INSTRUCTIONS FOR COMPLETING
PETITION FOR PROTECTION FROM DOMESTIC ABUSE OR DATING VIOLENCE

The Domestic Abuse Assistance Acts (La. R.S. 46:2131 et seq. and Ch.C. Article 1564 et seq.) and Protection from Dating Violence Act (La. R.S. 46:2151) enable victims of domestic abuse and dating violence to ask for court orders to protect them from further abuse. This protection includes ordering the abusive person to stay away from the victim, and may also include ordering temporary child custody, financial support, and use of property to the victim in order to ensure safety.

The **petition** is the form that begins the process. The petition is an application, or a request to the court for protection from the abusive person. The petition describes the abuse and lists the kinds of protection the victim is seeking from the court. The person who files a petition for protection is called the **petitioner**; the person against whom the petition is filed (the abusive person) is called the **defendant**. The **protected person** is usually the petitioner, but not always. For instance, if a parent or guardian files for protection of a minor, the parent or guardian is the petitioner and the minor is the protected person. The petitioner can fill out and file the petition without using an attorney. The necessary forms are available in the clerk of court's office in each parish.

You do not have to pre-pay the court costs in order to file. If the protective order is granted, the judge should hold the abuser responsible for the court costs.

These instructions can help you understand which forms to use, and how to fill them out. In some areas of the state, the clerk of court's office or the local battered women's program may be able to assist you in preparing the forms.

Who may apply for protection under the Domestic Abuse Assistance Acts/Protection from Dating Violence Act?

Protective orders are available if you or someone in your family or household has experienced physical abuse, sexual abuse, or threats of abuse in a domestic or dating relationship. You can apply for protection for yourself, or you can apply on behalf of children or others in the home (see the relationships that are eligible for protection described below). You can file on behalf of an **incompetent** (also called an **alleged incompetent**) person, who is not capable of filing for him or herself due to a medical or mental disability.

The protected person may be related to the abuser as any of the following:

- Spouse or former spouse
- A person presently or formerly living in the residence as a spouse, whether married or not, of same or opposite sex
- Child, stepchild, or foster child
- Child of abuser's current or former intimate partner
- Child currently or formerly living with abuser
- Parent, stepparent, or foster parent
- Current or former dating partner
- Grandparent or other ascendant
- Grandchild or other descendant

Where can you file your petition?

Venue means the place (parish) where you can apply for a protective order. There are several possibilities of where you can file the petition. You can apply to the court in the parish where the abuse happened, in the parish where the petitioner and defendant lived together, in the parish where the defendant is living now, or in the parish where the petitioner is living now. If those parishes are not the same, you must select one in which to file the petition. Once the order has been granted, it will be good throughout the state and nation.

Which petition form should be used?

LPOR B: This petition offers protection from abuse under the Domestic Abuse Assistance Act (La. R.S. 46:2131 et seq.) or Protection from Dating Violence Act (La. R.S. 46:2151). Use this petition if the relationship between you and the abuser is listed above under "Who may apply..." and if the parish you are filing in is one of the venue possibilities listed above under "Where can you file...."

LPOR B-R: This petition is the same as LPOR B except for the following circumstance. If the petitioner is married to the person that the petition is being filed against (the defendant), and if the defendant has filed for divorce but the

divorce suit has not been finalized, OR has filed for custody against you, OR if a petition for protection from abuse has been filed against you, use LPOR B-R. Because this petition will be filed as a part of the legal action that has already been filed, and because the abuser is known as the "Petitioner" in the previously filed legal suit, in this protective order request the defendant (abuser) will now be known as the "Defendant-In-Reconvention" and you, the petitioner, will be known as the "Petitioner-In-Reconvention." **NOTE:** This is only the case if the defendant is the one who first filed the divorce, custody or protective order action. If you filed the divorce or custody action, you may use LPOR B.

LPOR C: This petition offers protection from domestic abuse under the "Children's Code" (Ch. C. Article 1564 et seq.), which uses slightly different definitions than those used for LPOR B. In courts that have jurisdiction over juvenile matters you may apply using this petition. It offers the same kinds of protection that are offered in LPOR B. You may use LPOR C for all the relationships between the defendant and petitioner that are described above under "Who may apply...," **EXCEPT:**

1) If a petitioner and defendant are unmarried but living in the same residence as spouses, a minor child must also reside in that residence, and the petitioner and defendant must be currently living together. However, the petitioner's right to relief is not affected by leaving the residence in order to avoid further abuse.

2) If a petitioner and defendant are related as grandparents and grandchild, only LPOR B or LPOR B-R may be used.

You may use LPOR C for all the venues listed above under "Where can you file...," **EXCEPT** if the parish in which you are applying is where you currently reside, and that parish is **not** the location of any of the other venue options above. You can still apply using LPOR C in that case, but you will not have the same types of protection **before** the date of the hearing, which are available if you file using LPOR B or B-R.

LPOR C-R: This petition is the same as LPOR C except for the following circumstance. If the petitioner is married to the person that the petition is being filed against (the defendant) and if the defendant has filed for divorce but the divorce suit has not been finalized, OR has filed for custody against you, OR if a petition for protection from abuse has been filed against you, use LPOR C-R. Because this petition will be filed as a part of the legal suit that has already been filed, and because the abuser is known as the "Petitioner" in the previously filed legal suit, in this protective order request the defendant (abuser) will now be known as the "Defendant-In-Reconvention" and you, the petitioner, will be known as the "Petitioner-In-Reconvention." **NOTE:** This is only the case if the defendant is the one who first filed the divorce, custody or protective order action. If you filed the divorce action, you may use LPOR C.

How can you get an order?

1. FILL OUT FORMS AND SIGN THE PETITION AND AFFIRMATION. HAVE A WITNESS SIGN THE AFFIRMATION. Fill out the forms using the instructions that follow: Petition (includes Affirmation), Confidential Address form LPOR F, if needed, and Information for Service of Process Form LPOR H. As you will be swearing that what you have written in the forms is true and can be used as evidence in court, you must sign the petition and affirmation form and have a witness sign the affirmation.

2. JUDGE or HEARING OFFICER REVIEWS AND SIGNS FORMS, ISSUES TEMPORARY ORDER and ASSIGNS A HEARING DATE. The clerk of court will assign a suit number and allot the case to the proper division of court, and then direct your signed forms to the judge/hearing officer who will review your request. If s/he agrees that immediate protection is necessary, s/he will grant you a Temporary Restraining Order (TRO) with a date to come back to court for a hearing. The TRO will contain some or all of the requests you made in the petition. The TRO will be in effect until at least the date of that court hearing. The clerk of court should provide you with a copy of the petition and a certified copy of the TRO, which you should keep with you at all times. (You may wish to make additional copies of the TRO for your employer, as well as for schools, day care centers or sitters of any children listed in the petition.) The clerk of court should tell you the date and time of the hearing for your protective order (information which is also written on your TRO), and will give a copy of the petition and the order to the sheriff's office to serve the defendant. The defendant will be notified to be present in court on the date of the hearing. It is not required that you have an attorney; you may represent yourself at the hearing. However, if you wish to be represented at the hearing, take your papers to an attorney, or contact the nearest family violence program, family justice center or legal services office immediately after the petition is filed to find out whether legal representation can be provided.

3. COURT HEARING. At the hearing the judge will decide whether to grant the requests made in the petition and issue a Protective Order (PO). On the date of the hearing, come to court with any witnesses you may have (people

who know of or have observed the abuse you described in the petition). If you are representing yourself at the hearing, the judge may ask you to explain what orders you feel are necessary to protect you from further abuse. The abuser will be given an opportunity to respond. If you do not come to court on the date of the hearing, the temporary order (TRO) will expire, you will not be protected and the judge may dismiss your petition.

4. AFTER THE HEARING. If the judge is satisfied that you need protection, s/he will sign the Protective Order (PO) which will now be in effect for up to 18 months if you filed LPOR B or LPOR B-R under La. R.S. 46:2131 et seq. or La. R.S. 46:2151, or up to 6 months if you filed LPOR C or LPOR C-R under the Children's Code. The judge may grant that certain parts of the order (those related to staying away and not contacting the protected person) do not expire. If LPOR C or LPOR C-R was filed on behalf of a minor child who was sexually abused, the order that is granted is in effect until the child reaches the age of 18. You should again ask the clerk of court for certified copies of the order and keep a copy with you at all times.

5. IF A HEARING OFFICER PRESIDES AT THE HEARING. The hearing officer will write his/her recommendation to the judge regarding whether you should be granted a Protective Order and what specific relief you should get. The hearing officer will give you a copy of this written recommendation and will also give a copy to the defendant. The hearing officer will give the recommendation to the judge also. If you do not agree with the hearing officer's recommendation, you must ask for a hearing before the judge following your hearing before the hearing officer. The defendant can do the same if the defendant is unhappy with the hearing officer's recommendation. The hearing officer's recommendation to the judge is NOT a protective order - only the judge can issue a protective order. However, your temporary restraining order (TRO) should still be good for 15 days after the hearing or until the judge signs the protective order, whichever occurs last. Before you leave court, make sure that your temporary restraining order expiration date is a date at least 15 days beyond the hearing in which you just participated. If either you or the defendant has objected to the recommendation, a new hearing will be held before the judge and you will need to attend that hearing to prove your case again. If the defendant does not object to the hearing officer's recommendation and if you do not object either, the judge will sign a protective order. Before you leave, find out who to call and when to check on whether a new hearing will occur or whether your Protective Order has been signed by the judge. Also, find out when and how you can get a certified copy of your Protective Order.

6. EXTENDING THE ORDER. If you need to extend any of the expiring protections under the Protective Order beyond the period the judge granted, you must file a form to modify the Protective Order **before it expires**. The court will set a hearing, and the defendant will be served with a copy of the papers and ordered to be present at the hearing. You must be present at the hearing to tell the Judge why you need the Protective Order to last for a longer period of time. These forms are available from the clerk of court. Be sure to get a new copy of the order if the Judge grants the extension.

7. IF THE DEFENDANT VIOLATES THE ORDER. It is a crime to violate a temporary restraining order after the defendant has been served, or a protective order. You may call the police when the order has been violated. You may also inform the court that a violation has occurred by filing a "**Rule to Show Cause Why the Defendant Should Not Be Held in Contempt.**" These forms are available from the clerk of court. When the contempt forms are filed, the court will set a hearing and the defendant will be served with a copy of the papers and ordered to be present at the hearing. You must be present at that hearing to tell the judge what the defendant did to violate the order.

8. MODIFYING THE ORDER. You may not change on your own the terms or conditions of the court order. If it is necessary to change the Protective Order, a motion to modify the order must be filed with the court. The court will set a hearing and the defendant will be served with a copy of the papers and ordered to be present at the hearing. You must be present at the hearing to tell the Judge why you need to change the terms of the Protective Order. Be sure to get a new copy of the order if the Judge grants a modification.

HOW TO FILL OUT A PETITION:

In the upper left corner, fill in your name on the top line as petitioner (or Petitioner-In-Reconvention if you are using LPOR B-R or C-R) and the abuser's name as defendant (or Defendant-In-Reconvention in LPOR B-R or C-R). Note that if the defendant is a minor, there is a line for the name of the parent or guardian of the minor. Leave the lines on the top right corner of the form blank.
Check "Initial Petition" if you are beginning this court action.

Check "Supplemental and Amending Petition" if you have previously filed a petition that has not yet been heard before the court, and you are filing this petition to change or add to that petition.

On the first line of the petition under the heading, fill in your name and date of birth.

Paragraph 1: Petitioner/Protected Person(s)

If you are filing this petition on your own behalf, check "a." If you are filing on behalf of a minor child/children, check "b" and fill in their names, dates of birth, and relationship to you. If you are filing on behalf of someone in your care who you believe is incompetent, check "c" and fill in their name, date of birth, and relationship to you. **If you check "b" or "c," be sure to include information in Paragraph 8 (Paragraph 7 in LPOR C and C-R) about the abuse of the child or incompetent person.**

Paragraph 2: Protected Person(s) Address

If you do not want the abuser to know your current address, check "a" and ask for and fill out a form called "Confidential Address Form." The clerk of court will file your address under seal to be kept confidential to the court. If you do not need to hide your current address, fill in "b" and/or "c." If you need interpreter services for yourself/protected person and/or any witnesses, check "d." If you want criminal history records to be provided, check "e."

Paragraph 3: Special Requests

If you or any of your witnesses need a language interpreter to understand and be understood in court, check "a" and provide the language interpretation required. If you need criminal history records on the defendant or any of the defendant's witnesses, you can request the court to order the sheriff to provide these by checking "b".

Paragraph 4: Defendant Address

Provide the information requested about the defendant.

Paragraph 5: Venue

Check all of the places listed that describe the parish you are filing this form in, and write the parish name in the blank for each one that you check. If you are using LPOR C or C-R, notice that if you check ONLY the last entry, "The petitioner resides in____," you will be limited to choosing from options "a," "b," "c," and "d" listed in Paragraph 9. If you check the last entry, but also check any of the other entries, you are entitled to all the options listed in Paragraph 9.

Paragraph 6: Relationship

Place a check mark next to the relationship which best describes the relationship of the person needing protection to the defendant. If you are filing to protect more than one person, check all the relationships that apply to the protected person(s).

Paragraph 7: Related legal action

Check whether or not there is a divorce action pending between the petitioner and the abusive person. If a divorce action is pending, please fill out the last page, Addendum. If you are filling out LPOR B or C, and there is a pending suit for divorce or order of protection that was filed **by the defendant**, you should use LPOR B-R or C-R instead. Check if there is a child custody case pending or a custody order in effect that involves children named in your petition. If you checked yes, there is a pending divorce, pending custody case, or custody order, be sure to fill out the last page, Addendum, with the details. Attach a copy of existing custody order, if one is available.

Paragraph 8: Description of abuse

In "a," check all the forms of abuse that the defendant has used. In "b," check any indicators of potential danger that occurred. In "c" describe the most recent incident of abuse or threats of abuse which caused you to file this petition. Be specific; give the date and details about the abuse. If police were called, or if medical attention or other help was needed, include this information in your description. If you are filing on behalf of a child or incompetent person, describe the abuse to that person. Then describe past incidents of abuse. This is especially important to include if the most recent abuse was a threat.

Paragraph 9: Requests for relief

This paragraph lists all the things you may ask the judge to grant immediately, before the hearing.

Check "a" if you want the defendant ordered not to abuse, harass, stalk, assault, follow, track, monitor or threaten you (or the protected person).

Check "b" if you want the defendant ordered not to contact you (or the protected person) in any way.

Check "c" if you want the defendant to stay at least 100 yards away from where you (or the protected person) are staying, and fill in the address the defendant is to stay away from **(if you have asked the court to keep your address confidential, do not list your address, but insert "anywhere petitioner may reside."**).

Check "d" if you want the defendant to stay away from your (or the protected person's) school or job.

Check "e" if you want the defendant ordered not to damage your (or the protected person's) property, and not to cut off your utilities, phone, or mail service.

Check “f” if you want the defendant evicted from the home so that you (or the protected person) may live there. Fill in the local Sheriff’s office. NOTE: You can only check “f” if you can check one of the four descriptions in “f” to describe who owns or leases the house. However, you may be granted use of a house or residence solely owned by the defendant, if you are filing LPOR B. If you are asking for custody of a child or children of the defendant and want possession of the defendant’s solely owned house or residence, check this option in Paragraph 10.
Check “g” if you (or the protected person) want to have or to use certain property or pets or other animals that are solely owned or leased by you (or the protected person), and fill in the current location of the property, pets, or other animals. Also, check “g” if you are asking for jointly owned or leased property or pets or other animals and fill in the current location of the jointly owned property or pets. Explain why you are asking for the jointly owned property, pets or other animals. This is not intended to divide up all your shared property, but to grant you certain items that are important for you to have now for your safety or that of the protected person. Fill in the name of the local sheriff’s department that will assist you in retrieving the requested property, pets or other animals.
Check “h” to order both the protected person and the defendant not to give away, sell, or destroy any of the shared property.
Check “i” if you (or the protected person) want to return to the residence with law enforcement officers one time to get personal belongings and write “petitioner” or your name in the blank. If you (or the protected person) are staying in the residence that was once shared with the defendant, check “l” and write in “defendant” or the defendant’s name in the blank to allow him/her to return with law enforcement officers once ONLY to get personal belongings.
Check “j” to ask the court to order assistance from the local Sheriff’s office to accompany the person listed in “l” to the residence to get his/her belongings. Fill in the name of the local Sheriff’s office.
Check “k” if you are asking that temporary custody of the children, or the incompetent person needing protection, be given to the petitioner. List the children’s or incompetent person’s names in the blanks, as well as whose custody they are in now.
Check “l” if you are asking for assistance from the Sheriff’s office to get the children or incompetent person, and fill in the name of the local Sheriff’s office.
Check “m” if you want the court to order the defendant not to interfere with custody of the children or incompetent person.

Paragraph 10: Other requests
Check any of the items listed that you would like the judge to grant at the hearing. Unlike the things you have asked for in Paragraph 9, these requests **cannot** be granted until the hearing. Even though the judge signs your temporary order, these requests will not be in effect until the judge decides at the hearing whether s/he will grant them.

Paragraph 11 of LPOR C or LPOR C-R:
All of the options here are also listed in Paragraph 9. However, if you were limited in your choices in Paragraph 9 because of the venue, you have the opportunity in Paragraph 11 to ask for those things you could not ask for in Paragraph 9. The options in Paragraph 11 cannot be granted BEFORE the hearing, as a part of the TRO, but if you wish to have any of these options as part of the final protective order check them here.

Prayer: This section summarizes all that you are asking for. Place a check mark next to all items that apply.

Signature: Sign the petition. If you are being represented by an attorney, the attorney signs and fills out contact information.

Service request: Fill in the abuser’s name and address on the line provided under “Please Serve Defendant.” Make sure you give his/her home and/or work address (not a post office box) where s/he may be served in person.

Affirmation: By signing this form, you are verifying that all information you have given is true, that you believe that the defendant poses a threat to you, and that you understand that punishment can result from your giving false information in this petition. The witness is affirming that you are the signer of this affirmation.

Addendum: If you are asking for defendant and/or witness criminal history records, and/or there is pending legal action, fill out as much information as you can regarding any witnesses, your currently pending divorce action, pending child custody action, or child custody order. If none of these apply to you, leave this page blank.

To obtain a copy of the defendant’s criminal history record and/or that of a witness, take the Temporary Restraining Order and Petition to the Sheriff’s Office in the parish where you filed the petition; they will provide a copy of such record to you.

Information for Service of Process Form Instructions:

The clerk of court should provide you with a copy of this form. The defendant must be served by the sheriff's office with a certified copy of the petition, the order, and notice to come to court on the assigned day of the hearing. To assist the sheriff's office in locating the defendant, fill out this form as completely as possible. List all the places the defendant may be found, times s/he may be in those places, and other people who may know of the defendant's whereabouts.

If the defendant is not located and has not received a copy of the order and notice of the hearing, s/he cannot be arrested for violating the order. However, if the defendant is not served, you should still attend the hearing in order to receive a new TRO from the court to continue your protection and give the Sheriff additional time to serve the defendant.

Confidential Address Form Instructions:

If you checked "a" in Paragraph 2 of the petition, you must fill out this form, which is available from the clerk of court. Your address will be kept confidential by the court and the defendant will not receive notice of where you are currently living.