

# TEMPORARY RESTRAINING ORDER (TRO) AND PROTECTIVE ORDER (PO)

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La. Ch. C. arts. 617-618

**LOUISIANA**  
**CHILD IN NEED OF CARE BENCHBOOK**  
**FOR JUVENILE JUDGES**

SECTION

2

# INTRODUCTION

## A. GENERAL CONSIDERATIONS

Title VI of Chapter 6 of the Louisiana Children’s Code provides for the issuance of a Temporary Restraining Order (TRO) and Protective Order (PO). The court may issue a TRO or PO pursuant to this Chapter without an existing Child in Need of Care (CINC) proceeding. To eliminate the need for removal of the child, the Department of Children and Family Services (DCFS) may proceed to safeguard the child’s well-being in the home by seeking a TRO or PO or an Instanter Safety Plan Order (ISPO) to protect him/her from further abuse or neglect.<sup>1</sup> In addition, there is nothing in the Children’s Code prohibiting the issuance of a TRO or PO at any time during the life of a CINC case.

## B. REASONABLE EFFORTS FINDINGS IN INSTANTER ORDER FOR REMOVAL

If DCFS requests an Instanter Order for Removal, the court is required to determine whether DCFS made reasonable efforts to prevent or eliminate the need for removal, including whether DCFS has requested a TRO under Article 617, a PO under Article 618, and/or an ISPO under Article 619.<sup>2</sup> Thus, for every Instanter Order for Removal, the court shall inquire whether a TRO, PO, or ISPO was sought unless reasonable efforts were not required for that particular case. See Instanter Safety Plan Order and Instanter Order for Removal Benchbook Section 3. If one of these measures was not sought but could have prevented or eliminated the need for the removal (and there is no exception to reasonable efforts), the court shall consider this information in its reasonable effort’s determination.

## C. EXISTING CUSTODY OR VISITATION ORDER PER ARTICLE 612

As part of its preliminary investigation, DCFS shall immediately assess whether there is an existing visitation or custody order or agreement involving the alleged perpetrator and the child.<sup>3</sup> Article 612(2) requires that DCFS request a TRO, PO, or ISPO if: (1) there is an existing visitation or custody order involving the alleged perpetrator and the child;<sup>4</sup> and, (2) DCFS determines that any such order would put the child’s health and safety at risk.

As a general matter, a court exercising juvenile jurisdiction has continuing jurisdiction over CINC proceedings pursuant to Title VI and exclusive authority to modify any custody determination rendered, including the consideration of visitation rights (except as provided in Article 313).<sup>5</sup>

## D. CHILDREN’S CODE LANGUAGE

Article 617 TROs and Article 618 POs have not been widely utilized in Louisiana. This may be due in part to the language in these articles. The TRO and PO process in Title VI of Chapter 6, of the Children’s Code is modeled upon the parallel authority of district courts to provide relief in cases of domestic abuse. See Domestic Abuse Assistance Act under La. R.S. § 46:2131 et seq. and La. Ch. C. Art. 1564 et seq. Yet, the Domestic Abuse Assistance Act provisions are not wholly compatible with the Children’s Code articles. For example, Articles 617 and 618 use the term “petitioner” as if the petitioner is an individual. However, the Authors’ Notes at the beginning of Title VI of Chapter 6, indicate that the petitioner can be DCFS. The Children’s Code also utilizes the term “defendant” when there is no defendant in CINC cases in the commonly used sense of the word defendant.<sup>6</sup>

<sup>1</sup> See La. Ch. C. art. 615.

<sup>2</sup> La. Ch. C. art. 619(B).

<sup>3</sup> La. Ch. C. art. 612(2).

<sup>4</sup> The DCFS investigation is ongoing.

<sup>5</sup> See La. Ch. C. arts. 309 and 313.

<sup>6</sup> Indeed, the caption in Article 617 and 618 pleadings should be the same as it would be in any other CINC pleading: “State in the Interest of [Minor Children].”

It may be helpful to think of the relevant individuals as the “Restrained Person” (called “defendant” in the Children’s Code) and the “Person Protected.” The Restrained Person(s) would be the perpetrator; the Person Protected would be the child and could include adults such as one or more of the parents<sup>7</sup> or caretakers. The Restrained Person(s) could undoubtedly be parents but could also be significant others, relatives, or someone else living in the home. The Temporary Restraining Order (TRO) Template and Protective Order (PO) Template provided uses “Restrained Person” instead of “defendant.”

Articles 617 and 618 are silent regarding attorney appointment. Looking to Right to Counsel in Title VI, Chapter 4, Article 607 directs the court to appoint children’s counsel “at the time the order setting the first court hearing is signed.”<sup>8</sup> Article 608 provides the parents’ right to counsel at the Continued Custody Hearing (CCH) and “at all stages of the proceedings thereafter.” The court has the authority to appoint CASA in any CINC proceeding.<sup>9</sup>

## E. FILING OF CINC PETITION

Nothing in the TRO or PO provisions prohibit a CINC Petition from being filed if a PO is issued. However, Articles 617 and 618 do not require such a filing. On the other hand, if a PO is issued at the CCH, a CINC Petition requesting that the child be adjudicated in need of care shall be filed within 30 days of the hearing to determine continued custody.<sup>10</sup>

## F. DEFINITIONS

The Children’s Code references TROs, POs, and ISPOs together in Articles 615 and 619(B). Nothing prohibits the issuance of both a TRO or PO and an ISPO.<sup>11</sup> Here are short summaries for each of these forms of relief:

### 1. TRO (Article 617)

A TRO may be sought on behalf of a child and/or the child’s parent. A TRO is a court order that may be issued ex parte<sup>12</sup> (without a hearing) if good cause is shown that it is necessary to protect children, adults, and incompetents from abuse or neglect until there is a hearing on whether a PO will be issued. The hearing on the PO shall be held within 10 days of the granting of the TRO (unless continued for another 10 days). The TRO lapses if the hearing is not held within the 10-day timeframe. A TRO is meant to be temporary and heard immediately. The relief provided in a TRO may include, but is not limited to, ordering individuals to refrain from abuse and neglect; granting possession of community property and/or a residence; allowing a return to the residence for personal necessities; and/or, prohibiting the transfer of property. Notice of the TRO and the hearing on the PO shall be given by service of process to the person(s) who the order is restraining.<sup>13</sup>

### 2. PO (Article 618)

A PO may be sought on behalf of a child and/or the child’s parent. A PO is a court order issued after notice and a hearing to bring about the cessation of abuse or neglect of children, adults, and incompetents that can last up to 6 months (although it may be extended by the court and may also be modified). The relief provided in a PO may include the relief provided in a TRO plus an award of temporary custody, visitation and/or support, and/or an order for counseling or professional medical treatment. A PO is given full faith and credit.

<sup>7</sup> The plural form of “parent” is used throughout the Benchbook for simplicity, even though at times only one parent has been identified in a case.

<sup>8</sup> If the court appoints an attorney for the child in a TRO/PO proceeding, then the question arises whether the defendant/Restrained Person would also be entitled to an attorney. Domestic Abuse Act Assistance protective orders require that an attorney be appointed for the person against whom an order is issued if the applicant has been afforded a court-appointed attorney. La. C. Civ. Proc. art. 3603.1B.

<sup>9</sup> See La. Ch. C. art. 424.1.

<sup>10</sup> La. Ch. C. 632(A).

<sup>11</sup> It may be a rare instance, though, when DCFS would pursue both a TRO/PO and ISPO. One issue that DCFS considers in safety decision making is whether the parent has protective capacity. If a parent does not file for a TRO/PO against a perpetrator to protect the safety of the child, then that may show a lack of protective capacity. On the other hand, there may be circumstances of domestic violence in which it would be too dangerous for a parent to file for such a TRO/PO.

<sup>12</sup> Ex Parte, Black’s Law Dictionary (11th ed. 2019) (“Done or made at the instance and for the benefit of one party only, and without notice to, or argument by, anyone having an adverse interest; of, relating to, or involving court action taken or received by one party without notice to the other, usu. for temporary or emergency relief.”).

<sup>13</sup> See La. C. Civ. Proc. art. 1314.

### 3. ISPO (also referred to as a Court Ordered Safety Plan) (Article 619)

DCFS may seek an ISPO on behalf of a child. If the court determines that the child's welfare can be safeguarded with an ISPO and without removing the child from his/her parent's custody, the court shall issue an order providing findings of fact supporting the necessity of an ISPO. This court-ordered safety plan is requested by DCFS to manage the safety of a child while custody remains with his/her parents. The ISPO can restrict a parent's contact with the child, or it can include the child living with the parent in an alternate location or other interventions as ordered by the court. For example, the child and the parent may reside with a relative or other individual. The court shall also order the parent's compliance with the terms and conditions of the ISPO as determined by or agreed upon by DCFS and as necessary to protect the child's health and safety while remaining in the parents' custody. If the court orders an ISPO, then a Continued Safety Plan Hearing (CSPH) may be held but is not required in certain circumstances. If an ISPO is granted, a CINC Petition shall be filed within 45 days of its issuance, or else the ISPO will terminate by operation of law.

## G. TRO/PO AND ARTICLE 1564 ET SEQ.<sup>14</sup>

In addition to the TRO/PO authorized by Title VI, Chapter 6, there is also the Domestic Abuse Assistance TRO/PO authorized by Title XV, Chapter 8 (Article 1564, *et seq.*), of the Children's Code. The remedies in these two parts of the Children's Code have similarities and differences. In Title XV, Chapter 8, any parent, adult household member, local protection unit of DCFS, or a DA may seek relief on behalf of any child or any person alleged to be incompetent. Title VI generally refers to "the petitioner" without defining such; however, DCFS is clearly authorized to seek these orders pursuant to Articles 612(2), 615, and 619(B). In Title XV, Chapter 8, the protection is for domestic abuse (as defined by Article 1565), which includes physical or sexual abuse; Title VI, Chapter 6, applies when there is any form of abuse or neglect as defined by Article 603.

Both Chapters sanction the restraint, possession, use, support, and custody orders that have been discussed above. Article 1564 *et seq.* authorizes additional orders, including medical evaluations and that costs be paid by the perpetrator. Article 1564 *et seq.* also allows a PO to protect a child under the age of 18 who has been sexually molested to last at least until the child is 18 years of age (unless modified or terminated after a contradictory hearing). Unlike 1564 *et seq.*, Articles 617 and 618 do not allow for criminal enforcement.<sup>15</sup> The TROs and POs in Article 1564 *et seq.* are included in the Louisiana Uniform Abuse Prevention Order forms on the Louisiana Supreme Court website and put into the Louisiana Protective Order Registry (LPOR).

## H. EXAMPLES OF WHEN TO CONSIDER A TRO/PO:

Article 617 and 618 orders can be effective in but are not limited to the following situations:

- Jurisdiction is needed over the perpetrator, including the non-parent, to temporarily order to the perpetrator to refrain from certain actions.
- Eviction of the perpetrator from the residence would preserve the child's safety.
- Awarding the Person(s) Protected use of community property, such as a car, would help the person keep the child safe.
- Existing custody or visitation order allowing access to a child needs to be modified.
- Ordering the perpetrator to pay temporary support would help the person keep child safe.
- To prevent parent's/caretaker's contact with a child.
- Parent/caretaker is hesitant or unable to file a TRO or PO on his/her own.<sup>16</sup>

<sup>14</sup> La. Ch. C. 1564 *et seq.* was originally the same as the Domestic Abuse Assistance Act in the Louisiana Revised Statutes but has been changed some since its original enactment.

<sup>15</sup> See La. R.S. § 14:79. Of course, the court may always exercise its general contempt authority.

<sup>16</sup> Those with domestic violence experience are well aware that lethality may increase when a TRO and/or PO is requested by an individual.

# OUTLINE



## PRELIMINARY CONSIDERATIONS

- A. PREVENT OR ELIMINATE THE NEED FOR REMOVAL
- B. MANAGE SAFETY IN GENERAL
- C. EXAMPLES OF WHEN TO CONSIDER TRO/PO



## TEMPORARY RESTRAINING ORDER

- A. FINDINGS
- B. GRANT
- C. RULE TO SHOW CAUSE WHY A PROTECTIVE ORDER SHOULD NOT BE ISSUED
- D. ENFORCEMENT



## PROTECTIVE ORDER

- A. FINDINGS
- B. GRANT
- C. DURATION AND APPEAL
- D. SERVICE OF THE PROTECTIVE ORDER
- E. ENFORCEMENT
- F. MODIFICATION OF PROTECTIVE ORDER
- G. FULL FAITH AND CREDIT



## APPENDIX

- 1. TEMPORARY RESTRAINING ORDER (TRO) AND PROTECTIVE ORDER (PO) BENCH CARD
- 2. PETITION FOR PROTECTION FROM ABUSE OR NEGLECT TEMPLATE
  - a. AFFIDAVIT/VERIFICATION FOR PERSON PROTECTED TEMPLATE
  - b. AFFIDAVIT/VERIFICATION FOR PETITIONER TEMPLATE
- 3. TEMPORARY RESTRAINING ORDER (TRO) TEMPLATE
- 4. PROTECTIVE ORDER (PO) TEMPLATE



# OVERVIEW: PRELIMINARY CONSIDERATIONS

## A. PREVENT OR ELIMINATE THE NEED FOR REMOVAL

ARTICLES 615-20

- The court may issue a TRO/PO to prevent or eliminate the need for removal of the child in order to protect him/her from further abuse and/or neglect.
- DCFS may seek a TRO/PO and/or an ISPO instead of an Instant Order for Removal, and, per Article 619(B), shall make reasonable efforts to prevent or eliminate the need for removal by requesting a TRO/PO and/or ISPO, if appropriate under the circumstances.<sup>17</sup>

## B. MANAGE SAFETY IN GENERAL

ARTICLES 102, 309, 627, 681

In addition to preventing removal initially, the Children's Code allows for issuance of a PO in the following circumstances:

- At the CCH, if the court finds that the child can be safely returned home under a PO (Article 627).
- At the Disposition Hearing, if the court places the child in the custody of a parent or any other relative or suitable person.
- In any CINC proceeding under the court's general authority.
- Pursuant to Title XV, Chapter 8, Articles 1564 et seq.

### PRACTICE TIP:

- **Examples of When to Consider a TRO/PO:** In a TRO pursuant to La. R.S. § 46:2135, for example, the court can issue orders:
  - Jurisdiction is needed over the perpetrator, including a non-parent, to temporarily order them to refrain from certain actions.
  - Eviction of the perpetrator from the residence would preserve the child's safety.
  - Awarding the person protected use of community property, such as a car, would help the person keep the child safe.
  - Existing custody or visitation order allowing access to a child needs to be modified.
  - Ordering the perpetrator to pay temporary support would help the person keep the child safe.
  - To prevent a parent's/caretaker's contact with a child.
  - Parent/caretaker is hesitant or unable to file TRO/PO on his/her own.<sup>18</sup>

<sup>17</sup> As stated in the Introduction, there is nothing prohibiting the issuance of both a TRO/PO and an ISPO in the Children's Code. It may be a rare instance when DCFS would pursue both a TRO/PO and ISPO, however. One issue that DCFS considers in safety decision making is whether the parent has protective capacities. If a parent does not file for a TRO/PO against a perpetrator, that may show a lack of protective capacity. On the other hand, there may be circumstances of domestic violence in which it would be too dangerous for a parent to file such a TRO/PO.

<sup>18</sup> Those with domestic violence experience are well aware that lethality may increase when a TRO and/or PO is requested by an individual.

# OVERVIEW: TEMPORARY RESTRAINING ORDER

## A. FINDINGS

To grant, the court shall find that based on the alleged abuse or neglect, as defined in Articles 603(2) and (18):

- The restraining order is necessary to protect a “petitioner,”<sup>19</sup> any child, or any other persons alleged to be an incompetent from the abuse or neglect; AND
- Good cause has been shown for an issuance of an ex parte order.<sup>20</sup>

### HELPFUL GUIDANCE:

- **Good Cause:** Immediate and present danger of abuse constitutes good cause for an ex parte issuance of a TRO.

## B. GRANT

The TRO may include but is not limited to the following relief:

- (1) Direct the “defendant”<sup>21</sup> to refrain from abusing, neglecting, harassing, or interfering with the person or employment or going near the residence or place of employment of the petitioner, the child, or any person alleged to be incompetent, on whose behalf a petition was filed.
- (2) Award a party use and possession of specified community property, such as an automobile.
- (3) Grant possession to the petitioner of the residence or household to the exclusion of the defendant, by evicting the defendant or restoring possession to the petitioner where:
  - The residence is jointly owned in equal proportion or leased by the defendant and the petitioner or the person on whose behalf the petition is brought.
  - The residence is solely owned by the petitioner or the person on whose behalf the petition is brought.
  - The residence is solely leased by defendant and defendant has a duty to support the petitioner or the person on whose behalf the petition is brought.
- (4) Allow a party to return to the family residence once to recover his/her personal clothing and necessities if accompanied by a law enforcement officer.
- (5) Prohibit either party from transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business, or for the necessary support of the party or the minor child.
- (6) The court is authorized to order other forms of relief not specifically set forth in Article 617.

### PRACTICE TIPS:

- **Possession of Residence:** The court will want to make a finding on the record, if appropriate, that one of the 3 provisions, listed in #3 above, regarding possession of the residence applies in the case.

19 As explained in the Introduction, the Children’s Code uses the term “petitioner” since the language was taken from the Domestic Abuse Assistance Act. However, DCFS will often be the petitioner here. See Chapter 6 Authors’ Notes. The purpose of this Children’s Code article appears to be to protect children and the non-perpetrating parent or caretaker.

20 Ex Parte, Black’s Law Dictionary (11th ed. 2019) (“Done or made at the instance and for the benefit of one party only, and without notice to, or argument by, anyone having an adverse interest; of, relating to, or involving court action taken or received by one party without notice to the other, usu. for temporary or emergency relief.”).

21 Similar to use of the term petitioner, the Children’s Code uses the term “defendant” since this article was modeled on the Domestic Abuse Assistance Act. However, there is no defendant in CINC cases in the commonly used sense of the word “defendant.”

- **Further Orders:** In the Temporary Restraining Order (TRO) Template, there is a section where the court may make further orders as it deems necessary (“Individualized relief to protect the child’s well-being”).
- **Examples of Further Orders from Louisiana Revised Statutes:** For example, in a TRO pursuant to La. R.S. § 46:2135, the court can issue orders:
  - Awarding temporary custody of a minor child (or persons alleged to be incompetent).
  - Awarding or restoring possession to the petitioner of all separate property and all personal property, including but not limited to telephones or other communication equipment, computers, medications, clothing, toiletries, social security cards, birth certificates or other forms of identification, tools of the trade, checkbooks, keys, automobiles, photographs, jewelry, or other items or personal effects of the petitioner and restraining the defendant/Restrained Person(s) from transferring, encumbering, concealing, or disposing of the personal or separate property of petitioner.
  - Granting to petitioner the exclusive care, possession, or control of any pets belonging to or under the care of the petitioner or minor child residing in the residence or household of either party, and directing the defendant/Restrained Person(s) to refrain from harassing, interfering with, abusing, or injuring any pet, without legal justification, known to be owned, possessed, leased, kept, or held by either party or a minor child residing in the residence or household of either party.
- **Examples from Louisiana Uniform Abuse Prevention Order:** There may be forms of relief under the Louisiana Uniform Abuse Prevention Orders that would be helpful to include in these cases.<sup>22</sup> For example:
  - Ordering the defendant/Restrained Person(s) not to go within 100 yards of the residence, apartment complex, or multiple family dwelling of the Person(s) Protected.
  - Ordering the defendant/ Restrained Person(s) to stay away from the school of the Person(s) Protected.
  - Ordering the defendant/Restrained Person(s) not to contact the Person(s) Protected personally, through a third party, or via public posting, by any means, including written, telephone, or electronic (text, email, messaging, or social media) communication without the express written permission of this court.

## C. RULE TO SHOW CAUSE WHY A PROTECTIVE ORDER SHOULD NOT BE ISSUED

- (1) **If a TRO is granted without notice:**
  - The matter shall be set within 10 days;<sup>23</sup> AND
  - The defendant shall be given notice of the TRO and the hearing on the rule to show cause by service of process as required by law.
- (2) **If no TRO is granted:**
  - The matter shall be set for hearing on the earliest day that the business of the court will permit but, in any case, within 10 days from the date of service of the petition; AND
  - The defendant shall be given notice by service of process as required by law.
- (3) **At the PO Hearing:**
  - The petitioner shall prove the allegations of abuse or neglect by a preponderance of the evidence.
- (4) **If the hearing is continued:**
  - The court shall make or extend the TRO as it deems necessary; AND
  - The continuance shall not exceed 10 days.

### HELPFUL GUIDANCE:

- **Purpose:** A TRO is meant to be temporary and heard immediately.

<sup>22</sup> The court can refer to LPOR on the Louisiana Supreme Court website: [https://www.lasc.org/court\\_managed\\_prog/LPOR/LPOR\\_forms/LPOR\\_01.pdf](https://www.lasc.org/court_managed_prog/LPOR/LPOR_forms/LPOR_01.pdf).

<sup>23</sup> In computing a period of time prescribed by law, the date of the event after which the period begins to run is not included; the last day of the period is included but if a legal holiday—including Saturdays and Sundays—then the period runs until the end of the next day which is not a legal holiday. La. Ch. C. art. 114.

- **Appointment of Attorneys:** Article 617 is silent regarding attorney appointment for any of the parties. Right to Counsel, Title VI, Chapter 4, of the Children’s Code, Article 607 directs the court to appoint children’s counsel “at the time the order setting the first court hearing is signed.” Article 608 provides the parents’ right to counsel at the CCH and “at all stages of the proceedings thereafter.” If the court appoints an attorney for the child in a TRO/PO proceeding, then the question arises whether the defendant/Restrained Person(s) would also be entitled to an attorney. For a Domestic Abuse Assistance Act PO, an attorney shall be appointed for the person against whom an order is issued if the applicant has been afforded a court-appointed attorney.<sup>24</sup>
- **Appointment of CASA:** The court has the authority to appoint CASA in any CINC proceeding.<sup>25</sup>

## D. ENFORCEMENT

Article 617 does not mention criminal enforcement of the TRO. La. R.S. § 14:79 sets forth the criminal offenses for violating a TRO/PO but does not include a TRO issued under Article 617. Thus, there is currently no mechanism for criminal enforcement of the TRO. There is no provision in Article 617 providing for entry of the order into the LPOR.

### PRACTICE TIPS:

- **Louisiana Protective Order Registry (LPOR):** However, in the Authors’ Notes to Article 618, in discussing the TRO and PO, it states the “court must file and transmit the order no later than the following day for entry in the Louisiana Protective Order Registry.”
- **Article 1569 TRO:** On the other hand, a TRO issued pursuant to Article 1569 can be criminally enforced. Article 1569 sets forth the process for entry of the order into LPOR.
- **Contempt:** The court may always exercise its general contempt authority. Pursuant to Article 1509(D), an adult person adjudged guilty of contempt of court in connection with a juvenile proceeding may be fined (\$500 or less), imprisoned (six months or less), or both.

### HELPFUL GUIDANCE:

- **Federal Laws:** There are Federal laws that may be enforceable in some of these cases, whether a TRO is issued or not. The Louisiana Supreme Court has a comprehensive listing of Federal domestic violence laws: [https://www.lasc.org/court\\_managed\\_prog/LPOR/LPOR\\_Fed\\_laws\\_and\\_appendices.pdf](https://www.lasc.org/court_managed_prog/LPOR/LPOR_Fed_laws_and_appendices.pdf). The United States Attorney’s Office can be contacted for more information and to potentially refer a case for investigation.

<sup>24</sup> La. C. Civ. Proc. art. 3603.1(B).

<sup>25</sup> See La. Ch. C. art. 424.1.

# OVERVIEW: PROTECTIVE ORDER

## A. FINDINGS

To grant, the court shall find that:

- It has jurisdiction over the parties and the subject matter;
- The PO would end the abuse or neglect of a party, any minor child, or any person alleged to be incompetent; AND
- Either the:
  - Parties have entered into a consent agreement; OR
  - Party against whom the order is sought has been given reasonable notice and an opportunity to be heard that is sufficient to protect that person's right to due process.

### HELPFUL GUIDANCE:

- **Consent Agreement:** A consent agreement occurs when there is a stipulation to the issuance of the PO. A defendant/Restrained Person(s) may stipulate without any admission. A defendant/Restrained Person(s) may want to do so, for example, if there is a pending criminal charge.

## B. GRANT

The PO may include but is not limited to the following relief:

1. Granting the relief available under a TRO as enumerated in Article 617. See [Temporary Restraining Order \(TRO\) Section B](#) above.
2. When there is a duty to support a party, any minor child, or any person alleged to be incompetent living in the residence or household, ordering payment of temporary support or provision of suitable housing for them.
3. Awarding temporary custody of or establishing temporary visitation rights and conditions with regard to any minor child or person alleged to be incompetent.

### PRACTICE TIPS:

- **Supervisors for Supervised Visitation:** If supervised visitation is advisable, the court has a number of supervisors to consider, such as DCFS (if there is an open and ongoing case), supervised visitation providers (however, there could be costs associated), family or other suitable individuals.<sup>26</sup> Special attention should be given if the defendant's/Restrained Person's family member is considered as a possible supervisor.
- **Definition of Supervised Visitation:** The court may want to refer to the definition of supervised visitation in La. R.S. § 9:362(7) when considering such an order: "'Supervised visitation' means face-to-face contact between a parent and a child which occurs in the immediate presence of a supervising person approved by the court under conditions which prevent any physical abuse, threats, intimidation, abduction, or humiliation of either the abused parent or the child. The supervising person shall not be any relative, friend, therapist, or associate of the parent perpetrating family violence. With the consent of the abused parent, the supervising person may be a family member or friend of the abused parent. At the request of the abused parent, the court may order that the supervising person shall be a police officer or other competent professional. The parent who perpetrated family violence shall pay any and all costs incurred in the supervision of visitation. In no case shall supervised visitation be overnight or in the home of the violent parent."

<sup>26</sup> The court "inherently possesses all powers necessary for the exercise of its juvenile jurisdiction and the enforcement of its lawful orders. It has authority to issue such writs and orders as may be necessary or proper in aid of its jurisdiction." La. Ch. C. art. 318.

4. Ordering counseling or professional medical treatment for either the defendant or the abused or neglected person(s), or both.
5. The court is authorized to order other forms of relief not specifically set forth in Article 618.

#### PRACTICE TIPS:

- **Order Template:** In the [Protective Order \(PO\) Template](#), there is a section where the court may make further orders as it deems necessary (“Individualized relief to protect the children’s well-being”)
- **Evaluations:** For example, in a PO pursuant to La. R.S. § 46:2136, the court can:
  - Order a medical or mental health evaluation, or both, of the perpetrator to be conducted by an independent court-appointed evaluator who qualifies as an expert in the field of domestic abuse. The evaluation shall be conducted by a person who has no family, financial, or prior medical or mental health relationship with the perpetrator or his/her attorney of record; AND
  - After a medical or mental health evaluation has been completed and a report issued, the court may order counseling or other medical or mental health treatment as deemed appropriate.
- **Facility:** In addition to an evaluation, the court can also issue a PO for the person to be brought to a facility if he/she meets criteria.
- **Further Examples:** There may be forms of relief in the Louisiana Uniform Abuse Prevention Order’s that would be helpful to include in these cases.<sup>27</sup> For example:
  - Ordering the defendant/Restrained Person(s) not to go within 100 yards of the residence, apartment complex, or multiple family dwelling of the Person(s) Protected.
  - Ordering the defendant/ Restrained Person(s) to stay away from the school of the Person(s) Protected.
  - Ordering the defendant/ Restrained Person(s) not to contact the Person(s) Protected personally, through a third party, or via public posting, by any means, including written, telephone, or electronic (text, email, messaging, or social media) communication without the express written permission of this court.
  - In addition, the court may want to consider ordering the defendant/Restrained Person(s) to submit to a substance use assessment or the person protected to undergo a trauma screening or make a referral to drug court.
- **Custody/Divorce:** A custody and/or divorce case involving the parties may be impacted if a PO is issued.

## C. DURATION AND APPEAL<sup>28</sup>

- **The PO or approved consent agreement:**
  - Shall be for a fixed period of time, not to exceed 6 months; AND
  - May be extended by the court, after a contradictory hearing, in its discretion.
- **The PO or extension thereof is only subject to a devolutive appeal.**

## D. SERVICE OF THE PROTECTIVE ORDER

- The PO is to be served on the person to whom the PO applies in open court at the close of the hearing or in the same manner as a writ of injunction.
- The clerk of the court is to send a copy of the PO or any modification of the order to the chief law enforcement official of the parish where the person or Person(s) Protected resides. A copy of the PO is to be retained in the file in the office of the chief law enforcement officer until otherwise directed by the court.

<sup>27</sup> The court can refer to LPOR on the Louisiana Supreme Court website: [https://www.lasc.org/court\\_managed\\_prog/LPOR/LPOR\\_forms/LPOR\\_03.pdf](https://www.lasc.org/court_managed_prog/LPOR/LPOR_forms/LPOR_03.pdf).

<sup>28</sup> In computing a period of time prescribed by law, the date of the event after which the period begins to run is not included; the last day of the period is included but if a legal holiday—including Saturdays and Sundays—then the period runs until the end of the next day which is not a legal holiday. La. Ch. C. art. 114.

 **HELPFUL GUIDANCE:**

- **Enforcement/Confidentiality:** These provisions do not comport with the fact that an Article 618 PO cannot be enforced by law enforcement or with the confidential nature of CINC proceedings.

## E. ENFORCEMENT

- Like Article 617, Article 618 does not mention criminal enforcement of the PO. La. R.S. § 14:79 sets forth the criminal offenses for violating POs but does not include a PO issued under this section. Thus, there is currently no clear mechanism for criminal enforcement of an Article 618 PO. There is no provision in Article 618 for entry of the order into the LPOR.

 **PRACTICE TIPS:**

- **Louisiana Protective Order Registry (LPOR):** Article 627(D), however, states that if a PO is issued or modified at the CCH, the court shall have a Uniform Abuse Prevention Order, pursuant to La. R.S. 46:2136.2(C), prepared and shall sign the order and the clerk shall transmit it to LPOR. Also, in the Authors' Notes in Article 618, in discussing the TRO and PO, the author states that the "court must file and transmit the order no later than the following day for entry in the Louisiana Protective Order Registry."
- **Article 1570 PO:** A PO issued pursuant to Article 1570 can be criminally enforced. Article 1570 sets forth the process for entry of the order into LPOR.
- **Contempt:** The court may always exercise its general contempt authority. Pursuant to Article 1509(D), an adult person adjudged guilty of contempt of court in connection with a juvenile proceeding may be fined (\$500 or less), imprisoned (6 months or less), or both.
- **Federal Laws:** There are Federal laws that may be enforceable in some of these cases, whether a PO is issued or not. The Louisiana Supreme Court has a comprehensive listing of Federal domestic violence laws: [https://www.lasc.org/court\\_managed\\_prog/LPOR/LPOR\\_Fed\\_laws\\_and\\_appendices.pdf](https://www.lasc.org/court_managed_prog/LPOR/LPOR_Fed_laws_and_appendices.pdf). The United States Attorney's Office can be contacted for more information and to potentially refer a case for investigation.

## F. MODIFICATION OF PROTECTIVE ORDER

- After notice to the other parties and a hearing, the court may modify a prior order regarding the relief granted as authorized by Article 618(A).

 **PRACTICE TIP:**

- **Motion to Modify:** A Motion to Modify will need to be filed, served, and set for hearing if any party wants the court to make changes to the Order. At a hearing on the modification, the court may make the PO more restrictive or less restrictive, dissolve the Order, or extend it.

## **G. FULL FAITH AND CREDIT**

- **Any PO issued in Louisiana or outside of Louisiana that is consistent with Article 618(B) shall be accorded full faith and credit:**
  - In all 50 states and the District of Columbia; AND
  - Tribal lands, U.S. territories, and commonwealths.<sup>29</sup>

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<sup>29</sup> See 18 U.S.C. § 2265.



# APPENDIX

# TEMPORARY RESTRAINING ORDER (TRO) AND PROTECTIVE ORDER (PO) BENCH CARD

■ La. Ch. C. arts. 617-618



## PURPOSE

TRO and PO protect families from abuse and/or neglect by restraining individuals from harmful conduct and by giving other additional relief; can be used to prevent or eliminate the need for removal of the child by protecting him/her from further abuse and/or neglect.

## PRELIMINARY CONSIDERATIONS

■ ARTICLES 102, 309, 615(B)(2), 617-20, 627, 681

- (1) **PREVENT/ELIMINATE NEED FOR REMOVAL:** After investigation finding justification for report of child abuse or neglect, DCFS may seek TRO/PO and/or Instant Safety Plan Order (ISPO), pursuant to its obligation to provide reasonable efforts to prevent or eliminate need for removal.
- (2) **MANAGE SAFETY IN GENERAL:** Children's Code also allows issuance of PO in the following circumstances:
  - At Continued Custody Hearing (CCH), if court finds child can be safely returned home under PO.
  - At Disposition Hearing, if court places child in custody of a parent or any other relative or suitable person.
  - In any CINC proceeding under court's general authority.
  - Pursuant to Title XV, Chapter 8, Articles 1564 et seq.

**PRACTICE TIP | Other Examples:** TRO/PO can be effective in but are not limited to the following situations:

- Jurisdiction is needed over perpetrator, including non-parent, to temporarily order to refrain from certain actions.
- Eviction of perpetrator from residence would preserve child's safety.
- Awarding person protected use of community property, such as a car, would help person keep child safe.
- Existing custody/visitation order regarding child needs to be modified.
- Ordering perpetrator to pay temporary support would help person keep child safe.
- To prevent parent's/caretaker's contact with a child.
- Parent/caretaker is hesitant or unable to file TRO/PO on his/her own.

**PRACTICE TIP | Petitioner:** Children's Code uses "petitioner" for person seeking TRO/PO since language taken from Domestic Abuse Assistance Act. However, DCFS will often be petitioner in these instances.

**PRACTICE TIP | Defendant/Restrained Person:** Children's Code uses term "defendant," but there is no "defendant" in CINC cases. May be helpful to think of the relevant individuals as the "Restrained Person" (defendant) and the "Person Protected." Restrained Person would be the perpetrator; Person Protected would be the child and could include adults such as one or more of the parents/caretakers. Restrained Person could be parents, significant others, relatives, or someone else living in the home. The [Temporary Restraining Order \(TRO\) Template](#) and [Protective Order \(PO\) Template](#) use "Restrained Person" instead of "defendant."

**PRACTICE TIP | Appointment:** Article 607 directs court to appoint children's counsel "at the time the order setting the first court hearing is signed." Article 608 provides the parents' right to counsel at CCH and "at all stages of the proceedings thereafter." Court has authority to appoint CASA in any CINC proceeding (Article 424.1).

**HELPFUL GUIDANCE | Domestic Violence:** Those with domestic violence experience are well aware that lethality may increase when TRO/PO is requested by an individual.

## TEMPORARY RESTRAINING ORDERS

■ ARTICLE 617

- (1) **FINDINGS:** To grant, court shall find that:
  - TRO is necessary to protect "petitioner," child, and/or any other persons alleged to be an incompetent from abuse or neglect and that good cause has been shown for ex parte order.
- (2) **GRANT:** TRO may include but is not limited to the following relief:
  - Refrain from abusing, neglecting, harassing, or interfering with person or employment or going near residence or place of employment of "petitioner," child, or any person alleged to be incompetent.
  - Use and possession of specified community property, such as automobile.
  - Grant possession of residence or household via eviction or restoration of possession.
  - Allow return to family residence once to recover items accompanied by law enforcement officer.
  - Prohibit transferring, encumbering, or otherwise disposing of property, except when in ordinary course of business or for necessary support of a party or minor child.
  - Other forms of relief not specifically set forth in Article 617.
- (3) **RULE TO SHOW CAUSE WHY PO SHOULD NOT BE ISSUED:**
  - a. **IF TRO GRANTED WITHOUT NOTICE:**
    - Matter shall be set within 10 days (See Article 114); AND
    - Defendant shall be given notice of TRO and hearing on rule to show cause by service as required by law.
  - b. **IF NO TRO GRANTED:**
    - Matter shall be set for hearing on earliest day business of court will permit but, in any case, within 10 days from date of service of petition; AND
    - Defendant shall be given notice by service as required by law.
  - c. **AT PO HEARING:** Petitioner shall prove allegations of abuse or neglect by preponderance of the evidence.
  - d. **IF HEARING CONTINUED:**
    - Make or extend TRO as deem necessary; AND
    - Continuance shall not exceed 10 days.

**PRACTICE TIP | Good Cause:** Immediate and present danger of abuse constitutes "good cause" for TRO.

**PRACTICE TIP | Further Orders:** In [Temporary Restraining Order \(TRO\) Template](#), there is section where court may make further orders as it deems necessary ("Individualized relief to protect child's well-being").

**HELPFUL GUIDANCE | Purpose:** TRO is meant to be temporary and heard immediately.

## PROTECTIVE ORDERS

### ARTICLE 618

- (1) **FINDINGS:** To grant, court shall find that:
- It has jurisdiction over parties and subject matter; AND
  - Parties have entered into consent agreement, or party against whom PO is sought has been given reasonable notice and opportunity to be heard sufficient to protect person's right to due process.
- (2) **GRANT:** PO may include but is not limited to the following relief:
- Granting relief available under TRO. See [TRO Section 2](#) above.
  - When there is a duty to support a party, a child, or any person alleged to be incompetent living in residence or household, ordering payment of temporary support or provision of suitable housing for them.
  - Awarding temporary custody of or establishing temporary visitation rights and conditions with regard to any minor child or person alleged to be incompetent.
  - Ordering counseling/professional medical treatment for either defendant or abused or neglected person(s), or both.
  - Court is authorized to order other forms of relief not specifically set forth in Article 618.
- (3) **DURATION AND APPEAL:**
- PO or approved consent agreement shall be for fixed period of time, not to exceed 6 months.
    - It may be extended by court in its discretion after contradictory hearing.
  - PO or extension thereof is only subject to a devolutive appeal.
- (4) **SERVICE OF THE PROTECTIVE ORDER:**
- PO shall be served on the person the PO applies to in open court at close of hearing or same manner as writ of injunction.
  - Clerk of court shall send copy of PO or any modification of PO to chief law enforcement official of parish where Person(s) Protected resides.
  - Copy of PO is to be retained in file in office of chief law enforcement officer until otherwise directed by court.

**HELPFUL GUIDANCE | Stipulation:** A consent agreement occurs when there is a stipulation to the issuance of the PO. A defendant/Restrained Person(s) may stipulate without any admission; may want to do so, for example, if there is a pending criminal charge.

**PRACTICE TIP | Further Orders:** In [Protective Order \(PO\) Template](#), there is a section where court may make further orders as deems necessary ("Individualized relief to protect child's well-being"). See La. R.S. § 46:2136, Louisiana Uniform Abuse Prevention Order's Order of Protection and [Temporary Restraining Order \(TRO\) and Protective Order \(PO\) Benchbook Section 2](#) for other examples that may be helpful.

**PRACTICE TIP | Custody or Divorce:** If PO is granted, custody and/or divorce case involving parties may be impacted.

**PRACTICE TIP | Modify:** On motion of any party, after notice to the other parties and a hearing, the court may modify prior Order regarding relief granted as authorized by Article 618(D).

## ENFORCEMENT

- There is currently no clear mechanism for criminal enforcement of TRO/PO.
- There is no provision for entry of Orders into Louisiana Protective Order Registry (LPOR) in Articles 617 and 618.

**PRACTICE TIP | Contempt Authority:** Court may always exercise its general contempt authority. See Article 1509(D). Also, PO issued pursuant to Article 1570 can be criminally enforced.

**PRACTICE TIP | Other Articles:** Article 627(D), however, states that if PO is issued or modified at CCH, court shall have Uniform Abuse Prevention Order, pursuant to La. R.S. § 46:2136.2(C), prepared and shall sign Order and clerk shall transmit it to LPOR. Also, in Authors' Notes in Article 618, in discussing TRO and PO, author states "court must file and transmit the Order no later than the following day for entry in the Louisiana Protective Order Registry."

## FULL FAITH AND CREDIT

PO issued in Louisiana or outside of Louisiana that is consistent with Article 618(B) shall be accorded full faith and credit:

- In all 50 states and the District of Columbia; AND
- Tribal lands, U.S. territories, and commonwealths.

See the [Temporary Restraining Order \(TRO\) Template](#) and [Protective Order \(PO\) Template](#).

STATE OF LOUISIANA

DOCKET NUMBER: \_\_\_\_\_

IN THE INTEREST OF

SECTION: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

COURT: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

PARISH OF \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

STATE OF LOUISIANA

Filed: \_\_\_\_\_

DEPUTY CLERK: \_\_\_\_\_

---

**PETITION FOR PROTECTION FROM ABUSE OR NEGLECT**  
Pursuant to Louisiana Children's Code Articles 617 and 618

This Petition is the: *(Please check one of the following)*

☐ Initial Petition.

☐ Supplemental and Amending Petition.

The Petition of: *(Please check one of the following)*

☐ Louisiana Department of Children and Family Services (DCFS) through undersigned counsel

☐ Other: \_\_\_\_\_

respectfully represents:

I.

Petitioner files this Petition to protect the following persons:

Minor child(ren): \_\_\_\_\_ (DOB: \_\_/\_\_/\_\_\_\_):

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_\_\_):

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_\_\_);

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_\_\_);

Adult(s): \_\_\_\_\_ (DOB: \_\_/\_\_/\_\_\_\_);

Relationship to minor child(ren) \_\_\_\_\_

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_\_\_);

Relationship to minor child(ren) \_\_\_\_\_.

Petitioner files this Petition to restrain the following persons:

Adult(s): \_\_\_\_\_ (DOB: \_\_/\_\_/\_\_);  
Relationship to minor child(ren) \_\_\_\_\_  
\_\_\_\_\_. (DOB: \_\_/\_\_/\_\_);  
Relationship to minor child(ren) \_\_\_\_\_.

**II.**

Address of Person(s) on whose behalf the Petition is filed (hereinafter "Person(s) Protected"):

\_\_\_\_\_.

Address of Person (s) Petition is seeking to restrain (hereinafter "Restrained Person(s)"): \_\_\_\_\_.

**III.**

DCFS: *(Please check one of the following)*

- ☐ has conducted a preliminary investigation regarding a report of child abuse or neglect.
- ☐ has not conducted a preliminary investigation regarding a report of child abuse or neglect.

**IV.**

In order to safeguard the minor child(ren)'s well-being in the home, Petitioner requests that an *ex parte* Temporary Restraining Order be issued immediately without bond: *(Please check all that apply)*

- ☐ Prohibiting the Restrained Person(s) from abusing, neglecting, harassing, or interfering with the person(s) on whose behalf the Petition is filed or their place of employment.
- ☐ Prohibiting the Restrained Person(s) from going near the residence of or place of employment of the Person(s) Protected.
- ☐ Awarding to the Person(s) Protected, \_\_\_\_\_, the use and possession of the following community property: \_\_\_\_\_

\_\_\_\_\_.

☐ Granting to the Person(s) Protected, \_\_\_\_\_, possession of the residence or household to the exclusion of the Restrained Person(s) located at: \_\_\_\_\_.

Said residence is presently occupied by: \_\_\_\_\_  
and: *(Please check one of the following)*

☐ Jointly owned in equal proportion by the Restrained Person(s) and Person(s) Protected, \_\_\_\_\_.

☐ Jointly leased in equal proportion by the Restrained Person(s) and Person(s) Protected, \_\_\_\_\_.

☐ Solely owned by the Person(s) Protected, \_\_\_\_\_.

☐ Solely leased by the Restrained Person(s) who has a duty to support the Person(s) Protected, \_\_\_\_\_ (adult and/or minor children).

☐ Prohibiting the Restrained Person(s) and Person(s) Protected from transferring, encumbering, or otherwise disposing of property mutually owned or leased by them, except when in the ordinary course of business or for their necessary support or the support of the minor children.

☐ Allowing \_\_\_\_\_ to return to the residence located at \_\_\_\_\_, accompanied by a law enforcement officer one time to recover his or her personal clothing and necessities. A representative of \_\_\_\_\_ (Sheriff's Office) be ordered to effectuate this return.

☐ Further ordering the following (examples include, but are not limited to: not to go within 100 yards of the Person(s) Protected, not to go to the school of the Person(s) Protected, etc.): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

## V.

Petitioner desires that a rule issue herein: *(Please check all that apply)*

☐ Ordering the Restrained Person(s) to show cause why the orders requested in Paragraph IV should not be made into Protective Orders.

☐ Ordering the Restrained Person(s) to show cause why he/she should not be ordered to pay temporary support or provide suitable housing. There is a duty to support: \_\_\_\_\_  
\_\_\_\_\_ (a party, minor children, and/or person alleged to be incompetent living in the residence or household).

☐ Ordering the Restrained Person(s) to show cause why he/she should not be ordered to seek counseling or professional medical treatment.

☐ Ordering the Person(s) Protected to show cause why he/she should not be ordered to seek counseling or professional medical treatment.

☐ Ordering the restrained and/or Person(s) Protected to show cause why temporary custody of the minor child(ren), \_\_\_\_\_,  
should not be awarded to \_\_\_\_\_.

☐ Ordering the restrained and/or Person(s) Protected to show cause why temporary visitation of the minor child(ren), \_\_\_\_\_,  
should not be awarded to \_\_\_\_\_.

## VI.

Petitioner desires that after a contradictory hearing, the following orders be made:

☐ Awarding to the Person(s) Protected, \_\_\_\_\_, the use and possession of the following community property: \_\_\_\_\_  
\_\_\_\_\_.

☐ Granting to the Person(s) Protected \_\_\_\_\_  
possession of the residence or household located at:

\_\_\_\_\_  
No. & Street                      Apt. No.                      City                      State                      Zip Code  
to the exclusion of the Restrained Person(s) by evicting him/her and ordering him/her to surrender any keys to the residence and ordering \_\_\_\_\_ (Sheriff's Office) to evict the Restrained Person(s).

Said residence is presently occupied by \_\_\_\_\_

and: *(Please check one of the following)*

☐ Jointly owned in equal proportion by the Restrained Person(s) and Person(s) Protected,

\_\_\_\_\_.

☐ Jointly leased in equal proportion by the Restrained Person(s) and Person(s) Protected,

\_\_\_\_\_.

☐ Solely owned by the Person(s) Protected, \_\_\_\_\_.

☐ Solely leased by the Restrained Person(s) who has a duty to support the Person(s) Protected,  
\_\_\_\_\_ (adult and/or minor children).

☐ Prohibiting the Restrained Person(s) and Person(s) Protected from transferring, encumbering, or otherwise disposing of property mutually owned or leased by them, except when in the ordinary course of business or for their necessary support or the support of the minor children.

☐ Temporary custody of the minor child(ren), \_\_\_\_\_,  
be awarded to \_\_\_\_\_.

☐ Temporary visitation rights of the minor child(ren), \_\_\_\_\_,  
be awarded to \_\_\_\_\_.

The visitation to be:

☐ Unsupervised

☐ Supervised. \_\_\_\_\_ to supervise the visits.

Exchange of the minor children as follows: \_\_\_\_\_  
\_\_\_\_\_.

Other details as follows: \_\_\_\_\_  
\_\_\_\_\_.

☐ Further order the following (examples include, but are not limited to: not to go within 100 yards of the Person(s) Protected, not to go to the school of the Person(s) Protected, etc.):

\_\_\_\_\_  
\_\_\_\_\_.

**PRAYER**

**WHEREFORE**, Petitioner prays that service and citation issue herein, and that: *(Please check all that apply)*

- ☐ *Ex parte* orders appointing an interpreter be granted.
- ☐ *Ex parte* orders requested in Paragraph IV be granted.
- ☐ A rule to show cause why Protective Orders as requested in Paragraphs V and VI should not be granted.
- ☐ Restrained Person(s) be advised of penalties for Contempt.
- ☐ All other equitable relief as the Court deems proper and necessary.

Respectfully submitted,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Title

\_\_\_\_\_  
Agency

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

Please Serve: \_\_\_\_\_  
personally at his/her home or place of employment at the following address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OR

\_\_\_\_\_

**AFFIDAVIT/VERIFICATION FOR PERSON(S) PROTECTED**

STATE OF LOUISIANA

PARISH OF \_\_\_\_\_

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in and for the State and parish aforesaid, personally came and appeared \_\_\_\_\_, **Person(s) Protected**, in the foregoing Petition for Protection from Abuse, who, after being duly sworn by me, did depose and say that he/she has read the allegations contained therein and declared them to be true and correct to the best of her/his knowledge, information, and belief.

Affiant further said that she/he believes that the requested relief is needed to protect against abuse or neglect and safeguard the minor child(ren)'s well-being in the home.

Affiant further said that she/he is aware that any false statement made under oath contained in the foregoing Petition and this affidavit shall constitute perjury and shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment, with or without hard labor, for not more than five (5) years, or both.

\_\_\_\_\_  
AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_,  
in the Parish of \_\_\_\_\_, Louisiana.

\_\_\_\_\_, NOTARY

\_\_\_\_\_  
(Bar Roll # or Notary Public #)

My Commission expires \_\_\_\_\_.

**AFFIDAVIT/VERIFICATION FOR PETITIONER TEMPLATE**

STATE OF LOUISIANA

PARISH OF \_\_\_\_\_

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in and for the State and parish aforesaid, personally came and appeared \_\_\_\_\_,

☐ **DCFS Representative/** ☐ \_\_\_\_\_ in the foregoing Petition for Protection from Abuse, who, after being duly sworn by me, did depose and say that she/he has read the allegations contained therein and declared them to be true and correct to the best of her/his knowledge, information, and belief.

Affiant further said that she/he believes that the requested relief is needed to protect against abuse or neglect and safeguard the minor child(ren)'s well-being in the home.

Affiant further said that she/he is aware that any false statement made under oath contained in the foregoing Petition and this affidavit shall constitute perjury and shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment, with or without hard labor, for not more than five (5) years, or both.

\_\_\_\_\_  
AFFIANT

\_\_\_\_\_  
AGENCY

\_\_\_\_\_  
PHONE NUMBER

SWORN TO AND SUBSCRIBED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_,

in the Parish of \_\_\_\_\_, Louisiana.

\_\_\_\_\_, NOTARY

\_\_\_\_\_  
(Bar Roll # or Notary Public #)

My Commission expires \_\_\_\_\_.

STATE OF LOUISIANA

DOCKET NUMBER: \_\_\_\_\_

IN THE INTEREST OF

SECTION: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

COURT: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

PARISH OF \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

STATE OF LOUISIANA

Filed: \_\_\_\_\_

DEPUTY CLERK: \_\_\_\_\_

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**TEMPORARY RESTRAINING ORDER (TRO)  
PURSUANT TO LOUISIANA CHILDREN'S CODE ARTICLE 617**

This matter came before the Court on the filing of a petition by: *(Please check one of the following)*

☐ Louisiana Department of Children and Family Services (DCFS) through counsel

☐ Other: \_\_\_\_\_

to safeguard the child(ren)'s well-being in the home.

**I. PERSONS**

This restraining order pertains to the following persons:

Restrained Person(s) (the person(s) who is/are not allowed to contact the Person(s) Protected in the manner set forth below):

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_);

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_).

Person(s) Protected (the person(s) who is/are to be protected in the manner set forth below):

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_);

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_);

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_);

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_);

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_).

## II. FINDINGS

This order is issued: *(Please check one of the following)*

☐ *Ex parte.*

☐ After notice and opportunity for hearing given to the Restrained Person(s).

### THE COURT FURTHER FINDS:

That it has jurisdiction over the parties and the subject matter;

That the Restrained Person(s) has/have been or will be provided with reasonable notice and an opportunity to be heard; and

That there is good cause to believe that the TRO is necessary to protect the Person(s) Protected from abuse or neglect by the Restrained Person(s).

## III. ORDERS

Based on the above findings:

**THE COURT HEREBY ENTERS A TEMPORARY RESTRAINING ORDER WITHOUT BOND.**

**THE COURT FURTHER ORDERS:** *(Please check all that apply)*

☐ THE RESTRAINED PERSON(S) IS/ARE ORDERED NOT TO abuse, neglect, harass or interfere with the Person(s) Protected or their place of employment.

\_\_\_\_\_  
*Employment*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*City/State*

\_\_\_\_\_  
*Zip Code*

☐ THE RESTRAINED PERSON(S) IS/ARE ORDERED NOT TO go near the residence of or place of employment of the Person(s) Protected.

☐ THE PERSON(S) PROTECTED, \_\_\_\_\_, IS AWARDED use and possession of the following community property: \_\_\_\_\_

\_\_\_\_\_.

☐ THE PERSON(S) PROTECTED, \_\_\_\_\_, IS/ARE GRANTED possession of the residence or household to the exclusion of the Restrained Person(s) located at: \_\_\_\_\_ pursuant to Article 617(3)(a), (b) or (c).

☐ NEITHER THE RESTRAINED NOR THE PERSON(S) PROTECTED SHALL transfer, encumber, or otherwise dispose of property mutually owned or leased by them, except when in the ordinary course of business or for their necessary support or the support of the minor children.

☐ \_\_\_\_\_

IS/ARE ALLOWED to return to the residence located at \_\_\_\_\_  
one time accompanied by a law enforcement officer to recover his or her personal clothing and necessities.

☐ A REPRESENTATIVE OF \_\_\_\_\_ (Sheriff's Office) IS ORDERED to accompany  
\_\_\_\_\_ to the residence located at  
\_\_\_\_\_ to recover her/his personal clothing and necessities.

☐ The following individualized relief to protect the children's well-being: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**IT IS FURTHER ORDERED THAT:**

☐ THE **RESTRAINED PERSON(S)** SHOW CAUSE WHY THE FOLLOWING SHOULD NOT BE ORDERED:

☐ TO PAY temporary support or provide suitable housing for the minor child(ren) and/or others.

☐ THAT TEMPORARY CUSTODY OF, AND/OR TEMPORARY VISITATION WITH, the minor child(ren),  
\_\_\_\_\_, be established.

☐ TO OBTAIN counseling or professional medical treatment.

☐ THE **PERSON(S) PROTECTED** SHOW CAUSE WHY THE FOLLOWING SHOULD NOT BE ORDERED:

☐ THAT TEMPORARY CUSTODY OF, AND/OR TEMPORARY VISITATION WITH, the minor child(ren),  
\_\_\_\_\_, be established.

☐ THAT \_\_\_\_\_ OBTAIN counseling or professional medical treatment.

☐ IT IS FURTHER ORDERED THAT THE LOCAL CASA PROGRAM is appointed, subject to the assignment of a qualified volunteer, to advocate for the best interest of the minor child(ren) in these proceedings. The local CASA program must be given notice of appointment and served with a copy of the pleadings filed herein.

**IT IS FURTHER ORDERED THAT THE PARTIES show cause on \_\_\_\_\_**  
**at \_\_\_\_\_ a.m./p.m. in Division/Section \_\_\_\_\_ why the above Temporary Restraining Order**  
**and other relief requested should not be made Protective Orders.**

<b>DATE OF ORDER</b>	<b>TIME OF ORDER</b>	<b>ORDER EFFECTIVE THROUGH 11:59 PM ON</b>	<b>SIGNATURE OF JUDGE</b>  ____ Order issued <i>ex parte</i> ____ Order issued after notice and opportunity for hearing given to Restrained Person(s).
_____ Month/day/year	_____ <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	_____ Month/day/year	_____ PRINT OR STAMP JUDGE'S NAME

**NOTICE TO RESTRAINED PERSON(S) – VIOLATION OF ORDER**  
**PURSUANT TO LA. CH. CODE ARTICLE 1509D,**  
**A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR**  
**CONTEMPT OF COURT BY A FINE OF NOT MORE THAN \$500 OR BY**  
**CONFINEMENT IN JAIL FOR AS LONG AS SIX MONTHS, OR BOTH.**  
**THIS ORDER SHALL BE ENFORCED**  
**BY ALL COURTS OF THE STATE OF LOUISIANA.**

**FULL FAITH AND CREDIT pursuant to 18 U.S.C. § 2265**

**The issuing court certifies that it has jurisdiction over the parties and the subject matter under the laws of the State of Louisiana; that the Restrained Person(s) was/were given reasonable notice and an opportunity to be heard sufficient to protect the right to due process before this order was issued; or if the order was issued *ex parte*, the court ordered that the Restrained Person(s) be given reasonable notice and an opportunity to be heard within the time required by the laws of the State of Louisiana, and in any event, within a reasonable time after the order was issued, sufficient to protect the due process rights.**

**Please serve:**

☐ Restrained Person(s) was/were served at close of hearing.

Date \_\_\_\_\_ Clerk/Bailiff \_\_\_\_\_

**DISTRIBUTION OF NOTICE**

**Please send notice and copy of order to all parties and counsel of record as follows:**

Restrained Person(s): \_\_\_\_\_

Person(s) Protected: \_\_\_\_\_

DCFS Staff/Representative: \_\_\_\_\_

Bureau of General Counsel: \_\_\_\_\_

Assistant District Attorney: \_\_\_\_\_

CASA: \_\_\_\_\_

All Counsel of Record as follows: \_\_\_\_\_

\_\_\_\_\_

STATE OF LOUISIANA

DOCKET NUMBER: \_\_\_\_\_

IN THE INTEREST OF

SECTION: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

COURT: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

PARISH OF \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

STATE OF LOUISIANA

Filed: \_\_\_\_\_

DEPUTY CLERK: \_\_\_\_\_

---

**PROTECTIVE ORDER (PO)  
PURSUANT TO LOUISIANA CHILDREN'S CODE ARTICLE 618**

This matter came before the Court on a Temporary Restraining Order (TRO) and the filing of a petition by:

*(Please check one of the following)*

☐ Louisiana Department of Children and Family Services (DCFS) through counsel

☐ Other: \_\_\_\_\_

seeking a protective order to safeguard the minor child(ren)'s well-being in the home.

This is a: *(Please check one of the following)*

☐ Protective Order. *(OR)*

☐ Modified Protective Order.

**I. PERSONS**

This restraining order pertains to the following persons:

Restrained Person(s) (the person(s) who is/are not allowed to contact the Person(s) Protected in the manner set forth below):

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_);

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_);

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_).

Person(s) Protected (the person(s) who is/are to be protected in the manner set forth below):

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_);

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_);

\_\_\_\_\_ (DOB: \_\_/\_\_/\_\_);

\_\_\_\_ (DOB: \_\_/\_\_/\_\_);  
\_\_\_\_ (DOB: \_\_/\_\_/\_\_).

## II. FINDINGS

The Court hereby finds that it has jurisdiction over the parties and the subject matter.

The Court hereby finds that the Restrained Person(s) has been provided with reasonable notice and an opportunity to be heard.

The Court finds that based on the Petition for Protection from Abuse and the evidence presented at the contradictory hearing, a Protective Order will bring about the cessation of abuse or neglect.

## III. ORDERS

**THE COURT HEREBY ENTERS A PROTECTIVE ORDER.**

**THE COURT FURTHER ORDERS:** *(Please check all that apply)*

☐ THE RESTRAINED PERSON(S) IS/ARE ORDERED NOT TO abuse, neglect, harass or interfere with the Person(s) Protected or employment.

<i>Employment</i>	<i>Address</i>	<i>City/State</i>	<i>Zip Code</i>
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☐ THE RESTRAINED PERSON(S) IS/ARE ORDERED NOT TO go near the residence of or place of employment of the Person(s) Protected.

☐ THE PERSON PROTECTED, \_\_\_\_\_, IS AWARDED use and possession of the following community property: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

☐ THE PERSON(S) PROTECTED, \_\_\_\_\_, IS/ARE GRANTED possession of the residence or household to the exclusion of the Restrained Person(s) located at: \_\_\_\_\_  
\_\_\_\_\_, pursuant to Article 617(3)(a), (b) or (c).

☐ NEITHER THE RESTRAINED NOR THE PERSON(S) PROTECTED SHALL transfer, encumber, or otherwise dispose of property mutually owned or leased by them, except when in the ordinary course of business or for their necessary support or the support of the minor children.

☐ \_\_\_\_\_

IS/ARE ALLOWED to return to the residence located at \_\_\_\_\_  
one time accompanied by a law enforcement officer to recover his/her personal clothing and necessities.

☐ A REPRESENTATIVE OF \_\_\_\_\_ (Sheriff's Office) IS ORDERED to accompany  
\_\_\_\_\_ to the residence located at  
\_\_\_\_\_ to recover his/her personal  
clothing and necessities.

☐ Payment of temporary support or provision of suitable housing is hereby ordered to be paid to \_\_\_\_\_  
\_\_\_\_\_ by \_\_\_\_\_ as follows:

☐ For the minor child(ren): \_\_\_\_\_

Beginning on \_\_\_\_\_ \$ \_\_\_\_\_ per ☐ week ☐ month ☐ other: \_\_\_\_\_

☐ Payment by mail to: \_\_\_\_\_.

☐ Payment by direct deposit: \_\_\_\_\_.

☐ Payment by: \_\_\_\_\_.

☐ For the Person(s) Protected: \_\_\_\_\_,

Beginning on \_\_\_\_\_ \$ \_\_\_\_\_ per ☐ week ☐ month ☐ other: \_\_\_\_\_

☐ Payment by mail to: \_\_\_\_\_.

☐ Payment by direct deposit: \_\_\_\_\_.

☐ Payment by: \_\_\_\_\_.

☐ Temporary custody of the minor child(ren), \_\_\_\_\_,  
is/are awarded to \_\_\_\_\_.

☐ Temporary visitation rights of the minor child(ren), \_\_\_\_\_,  
is/are awarded to \_\_\_\_\_.

The visitation shall be:

☐ Unsupervised. *(OR)*

☐ Supervised and \_\_\_\_\_ is to supervise the visits.

☐ Exchange of the minor children as follows: \_\_\_\_\_

\_\_\_\_\_.

☐ Other details as follows: \_\_\_\_\_

\_\_\_\_\_.

☐ Counseling or professional medical treatment is ordered for \_\_\_\_\_

\_\_\_\_\_ as follows: \_\_\_\_\_.

☐ The following individualized relief to protect the minor children's well-being: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_.

☐ THE LOCAL CASA PROGRAM is appointed, subject to the assignment of a qualified volunteer, to advocate for the best interest of the minor child(ren) in these proceedings. The local CASA program must be served with a copy of the pleadings filed herein.

THE RESTRAINED PERSON(S) must be served with a copy of this Order.

<b>DATE OF ORDER</b>	<b>TIME OF ORDER</b>	<b>ORDER EFFECTIVE THROUGH 11:59 PM ON</b>	<b>SIGNATURE OF JUDGE</b>  ____ Order issued after notice and opportunity for hearing given to Restrained Person(s).
Month/day/year	<input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	Month/day/year	PRINT OR STAMP JUDGE'S NAME

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**FULL FAITH AND CREDIT pursuant to 18 U.S.C. § 2265**

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☐ Restrained Person(s) was/were served at close of hearing.

Date \_\_\_\_\_ Clerk/Bailiff \_\_\_\_\_

**DISTRIBUTION OF NOTICE**

**Please send notice and copy of order to all parties and counsel of record as follows:**

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☐ Person(s) Protected: \_\_\_\_\_

☐ DCFS Staff/Representative: \_\_\_\_\_

☐ Bureau of General Counsel: \_\_\_\_\_

☐ Assistant District Attorney: \_\_\_\_\_

☐ CASA: \_\_\_\_\_

☐ All Counsel of Record as follows: \_\_\_\_\_

\_\_\_\_\_