

DVPO / CPO

Bench Guide

Ada County Family Court Services

August 2020 Edition

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- Questions – please email Rebecca Kulaga – Family Court Services Director
 - rkulaga@adacounty.id.gov

Section A



Idaho Statutes

TITLE 39 HEALTH AND SAFETY CHAPTER 63

DOMESTIC VIOLENCE CRIME PREVENTION

39-6302. STATEMENT OF PURPOSE. For purposes of this chapter, the legislature adopts by reference the declaration of policy in section 39-5201, Idaho Code. Additionally, the legislature finds that a significant number of homicides, aggravated assaults, and assaults and batteries occur within the home between adult members of families. Furthermore, research shows that domestic violence is a crime which can be deterred, prevented or reduced by legal intervention. Domestic violence can also be deterred, prevented or reduced by vigorous prosecution by law enforcement agencies and prosecutors and by appropriate attention and concern by the courts whenever reasonable cause exists for arrest and prosecution.

The purpose of this act is to address domestic violence as a serious crime against society and to assure the victims of domestic violence the protection from abuse which the law and those who enforce the law can provide.

It is the intent of the legislature to expand the ability of the courts to assist victims by providing a legal means for victims of domestic violence to seek protection orders to prevent such further incidents of abuse. It is the intent of the legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior in the home is criminal behavior and will not be tolerated. It is the intent of the legislature to presume the validity of protection orders issued by courts in all states, the District of Columbia, United States territories and all federally recognized Indian tribes within the United States, and to afford full faith and credit to those orders. The provisions of this chapter are to be construed liberally to promote these purposes.

History:

[39-6302, added 1988, ch. 341, sec. 1, p. 1013; am. 1989, ch. 136, sec. 1, p. 306; am. 1999, ch. 330, sec. 1, p. 888.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 39 HEALTH AND SAFETY CHAPTER 63

DOMESTIC VIOLENCE CRIME PREVENTION

39-6303. DEFINITIONS. (1) "Domestic violence" means the physical injury, sexual abuse or forced imprisonment or threat thereof of a family or household member, or of a minor child by a person with whom the minor child has had or is having a dating relationship, or of an adult by a person with whom the adult has had or is having a dating relationship.

(2) "Dating relationship," for the purposes of this chapter, is defined as a social relationship of a romantic nature. Factors that the court may consider in making this determination include:

- (a) The nature of the relationship;
- (b) The length of time the relationship has existed;
- (c) The frequency of interaction between the parties; and
- (d) The time since termination of the relationship, if applicable.

(3) "Family member" means spouses, former spouses and persons related by blood, adoption or marriage.

(4) "Family dwelling" is any premises in which the petitioner resides.

(5) "Foreign protection order" means a protection order issued by a tribunal of another state.

(6) "Household member" means persons who reside or have resided together, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

(7) "Judicial day" means any day upon which court business may be transacted as provided in sections 1-1606 and 1-1607, Idaho Code.

(8) "Protection order" means any order issued for the purpose of preventing violent or threatening acts or acts of harassment against, or contact or communication with, or physical proximity to, another person, where the order was issued:

- (a) Pursuant to this chapter;
- (b) In another jurisdiction pursuant to a provision similar to section 39-6306, Idaho Code; or
- (c) In any criminal or civil action, as a temporary or final order (other than a support or child custody order), and where the order was issued in a response to a criminal complaint, petition or motion filed by or on behalf of a person seeking protection, and issued after giving notice and an opportunity to respond to the person being restrained.

(9) "Respondent" means the individual against whom enforcement of a protection order is sought.

History:

[39-6303, added 1988, ch. 341, sec. 1, p. 1014; am. 1989, ch. 136, sec. 2, p. 306; am. 1999, ch. 330, sec. 2, p. 889; am. 2000, ch. 136, sec. 1, p. 355; am. 2002, ch. 213, sec. 1, p. 587; am. 2002, ch. 331, sec. 1, p. 937; am. 2003, ch. 16, sec. 9, p. 55.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 39 HEALTH AND SAFETY CHAPTER 63

DOMESTIC VIOLENCE CRIME PREVENTION

39-6304. ACTION FOR PROTECTION. (1) There shall exist an action known as a "petition for a protection order" in cases of domestic violence.

(2) A person may seek relief from domestic violence by filing a petition based on a sworn affidavit with the magistrates division of the district court, alleging that the person or a family or household member, whether an adult or a child, is the victim of domestic violence. Any petition properly filed under this chapter may seek protection for any additional persons covered by this chapter. A custodial or noncustodial parent or guardian may file a petition on behalf of a minor child who is the victim of domestic violence.

(3) A person's right to petition for relief under this chapter shall not be affected by that person's having left the residence or household to avoid abuse.

(4) The petition shall disclose the existence of any custody or any marital annulment, dissolution or separation proceedings pending between the parties, the existence of any other custody order affecting the children of the parties, and the existence of child protection or adoption proceedings affecting the children of any party.

(5) When the petitioner requests custody of any child, the petition shall disclose:

(a) The county and state where the child has resided for six (6) months immediately prior to the filing of the petition;

(b) The party or other responsible person with whom the child is presently residing; and

(c) The party or other responsible person with whom the child has resided for six (6) months immediately prior to the filing of the petition.

(6) A petition shall be filed in the county of the respondent's residence, the petitioner's residence, or where the petitioner is temporarily residing.

History:

[39-6304, added 1988, ch. 341, sec. 1, p. 1014; am. 1989, ch. 136, sec. 3, p. 307; am. 2000, ch. 136, sec. 2, p. 356.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 39
HEALTH AND SAFETY
CHAPTER 63

DOMESTIC VIOLENCE CRIME PREVENTION

39-6305. FEES WAIVED. No filing fee, service fee, hearing fee or bond shall be charged for proceedings seeking only the relief provided under this chapter.

History:

[39-6305, added 1988, ch. 341, sec. 1, p. 1014.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 39

HEALTH AND SAFETY

CHAPTER 63

DOMESTIC VIOLENCE CRIME PREVENTION

39-6306. HEARING ON PETITION FOR PROTECTION ORDER – RELIEF PROVIDED AND REALIGNMENT OF DESIGNATION OF PARTIES. (1) Upon filing of a petition based upon a sworn affidavit for a protection order, the court shall hold a hearing to determine whether the relief sought shall be granted within fourteen (14) days. If either party is represented by counsel at a hearing seeking entry of a protection order, the court shall permit a continuance, if requested, of the proceedings so that counsel may be obtained by the other party. If the court finds that it is necessary for both parties to be represented by counsel, the court shall enter appropriate orders to ensure that counsel is retained. The order entered may require either the petitioner or respondent, or both, to pay for costs of counsel. Upon a showing that there is an immediate and present danger of domestic violence to the petitioner the court may, if requested, order for a period not to exceed one (1) year that:

- (a) Temporary custody of the minor children of the petitioner or of the parties be awarded to the petitioner or respondent if exercise of such jurisdiction is consistent with the provisions of section 32-11-204, Idaho Code, and consistent with prior custody orders entered by a court of competent jurisdiction unless grounds exist pursuant to section 32-717, Idaho Code;
- (b) A party be restrained from committing acts of domestic violence;
- (c) Exclude the respondent from the dwelling which the parties share or from the residence of the petitioner;
- (d) The respondent be ordered to participate in treatment or counseling services. The council on domestic violence, in recognition of the particular treatment requirements for batterers, shall develop minimal program and treatment standards to be used as guidelines for recommending approval of batterer programs to the court;
- (e) Other relief be ordered as the court deems necessary for the protection of a family or household member, including orders or directives to a peace officer, as allowed under this chapter;
- (f) The respondent be required to pay service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee;
- (g) The respondent be restrained from harassing, annoying, disturbing the peace of, telephoning, contacting, or otherwise communicating, directly or indirectly, with the petitioner and any designated family member or specifically designated person of the respondent's household, including the minor children whose custody is awarded to the petitioner;
- (h) The respondent be restrained from entering any premises when it appears to the court that such restraint is necessary to prevent the respondent from contacting, harassing, annoying, disturbing the peace

of or telephoning the petitioner or the minor children whose custody is awarded to the petitioner; and/or

(i) The respondent be restrained from coming within one thousand five hundred (1,500) feet or other appropriate distance of the petitioner, the petitioner's residence, the school or place of employment of the petitioner, or any specified place frequented by the petitioner and by any other designated family member or specifically designated person of the respondent's household, including the minor children whose custody is awarded to the petitioner.

(2) Immediate and present danger under this section includes, but is not limited to, situations in which the respondent has recently threatened the petitioner with bodily harm or engaged in domestic violence against the petitioner or where there is reasonable cause to believe bodily harm may result.

(3) No order made under this chapter shall in any manner affect title to real property.

(4) Relief shall not be denied because petitioner used reasonable force in self-defense against respondent, or because petitioner or respondent was a minor at the time of the incident of domestic violence.

(5) Any relief granted by the protection order, other than a judgment for costs, shall be for a fixed period not to exceed one (1) year; provided, that an order obtained pursuant to this chapter may, upon motion and upon good cause shown, continue for an appropriate time period as directed by the court or be made permanent if the requirements of this chapter are met, provided the order may be terminated or modified by further order of the court either on written stipulation filed with the court or on the motion of a party and after a hearing on the motion. The motion to renew an order may be granted without a hearing, if not timely objected to by the party against whom the order was entered.

(6) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence.

History:

[39-6306, added 1988, ch. 341, sec. 1, p. 1013; am. 1989, ch. 136, sec. 4, p. 305; am. 1990, ch. 234, sec. 1, p. 667; am. 1991, ch. 300, sec. 1, p. 787; am. 1995, ch. 357, sec. 1, p. 1212; am. 2000, ch. 227, sec. 3, p. 640; am. 2006, ch. 287, sec. 1, p. 883.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 39

HEALTH AND SAFETY

CHAPTER 63

DOMESTIC VIOLENCE CRIME PREVENTION

39-6308. EX PARTE TEMPORARY PROTECTION ORDER. (1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary protection order based upon the affidavit submitted or otherwise shall hold a hearing which may be ex parte on the day a petition is filed or on the following judicial day to determine whether the court should grant an ex parte temporary protection order, pending a full hearing, and grant such other relief as the court deems proper, including an order:

- (a) Restraining any party from committing acts of domestic violence;
- (b) Excluding any party from the dwelling shared or from the residence of the other until further order of the court;
- (c) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court;
- (d) Ordering other relief as the court deems necessary for the protection of a family or household member, including orders or directives to a peace officer, as allowed under this chapter;
- (e) Restraining the respondent from contacting, molesting, interfering with or menacing the minor children whose custody is awarded to the petitioner;
- (f) Restraining the respondent from entering any premises when it appears to the court that such restraint is necessary to prevent the respondent from contacting, molesting, interfering with or menacing the petitioner or the minor children whose custody is awarded to the petitioner; and/or
- (g) Restraining the respondent from taking more than personal clothing and toiletries and any other items specifically ordered by the court.

(2) An ex parte hearing to consider the issuance of a temporary protection order may be conducted by telephone in accordance with procedures established by the Idaho supreme court.

(3) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened the petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(4) The court shall hold an ex parte hearing on the day the petition is filed or on the following judicial day.

(5) An ex parte temporary protection order shall be effective for a fixed period not to exceed fourteen (14) days, but may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen (14) days from the issuance of the temporary order. The respondent shall be served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing. If the ex parte temporary protection order substantially affects the respondent's rights to

enter the domicile or the respondent's right to custody or visitation of the respondent's children and the ends of justice so require, the respondent may move the court for an order shortening the time period within which the hearing required under the provisions of section 39-6306, Idaho Code, must be held. Motions seeking an order shortening the time period must be served upon the petitioner at least two (2) days prior to the hearing on the motion.

History:

[39-6308, added 1988, ch. 341, sec. 1, p. 1016; am. 1989, ch. 136, sec. 5, p. 308; am. 1990, ch. 234, sec. 2, p. 668.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 39
HEALTH AND SAFETY
CHAPTER 63

DOMESTIC VIOLENCE CRIME PREVENTION

39-6309. ISSUANCE OF ORDER – ASSISTANCE OF PEACE OFFICER – DESIGNATION OF APPROPRIATE LAW ENFORCEMENT AGENCY. When an order is issued or a foreign protection order is recognized under this chapter upon request of the petitioner, the court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution of the protection order. A certified copy of the order shall be prepared by the clerk for transmittal to the appropriate law enforcement agency as specified in section 39-6311, Idaho Code. Orders issued or foreign protection orders recognized under this chapter shall include an instruction to the appropriate law enforcement agency to execute, serve, or enforce the order.

History:

[39-6309, added 1988, ch. 341, sec. 1, p. 1016; am. 1999, ch. 330, sec. 4, p. 890; am. 2002, ch. 213, sec. 4, p. 591.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

Idaho Statutes are updated to the web July 1 following the legislative session.

TITLE 18
CRIMES AND PUNISHMENTS
CHAPTER 79
MALICIOUS HARASSMENT

18-7907. ACTION FOR PROTECTION. (1) There shall exist an action known as a "petition for a protection order" in cases where a person intentionally engages in the following conduct:

(a) Stalks, in any degree, as described in sections 18-7905 and 18-7906, Idaho Code;

(b) Telephones another with the intent to terrify, threaten, or intimidate such other person and addresses to such other person any threat to inflict injury or physical harm to the person addressed or any member of his family and engages in such conduct with any device that provides transmission of messages, signals, facsimiles, video images, or other communication by means of telephone, telegraph, cable, wire, or the projection of energy without physical connection between persons who are physically separated from each other; or

(c) Based upon another person's race, color, religion, ancestry, or national origin, intimidates or harasses another person or causes, or threatens to cause, physical injury to another person or damage to any real or personal property of another person.

(2) A person may seek relief from such conduct for himself, his children or his ward by filing a verified petition for a protection order with the magistrate division of the district court, alleging specific facts that a person for whom protection is sought was the victim of such conduct within the ninety (90) days immediately preceding the filing of the petition and that such conduct is likely to occur in the future. Evidence of such conduct occurring prior to such ninety (90) day period may be admissible to show that conduct committed within the ninety (90) day period is part of a course or pattern of conduct as described in subsection (1) of this section and may be admissible as otherwise permitted in accordance with court rule and decisional law.

(3) Upon the filing of a verified petition for a protection order, the court shall hold a hearing within fourteen (14) days to determine whether the relief sought shall be granted unless the court determines that the petition fails to state sufficient facts to warrant relief authorized by this section. If either party is represented by counsel at such hearing, the court shall grant a request for a continuance of the proceedings so that counsel may be obtained by the other party. Such order may require either the petitioner or respondent, or both, to pay for costs, including reasonable attorney's fees.

(4) Upon a showing by a preponderance of the evidence that a person for whom protection is sought in the petition was the victim of conduct committed by the respondent that constitutes conduct as described in subsection (1) of this section, within ninety (90) days immediately preceding the filing of the petition, and that such conduct is likely to

occur in the future to such person, the court may issue a protection order. Such protection order may:

- (a) Direct the respondent to refrain from conduct described in subsection (1) of this section;
- (b) Order the respondent to refrain from contacting the petitioner or any other person for whom the petition sought protection; and
- (c) Grant such other relief and impose such other restrictions as the court deems proper, that may include a requirement that the respondent not knowingly remain within a certain distance of the protected person, which distance restriction may not exceed one thousand five hundred (1,500) feet.

(5) The petition and the court's protection order shall be served on the respondent in the manner provided in section 39-6310, Idaho Code.

(6)(a) Notice of a protection order shall be forwarded by the clerk of the court, on or before the next judicial day, to the appropriate law enforcement agency.

(b) Upon receipt of such notice, the law enforcement agency shall forthwith enter the order into the Idaho public safety and security information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the Idaho public safety and security information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(c) Law enforcement agencies shall establish procedures reasonably adequate to assure that an officer approaching or actually at the scene of an incident may be informed of the existence of such protection order.

(7) Any relief granted by a protection order, other than a judgment for costs, shall be for a fixed period not to exceed one (1) year; provided that a protection order obtained pursuant to this section may, upon motion and upon good cause shown, be renewed, modified, or terminated by further order of the court with notice to all parties and after a hearing or written stipulation filed with the court.

(8) Whenever a protection order, or an ex parte temporary protection order issued pursuant to this chapter, is granted and the respondent or person to be restrained was served a copy of the order in the manner provided in section 39-6310, Idaho Code, a violation of the provisions of the order shall be a misdemeanor punishable by not to exceed one (1) year in jail and a fine not to exceed five thousand dollars (\$5,000). A peace officer may arrest without a warrant and take into custody a person who the peace officer has probable cause to believe has violated such order.

(9) A petition shall be filed in the county of the respondent's residence, the petitioner's residence or where the petitioner is temporarily residing.

(10) A person may file a single verified petition seeking relief pursuant to this chapter and section 39-6304, Idaho Code. Such petition shall separately set forth the matters pertaining to each such provision of law. All procedural and substantive requirements governing petitions for domestic violence protection orders under chapter 63, title 39, Idaho Code, shall apply with respect to the issuance of such domestic violence protection orders.

(11) As used in this section, "contact" means any actual physical contact; contact or attempted contact, directly or indirectly, by

telephone, pager, e-mail, facsimile or other oral, written or electronic means of communication.

History:

[18-7907, added 2016, ch. 270, sec. 1, p. 725; am. 2019, ch. 162, sec. 1, p. 547.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

Idaho Statutes are updated to the web July 1 following the legislative session.

TITLE 18
CRIMES AND PUNISHMENTS
CHAPTER 79
MALICIOUS HARASSMENT

18-7908. EX PARTE TEMPORARY PROTECTION ORDER. (1) Where a verified petition for a protection order under this chapter seeks an ex parte temporary protection order, such an ex parte temporary protection order may be granted to the petitioner if the court finds that present harm could result if an order is not immediately issued without prior notice to the respondent and that the respondent has intentionally engaged in the conduct described in section 18-7907(1), Idaho Code.

(2) The court may grant an ex parte temporary protection order based upon the verified petition submitted and set the matter for a full hearing under section 18-7907, Idaho Code. If the court does not grant an ex parte temporary protection order based upon the petition, the court may hold an ex parte hearing on the day a petition is filed or on the following judicial day to determine whether the court should grant an ex parte temporary protection order and set the matter for a full hearing under section 18-7907, Idaho Code, dismiss the verified petition, or deny the ex parte temporary protection order and set the matter for a full hearing under section 18-7907, Idaho Code. An ex parte temporary protection order may grant the same relief as specified in section 18-7907(4), Idaho Code.

(3) An ex parte hearing to consider the issuance of an ex parte temporary protection order may be conducted by telephone or other electronic means in accordance with any procedures authorized by the Idaho supreme court.

(4) An ex parte temporary protection order shall be effective for a fixed period not to exceed fourteen (14) days but may be reissued for good cause shown. A full hearing, as provided in this chapter, shall be set for not later than fourteen (14) days from the issuance of the ex parte temporary protection order. Motions seeking an order shortening the time period must be served upon the petitioner at least two (2) days prior to the hearing on the motion.

(5) Except as otherwise provided in this section, the provisions of section 18-7907, Idaho Code, are applicable to a petition for protective order seeking an ex parte temporary protection order and to any ex parte temporary restraining order issued pursuant to this section.

History:

[18-7908, added 2016, ch. 270, sec. 2, p. 726; am. 2019, ch. 162, sec. 2, p. 549.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 18
CRIMES AND PUNISHMENTS
CHAPTER 79
MALICIOUS HARASSMENT

18-7905. STALKING IN THE FIRST DEGREE. (1) A person commits the crime of stalking in the first degree if the person violates section 18-7906, Idaho Code, and:

- (a) The actions constituting the offense are in violation of a temporary restraining order, protection order, no contact order or injunction, or any combination thereof; or
- (b) The actions constituting the offense are in violation of a condition of probation or parole; or
- (c) The victim is under the age of sixteen (16) years; or
- (d) At any time during the course of conduct constituting the offense, the defendant possessed a deadly weapon or instrument; or
- (e) The defendant has been previously convicted of a crime under this section or section 18-7906, Idaho Code, or a substantially conforming foreign criminal violation within seven (7) years, notwithstanding the form of the judgment or withheld judgment; or
- (f) The defendant has been previously convicted of a crime, or an attempt, solicitation or conspiracy to commit a crime, involving the same victim as the present offense under any of the following provisions of Idaho Code or a substantially conforming foreign criminal violation within seven (7) years, notwithstanding the form of the judgment or withheld judgment:
 - (i) Chapter 9, title 18;
 - (ii) Chapter 15, title 18;
 - (iii) Chapter 61, title 18;
 - (iv) Section 18-4014 (administering poison with intent to kill);
 - (v) Section 18-4015 (assault with intent to murder);
 - (vi) Section 18-4501 (kidnapping);
 - (vii) Section 18-5501 (poisoning);
 - (viii) Section 18-6608 (forcible sexual penetration by use of foreign object);
 - (ix) Section 18-7902 (malicious harassment); or
 - (x) Section 18-8103 (act of terrorism).

(2) In this section, "course of conduct" and "victim" have the meanings given in section 18-7906(2), Idaho Code.

(3) For the purpose of this section, a "substantially conforming foreign criminal violation" exists when a person has pled guilty to or has been found guilty of a violation of any federal law or law of another state, or any valid county, city, or town ordinance of another state substantially conforming to the provisions of this section or section 18-7906, Idaho Code. The determination of whether a foreign criminal violation is substantially conforming is a question of law to be determined by the court.

(4) Stalking in the first degree is a felony punishable by a fine not exceeding ten thousand dollars (\$10,000) or imprisonment in the state prison for not less than one (1) year nor more than five (5) years, or by both such fine and imprisonment.

History:

[18-7905, added 2004, ch. 337, sec. 3, p. 1008.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 18
CRIMES AND PUNISHMENTS
CHAPTER 79
MALICIOUS HARASSMENT

18-7906. STALKING IN THE SECOND DEGREE. (1) A person commits the crime of stalking in the second degree if the person knowingly and maliciously:

(a) Engages in a course of conduct that seriously alarms, annoys or harasses the victim and is such as would cause a reasonable person substantial emotional distress; or

(b) Engages in a course of conduct such as would cause a reasonable person to be in fear of death or physical injury, or in fear of the death or physical injury of a family or household member.

(2) As used in this section:

(a) "Course of conduct" means repeated acts of nonconsensual contact involving the victim or a family or household member of the victim, provided however, that constitutionally protected activity is not included within the meaning of this definition.

(b) "Family or household member" means:

(i) A spouse or former spouse of the victim, a person who has a child in common with the victim regardless of whether they have been married, a person with whom the victim is cohabiting whether or not they have married or have held themselves out to be husband or wife, and persons related to the victim by blood, adoption or marriage; or

(ii) A person with whom the victim is or has been in a dating relationship, as defined in section 39-6303, Idaho Code; or

(iii) A person living in the same residence as the victim.

(c) "Nonconsensual contact" means any contact with the victim that is initiated or continued without the victim's consent, that is beyond the scope of the consent provided by the victim, or that is in disregard of the victim's expressed desire that the contact be avoided or discontinued. "Nonconsensual contact" includes, but is not limited to:

(i) Following the victim or maintaining surveillance, including by electronic means, on the victim;

(ii) Contacting the victim in a public place or on private property;

(iii) Appearing at the workplace or residence of the victim;

(iv) Entering onto or remaining on property owned, leased or occupied by the victim;

(v) Contacting the victim by telephone or causing the victim's telephone to ring repeatedly or continuously regardless of whether a conversation ensues;

(vi) Sending mail or electronic communications to the victim; or

(vii) Placing an object on, or delivering an object to, property owned, leased or occupied by the victim.

(d) "Victim" means a person who is the target of a course of conduct.

(3) Stalking in the second degree is punishable by imprisonment in the county jail for not more than one (1) year or by a fine of not more than one thousand dollars (\$1,000), or by both such fine and imprisonment. History:

[18-7906, added 2004, ch. 337, sec. 4, p. 1009.]

How current is this law?

Search the Idaho Statutes and Constitution

Section B

☐ No address, email and telephone are given because I do not want my information on this petition.

Full Name of Party Filing Document

Mailing Address (Street or Post Office Box)

City, State and Zip Code

Telephone

Email Address (if any)

IN THE DISTRICT COURT FOR THE _____ JUDICIAL DISTRICT
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____
MAGISTRATE DIVISION

_____,
Petitioner
(Person Seeking Protection Order),

vs.

_____,
Respondent
(Person You Want Restrained)

Case No. _____

**SWORN PETITION FOR
PROTECTION ORDER**

Select:

☐ Domestic Violence (I.C. § 39-6304)

☐ Stalking and/or Threats (I.C. § 18-7907)

**THE LAW REQUIRES THAT THE RESPONDENT BE GIVEN A COPY OF THIS
COMPLETED FORM AND ALL ATTACHMENTS.**

1. Protected Person(s). I am seeking a protection order for:

☐ Myself.

☐ The following minor child/ren (first and last names): _____

My relationship to child/ren is: ☐ Custodial parent ☐ Non-custodial parent ☐ Guardian

☐ The following family or household member (first and last names): _____

2. Relationships. Please check all that apply to the relationship between Respondent (person you want restrained) and you or the person(s) for whom you are seeking protection.

- ☐ spouse
- ☐ former spouse, state and county where divorce was filed: _____
- ☐ residing together
- ☐ previously resided together, we last resided together on (date) _____
- ☐ child in common
- ☐ intimate partner
- ☐ parent
- ☐ related by blood, adoption or marriage, Relationship: _____
- ☐ are dating, or ☐ previously dated and our last date was (date) _____

If a dating relationship please describe: (complete for adult or minor):

Length of time of the dating relationship _____

Time since the relationship ended _____

☐ Other, Explain: _____

3. Residence.

☐ I live or am staying in _____ County, Idaho. Respondent lives in _____ County, State of _____.

☐ Respondent does not live with me.

☐ I live with Respondent at:

Our home is rented or owned ☐ by both of us ☐ by me ☐ by Respondent.

☐ I have left the residence where I lived with Respondent. I want to return ☐ yes ☐ no.

If yes, ☐ to live ☐ to get personal belongings ☐ other _____

☐ A business is run from the home. Type of business: _____

The business is run ☐ by me ☐ by Respondent ☐ by both of us.

4. Child/ren affected by the protection order.

I am the natural/adoptive parent or legal guardian of the following child/ren:

Name (First, Middle Initial, Last)	Birth Date	Sex	How Child is Related to:		State(s) where child lived last 6 months
			Petitioner	Respondent	

During the last six (6) months the child/ren have lived with _____

- 5. Other court cases.** List any pending court cases between you and Respondent and any other court cases or court orders relating to the minor child/ren who will be affected by this protection order (divorce, custody, child protection, guardianship, adoption, protection order, criminal, no contact order, etc.)

☐ I have applied for a protection order(s) before in the county of _____
on (date) _____, against (name) _____

☐ Respondent has applied for a protection order(s) before in the county of _____
on (date) _____, against (name) _____

☐ Respondent has been involved in crimes involving violence, child abuse, weapons, drugs or alcohol. (If checked, please describe the charges to the best of your knowledge, when and where they were filed, and any convictions) _____

☐ I have been involved in crimes involving violence, child abuse, weapons, drugs or alcohol. (If checked, please describe what the charges were, when and where they were filed and convictions) _____

6. I am filing for a protection order for: (check all that apply)

☐ **Domestic Violence**

Definition: Physical injury, sexual abuse or forced imprisonment or threat thereof of a family or household member, or of a minor child by a person with whom the minor child has had or is having a dating relationship, or of an adult by a person with whom the adult has had or is having a dating relationship.

☐ **Stalking**

Definition: Repeated acts, of nonconsensual contact that alarms, annoys, or harasses you, causing you emotional distress, fear of death, physical injury or fear of death or physical injury of a family or household member. The recent act must have occurred within the last 90 days.

☐ **Telephone Threats**

Definition: The use of a telephone with the intent to terrify, threaten, or intimidate and threatens to inflict injury or physical harm against you or a family member. The conduct must have occurred within the last 90 days.

☐ **Threats Based on Race, Color, Religion, Ancestry or National Origin**

Definition: Based upon your race, color, religion, ancestry, or national origin, Respondent intimidates or harasses you or causes, or threatens to cause, physical injury to you or damage to your personal property. The conduct must have occurred within the last 90 days.

Describe the most recent acts and/or threats committed by Respondent.

When? (date and time)

Where did this occur or where were you?

Who was present? (minor children, friends, family, etc.)

Describe in detail the series of or recent acts or threats and describe how you were contacted (e.g. phone, email, social media). If you include attachments, please explain how your attachments are related to the acts or threats: _____

_____ Include a separate page if you need more room.

Describe any injuries:

Was a weapon involved? ☐ No ☐ Yes

If so, what and how? _____

Is there anything else you want the judge to know about what happened?

Describe past acts or threats including dates:

**Do not write on the back of this page.
Include a separate page if you need more room.**

7. I ask the Court to order the following:

a. Personal Conduct Order.

Respondent shall not contact or attempt to contact the protected person(s) identified in Section 1 of this petition, in any manner, including in person or through another person, or in writing or through any electronic means, including telephone, email, text, through social networking, or facsimile. Respondent shall not harass; stalk; threaten; use, attempt to use or threaten use of physical force; or engage in any other conduct that would place the protected person(s) in reasonable fear of bodily injury.

b. Stay Away Order.

i. Respondent shall at all times stay away from:

☐ My residence at:

☐ **No address is given because I do not want my address on this petition.**

☐ Protected Minor's residence at:

☐ My workplace and/or school at:

☐ Protected Minor's workplace and/or school at:

☐ My child/ren's school and/or childcare at:

☐ Other:

ii. Are any of these addresses within 1,500 feet of where Respondent lives, works, or attends school? ☐ No ☐ Yes, Please explain the distance and circumstances:

c. ☐ Move-out Order.

Respondent shall move from the residence at: _____

and take from the dwelling only items needed for employment and necessary personal effects (at peace officer's discretion).

d. ☐ Child Custody.

☐ Stay the same as ordered in an existing child custody/divorce decree

(Case #, County): _____

Temporary custody of the minor child/ren named in Section 4 above, be awarded to:

☐ me

☐ Respondent.

The other parent should have:

☐ Visitation as follows (list specific days and times)

☐ Neutral drop off and pick up location at:

☐ Transportation provided by _____

☐ Supervised visitation, why and supervised by whom _____

☐ No visitation.

e. ☐ Treatment/counseling.

Respondent be ordered to participate in treatment or counseling services for (purpose)

f. ☐ Other relief requested:

CERTIFICATION UNDER PENALTY OF PERJURY

I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Date: _____

Typed/printed name

Signature

CONFIDENTIAL
Law Enforcement Service Information Sheet for PROTECTION ORDERS

This information will not be shared with the Respondent.

Law Enforcement needs information about the other person in order to serve the Protection Order. Service will depend on the amount and accuracy of information you can provide about the other person. Without service the protection order cannot be enforced. **YOU MUST FILL IN EACH SECTION MARKED WITH AN "*"**. If you do not, law enforcement may not be able to serve the other person and the form will be returned to the court clerk.

Information About You (Petitioner):

Last Name*:		First*:	Middle Initial*:
Date of Birth*:	Race*:	Male* <input type="checkbox"/> Female* <input type="checkbox"/>	Social Security No.
Present Address*:		City*:	State*:
			Zip*:
Contact No.:		Another Phone No. Where Messages Can Be Left:	
Where Do You Work:		Work Phone No.	
Explain your relationship with the other person:			

Information About the Other Person (Respondent):

Last Name*:		First*:	Middle Initial*:
Date of Birth:	Race*:	Male* <input type="checkbox"/> Female* <input type="checkbox"/>	Social Security No.
Present Address:		City*:	State*:
			Zip*:
Contact No.:		Another Phone No. Where Messages Can Be Left:	
Employer/Company Name:		Work No.	Work Days/Hours:
Business Address:		City:	State:
			Zip:
Name of Relative or Friend:			Their Phone No.
Make & Model of Car:	License Plate No & State:		Color & Year:

What Does This Person Look Like:

Height:	Weight:	Hair Color:	Eye Color:
Describe any scars, tattoos or distinguishing characteristics:			

Additional Important Information:

Has This Person Been Convicted of a Crime? YES <input type="checkbox"/> NO <input type="checkbox"/> Unknown <input type="checkbox"/>	If YES, for What?
Do You Consider This Person Dangerous? YES <input type="checkbox"/> NO <input type="checkbox"/>	Does This Person Have Any Weapons? YES <input type="checkbox"/> NO <input type="checkbox"/> Unknown <input type="checkbox"/> What type?
Places/Addresses Where This Person Can Be Found (i.e. friends, relatives, frequent places):	

Directions must be drawn if a street number is not available. A route or box number is not enough. Without sufficient address information, service of the order may be delayed or may not be possible. If Respondent cannot be served within 10 days, law enforcement shall notify the petitioner. The Petitioner may provide additional information for service (I.C. § 39-6310(4))

Family Law Case Information Sheet

Case Number (Clerk fills in case #):

Exempt from Public Disclosure

Fill out this form to start a Family Law case.
The information you give us is **private**.

1. Describe your case: ☐ Divorce ☐ Custody ☐ Paternity ☐ Protective Order
☐ Other _____

2. Information about Petitioner

Name: _____
First Middle Last

Any other names used: _____

Address: _____
Street City State Zip

Phone numbers: _____
Home Work Cell

Employer's name: _____

Social Security Number: _____ Date of Birth: _____ Sex: ☐ Male ☐ Female

Is English your first language? ☐ Yes ☐ No If no, what language? _____

Do you speak, read and write English? ☐ Yes ☐ No

3. Information about Respondent

Name: _____
First Middle Last

Any other names used: _____

Address: _____
Street City State Zip

Phone numbers: _____
Home Work Cell

Employer's name: _____

Social Security Number: _____ Date of Birth: _____ Sex: ☐ Male ☐ Female

Is English your first language? ☐ Yes ☐ No If no, what language? _____

Do you speak, read and write English? ☐ Yes ☐ No

4. List Petitioner's natural and adopted children under 18:

Child's name	Date of birth	Social Security No.
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

List Respondent's natural and adopted children under 18:

Child's name	Date of birth	Social Security No.
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

5. Other Cases Involving Children

List any child support, custody, adoption, or guardianship order for any child listed on this form:

Case Number	Date of Order (or date requested)	County / State	For which children?	Type of case
1.				<input type="checkbox"/> Support <input type="checkbox"/> Custody <input type="checkbox"/> Adoption <input type="checkbox"/> Guardianship
2.				<input type="checkbox"/> Support <input type="checkbox"/> Custody <input type="checkbox"/> Adoption <input type="checkbox"/> Guardianship
3.				<input type="checkbox"/> Support <input type="checkbox"/> Custody <input type="checkbox"/> Adoption <input type="checkbox"/> Guardianship
4.				<input type="checkbox"/> Support <input type="checkbox"/> Custody <input type="checkbox"/> Adoption <input type="checkbox"/> Guardianship

6. Any Cases Involving Violence or Abuse

List any protective order, domestic violence or child abuse case involving any adult or child listed on this form:

Case Number	Who was the Order against?	Who did the Order protect?	Date of Order (or date requested)	County / State	Type of case
1.					<input type="checkbox"/> Domestic Violence <input type="checkbox"/> Child Abuse <input type="checkbox"/> No Contact Order
2.					<input type="checkbox"/> Domestic Violence <input type="checkbox"/> Child Abuse <input type="checkbox"/> No Contact Order
3.					<input type="checkbox"/> Domestic Violence <input type="checkbox"/> Child Abuse <input type="checkbox"/> No Contact Order
4.					<input type="checkbox"/> Domestic Violence <input type="checkbox"/> Child Abuse <input type="checkbox"/> No Contact Order

Protection Order

- ☐ Temporary Ex Parte Order and Notice of Hearing ☐ Amended
☐ Domestic Violence (I.C. § 39-6304)
☐ Stalking and/or Threats (I.C. §18-7907)

Case No: _____
Court _____ Judicial District
County _____
State Idaho

PETITIONER

First Middle Last

PETITIONER IDENTIFIERS

Date of Birth (DOB) of Petitioner

PROTECTED PERSON(S):

- ☐ Petitioner
☐ Minor family member(s): (list name and DOB)

- ☐ Family, household member(s), or other Protected Person(s): (list name and DOB)

RESPONDENT

First Middle Last

Respondent's Address

Relationship to Protected Person(s):

Check all that apply

- ☐ spouse; ☐ former spouse;
☐ residing together; ☐ previously resided together;
☐ child in common; ☐ intimate partner;
☐ parent; ☐ related by blood, adoption or marriage;
☐ are in, or ☐ have been in, a dating relationship;
☐ other: _____

RESPONDENT IDENTIFIERS

SEX	RACE	DOB	HT	WT
EYES	HAIR	DISTINGUISHING FEATURES		
DRIVERS LICENSE #			STATE	

CAUTION: ☐ Weapon Alleged to be Involved

This order shall be effective until

20

at 11:59 P.M. /unless terminated

earlier by another court order.

If the Respondent does not appear at the hearing date listed on the last page of this order, a longer protection order may be issued against the Respondent. If the Petitioner fails to appear, the petition may be dismissed.

WARNINGS: This order meets all "full faith and credit" requirements of the VAWA, 18 U.S.C. § 2265 (1994) upon notice of the Respondent. This court has jurisdiction over the parties and the subject matter; the Respondent has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.

As a result of this order, it may be unlawful for the Respondent to purchase or possess a firearm, including a rifle, pistol, or revolver, or ammunition pursuant to federal law under 18 U.S.C. § 922(g)(8). If you have any questions whether these laws make it illegal for the Respondent to possess or purchase a firearm, you should consult an attorney.

Violation of any provision of this order by the Respondent, after actual notice of its terms, is a misdemeanor and may result in arrest and sentencing for up to one year in jail and a \$5,000 fine, even if the Protected Person(s) consents to the violation. **Only the Court can change this order.**

THE COURT ORDERS:

1. **Personal Conduct Order.**

The Respondent shall not contact or attempt to contact the protected person(s) in any manner, including in person or through another person, or in writing or through any electronic means, including telephone, email, text, through social networking, or facsimile. The Respondent shall not harass; stalk; threaten; use, attempt to use or threaten use of physical force; or engage in any other conduct that would place the protected person(s) in reasonable fear of bodily injury. However, the Respondent may participate in legal proceedings involving the protected person(s) and may communicate through attorneys about legal issues involving the protected person(s).

PROTECTED PERSON(S) LISTED ON THE FIRST PAGE OF THIS ORDER:

[01]

☐ Petitioner

[01]

☐ Minor family member(s)

[02]

☐ Family or other household member(s)

[02]

☐ Other Protected Person(s)

[05]

☐ **THERE ARE NO EXCEPTIONS TO THIS ORDER.**

☐ **THERE ARE EXCEPTIONS ORDERED AS FOLLOWS:**

☐ contact by telephone/electronic means to arrange visitation of the child/ren

☐ contact by telephone/electronic means between _____.m. and _____.m. on _____

_____for the following purposes: _____

☐ to participate in court ordered mediation

☐ to respond to an emergency involving your natural or adopted child/ren

☐ other: _____

2. **Stay-Away Order.**

Respondent shall not, **EVEN IF INVITED BY THE PROTECTED PERSON(S)**, knowingly remain within _____ feet of the Protected Person(s), or

☐ go within _____ feet of:

☐ Protected Person's residence at _____

[04]

☐ Protected Person's school campus or work place at _____

☐ Protected Person's child/ren's school campus or work place at _____

☐ Other: _____

3. **Move-out Order and/or Law enforcement assistance.** ☐ Does Not Apply

[03]

☐ Respondent is ordered to move from the residence at _____
_____ immediately upon service of this order and take from the residence only items
needed for employment and necessary personal effects (at peace officer's discretion).

Law enforcement officers are ordered to:

☐ Remove the Respondent from the residence listed above upon service of this order.

☐ Place the Protected Person in possession of the residence at _____

☐ Supervise the removal of ☐ Protected Person's ☐ Respondent's items needed for employment and
necessary personal effects (at peace officer's discretion) from the residence.

Peace officers are instructed to enforce this Court order by all necessary means, including arrest.

4. **Child custody.** ☐ Does Not Apply

[09]

☐ Respondent shall NOT have the child/ren until further order of the Court

OR

Custody of the minor child/ren is awarded:

[06]

☐ as provided in the existing child custody/divorce decree (Case #, County, Judge, Date Entered): _____

☐ as follows:

Name of Child (first, middle initial, last)	Birth Date	Sex	Custody Awarded To

☐ Protected Person ☐ Respondent

☐ shall have the child/ren as follows (list days, times and conditions): _____

☐ supervised by: _____

☐ neutral drop off/pick up location: _____

☐ child/ren to be transported by: _____

☐ Neither party shall remove the child/ren from _____

☐ Other: _____

5. **Conflicting Orders.**

If any term of another civil or criminal order conflicts with any term of this order you must follow the more restrictive term. Dismissal of any other order will not result in a dismissal of this order.

6. **Other:** _____

[07]

[08]

7. **Order to clerk.**

It is further ordered that the clerk of the court shall forward a copy of this order to the Sheriff's Office in the county in which this order was originally issued, or ☐ _____, for immediate entry into record systems and to facilitate service in the jurisdiction in which the Respondent resides, if not previously served. The clerk shall deliver or mail a copy of this order to the Petitioner.

NOTICE OF HEARING

A hearing to decide whether a longer Protection Order will be issued will be held:

Date: _____ **Time:** _____

☐ a.m.
☐ p.m.

Before Judge: _____ at the _____ County
Courthouse, (Address): _____, Idaho.

WARNING: If the respondent does not appear at the hearing, a longer protection order may be issued against the respondent. If the petitioner fails to appear, the petition may be dismissed.

Date: _____

Signed: _____
Judge

NOTICE:

It is a misdemeanor under Idaho Code § 39-6312 for the Respondent, after notice of this order, to violate the provisions of this order. Further, it is a crime under Idaho Code §18-204 for any person to aid and abet a crime, or, not being present, to advise and encourage a crime. In addition, under Idaho Code §18-304, any person who counsels, aids, solicits or incites another to commit a misdemeanor is guilty of a misdemeanor. Therefore, it may be a crime for any person to encourage or invite contact between the Respondent and the Petitioner, except such contact as is expressly permitted by the above order.

I have received a copy of this order ☐ and agree to future service by certified mail.

Signed: _____
Petitioner

Date: _____

I have received a copy of this order ☐ and agree to future service by certified mail.

Signed: _____
Respondent

Date: _____

ATTENTION: Keep a copy of this order in your possession at all times in order to assist law enforcement. Immediately report any violation of this order to law enforcement.

IN THE DISTRICT COURT FOR THE _____ JUDICIAL DISTRICT
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____
MAGISTRATE DIVISION

Petitioner (Protected Person)

vs.

Respondent (Restrained Person)

Case No. _____

ORDER SETTING OR RESETTING
HEARING ON PETITION
FOR PROTECTION ORDER

IT IS HEREBY ORDERED, that the Petitioner and Respondent are to appear for a hearing before the Court on:

NOTICE OF HEARING

Date: _____ **Time:** _____ ☐ a.m.
☐ p.m.
Before Judge: _____ at the _____ County
Courthouse, (Address): _____, Idaho.

If the Respondent does not appear at the hearing, a protection order may be issued against the Respondent. If the Petitioner does not appear, the petition may be dismissed.

It is further ordered that the clerk of the court shall forward a copy of this order to the Sheriff's Office in the county in which this order was originally issued, or ☐ _____, for immediate entry into record systems and to facilitate service in the jurisdiction in which the Respondent resides, if not previously served. The clerk shall deliver or mail a copy of this order to the Petitioner.

Date: _____
Judge

I have received a copy of this order ☐ and agree to future service by certified mail.

Date: _____
Petitioner

I have received a copy of this order ☐ and agree to future service by certified mail.

Date: _____
Respondent

IN THE DISTRICT COURT FOR THE _____ JUDICIAL DISTRICT
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____
MAGISTRATE DIVISION

_____,
Petitioner,
vs.
_____,
Respondent.

Case No. _____

REISSUANCE OF TEMPORARY
PROTECTION ORDER AND
NOTICE OF HEARING

The Court having found that the Temporary Protection Order entered in this case on:
_____ should be reissued, IT IS ORDERED the Temporary
Protection Order is reissued and extended until 11:59 P.M. on _____, 20____.
All portions of the Temporary Protection Order remain in effect, except: _____

NOTICE OF HEARING

A hearing to decide whether a longer Protection Order will be issued will be held:

Date: _____ **Time:** _____

☐ a.m.
☐ p.m.

Before Judge: _____ at the _____ County
Courthouse, (Address): _____, Idaho.

If the respondent does not appear at the hearing, a longer protection order may be issued against the respondent. If the petitioner does not appear the petition may be dismissed.

The Clerk of the Court shall forward a copy of this Order, with copies of the Petition and the Temporary Protection Order for service, as specified in the Temporary Protection Order.

Date: _____

Judge

I have received a copy of this order ☐ and agree to future service by certified mail.

Signed: _____
Petitioner

Date: _____

I have received a copy of this order ☐ and agree to future service by certified mail.

Signed: _____
Respondent

Date: _____

Protection Order

- ☐ Original ☐ Amended ☐ Renewed
☐ Domestic Violence (I.C. § 39-6304)
☐ Stalking and/or Threats (I.C. § 18-7907)

Case No: _____
Court _____ Judicial District
County _____
State Idaho

PETITIONER

First Middle Last

PETITIONER IDENTIFIERS

Date of Birth (DOB) of Petitioner

PROTECTED PERSON(S):

- ☐ Petitioner
☐ Minor family member(s): (list name and DOB)

- ☐ Family, household member(s), or other Protected Person(s): (list name and DOB)

RESPONDENT

First Middle Last

RESPONDENT IDENTIFIERS

SEX	RACE	DOB	HT	WT
EYES	HAIR	DISTINGUISHING FEATURES		
DRIVERS LICENSE #		STATE		

Respondent's Address

Relationship to Protected Person(s):

Check all that apply

- ☐ spouse; ☐ former spouse;
☐ residing together; ☐ previously resided together;
☐ child in common; ☐ intimate partner;
☐ parent; ☐ related by blood, adoption or marriage;
☐ are in, or ☐ have been in, a dating relationship;
☐ other: _____

CAUTION: ☐ Weapon Alleged to be Involved

This order shall be effective until _____ **at 11:59 P.M. /unless terminated**
earlier by another court order.

WARNINGS: This order meets all "full faith and credit" requirements of the VAWA, 18 U.S.C. § 2265 (1994) upon notice of the Respondent. This court has jurisdiction over the parties and the subject matter; the Respondent has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.

As a result of this order, it may be unlawful for the Respondent to purchase or possess a firearm, including a rifle, pistol, or revolver, or ammunition pursuant to federal law under 18 U.S.C. § 922(g)(8). If you have any questions whether these laws make it illegal for the Respondent to possess or purchase a firearm, you should consult an attorney.

Violation of any provision of this order by the Respondent, after actual notice of its terms, is a misdemeanor and may result in arrest and sentencing for up to one year in jail and a \$5,000 fine, even if the Protected Person(s) consents to the violation. **Only the Court can change this order.**

The Respondent was served and provided notice of hearing.

Petitioner Appeared: ☐ Yes ☐ No Represented by: _____

Respondent Appeared: ☐ Yes ☐ No Represented by: _____

☐ The Respondent agreed to entry of a protection order.

☐ The Court found, after a hearing, that a protection order should be issued.

☐ The Court finds that the original Petitioner is the abuser and the original Respondent is the victim of domestic violence. The Petitioner shall be the Respondent and the Respondent shall be the Petitioner.

THE COURT ORDERS:

1. **Personal Conduct Order.**

The Respondent shall not contact or attempt to contact the protected person(s) in any manner, including in person or through another person, or in writing or through any electronic means, including telephone, email, text, through social networking, or facsimile. The Respondent shall not harass; stalk; threaten; use, attempt to use or threaten use of physical force; or engage in any other conduct that would place the protected person(s) in reasonable fear of bodily injury. However, the Respondent may participate in legal proceedings involving the protected person(s) and may communicate through attorneys about legal issues involving the protected person(s).

PROTECTED PERSON(S) LISTED ON THE FIRST PAGE OF THIS ORDER:

- [01] ☐ Petitioner
- [01] ☐ Minor family members
- [02] ☐ Family or other household members
- [02] ☐ Other Protected Person(s)
- [05] ☐ **THERE ARE NO EXCEPTIONS TO THIS ORDER.**

☐ **THERE ARE EXCEPTIONS ORDERED AS FOLLOWS:**

- ☐ contact by telephone/electronic means to arrange visitation of the child/ren
- ☐ contact by telephone/electronic means between _____.m. and _____.m. on _____
_____ for the following purposes: _____
- ☐ to participate in court ordered mediation
- ☐ to respond to an emergency involving your natural or adopted child/ren
- ☐ other: _____

2. **Stay-Away Order.**

Respondent shall not, **EVEN IF INVITED BY THE PROTECTED PERSON(S)**, knowingly remain within _____ feet of the Protected Person(s), or

- ☐ go within _____ feet of:
- ☐ Protected Person's residence at _____
- [04] ☐ Protected Person's school campus or work place at _____
- ☐ Protected Person's child/ren's school campus or work place at _____
- ☐ Other: _____

3. **Move-out Order and/or Law enforcement assistance.** ☐ Does Not Apply

[03] ☐ Respondent is ordered to move from the residence at _____
_____ immediately upon service of this order and take from the residence
only items needed for employment and necessary personal effects (at peace officer's discretion).

Law enforcement officers are ordered to:

☐ Remove the Respondent from the residence listed above upon service of this order.
☐ Place the Protected Person in possession of the residence at _____

☐ Supervise the removal of ☐ Protected Person's ☐ Respondent's items, at peace officer's
discretion, from the residence.

Peace officers are instructed to enforce this Court order by all necessary means, including arrest.

4. **Child custody.** ☐ Does Not Apply

[09] ☐ Respondent shall NOT have the child/ren until further order of the Court

OR

Custody of the minor child/ren is awarded:

[06] ☐ as provided in the existing child custody/divorce decree (Case #, County, Judge, Date Entered):

☐ as follows:

Name of Child (first, middle initial, last)	Birth Date	Sex	Custody Awarded To

☐ Protected Person ☐ Respondent

☐ shall have the child/ren as follows (*list days, times and conditions*): _____

☐ supervised by: _____

☐ neutral drop off/pick up location: _____

☐ child/ren to be transported by: _____

☐ Neither party shall remove the child/ren from _____

☐ Other: _____

5. **Conflicting Orders.**

If any term of another civil or criminal order conflicts with any term of this order you must follow the more
restrictive term. Dismissal of any other order will not result in a dismissal of this order.

6. **Order on Renewal.** ☐ **Does Not Apply**

☐ IT IS FURTHER ORDERED that if Respondent wants a hearing to object to the renewal of this order, Respondent must file a request for such a hearing with the Court within 14 days.

7. **Treatment/Counseling.**

☐ Attend an approved Domestic Violence Offender Intervention Program

☐ Attend counseling that focuses on _____

☐ Within _____ days of this order, Respondent shall report to _____ and participate and complete all scheduled treatment or counseling. A written report shall be submitted to the Court within _____ days of this order.

8. **Change in Address and Future Service.**

The parties shall, at all times, keep the Court informed of their current mailing addresses.

☐ Petitioner has waived the right to personal service and agreed that all future notices of hearing, orders, or modifications may be served by certified mail.

☐ Respondent has waived the right to personal service and agreed that all future notices of hearing, orders, or modifications may be served by certified mail.

9. **Other.**

[07]

[08]

10. **Order to Clerk.**

It is further ordered that the clerk of the court shall forward a copy of this order to the Sheriff's Office in the county in which this order was originally issued, or ☐ _____, for immediate entry into record systems and to facilitate service in the jurisdiction in which the Respondent resides, if not previously served. The clerk shall deliver or mail a copy of this order to the Petitioner.

Date: _____

Signed: _____
Judge

NOTICE:

It is a misdemeanor under Idaho Code § 39-6312 for the Respondent, after notice of this order, to violate the provisions of this order. Further, it is a crime under Idaho Code §18-204 for any person to aid and abet a crime, or, not being present, to advise and encourage a crime. In addition, under Idaho Code §18-304, any person who counsels, aids, solicits or incites another to commit a misdemeanor is guilty of a misdemeanor. Therefore, it may be a crime for any person to encourage or invite contact between the Respondent and the Petitioner, except such contact as is expressly permitted by the above order.

I have received a copy of this order, advisory notice, and warning.

Signed: _____
Petitioner

Date: _____

Signed: _____
Respondent

Date: _____

ATTENTION: Keep a copy of this order in your possession at all times in order to assist peace officers. Immediately report any violation of this order to law enforcement.

☐ No address, email and telephone are given
because I do not want my information on this petition.

Full Name of Party Filing Document

Mailing Address (Street or Post Office Box)

City, State and Zip Code

Telephone

Email Address (if any)

IN THE DISTRICT COURT FOR THE _____ JUDICIAL DISTRICT
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____
MAGISTRATE DIVISION

Petitioner (Protected Person),

vs.

Respondent (Restrained Person).

Case No. _____

APPLICATION FOR:

- ☐ MODIFICATION OF
☐ TERMINATION OF
☐ RENEWAL OF
☐ EARLIER HEARING ON
☐ LATER HEARING ON

THE PROTECTION ORDER

☐ Petitioner ☐ Respondent asks that the Court

☐ Modify the Protection Order as follows: _____

☐ Terminate the Protection Order because: _____

☐ Renew and extend the Protection Order ☐ until _____, 20____, because: _____

☐ Renew the Protection Order and make it permanent, because: _____

☐ Hold an earlier hearing on the Petition for Protection Order because: _____

☐ Hold a later hearing on the Petition for Protection Order because: _____

Date: _____

Petitioner

or

Date: _____

Respondent

IN THE DISTRICT COURT FOR THE _____ JUDICIAL DISTRICT
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____
MAGISTRATE DIVISION

Petitioner (Protected Person)
vs.

Respondent (Restrained Person)

Case No. _____

NOTICE OF HEARING FOR:

- ☐ MODIFICATION OF PROTECTION ORDER
☐ TERMINATION OF PROTECTION ORDER
☐ RENEWAL OF PROTECTION ORDER

☐ Petitioner ☐ Respondent has/have requested a hearing to:

- ☐ Modify the Protection Order
☐ Terminate the Protection Order
☐ Renew the Protection Order until _____, 20____
☐ Make the Protection Order permanent

☐ IT IS ORDERED the Protection Order entered in this case on _____
is extended until 11:59 P.M. on _____, 20____. All portions of the
Protection Order remain in effect.

NOTICE OF HEARING

A hearing will be held:

Date: _____ **Time:** _____ ☐ a.m. ☐ p.m.

Before Judge: _____ at the _____ County
Courthouse, (Address): _____, Idaho.

The Clerk of the Court shall forward a copy of this Order, with a copy of the Application to Modify, Terminate, Renew Protection Order for service, as specified in the Protection Order.

Date: _____
Judge

Copy served on Petitioner by ☐ hand-delivery ☐ certified mail to address shown in court files.

Copy served on Respondent by ☐ hand-delivery ☐ certified mail to address shown in court files.

Date: _____

CLERK OF THE DISTRICT COURT

Typed/printed name

By: _____
Deputy Clerk

IN THE DISTRICT COURT FOR THE _____ JUDICIAL DISTRICT
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____
MAGISTRATE DIVISION

Petitioner
(Protected Person)

vs.

Respondent
(Restrained Person)

Case No. _____

ORDER FOR:

- ☐ MODIFICATION
☐ TERMINATION OF PROTECTION
ORDER
☐ DENIAL OF MOTION

The Court having considered the motion to: ☐ modify ☐ terminate the Protection Order,
which motion is ☐ granted ☐ denied.

IT IS ORDERED that the Protection Order dated _____ is
☐ modified as follows: _____

and this modification shall become part of the Order which is reaffirmed in all other respects.

☐ terminated as of the date of this order.

If there is a Protection Order outstanding, it is further ordered that the clerk of the court shall forward a copy of this order to the law enforcement agency specified in the court's initial protection order, for immediate entry into record systems and to facilitate service in the jurisdiction in which the Respondent resides, if not previously served. The clerk shall deliver or mail a copy of this order to the Petitioner.

Date: _____

Judge

Copy served on Petitioner by ☐ hand-delivery ☐ certified mail to address shown in court files.

Copy served on Respondent by ☐ hand-delivery ☐ certified mail to address shown in court files.

Date: _____

CLERK OF THE DISTRICT COURT

Typed/printed name

By: _____
Deputy Clerk

IN THE DISTRICT COURT FOR THE _____ JUDICIAL DISTRICT
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____
MAGISTRATE DIVISION

_____ Petitioner, vs. _____ Respondent.	Case No. _____ ORDER DISMISSING PROTECTION ORDER ACTION
---	---

IT IS ORDERED that this action is dismissed for the following reasons:

- ☐ The Petition does not allege facts which, if true, would entitle the Petitioner to a Protection Order.
- ☐ The Petitioner failed to appear at the hearing.
- ☐ The Petitioner requested that this action be dismissed.
- ☐ The Court determined, after considering the evidence admitted during the hearing, that there is insufficient evidence for the issuance of a Protection Order.
- ☐ Other: _____

If there is a Protection Order outstanding, it is further ordered that the clerk of the court shall forward a copy of this order to the law enforcement agency specified in the court's initial protection order, for immediate entry into record systems and to facilitate service in the jurisdiction in which the Respondent resides, if not previously served. The clerk shall deliver or mail a copy of this order to the Petitioner.

Date: _____ Judge _____

Copy served on Petitioner by ☐ hand-delivery ☐ certified mail to address shown in court files.

Copy served on Respondent by ☐ hand-delivery ☐ certified mail to address shown in court files.

Date: _____

CLERK OF THE DISTRICT COURT

Typed/printed name

By: _____
Deputy Clerk

Full Name of Party Filing Document

Mailing Address (Street or Post Office Box)

City, State and Zip Code

Telephone

Email Address (if any)

IN THE DISTRICT COURT FOR THE _____ JUDICIAL DISTRICT
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____
MAGISTRATE DIVISION

Petitioner
(Person Seeking Protection Order),

vs.

Respondent
(Person You Want Restrained).

Case No. _____

AFFIDAVIT AND REQUEST FOR
REGISTRATION OF FOREIGN
PROTECTION ORDER

Petitioner requests registration of the attached foreign Protection Order pursuant to I.C. § 39-6306A and 6311.

To the best of my knowledge and belief the attached Protection Order, consisting of (number of pages) _____ pages, is the most current protection order in effect. The Protection Order was issued in the State of (state of issuance) _____, Case Number: _____.

CERTIFICATION UNDER PENALTY OF PERJURY

I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Date: _____

Typed/printed name

Signature

Section C

Power and Control: Lawyer-Client Relationship Abuse and Psychological Assault

Using Coercion and Threats

Making or carrying out threats to do something to harm the client • threatening to withdraw as counsel of record on the client's case • threatening to commit incompetent or unethical practice by violating the State Bar disciplinary rules of professional conduct • threatening to request the court to order a psychological evaluation of the client without just reason • ambushing and railroading the client to prevent informed decisions • exaggerating the harmful outcomes to the client • pressuring the client to accept a plea deal offer • pressuring the client to do illegal things.

Using Terrorism and Assault

Making the client afraid by using looks, tones, demeanors, gestures, actions • staging temper tantrums • violating rules of politesse; rules of orderly, fair meetings; and the State Bar ethics code • displaying weapons or other objects or images of violence • terrorizing the client • sadistically manipulating the client • psychologically assaulting the client.

Using Emotional Abuse

Putting the client down • making the client feel bad about herself or himself • calling the client names • making the client think she or he is crazy • playing mind games • humiliating the client • making the client feel guilty.

Using Isolation and Guilt

Isolating the client and forbidding client to consult with other lawyers without permission • using presumed guilt or suspicion of guilt of client to justify abuse • using private meetings instead of telephone, mail and email communications • refusing to state the purpose of meetings.

Minimizing, Denying and Blaming

Making light of the abuse and not taking client's concerns about it seriously • saying the abuse didn't happen • shifting responsibility for abusive behavior • saying the client caused the abuse.

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Shared with permission of the co-creator: P.C. Wheeler, pcwheel@earthlink.net.

Distributed by the National Center on Domestic and Sexual Violence (www.ncdsv.org)

Using Information Abuse

Misrepresenting the experience and specialized knowledge of the lawyer • using asymmetric information to mislead the client • preventing client from seeing all the evidence • providing insufficient information for client to make an informed decision • using misrepresentation, double-talk, stonewalling and obfuscation to prevent informed decisions • not informing the client about public access to the case file at the Court house • refusing to communicate, explain and clarify in writing • failing to disclose State Bar ethics rules existence and contact information.

Using Attorney Privilege

Acting like the boss • treating the client like a servant • making the big decisions • ignoring client's instructions, decisions and best interests • failing to get client's consent • being the one to define lawyers' and clients' roles • not writing a fee contract • preventing preview of contract before signing • making unilateral changes to contract after initial agreement • using vague, ambiguous, ineffective language that protects the lawyer but not the client • refusing arbitration.

Using Economy Abuse

Making the client pay more money • not refunding client's money if not used for the stipulated purpose or if not earned • using bait-and-switch tactics after receiving advance fee payment.

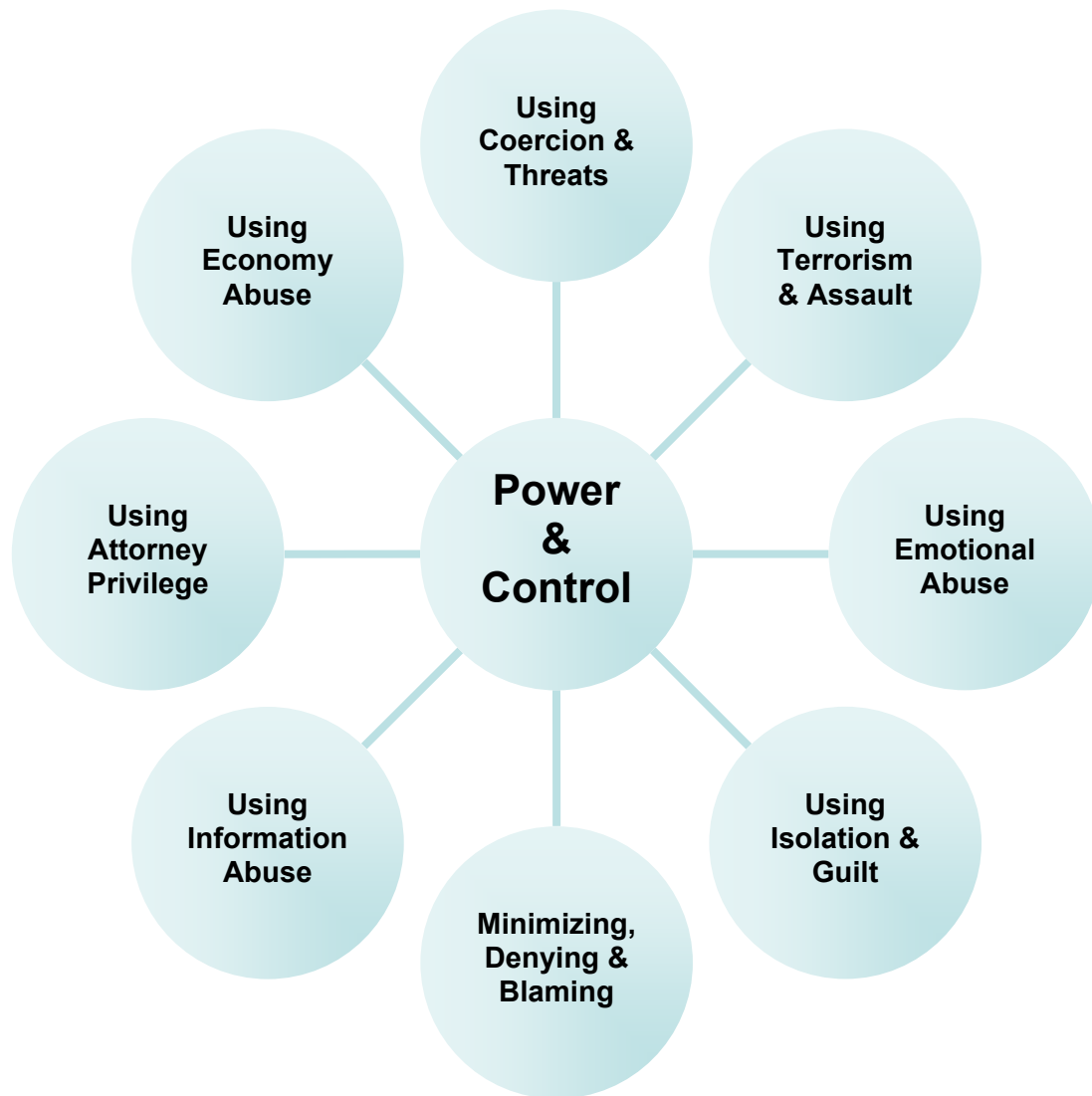
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Power and Control: Lawyer-Client Relationship

Abuse and Psychological Assault



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Power and Control Wheel: A Tool for Recognizing Abusive Behavior

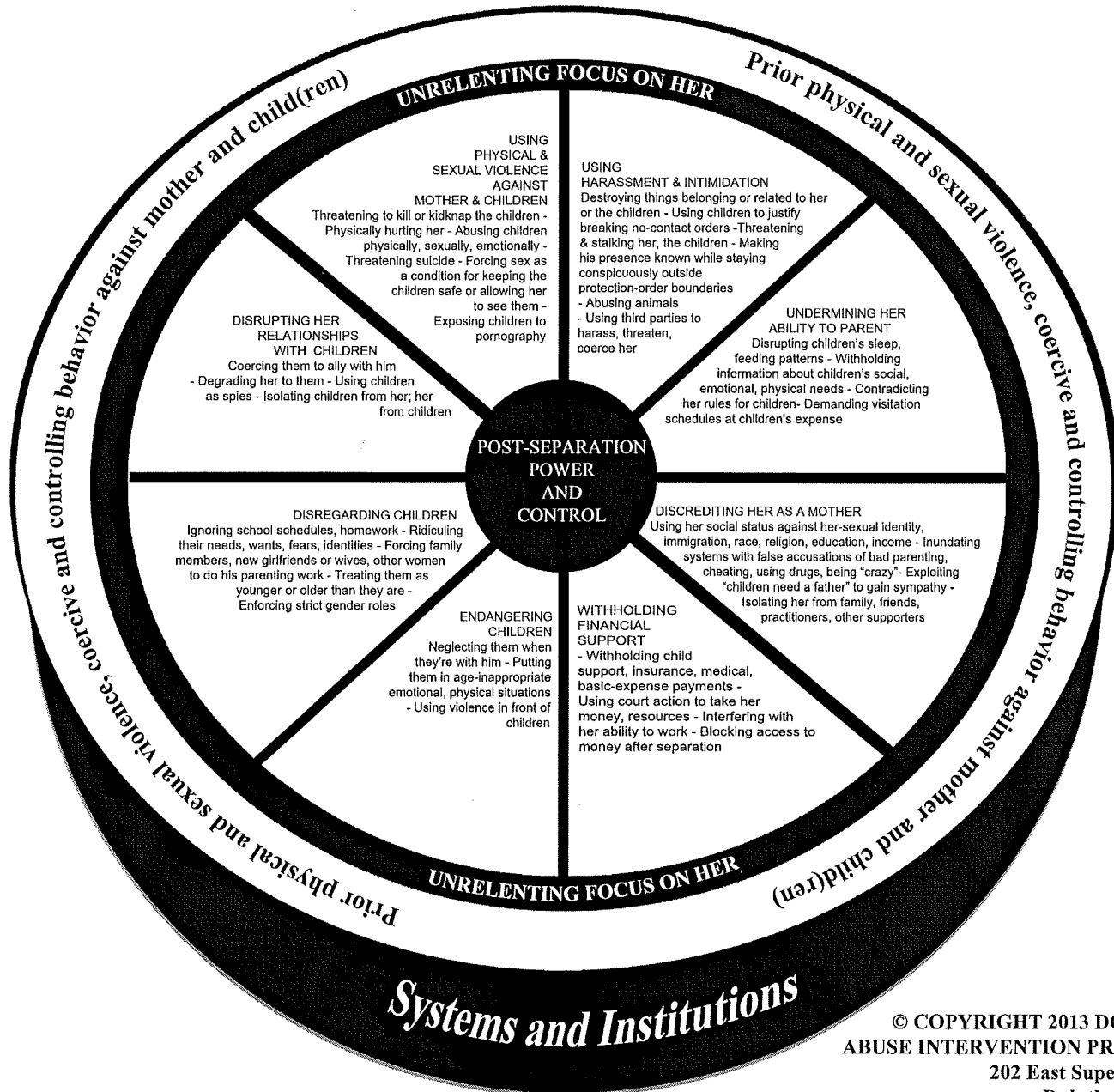
The power and control wheel for the lawyer-client relationship is adapted with permission from the wheel diagram of Domestic Abuse Intervention Project, www.TheDuluthModel.org, developed by formerly battered women to describe their experiences. The lawyer-client wheel diagram illustrates forms of abuse and psychological assault that may be inflicted on clients by their lawyers. Psychological assault is a criminal offense in law.

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Post Separation Power and Control Wheel



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ABUSE INTERVENTION PROGRAMS
202 East Superior Street
Duluth, MN 55802
218-722-2781
www.theduluthmodel.org



3 considerations

for working **successfully** with victims

1 Framing the Case with Options

- Criminal v. Civil
- What a civil protection order offers v. What it does not
- Potential outcomes v. Options for safety

2 Talking with Victims

- Your body language, tone, and rapidity of speech all matter
- Ask permissively rather than by directive
“Are you comfortable if we talk about...” rather than “I need you to tell me...”
- Use visuals and signpost verbal information
- Be nice, specific, and calm
- Don't expect victims to remember everything you said; trauma makes this almost completely impossible

3 Enforcement of Orders

Civil Protection Order Violations

- Law enforcement can arrest or remove immediately; may result in a criminal charge
“A major re-examination of a series of fairly rigorous experiments in multiple jurisdictions finds that arrest deters repeat reabuse, whether suspects are employed or not. In none of the sites was arrest associated with increased reabuse among intimate partners. [155] Another major study, based on 2,564 partner assaults reported in the NCVS (1992-2002), found that whether police arrested the suspect or not, their involvement had a strong deterrent effect. The positive effects of police involvement and arrest do not depend on whether the victim or a third party reported the incident to law enforcement. Neither do they depend on the seriousness of the incident assault, whether a misdemeanor or a felony. [63]”

-From: National Institute of Justice Special Report. (2009) Practical Implications of Current Domestic Violence Research: For Law Enforcement, Prosecutors and Judges. www.ojp.usdoj.gov/nij

No Contact Order Violations

- Same as above; may result in a new charge or other criminal penalties

Agreement or Temporary Order in Family Law Case Violations

- Law enforcement will generally not be able to respond (if the behavior is not criminal)
- Contempt filing-lengthy; not appropriate for immediate concerns; may not address victim's issues
- Modification-only useful if victim wants something changed; often they simply want the current order adhered to
- Without immediate recourse, victims often feel that the abuser “gets away with it”

Civil Protection Order Representation

an **advocate's** perspective

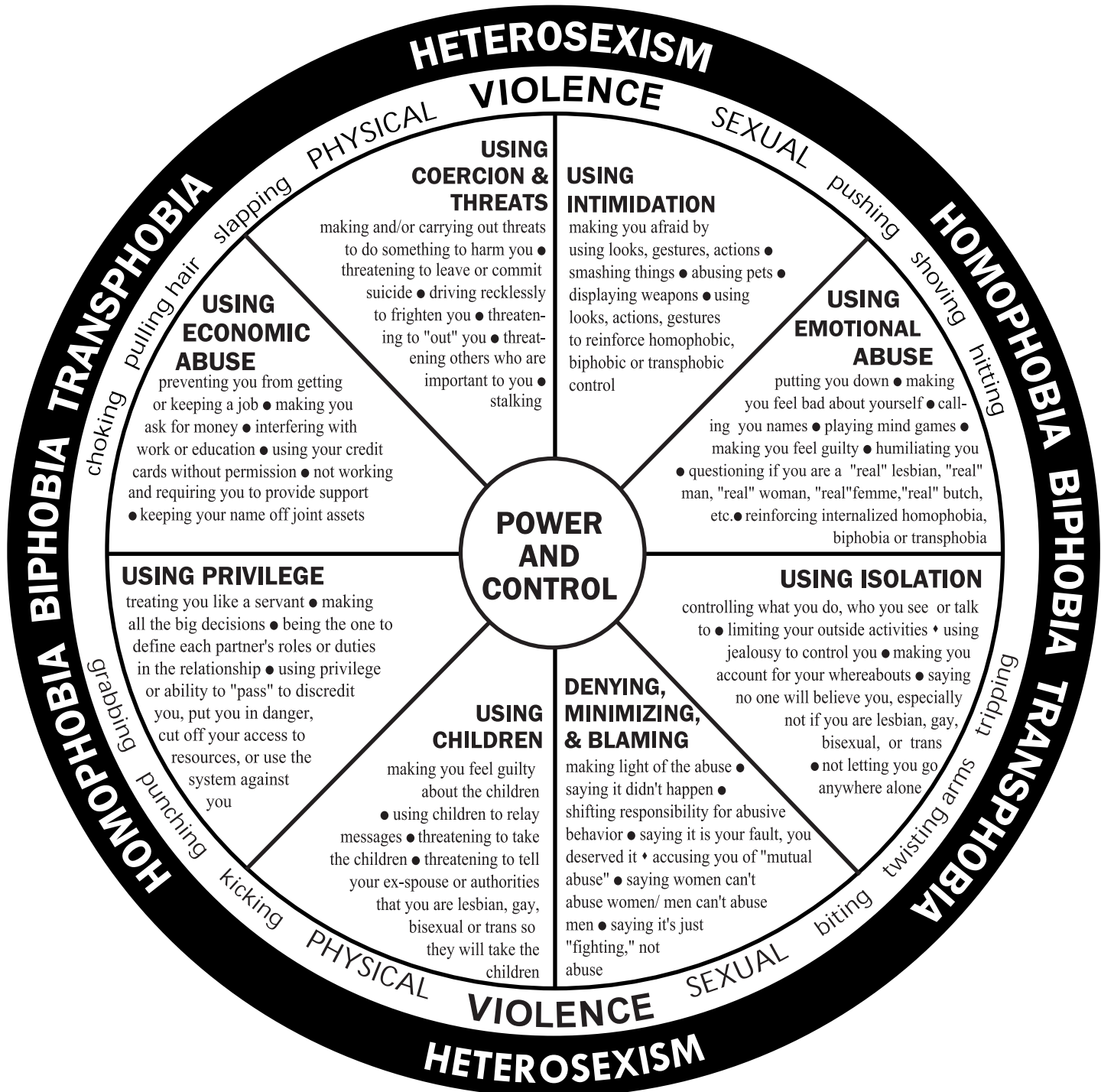
Do . . .

- Do** **Verbalize** what you're doing and why
- Do** **Speak warmly**, calmly, and slowly
- Do** **Frame** what you're saying. "The Judge will need to find that what has happened falls within these criteria (xxxx). Based on that, we've chosen to present this information..."
- Do** Remember that victims are people who generally value **kindness**, like everyone else
- Do** **Validate** feelings without agreeing with all statements
- Do** **Say** when you don't know the answer and say what you do know
- Do** **Use visuals** whenever possible—they help the trauma-brain organize and retain information
- Do** **Break things down** into memorable steps
- Do** **Answer questions directly** and quickly, and then add in any additional context you think would be useful

Don't . . .

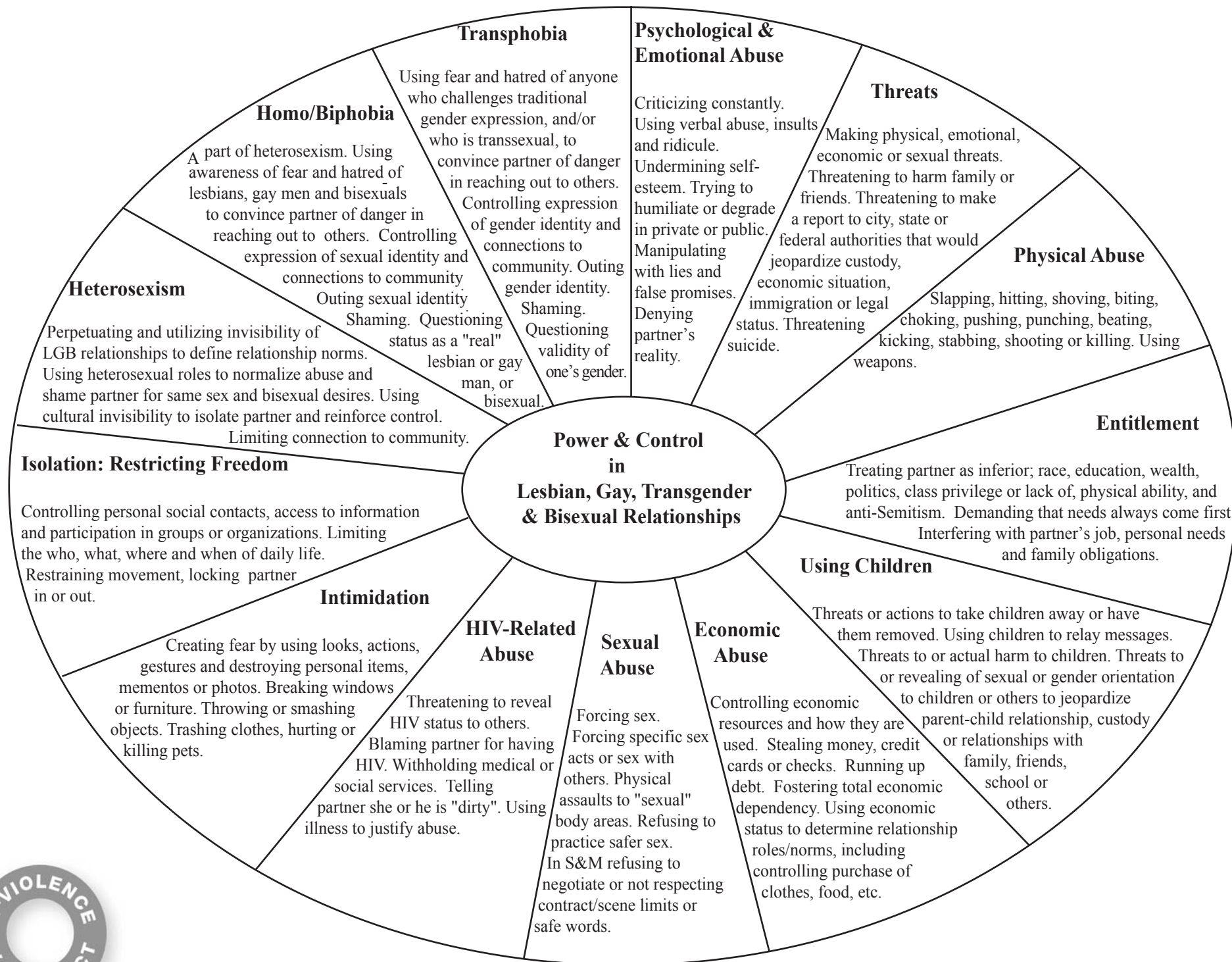
- Don't** **Assume** that a victim knows about the courts' priorities, rules of procedure, etc.
- Don't** **Be directive**. For example, do not say "you'll want to," "you should," "you need to..."
- Don't** **Expect that a victim will remember** everything you say. Both trauma and non-auditory learning styles dictate that most will not
- Don't** **Minimize** what the person is saying. You can always say, "I am sorry that happened."
- Don't** **Be afraid** to kindly and respectfully reset the tone if you need to
- Don't** **Initiate touch** with a petitioner or their support person
- Don't** **Use** the word/phrase "story," "version," "your side." Instead, say "what happened."

Power and Control Wheel for Lesbian, Gay, Bisexual and Trans Relationships



Developed by Roe & Jagodinsky

Adapted from the Power & Control and Equity Wheels developed by the Domestic Abuse Intervention Project • 206 West Fourth Street • Duluth, Minnesota 55806 • 218/722-4134



LGBT DV

BEYOND THE WHEEL: Tactics of Abuse

Isolation and OUTING—when people are first coming out, *they are very vulnerable to abuse* - they may be losing friends and family, may be alienated from their cultural, ethnic, religious, familial community and institutions. The isolation that most LGBT people face as a result of homophobia *is useful to a batterer* who is trying to isolate their partner. **Threatening to “out” a person (which could mean losing children, ostracism, job loss etc) is a powerful tool of control.**

Using Vulnerabilities—a batterer using their own vulnerabilities to obligate or coerce their partner into staying, caring for them, and/or prioritizing batterer’s needs. Using vulnerabilities often results in survivors being exploited (resources, time, attention) and undermines survivors’ attempts to negotiate boundaries or prioritize self.

Using Children—In many states, LGBT people are not allowed to be the legal parent of their children. Even in states where LGBT parent’s rights are protected, not all individuals have access to the systems to assert their legal rights. For a non-biological parent, the threat of having no contact with their children makes leaving an abusive relationship a complex to impossible choice.

Using Small Communities—Using friends/family and the small number of open and affirming community spaces to monitor a survivor & gather information, to ostracize or threaten to ostracize the survivor. **Please note:** safety planning cannot rely on the survivor never being in community space with the batterer. *Our communities are too small for this.* We must do **harm reduction** planning or survivors “drop out” of community to avoid batterer and risk further isolation.

Leveraging Institutional Violence / Isolation—law enforcement historically and currently have used violence against LGBT people. LGBT people have been targeted for violence in mental health institutions, by hate and bias attacks, and are denied basic civil rights such as the protections afforded through marriage. LGBT people also experience discrimination and oppression based on race, class, national origin, gender, gender identity etc. Many LGB people, and particularly transgender people, have experienced discrimination within the medical system. **These things are used by batterers to increase control.**

Alcohol and Drug Abuse—LBTG people have historically been forced to make community in “illegal” and marginalized spaces such as bars. We have higher rates of alcohol and drug use and abuse than in mainstream communities. Batterers leverage the ongoing consequences of ways that LBTG people’s lives have been historically criminalized AS WELL AS the realities of current drug use (and drug criminalization) when setting up/maintaining a system of power & control.

*Please see the “**Think, Re-think**” article in your packet for more discussion of these issues, stats, and a general frame of dv in lbtg relationships.*

“Beyond the Wheel” Bullet Points

This handout developed by Connie Burk ©2005, updated by Kristin Tucker 2009
for The NW Network of Bisexual, Trans, Lesbian and Gay Survivors of Abuse
www.nwnetwork.org P.O. Box 20398 Seattle, WA 98102