

## **INSTRUCTIONS:**

### **APPLICATION FOR DOMESTIC VIOLENCE PROTECTION ORDER**

**Coming to Court to resolve your dispute is about BALANCE.** Balance is a traditional Lakota value. When you seek a Domestic Violence Temporary Protection Order prior to a hearing, you are asking the court to enter an Order after only hearing one side of the story. This upsets the BALANCE. Therefore, the Court can only enter these orders under exceptional circumstances, and only for a limited time to allow service of a Petition and Temporary Domestic Violence Protection Order on the restrained party.

**If the Judge is not persuaded that there is an immediate threat of serious harm, the Court may still schedule a Hearing, and forego entering a Temporary Order prior to a Hearing, and if the Petition is not properly executed then that is all that the Judge may legally do.**

1. There is no filing fee or service charge for a Petition for Domestic Violence Protection Order's.
2. you, or another person, has already been threatened or assaulted that may be sufficient reason, but you must state the circumstances of the threat or assault.
3. All Facts in the Petition must be based on personal knowledge. It is possible to support your Petition with the statements of others who also have personal knowledge, however their statements must, like your Petition, be sworn statements with a signature attested to by a Notary Public or Clerk of the Courts.
4. You must state specifically what harm you believe you will suffer if the Protection Order is not issued. If you believe you will be beaten, SAY SO. If you believe your children will be taken from you by your partner, SAY SO. If you believe that your property will be damaged or destroyed, SAY SO. If you believe that you will be left without resources to care for your children, SAY SO, and specifically state what resources are at risk (House, Care, Child Support, Bank Account etc.). If you want the Court Order to protect a specific resource, then you must state each resource that you want the Court to Protect.
5. The Court does not have authority to change the ownership of a dwelling/house pursuant to a Domestic Violence Protection Order, but the Court does have authority to award Temporary Use of a Dwelling or House.
6. The Court has authority to Award Temporary Custody, Child Support, Use of Dwelling or House, Use of Vehicle, as part of a Temporary Domestic Violence Protection Order. The Court may also do such things as conditional use of the parties common vehicle by the Respondent on a timely payment of child support, but the fact that the Court enters an Order does not guarantee that the Respondent will abide by the Order, although (S)he may face consequences for failure to do so.
7. The Protection Order provisions – although not necessarily the custody, child support, or use of property provisions are required to be recognized and enforced by other jurisdictions (both State and Tribes) pursuant to 18 U.S.C § 2265. Therefore, if the Court enters a Domestic Violence Protection Order on your person to present to local Law Enforcement (wherever you are) if problems arise.
8. All Provisions of the Temporary Domestic Violence Protection Order will be reconsidered at a Hearing.

**CHEYENNE RIVER SIOUX TRIBAL COURT  
CHEYENNE RIVER SIOUX TRIBE  
CHEYENNE RIVER INDIAN RESERVATION**

**IN SUPERIOR COURT  
( CIVIL COURT )  
Eagle Butte, South Dakota**

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**Petitioner,**

**CASE NO.** \_\_\_\_\_

Vs.

**PETITION FOR  
DOMESTIC VIOLENCE  
PROTECTION ORDER  
( Children Involved )**

## **Respondent,**

Comes now, \_\_\_\_\_, Petitioner in the above entitled action, and hereby makes the following statement under oath or affirmation and represents as follows:

1. That the Parties are family members, spouses, having cohabitated or have become parents of children together, or otherwise meet the definition of "Family Members" or "Spouses" as defined by the Cheyenne River Sioux Tribal Domestic Violence Code, and 18 U.S.C. § 2266.
2. That the Petitioner resides within the exterior boundaries of the Cheyenne River Reservation.
3. That the Respondent resides at: \_\_\_\_\_,  
Physical Address: Street Number , Street Name , City/Town , State , Zip Code  
and receives mail at: \_\_\_\_\_.  
PO Box Number or Street Address , City/Town , State , Zip Code
4. The Petitioner believes that a Temporary Domestic Violence Protection Order entered prior to a Hearing is necessary to prevent the irreparable harm of :

- Petitioner believes that the Respondent will physically abuse the Petitioner or the Petitioner's minor child or children.
- Petitioner believes that there is a high probability that the Respondent will remove the child or children from the custody of the Petitioner, and that this removal of the child or children will harm and endanger the child or children.
- The Petitioner believes that there is a high probability that the Respondent will take control of the following listed (real or personal) property, and thereby prevent the Petitioner from being able to care for the Petitioner's minor child or children.

□ Other irreparable harm of:

CHEYENNE RIVER SIOUX TRIBAL COURT )  
 CHEYENNE RIVER SIOUX TRIBE )  
 CHEYENNE RIVER INDIAN RESERVATION )  
 )

IN SUPERIOR COURT  
 (CIVIL COURT)  
 Eagle Butte, South Dakota  
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 Vs. CASE NO. \_\_\_\_\_  
 Petitioner Respondent

5. That the Petitioner has legal custody (joint legal custody is sufficient) of the minor child or children and their names and date(s) of birth(s) are as follows:

Name A: \_\_\_\_\_ DOB: \_\_\_\_\_  
 Name B: \_\_\_\_\_ DOB: \_\_\_\_\_  
 Name C: \_\_\_\_\_ DOB: \_\_\_\_\_  
 Name D: \_\_\_\_\_ DOB: \_\_\_\_\_

Wherefore, the Petitioner respectfully requests that this Court: (Check all that apply)

Enter a Temporary Order regarding Custody and Visitation until a Hearing is held. Specifically Petitioner requests the following Custody and Visitation provisions:

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Enter a Temporary Order regarding Child Support until a Hearing is held. Specifically, Petitioner requests Child Support as Follows:

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Enter a Temporary Order freezing all joint bank accounts of the parties, pending further hearing or stipulation with notarized signatures of both parties. Specifically, Petitioner requests that the following accounts be frozen pending a hearing:

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Enter a Temporary Order awarding the Petitioner use of the following particularly described (real or personal) property pending a hearing:

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Enter a Temporary Protection Order granting further temporary relief, requested here:

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For such other and further relief as the Court deems just and necessary to prevent irreparable harm.

CHEYENNE RIVER SIOUX TRIBAL COURT )  
CHEYENNE RIVER SIOUX TRIBE )  
CHEYENNE RIVER INDIAN RESERVATION )  
 )

IN SUPERIOR COURT  
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Petitioner \_\_\_\_\_ Vs. \_\_\_\_\_ Respondent \_\_\_\_\_ CASE NO. \_\_\_\_\_

In support of this Petition for Temporary Order prior to a Hearing, the Petitioner states the following facts under oath:

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The Court cannot order temporary relief prior to a hearing, unless the Petition for Temporary Relief is supported by sworn statements, that support a finding of a need for Temporary Relief, and the Court will need to schedule a hearing within TEN (10) days to determine what requested relief is supported by the testimony and evidence presented at the hearing:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Petitioner's Signature

Subscribed and Sworn to, before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by a person known to me, or satisfactorily identified by me to be the Petitioner.

\_\_\_\_\_  
Clerk of Courts or Notary Public  
My Commission Expires: \_\_\_\_\_

For Notary

(SEAL)

# **INFORMATION SHEET**

## **PLAINTIFF / PETITIONER**

**NAME(S):** \_\_\_\_\_

**MAILING ADDRESS:** \_\_\_\_\_

**PHYSICAL ADDRESS:** \_\_\_\_\_

**TELEPHONE NUMBERS: (HOME)** \_\_\_\_\_  
**(CELL)** \_\_\_\_\_  
**(WORK)** \_\_\_\_\_

## **DEFENDANT / RESPONDENT**

**NAME(S):** \_\_\_\_\_

**MAILING ADDRESS:** \_\_\_\_\_

**PHYSICAL ADDRESS:** \_\_\_\_\_

**TELEPHONE NUMBERS: (HOME)** \_\_\_\_\_  
**(CELL)** \_\_\_\_\_  
**(WORK)** \_\_\_\_\_