

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

Petitioner _____ v. Respondent _____	TPO No.: _____ PETITION AND STATEMENT FOR A PROTECTION ORDER (VULNERABLE ADULT)
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I, _____, being duly sworn upon oath state and affirm the following:

I am the (check one): ☐ Petitioner

☐ Filing on behalf of the Petitioner (as the "Substitute Petitioner"), and my relationship to the Petitioner is (describe): _____

The Petitioner is a vulnerable adult because the Petitioner is: (check one)

☐ A person sixty-five years of age or older who is unable to protect himself or herself.

☐ A person eighteen years of age or older who cannot protect himself or herself, or provide for his or her own care, because of one of the following conditions:

- a) An intellectual disability;
- b) Infirmities of aging as manifested by organic brain damage;
- c) Advance age; or
- d) Other physical dysfunctioning.

The Petitioner is, or the Respondent is, a South Dakota resident.

Petitioner's resides in _____ County, _____ (state)

Respondent resides in _____ County, _____ (state)

The Respondent is: (check all that apply)

☐ Petitioner's family member (describe respondent's relation): _____

☐ Petitioner's agent under a power of attorney.

☐ Petitioner's conservator.

- ☐ Petitioner's caretaker (a person who assumed responsibility for Petitioner's health and welfare).
- ☐ A person who was entrusted with Petitioner's property.
- ☐ A person in whose integrity and truthfulness Petitioner placed trust and confidence. (For this last choice, please describe below Respondents confidential relationship to Petitioner)

I AM ASKING THE COURT FOR A PROTECTION ORDER BASED UPON THE FACTS BELOW:

On or about the _____, day in the month of _____, and year of _____, at approximately _____ o'clock ☐ am/ ☐ pm **(check one)**, Respondent committed the following act(s) of vulnerable adult abuse against Petitioner: **(check any that apply)**

- ☐ Respondent caused Petitioner physical harm or bodily injury.
- ☐ Respondent attempted to cause Petitioner physical harm or bodily injury.
- ☐ Respondent caused petitioner fear of imminent physical harm or bodily injury.
- ☐ Respondent was Petitioner's caretaker or was entrusted with Petitioner's property at the time and neglected Petitioner's health or welfare without medical justification and within Petitioner's means.
- ☐ Respondent was Petitioner's family member, Petitioner's caretaker, or a person in whom Petitioner placed trust and confidence at the time Respondent defrauded and/or stole Petitioner's property.
- ☐ Respondent was Petitioner's caretaker or was entrusted with Petitioner's property during the time Respondent repeatedly and without Petitioner's consent directed obscene sexual acts or simulated sexual acts at Petitioner (detail the number of instances, dates and times below).
- ☐ Respondent was Petitioner's caretaker or was entrusted with Petitioner's property during the time Respondent repeatedly and unreasonably confined Petitioner (detail the number of instances, dates and times below).
- ☐ Respondent was Petitioner's caretaker or was entrusted with Petitioner's property during the time Respondent willfully, maliciously, and repeatedly harmed, damaged or destroyed Petitioner's property (detail the number of instances, dates and times below).

☐ Respondent was Petitioner's caretaker or was entrusted with Petitioner's property during the time Respondent willfully, maliciously, and repeatedly ridiculed, demeaned, verbally harassed, or threatened Petitioner (detail the nature, dates, and times of these incidents below).

Provide a detailed description of what happened on the above date:

Was law enforcement called or these incidents? ☐ Yes ☐ No ☐ Don't Know
Was Respondent arrested for the incident(s)? ☐ Yes ☐ No ☐ Don't Know
Is Respondent in jail? ☐ Yes ☐ No ☐ Don't Know
Has Respondent violated Previous protection orders? ☐ Yes ☐ No ☐ Don't Know

If so, against whom: _____

Date of violation: _____

County and State of violation: _____

Has Respondent been found guilty of violating previous protection order? ☐ Yes ☐ No ☐ Don't Know

If so, against whom: _____

State the date of the conviction: _____

And the County and State of the conviction: _____

Does Respondent possess guns or weapons? ☐ Yes ☐ No ☐ Don't Know
Was a weapon used in this incident? ☐ Yes ☐ No ☐ Don't know
Has Respondent threatened anyone with a weapon? ☐ Yes ☐ No ☐ Don't Know

Provide a detailed description of other similar incidents or actions (*please include dates and times if possible*):

REQUEST FOR HEARING AND PROTECTION ORDER

Based upon the Petition and Statement in which I truthfully set forth the details of vulnerable adult abuse, I respectfully ask the Court to set a date to hear this matter and after hearing the evidence, to grant Petitioner a Protection Order:

- ☐ 1) To restrain Respondent from acts of vulnerable adult abuse.
- ☐ 2) To grant the Protection Order for a period of _____ time (no longer than 5 years)
- ☐ 3) To exclude Respondent from:
- a) Petitioner's residence listed in 4B; or
 - b) Require Respondent provide Petitioner with suitable alternative housing.
- ☐ 4) Order that Respondent shall not come within a distance of _____ from the following persons and places:
- ☐ a) The Petitioner personally
 - ☐ b) Petitioner's residence (Street/apt) _____
(City) _____, (State) _____, (Zip Code) _____
 - ☐ c) Petitioner's Place of employment (Street) _____
(City) _____, (State) _____, (Zip Code) _____
 - ☐ d) Other Places (Street/apt) _____
(City) _____, (State) _____, (Zip Code) _____

(Street/apt) _____
(City) _____, (State) _____, (Zip Code) _____

Street/apt _____
(City) _____, (State) _____, (Zip Code) _____
- ☐ 5) To restrain Respondent from exercising any fiduciary powers on Petitioner's behalf through a court-appointed guardian, conservator, guardian ad litem, agent, or another third party.
- ☐ 6) To require a peace officer, accompany the party who is leaving or has left the residence while that party is removing essential personal effects.
- ☐ 7) That the Respondent be restrained from contact with Petitioner by any direct or indirect means except as authorized by a court order.
- ☐ 8) To Order other relief which I believe is necessary for Petitioner:
- _____
- _____
- _____
- _____
- _____

- ☐ 9) Where Petitioner was the victim of financial exploitation:
- ☐ a) To direct Respondent to refrain from exercising control over Petitioner's funds, benefits, property, resources, belongings, or assets.
 - ☐ b) To require Respondent return custody or control of Petitioner's funds, benefits, property, resources, belongings, or assets.
 - ☐ c) To require Respondent, follow the instructions of Petitioner's guardian, conservator, or agent.
 - ☐ d) To prohibit Respondent from transferring Petitioner's funds, benefits, property, resources, belongings, or assets to any person other than Petitioner.

(If you are requesting an immediate temporary protection order without notice to Respondent and without an opportunity for Respondent to appear, you must state why you believe Petitioner, or any Protected Parties will suffer immediate and irreparable injury or damage if you or they have to wait until the hearing.)

REQUEST FOR IMMEDIATE PROTECTION ORDER WITHOUT NOTICE TO THE OTHER PARTY

- ☐ I am **not** requesting an immediate Temporary Protection Order.
- ☐ Because Petitioner is in present danger of vulnerable adult abuse as defined by SDCL 22-46-1, in addition to what I have requested in sections 1 through 9 above, I request that the Court grant an immediate Temporary Protection Order:
- ☐ a) To restrain the Respondent from committing acts of vulnerable adult abuse against Petitioner.
 - ☐ b) To exclude the Respondent from Petitioner's residence.

The reasons Petitioner needs this order immediately and cannot wait until the schedule hearing are:

On this ____ day of _____, _____, I swear or affirm that the information I have provided is in this Petition and Statement are true and correct to the best of my knowledge. I believe Petitioner is entitled to the protection I have requested. I am asking for this protection for valid reasons and am not attempting to harass the person I am

seeking protection against and am not attempting to abuse or delay the court process or any other legal action.

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct.

Signed on the _____ day of _____, _____ at _____.
(Date) (Month) (Year) (City, or other location, and State)

Your Signature as ☐ Petitioner/ ☐ Substitute Petitioner **(check one)**