922(g)(8)).
This Order will be enforced anywhere in North Carolina.
Only the Court can change this Order. The plaintiff cannot give you permission to violate this Order.
See additional warnings on Page 4.

(Over)

ADDITIONAL FINDINGS

1. Present at the hearing were: [] the plaintiff, represented by _____
[] the defendant, represented by _____

2. As indicated by the check block under Respondent/Defendant's name on Page 1, the parties are or have been in a personal relationship.

[] 3. On (date of most recent conduct) _____, the defendant
[] a. [] attempted to cause [] intentionally caused bodily injury to [] the plaintiff [] (a) minor child(ren) in the custody of the plaintiff
[] b. Placed in fear of imminent serious bodily injury [] the plaintiff [] a member of the plaintiff's family [] a member of the plaintiff's household
[] c. placed in fear of continued harassment that rises to such a level as to inflict substantial emotional distress [] the plaintiff
[] a member of plaintiff's family [] a member of plaintiff's household
[] d. committed an act defined in G.S. 14-
[] 27.21 (1st deg. forcible rape)
[] 27.22 (2nd deg. forcible rape) [] 27.23 (statutory rape of a child by an adult)
[] 27.24 (1st deg. statutory rape) [] 27.25 (statutory rape of person who is 15 years of age or younger)
[] 27.26 (1st deg. forcible sexual offense) [] 27.27 (2nd deg. forcible sexual offense)
[] 27.28 (statutory sexual offense with a child by an adult) [] 27.29 (1st deg. statutory sexual offense)
[] 27.30 (statutory sexual offense with a person who is 15 years of age or younger) [] 27.31 (sexual activity by a substitute parent or custodian)
[] 27.32 (sexual activity with a student) [] 27.33 (sexual battery)
against the [] plaintiff [] child(ren) living with or in the custody of the plaintiff
by (describe defendant's conduct)

[] 4. The defendant is in possession of, owns or has access to firearms, ammunition, and gun permits described below. (Describe all firearms, ammunition, gun permits and give identifying number(s) if known, and indicate where defendant keeps firearms.)

[] 5. The defendant
[] a. [] used [] threatened to use a deadly weapon against the [] plaintiff [] minor child(ren) residing with or in the custody of the plaintiff
[] b. has a pattern of prior conduct involving the [] use [] threatened use of violence with a firearm against persons
[] c. made threats to seriously injure or kill the [] plaintiff [] minor child(ren) residing with or in the custody of the plaintiff
[] d. made threats to commit suicide
[] e. inflicted serious injuries upon the [] plaintiff [] minor child(ren) residing with or in the custody of the plaintiff
in that (state facts) _____

[] 6. The [] defendant [] plaintiff is presently in possession of the parties' residence at _____

[] 7. The [] defendant [] plaintiff is presently in possession of the parties' vehicles described below: _____

[] 8. Other: (specify)

(Over)

	CONCLUSIONS	
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Based on these facts, the Court makes the following conclusions of law:

1. The defendant has committed acts of domestic violence against the plaintiff.
2. The defendant has committed acts of domestic violence against the minor child(ren) residing with or in the custody of the plaintiff.
3. There is danger of serious and immediate injury to the plaintiff. minor child(ren). [G.S. 50B-2(c)]
4. The defendant's conduct requires that he/she surrender all firearms, ammunition and gun permits. (G.S. 50B-3.1)
5. The plaintiff has failed to prove grounds for issuance of a domestic violence protective order.

	ORDER	
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It is ORDERED that:

1. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace, or other means), or interfere with the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. **[01]**
2. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace, or other means), or interfere with the minor child(ren) residing with or in the custody of the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. **[01]**
3. the defendant shall not threaten a member of the plaintiff's family or household. **[02]**
- 3a. the defendant shall not cruelly treat or abuse an animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.
4. the plaintiff is granted possession of, and the defendant is excluded from, the parties' residence described above and all personal property located in the residence except for the defendant's personal clothing, toiletries and tools of trade. **[03]**
5. any law enforcement agency with jurisdiction shall evict the defendant from the residence and shall assist the plaintiff in returning to the residence. **[08]**
6. the plaintiff **[08]** defendant **[08]** is entitled to get personal clothing, toiletries, and tools of trade from the parties' residence. A law enforcement officer shall assist the plaintiff defendant in returning to the residence to get these items.
- 6a. the plaintiff is granted the care, custody, and control of any animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.
7. the defendant shall stay away from the plaintiff's residence or any place where the plaintiff receives temporary shelter. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. **[04]**
8. the defendant shall stay away from the following places:
- (a) the place where the plaintiff works. **[04]** (b) any school(s) the child(ren) attend. **[04]**
- (c) the place where the child(ren) receive(s) day care. **[04]** (d) the plaintiff's school. **[04]**
- (e) Other: *(name other places)* **[04]** _____
- _____
- _____
- _____

The sheriff must deliver a copy of this Order to the principal or the principal's designee at the following school(s): *(name schools)*

9. the plaintiff is granted possession and use of the vehicle described in Block 7 on Page 2. **[08]**
10. the defendant is ordered to make payments to the plaintiff for support of the minor child(ren) as required by law. **[08]**
11. the defendant is prohibited from possessing or receiving **[07]** purchasing a firearm for the effective period of this Order. **[07]**
 and the defendant's concealed handgun permit is suspended for the effective period of this Order. **[08]**
 The defendant is a law enforcement officer/member of the armed services and may may not possess or use a firearm for official use.
12. the defendant surrender to the sheriff serving this Order the firearms, ammunition, and gun permits described in block No. 4 of the Findings on Page 2 of this Order and any other firearms and ammunition in the defendant's care, custody, possession, ownership or control.
NOTE TO DEFENDANT: You must surrender these items at the time the sheriff serves this Order on you. If the weapons cannot be surrendered at that time, you must surrender them to the sheriff within 24 hours at the time and place specified by the sheriff. Failure to surrender the weapons and permits as ordered or possessing, purchasing, or receiving a firearm, ammunition or permits to purchase or carry concealed firearms after being ordered not to possess firearms, ammunition or permits, is a crime. See "Notice To Parties: To The Defendant" on Page 4 of this Order for information regarding the penalty for these crimes and instructions on how to request return of surrendered weapons.
13. the defendant shall attend and complete an abuser treatment program offered by the following agency, which is approved by the Domestic Violence Commission: **[08]**
- _____
14. the Domestic Violence Order Of Protection entered in this matter on _____ (date) is no longer in effect and should not be enforced.

(Over)

15. Other: (specify) [08]

16. The Motion To Modify is denied.

TEMPORARY CUSTODY

"Temporary Child Custody Addendum To Modified Domestic Violence Protective Order," AOC-CV-326A, is attached and incorporated into this Order.

FOR CONSENT JUDGMENTS ONLY

Each of us enters into this Consent Order knowingly, freely, and voluntarily. The defendant understands that in consenting to this Order all of the consequences set out in the Notice to Parties and Warnings to Respondent/Defendant in this Order apply.

Each of us agrees that no findings of fact and conclusions of law will be included in this consent protective order.

Date	Signature Of Plaintiff	Date	Signature Of Defendant
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SIGNATURE OF JUDGE

Date	Name Of District Court Judge (type or print)	Signature Of District Court Judge
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NOTICE TO PARTIES

TO THE DEFENDANT:

1. If this Order prohibits you from possessing, receiving or purchasing a firearm and you violate or attempt to violate that provision, you may be charged with a Class H felony pursuant to North Carolina G.S. 14-269.8 and may be imprisoned for up to 39 months.
2. If you have been ordered to surrender your firearms, ammunition, and gun permits and you fail to surrender them as required by this Order, or if you failed to disclose to the Court all information requested about possession of these items, or provided false information to the Court about any of these items, you may be charged with a Class H felony and may be imprisoned for up to 39 months. If you surrendered your firearms, ammunition, and permits, you may file a motion for the return of weapons with the clerk of court in the county in which this Order was entered when the protective order is no longer in effect, except if at the time this Order expires, criminal charges, in either state or federal court, are pending against you and are alleged to have been committed against the person who is protected by this Order, you may not file for return of the firearms until final disposition of the criminal charges. The form, "Motion For Return Of Weapons Surrendered Under Domestic Violence Protective Order" AOC-CV-319, is available from the clerk of court's office. The motion must be filed **not later than 90 days after the expiration of the Order that required you to surrender the firearms or if you have pending criminal charges alleged to have been committed against the person who is protected by the domestic violence protection order, the motion must be filed not later than 90 days after final disposition of the criminal charges.** At the time you file the motion, the clerk will schedule a hearing before the district court for a judge to determine whether to return the surrendered weapons to you. The sheriff cannot return your weapons unless the Court orders the sheriff to do so. You must pay the sheriff's storage fee before the sheriff returns your weapon. If you fail to file a motion for return of the weapons within 90 days after the expiration of this Order, or the final disposition of criminal charges pending at the time this Order expired, or if you fail to pay the storage fees **within 30 days after the Court enters an order to return your weapons**, the sheriff may seek an order from the Court to dispose of your weapons.

TO THE PLAINTIFF:

1. You should keep a copy of this protective order on you at all times and should make copies to give to your friends and family. If you move to another county or state, you may wish to give a copy to the law enforcement agency where you move, but you are not required to do so.
2. The court or judge is the only one that can make changes to this Order. If you wish to change any of the terms of this Order, you must come back into court to have the judge modify the order.
3. If the defendant violates any provision of this Order, you may call a law enforcement officer or go to a magistrate to charge the defendant with the crime of violating a protective order. You also may go to the clerk of court's office in the county where the protective order was issued and ask to fill out form AOC-CV-307, Motion For Order To Show Cause Domestic Violence Protective Order, to have an order issued for the defendant to appear before a district court judge to be held in contempt for violating the order.

CERTIFICATE OF SERVICE WHEN DEFENDANT NOT PRESENT AT HEARING

I certify that this Order and Notice to Parties has been served on the defendant named by depositing a copy in a post-paid, properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Date	Signature	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC
		<input type="checkbox"/> Clerk Of Superior Court	<input type="checkbox"/> Other _____

Name Of Plaintiff	Name Of Defendant	File No.
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CERTIFICATION

I certify this Order is a true copy.

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC
		<input type="checkbox"/> Clerk Of Superior Court	

NOTE TO CLERK: A copy of this Order shall be mailed or given to each party, to your sheriff, and to the police department of the plaintiff's residence, if any. Send extra copies to the sheriff if required to deliver copy(ies) to child(ren)'s school.

**TEMPORARY CHILD CUSTODY ADDENDUM
TO MODIFIED DOMESTIC VIOLENCE PROTECTIVE ORDER
(must be attached to Domestic Violence Order of Protection)**

NOTE TO THE JUDGE: G.S. 50B-3(a1) provides that "[u]pon the request of either party at a hearing after notice or service of process, the court shall consider and may award temporary custody of minor children and establish temporary visitation rights [...]" The court shall base its decision on the best interest of the child with particular consideration given to the safety of the child.

FINDINGS

- 1. The defendant requested custody and gave proper notice of this request to the plaintiff.
- 2. The parties are the parents of the following children under the age of eighteen (18). The child(ren) are presently in the physical custody of the plaintiff. defendant. The plaintiff defendant has submitted an "Affidavit As To Status Of Minor Child," which is incorporated by reference into this Order.

NOTE TO JUDGE: A copy of AOC-CV-609 for each child must be attached to the order.

Name	Sex	Date Of Birth	Name	Sex	Date Of Birth

- 3. The following statutory factors were raised by the evidence and the Court makes the following findings based on the evidence presented. (Check only those factors for which evidence was presented and make findings regarding the evidence presented for those factors.)

"Whether the minor child **was exposed to a substantial risk of physical or emotional injury or sexual abuse.**" Findings:

"Whether the minor child was **present during acts of domestic violence.**" Findings:

"Whether a **weapon was used or threatened to be used** during any act of violence." Findings:

"Whether a party **caused or attempted to cause serious bodily injury** to the aggrieved party or minor child." Findings:

"Whether a party placed the aggrieved party or the minor child in **reasonable fear of imminent serious bodily injury.**" Findings:

"Whether a party **caused an aggrieved party to engage involuntarily in sexual relations** by force, threat or duress." Findings:

"Whether there is a **pattern of abuse** against the aggrieved party or minor child." Findings:

"Whether a party has **abused or endangered the minor child during visitation.**" Findings:

FINDINGS (continued)

"Whether a party has **used visitation as an opportunity to abuse or harass the aggrieved party.**" Findings:

"Whether a party has improperly **concealed or detained** the minor child." Findings:

"Whether a party has otherwise acted in a manner that is not in the best interest of the minor child." Findings:

4. Other findings as to whether it is in the best interest of the child(ren) that custody be awarded with particular consideration given to the safety of the child(ren):

CONCLUSIONS

- 1. The Court has jurisdiction under the Uniform Child Custody Jurisdiction And Enforcement Act.
- 2. It is in the best interest of the minor child(ren) that temporary custody be given to plaintiff. defendant. **[08]**
 and that the defendant plaintiff be granted visitation.
- 3. The Court concludes that temporary custody should not be awarded at this time.

ORDER

Therefore it is ORDERED that:

- 1. temporary custody of the minor child(ren) named on Side One is granted to plaintiff. defendant.
- 2. The defendant plaintiff is entitled to visitation under the terms listed below:
 - a. supervised visitation as follows: *(specify the person or agency providing supervision, the location, frequency, and length of visitation)*

OR

unsupervised visitation as follows: *(specify the location, frequency and length of visitation)*

b. *(name person)* _____ shall be responsible for transportation of the minor child(ren) to visitation and *(name person)* _____ shall be responsible for transportation of the minor child(ren) from visitation. The exchange at the start of visitation shall occur at *(name location)* _____ and the exchange at the conclusion of the visitation shall occur at *(name location)* _____.

c. Other:

3. temporary custody is not awarded.

4. The order is effective until *(give date which cannot be longer than one year)*: _____.

Date	Name Of District Court Judge (type or print)	Signature Of District Court Judge
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