



**26th Judicial District
SelfServe Center**

50B Domestic Violence Protective Order

Request for Child Custody

NOTE:

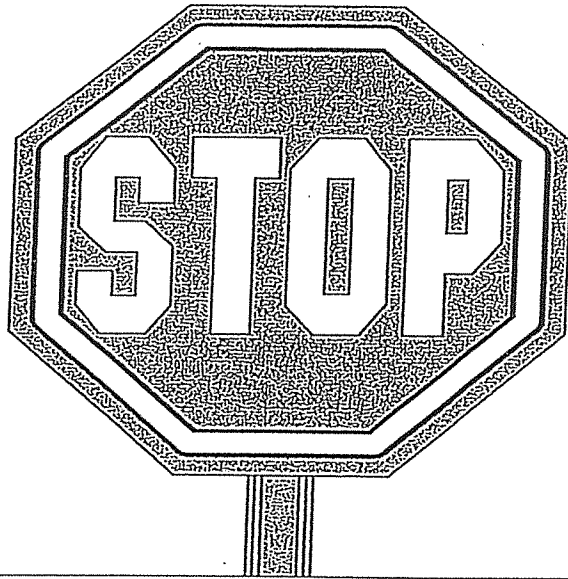
THIS PACKET CONTAINS INFORMATION REGARDING THE PROCESS FOR FILING A DOMESTIC VIOLENCE PROTECTIVE ORDER. USE THIS PACKET ONLY IF THE RELATIONSHIP BETWEEN YOU AND THE PERSON YOU ARE FILING AGAINST IS CURRENTLY OR WAS: MARRIED, DIVORCED, PERSONS WHO HAVE LIVED TOGETHER, HAVE A CHILD IN COMMON, ARE PARENT/CHILD, CURRENT OR FORMER HOUSEHOLD MEMBERS OR ARE PERSONS WHO HAVE BEEN IN A DATING RELATIONSHIP.

DUE TO THE CHANGING NATURE OF THE LAW, the forms and information contained in this packet may become outdated. Therefore, you should review and research statutes and rules of procedure referenced in the instructions to ensure that the forms are accurate and current.

IN NO EVENT will the SelfServe Center staff, Clerk of Court or anyone contributing to the production of these forms, instructions, or guidelines be liable for any indirect or consequential damages resulting from the use of the forms or information provided to you by the SelfServe Center.

IF THERE ARE ANY QUESTIONS in your mind concerning these forms, the use of these forms, or your legal rights, it is strongly recommended that you consult with or retain an attorney.

USE THESE FORMS AT YOUR OWN RISK. THESE FORMS MAY OR MAY NOT BE APPROPRIATE IN YOUR PARTICULAR CASE. ANY DESIRED OUTCOME FROM THE USE OF THESE FORMS CANNOT BE PREDICTED OR GUARANTEED. IT IS STRONGLY RECOMMENDED THAT YOU SEEK LEGAL ADVICE!



PLEASE CAREFULLY READ THE FORMS AND
INSTRUCTIONS CONTAINED IN THIS PACKET.

IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT
WITH AN ATTORNEY.

THESE ARE EDUCATIONAL FORMS DESIGNED TO
ASSIST YOU, BUT YOU ARE REPRESENTING
YOURSELF. PLEASE REVIEW AND FOLLOW THE
DIRECTIONS TO IMPROVE YOUR PERFORMANCE IN
YOUR CASE. FAILURE TO READ AND FOLLOW THE
INSTRUCTIONS MAY ADVERSELY IMPACT YOUR
CLAIM.

INTRODUCTION

What is this?

This packet of information is provided for individuals who wish to pursue a case without the assistance of an attorney. This is called a *pro se* or self-represented case. If you are not sure that you want or need to go to court, please ask the SelfServe Center staff to direct you to a lawyer referral service or list of local attorneys willing to provide “unbundled services” (*representation for a limited portion of a case at an hourly rate*).

How will it help me?

If you do not plan to use an attorney, this packet will start the process for you by providing certain forms you will need. Since you are representing yourself, it is YOUR responsibility to ensure that these are the correct forms for the nature of your case. Therefore, you should review and research *applicable laws and rules of procedure* that apply to your type of case. If you are not able to do this, you should talk with an attorney. If at any point during the process you become confused or wish to proceed with the help of an attorney, contact the Mecklenburg County Bar Lawyer Referral Service at (704) 375-0120 or the North Carolina Bar Lawyer Referral Service at (800) 662-7660.

What does this mean?

Certain legal terms will be used throughout your case. A complete legal glossary is available for your convenience in the SelfServe Center. If you still do not understand the term, consult a legal dictionary or the SelfServe Center staff. Staff CANNOT provide legal advice, but can provide procedural information and definitions of legal terms.

What is a 50B Domestic Violence Protective Order?

A 50B Domestic Violence Protective Order provides that victims of domestic violence can get an order of protection from the court. Domestic Violence Restraining Orders ("50B", restraining orders, or DVPO's) are civil orders limiting the contact a person may have with a victim and the statutes provide for two types:

1. Ex Parte Order:

An emergency order, also called an Ex Parte Order, is available if there is a danger of serious *and* immediate injury to you or to a minor child. Once an Ex Parte order is filed with the Clerk of Court, you will be required to appear before a judge to explain the need for an order of protection. The defendant will not be present at this hearing. If a magistrate/judge finds that there is danger to the victim or a minor child, the magistrate/judge can issue an Emergency Ex Parte Order of Protection with any orders against the defendant he/she feels is necessary to protect the victim or the minor child. Such an order is good for 10 days.

How Does the Ex Parte Process Work? If the Ex Parte motion is filed **before noon (12pm)**, it will typically be heard that day without giving notice to the defendant. If it is filed **after noon**, it will typically be heard the following day without giving notice to the defendant. If a judge/magistrate hears your request for Ex Parte relief, the judge/magistrate's order is valid for only a

short period of time and a second temporary order must be issued by a judge. If the judge/magistrate issues an Ex Parte Order, another hearing will be held after the defendant is given notice. If no Ex Parte Order is entered, a hearing will still be held after the defendant is given notice. At the second hearing date, the court will consider whether to grant a protection order lasting one year.

2. No Ex Parte Order

If you do not wish to file for an Ex Parte Order, you may file the complaint and receive a hearing date in the future. The defendant will be able to attend this hearing date. The length of the protective order considered at this hearing will be for one year.

What do I do first?

After you get the packet, READ THE INSTRUCTIONS! Then fill out the forms by typing or printing *neatly* in ink. You may fill them out at home or at the courthouse. Please read the forms carefully as some have a "Verification" page. This means that they MUST be signed in the presence of a Notary Public. If the document does require verification, do not sign it until you are in front of a Notary. There is a Notary Public on the first floor of the 26th Judicial District Building (832 E. Fourth St) in the Sheriff's Office. Also, they can be likely found at banks, insurance agencies and law firms. A few may also be found in the Yellow Pages. Notaries often charge a small fee and require you to show a picture ID for their services. Be sure to have your documents already notarized when you take them to the Clerk's Office to file.

IMPORTANT REMINDERS BEFORE YOU BEGIN

This packet describes the general process, but it is impossible to cover everything that may affect your rights. If you get confused during the process, you should stop and get advice from an attorney. Judges, Clerk of Court, SelfServe Center staff or the Trial Court Administrator's Office CANNOT give you legal advice.

INSTRUCTIONS FOR 50B DOMESTIC VIOLENCE FORMS

FORMS YOU NEED TO FILL OUT.

I. Complaint And Motion for Domestic Violence Protective Order (AOC-CV-303)

1. Fill in:

- (a) Name of county
 - (b) Plaintiff's name - you are the plaintiff
 - (c) Defendant's name and address - defendant is spouse, former spouse, or person of the opposite sex with whom you live or have lived as if married.
 - (d) Check the blocks and fill in the blanks that apply to you. If you are afraid of additional acts of domestic violence and you want the judge/magistrate to act immediately, check block #2 on the back of page 1 in the middle, asking for an Ex Parte Order*. Date and sign the complaint on page 3 (*above the verification section*). The verification must be signed before a clerk or magistrate.
 - (e) **DO NOT fill out the remainder of this form**
 - (f) In Mecklenburg County, you may take the completed forms to the Magistrate's Office at the Mecklenburg County Jail (801 E. 4th St.,) on weekends and evenings.
2. If you or the defendant is under the age of eighteen (18) and not married, you must ask a member of the staff in the SelfServe Center for the form to appoint a guardian ad litem (AOC-CV-318), or have a parent or guardian complete the forms for you, and accompany you to court.

II. Servicemembers Civil Relief Act Affidavit

1. Fill in the name of the county where you will be filing the case.
2. Fill in your name and address and the name and address of the Defendant.
3. Check the boxes under items 1, 2, and 3, that accurately describes your knowledge about the Defendants military service. You must choose a selection for each area in 1, 2, and 3.
*Go to the Servicemembers Civil Relief Act website (<https://scra.dmdc.osd.mil/>) if you select to use the website. If you do not select to the website, you must explain why you think the defendant is or is not in active member of the military service.

III. Affidavit As To The Status Of The Minor Child (AOC-CV-609)

1. You do not need this form unless you are asking for temporary custody of the children.
2. You will need only one (1) copy of this form. One form for each child.
3. You must attach the completed form to the Complaint and give it to the clerk or magistrate with the other papers.

IV. Identifying information about the defendant (Mecklenburg County Sheriff's Office Domestic Violence Questionnaire)

1. You will need only (1) copy of this form
2. Fill in all the information. Be as complete and accurate as you can.

* The Ex Parte motion will be heard very soon, after filing, without giving notice to the defendant. If a judge/magistrate hears your request for Ex Parte relief, the judge's/magistrate's order is only good for no more than 10 business days. If the judge issues an Ex Parte Order, another hearing will be held after the defendant is given notice. If no Ex Parte Order is entered a hearing will still be held after the defendant is given notice. Only at the 10 day hearing will the judge grant a one year order.

AFTER COMPLETING ALL FORMS TAKE THEM TO THE
CIVIL CLERK'S OFFICE (832 E. Fourth St., Room 3725) Domestic Violence
FOR FILING.

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
District Court Division

Name Of Plaintiff (Person Filing Complaint)

VERSUS

Name And Address Of Defendant (Person Accused Of Abuse)

COMPLAINT AND MOTION
FOR
DOMESTIC VIOLENCE
PROTECTIVE ORDER

G.S. 50B-1, -2, -3, -4

(Check only boxes that apply and fill in blanks. Additional sheets may be attached.)

1. I live in _____ County, North Carolina.
2. The defendant and I are spouses. are former spouses.
 are persons of the opposite sex who are not married but live together or have lived together.
 have a child in common.
 are parent and child or grandparent and grandchild.
 are current or former household members.
 are persons of the opposite sex who are in or have been in a dating relationship.
3. There is is not another court proceeding between the defendant and me pending in this or any other state. (List county, state, date, and what kind of proceeding, if applicable.)
4. The defendant has attempted to cause or has intentionally caused me bodily injury; or has placed me or a member of my family or household in fear of imminent serious bodily injury or in fear of continued harassment that rises to such a level as to inflict substantial emotional distress; or has committed a sexual offense against me in that: (Give specific dates and describe in detail what happened.)
5. The defendant has attempted to cause or has intentionally caused bodily injury to the child(ren) living with me or in my custody; has placed my child(ren) in fear of imminent serious bodily injury or in fear of continued harassment that rises to such a level as to inflict substantial emotional distress; or has committed a sexual offense against the child(ren) in that: (Give specific dates and describe in detail what happened.)
6. I believe there is danger of serious and immediate injury to me or my child(ren).
7. (Check this block if you ask for temporary child custody.) The defendant and I are the parents of the following child(ren) under the age of eighteen.

A COPY OF "AFFIDAVIT AS TO STATUS OF MINOR CHILD" (AOC-CV-609) MUST BE ATTACHED FOR EACH CHILD.

Name	Sex	Date Of Birth	Name	Sex	Date Of Birth

(Over)

8. (Fill in the block if you are asking for temporary child custody) The minor child(ren) listed in No 7. above is exposed to a substantial risk of physical or emotional injury or sexual abuse in that: (Describe in detail what happened that created a risk of physical or emotional injury or sexual abuse.)
9. The defendant has firearms and ammunition as described below, has a permit to purchase a firearm, and has a permit to carry a concealed weapon. (Describe all firearms, ammunition, gun permits and give identifying number(s) if known, and indicate where defendant keeps firearms and gun permits.)
10. The defendant has used or threatened to use a deadly weapon against me or minor child(ren) in my custody or has a pattern of prior conduct involving the use or threatened use of violence with a firearm against any persons in that (Give specific dates and describe in detail what happened.)
11. The defendant has made threats to commit suicide in that (Give specific dates and describe in detail what happened.)

Because Of The Acts Of Domestic Violence By The Defendant, I Am Requesting That The Court Give Me The Following Relief:

(Check only boxes that apply.)

1. I want emergency relief.
2. Since there is a danger of acts of domestic violence against me or my child(ren), I want an Ex Parte Order before notice of a hearing is given to the defendant.
3. I want the Court to order the defendant not to assault, threaten, abuse, follow, harass or interfere with me and my child(ren).
- 3a. I want the defendant ordered not to 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. I want possession of our residence at the address listed below, and I want the defendant to move from and not return to the residence.
- Address Of Residence
-
5. I want the Court to order the eviction of the defendant from the residence listed above and I want assistance in returning to the residence.
6. I want possession of the personal property such as clothing and household goods in the residence listed above except for the defendant's personal clothing, toiletries and tools of trade.
- 6a. I want 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 granted to me.

VERSUS

File No.

Name Of Defendant

7. I want the defendant to be ordered not to come on or about:
- | | |
|--|--|
| <input type="checkbox"/> (a) my residence. | <input type="checkbox"/> (b) any place where I am receiving temporary shelter. |
| <input type="checkbox"/> (c) the place where I work. | <input type="checkbox"/> (d) any school(s) the child(ren) attend. |
| <input type="checkbox"/> (e) the place where the child(ren) receives day care. | <input type="checkbox"/> (f) the place where I go to school. |
| <input type="checkbox"/> (g) Other: (name other places) | |

The child(ren) currently attend: (name school)

8. I want the defendant to be ordered to have no contact with me.

9. I want possession and use of the following vehicle:

Describe Vehicle

10. I want temporary custody of our minor child(ren) listed in this Complaint. I understand that I must file a separate child custody action for permanent custody.

11. I want the defendant to be ordered to make payments for the support of our minor child(ren), as required by law, but I understand it is only temporary and that I must file a separate child support action for regular, permanent child support.

12. I want the Court to prohibit the defendant from possessing or purchasing a firearm.

13. I want the Court to order the defendant to surrender to the sheriff his/her firearms, ammunition, and gun permits to purchase a firearm and carry a concealed weapon.

14. I want the defendant to be ordered to attend an abuser treatment program.

15. I want the defendant to be ordered to provide me and the child(ren) suitable alternative housing.

16. I want the defendant to be ordered to make payments for my support as required by law, but I understand it is only temporary and that I must file a separate action for regular permanent spousal support.

17. Other: (specify)

Date

Signature Of Plaintiff (Person Filing Complaint)

VERIFICATION

I, the undersigned, being first duly sworn, say that I am the plaintiff in this action; that I have read the Complaint and Motion; that the matters and things alleged in the Complaint and Motion are true except as to those things alleged upon information and belief and as to those I believe them to be true and accurate.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date

Date

Signature

Signature Of Plaintiff (Person Filing Complaint)

- Deputy CSC
 Assistant CSC

- Clerk of Superior Court
 Designated Magistrate

Name Of Plaintiff (Type Or Print)

Notary

Date My Commission Expires

SEAL

County Where Notarized

**Mecklenburg County Sheriff's Office
Domestic Violence Questionnaire**

Defendant Information (Please Print All Information)

Defendant's Last Name:	Defendant's First Name:	Date of Birth:
Race:	Sex:	Weight:
Social Security Number:	Driver's License #:	Facial Hair/Goatee:
Hair Color:	Eye Color:	Scars/Tattoos:

Defendant's Address:	Defendant's Home Phone #:
	Defendant's Cell Phone #:
Defendant's Parents Address:	Parents Home Phone #:
Other Family Address:	Phone #:
Friends Address:	Phone #:

Defendant's Work Address (Company & Address):	Phone #
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Defendant's Vehicle Description Make:	Model:	Year:	Color:
Defendant's Work Vehicle Make:	Model:	Year:	Color:

Does the Defendant use Drugs/Alcohol? If so, describe:	Yes No	Is the Defendant Violent or Combative? Yes No
Does the Defendant carry weapons? Is so, describe:	Yes No	Have you had the Defendant arrested before? Yes No If so, when?

Plaintiff Information

Plaintiff's Last Name:	Plaintiff's First Name:	Race:
Date of Birth (Required):	Social Security # (Required):	Sex:
Plaintiff's Home Phone #:	Plaintiff's Cell Phone #:	Plaintiff's Pager #:
Work #:	Parents #:	Friends #:
What are your work hours?	Do you have your child(ren) with you? Yes No	Do you have your vehicle? Yes No

Additional comments on locating the Defendant?

STATE OF NORTH CAROLINA

Court File No.

_____ County

In The General Court Of Justice
District Court Division

Name And Address Of Plaintiff

AFFIDAVIT AS TO STATUS OF MINOR CHILD

VERSUS

Name And Address Of Defendant

G.S. 50A-209

Name Of Minor Child

Date Of Birth

Birthplace

I, the undersigned affiant, being first duly sworn, say that during the past five (5) years the above named minor child has lived as follows:

Period Of Residence		Address	Name Of Person Lived With	Present Address Of Person
From	To			
	Present			

I further say that: *(Check those that apply)*

I have participated in litigation concerning the custody of the above named child.

Capacity As Participant

Name And Address Of Court

Date Of Child Custody Determination

Case No.

Details

I have information about a custody proceeding. Examples of custody proceeding include divorce, proceeding related to domestic violence, a protective order, termination of parental rights or adoption that is pending in a court of this or another state and could affect this proceeding.

Name And Address Of Court

Details

I know of a person as listed below, who has physical custody or claims to have custody or visitation rights with respect to the above named child.

Name And Address Of Person

- Physical Custody
 Claimed Custody
 Visitation Rights

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date

Date

Signature Of Person Authorized To Administer Oaths

Signature Of Affiant

Deputy CSC

Assistant CSC

Clerk Of Superior Court

Name Of Affiant (Type Or Print)

Notary

Date Commission Expires

Relationship To Above Named Child

SEAL

County Where Notarized

County

In The General Court Of Justice

Name And Address Of Plaintiff

VERSUS

Name And Address Of Defendant

SERVICEMEMBERS CIVIL RELIEF ACT AFFIDAVIT

50 U.S.C. 3901 to 4043

NOTE: Though this form may be used in a Chapter 45 Foreclosure action, it is not a substitute for the certification that may be required by G.S. 45-21.12A.

AFFIDAVIT

I, the undersigned Affiant, under penalty of perjury declare the following to be true:

1. As of the current date: (check one of the following)

- a. I have personal knowledge that the defendant named above is in military service.*
b. I have personal knowledge that the defendant named above is not in military service.*
c. I am unable to determine whether the defendant named above is in military service.*

2. (check one of the following)

- a. I used the Servicemembers Civil Relief Act Website (https://scra.dmdc.osd.mil/) to determine the defendant's military status.
The results from my use of that website are attached.

(NOTE: The Servicemembers Civil Relief Act Website is a website maintained by the Department of Defense (DoD). If DoD security certificates are not installed on your computer, you may experience security alerts from your internet browser when you attempt to access the website. DoD security certificates were automatically added to the computers of all Judicial Branch users, such that these users should not expect security alerts to appear with this website after July of 2015. As of June 22, 2016, the Servicemembers Civil Relief Act Website includes the following advice: "Most web browsers don't come with the DoD certificates already installed. The best and most secure solution is for the user to install all of the DoD's public certificates in their web browser.")

- b. I have not used the Servicemembers Civil Relief Act Website and the following facts support my statement as to the defendant's military service: (State how you know the defendant is not in the military. Be specific.)

Blank lines for providing facts supporting the statement.

*NOTE: The term "military service" includes the following: active duty service as a member of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; service as a member of the National Guard under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days for purposes of responding to a national emergency; active service as a commissioned officer of the Public Health Service or of the National Oceanic and Atmospheric Administration; any period of service during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. 50 U.S.C. 3911(2).

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME. Includes fields for Date, Signature Of Affiant, Name Of Affiant, and checkboxes for Deputy CSC, Assistant CSC, Clerk Of Superior Court, Magistrate, Notary, and SEAL.

NOTE TO COURT: Do not proceed to enter judgment in a non-criminal case in which the defendant has not made an appearance until a Servicemembers Civil Relief Act affidavit (whether on this form or not) has been filed, and if it appears that the defendant is in military service, do not proceed to enter judgment until such time that you have appointed an attorney to represent him or her.

(Over)

Information About Servicemembers Civil Relief Act Affidavits

1. Plaintiff to file affidavit

In any civil action or proceeding, including any child custody proceeding, in which the defendant does not make an appearance, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

- (A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or
- (B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

50 U.S.C. 3931(b)(1).

2. Appointment of attorney to represent defendant in military service

If in a civil action or proceeding in which the defendant does not make an appearance it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed to represent a service member cannot locate the service member, actions by the attorney in the case shall not waive any defense of the service member or otherwise bind the service member. 50 U.S.C. 3931(b)(2). State funds are not available to pay attorneys appointed pursuant to the Servicemembers Civil Relief Act. To comply with the federal Violence Against Women Act and in consideration of G.S. 50B-2(a), 50C-2(b), and 50D-2(b), plaintiffs in Chapter 50B, Chapter 50C, and Chapter 50D proceedings should not be required to pay the costs of attorneys appointed pursuant to the Servicemembers Civil Relief Act. Plaintiffs in other types of actions and proceedings may be required to pay the costs of attorneys appointed pursuant to the Servicemembers Civil Relief Act. The allowance or disallowance of the ordering of costs will require a case-specific analysis.

3. Defendant's military status not ascertained by affidavit

If based upon the affidavits filed in such an action, the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file a bond in an amount approved by the court. If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the judgment be set aside in whole or in part. The bond shall remain in effect until expiration of the time for appeal and setting aside of a judgment under applicable Federal or State law or regulation or under any applicable ordinance of a political subdivision of a State. The court may issue such orders or enter such judgments as the court determines necessary to protect the rights of the defendant under this Act. 50 U.S.C. 3931(b)(3).

4. Satisfaction of requirement for affidavit

The requirement for an affidavit above may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury. 50 U.S.C. 3931(b)(4). The presiding judicial official will determine whether the submitted affidavit is sufficient.

5. Penalty for making or using false affidavit

A person who makes or uses an affidavit permitted under 50 U.S.C. 3931(b) (or a statement, declaration, verification, or certificate as authorized under 50 U.S.C. 3931(b)(4)) knowing it to be false, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both. 50 U.S.C. 3931(c).