



**26th Judicial District
SelfServe Center**

50B Domestic Violence Protective Order

NOTE:

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

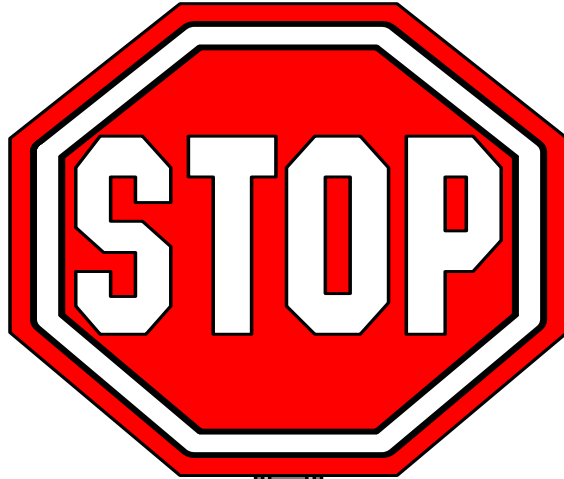
DUE TO THE CHANGING NATURE OF THE LAW, the forms and information contained in this packet may become outdated. Therefore, you should review and research statutes and rules of procedure referenced in the instructions to ensure that the forms are accurate and current.

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

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

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

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

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

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

INTRODUCTION

What is this?

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

How will it help me?

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

What does this mean?

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

What is a 50B Domestic Violence Protective Order?

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

1. Ex Parte Order:

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

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

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

2. No Ex Parte Order

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

What do I do first?

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

IMPORTANT REMINDERS BEFORE YOU BEGIN

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

INSTRUCTIONS FOR 50B DOMESTIC VIOLENCE FORMS

ATTENTION: Use this form if the relationship between you or the person on whose behalf you are filing this complaint and the defendant is:

1. current or former spouse;
2. persons of the opposite sex who live or have lived together;
3. have a child in common, are related as parent and child or grandparent and grandchild;
4. current or former household members;
5. or are persons of the opposite sex who are in a dating relationship or have been in a dating relationship

Step One: **Completing Your Forms:**

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

- a. You will need **two (2)** copies of this form. Fill out both copies that have been provided.
- b. **Fill in:**
 - i. **Name of County:** Where you intend to file the Domestic Violence Protective Order
 - ii. **Plaintiff's Name:** You are the plaintiff
 - iii. **Defendant's Name and Address:** Defendant is the party you are filing this action against.
 - iv. **For the Remainder of the Complaint: READ CAREFULLY and then check the blocks and fill in the blanks which apply to the facts of your specific situation.**
 1. If you would like the **judge/magistrate to act immediately** because you are afraid of additional acts of domestic violence:
 - a. Check **block #2** on the back of page 1 in the middle, asking for an Ex Parte Order.
 - v. **Date and Sign the Complaint** on the back **ABOVE THE VERIFICATION SECTION**. The verification section must be signed before a clerk, magistrate, or Notary Public. **There is a Notary Public on the first floor of the 26th Judicial District Building (832 E. Fourth St) in the Sheriff's Office.**
 - vi. **Attention: Do NOT fill out the remainder of this form.**
 - c. **If you and/or the defendant is/are under the age of eighteen (18) and NOT married:** You must ask a member of the staff in the SelfServe Center for the form to appoint a guardian ad litem (AOC-CV-318), or have a parent or guardian complete the forms for you, and accompany you to court.

2. Civil Summons Domestic Violence (AOC-CV-317)

- a. You will need **two (2)** copies of this form. Fill out both copies that have been provided.
- b. **Fill in:**
 - i. **Name of County:** Where you intend to file the Domestic Violence Protective Order.
 - ii. **Plaintiff's Name and Address:** You may give an address where you want your mail to go; your address does not have to be where you are living.
 - iii. **Defendant's Name:** Under the block designated "Defendant".
 - iv. **Defendant's Name and Address:** In the block designated "*Name and Address of Defendant*".
- c. **Attention: Do NOT fill out the remainder of this form.**

3. Notice of Hearing on Domestic Violence Protective Order (AOC-CV-305)

- a. You will need **one (1)** copy of this form.
- b. **Fill in:**
 - i. **Name of County:** Where you intend to file the Domestic Violence Protective Order.
 - ii. **Plaintiff's Name and Address:** You may give an address where you want your mail to go; your address does not have to be where you are living.
 - iii. **Defendant's Name:** Under the block designated "Defendant".
 - iv. **Defendant's Name and Address:** In the block designated "*Name and Address of Defendant*".
- c. **Attention: Do NOT fill out the remainder of this form.**

4. **Ex Parte** Domestic Violence Protective Order and Notice to Parties (AOC-CV-304): **Complete if you wish to file for an Ex Parte hearing.**

- a. You will need **one (1)** copy of this form.
- b. **Fill in:**
 - i. **Name of County:** Where you intend to file the Domestic Violence Protective Order.
 - ii. **Plaintiff's Name**
 - iii. **Your Date of Birth:** Found under "*Plaintiff Identifiers*".
 - iv. **Provide the Name and date of Birth of Any Other Minor** (Under the age of eighteen (18))
Family Members You Wish to Include in the Domestic Violence Protective Order
 - v. **Provide the Name and date of Birth of Any Other Adult** (Over the age of seventeen (17))
Family Members You Wish to Include in the Domestic Violence Protective Order: List under "*Other Protected Persons*".
 - vi. **Defendant's Name:** Under the block designated "Defendant".
 - vii. **Check the Box that describes the Defendant's Relationship to You**
 - viii. **Defendant's Address**
 - ix. **Complete Defendant Identifiers:** Be as complete, accurate and descriptive as possible.
- c. **Attention: Do NOT fill out the remainder of this form.**

5. Domestic Violence Order of Protection and Notice to Parties (AOC-CV-306): **Complete if you DO NOT wish to file for an Ex Parte hearing.**

- a. You will need **one (1)** copy of this form.
- b. **Fill in:**
 - i. **Name of County:** Where you intend to file the Domestic Violence Protective Order.
 - ii. **Plaintiff's Name**
 - iii. **Your Date of Birth:** Found under "*Plaintiff Identifiers*".
 - iv. **Provide the Name and date of Birth of Any Other Minor** (Under the age of eighteen (18))
Family Members You Wish to Include in the Domestic Violence Protective Order
 - v. **Provide the Name and date of Birth of Any Other Adult** (Over the age of seventeen (17))
Family Members You Wish to Include in the Domestic Violence Protective Order: List under "*Other Protected Persons*".
 - vi. **Defendant's Name:** Under the block designated "Defendant".
 - vii. **Check the Box that describes the Defendant's Relationship to You**
 - viii. **Defendant's Address**
 - ix. **Complete Defendant Identifiers:** Be as complete, accurate and descriptive as possible.
- c. **Attention: Do NOT fill out the remainder of this form.**

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

- a. **Attention:** *You do not need this form unless you are asking for temporary custody of any children that may be involved.*
- b. You will need only **one (1)** copy of this form.
- c. You must attach this completed form to the Complaint and give it to the clerk or magistrate with the other papers when you file your Domestic Violence Protective Order.

7. Identifying Information About the Defendant (Mecklenburg County Sheriff's Office Domestic Violence Questionnaire)

- a. You will need **two (2)** copies of this form. Fill out both copies that have been provided.
 - i. **Fill in All the Information:** Be as complete and accurate as you can.

Step Two:
Filing Your Forms

UPON COMPLETION OF ALL FORMS, TAKE THEM TO THE **CIVIL CLERK'S OFFICE (832 E. Fourth St., ROOM 3725)** FOR FILING. There is no filing fee associated with this action.

ATTENTION: After court hours in Mecklenburg County, you may take the completed forms to the Magistrate's Office at the Mecklenburg County Jail (801 E. Fourth Street) on weekends and evenings.