

# CIVIL PROTECTION ORDER SCRIPT

## INTRODUCTION:

---

- My name is Commissioner/Judge \_\_\_\_\_.
- This is the time scheduled for the court to consider requests for civil protection orders. We call it the civil protection order calendar or docket.

## COURTROOM EXPECTATIONS:

---

- [Address any health and safety requirements.]
- [Let participants know which side of the courtroom to sit on to wait for their case to be called. Best practice is to have petitioners on one side of the courtroom and respondents on the other.]
- The court is [audio/video] recording the proceedings.
  - No one else is allowed to record or broadcast this court hearing.
  - Please speak clearly and into microphone.
  - If you would like a copy of the official recording, you can get one by [Insert instructions. Include in your instructions the time frame for when recordings will be available.]
- This is an open courtroom. That means members of the public are allowed to watch.
- Please do not interrupt. Speak ONLY to me – do not direct comments or questions to the other side without my permission. I will give everyone an opportunity to speak.
- In court proceedings like this one, it is customary to refer to me as “your honor” or “Commissioner/Judge [Name].” Please let me know how you would like me to refer to you and which pronouns you use. I try hard to pronounce names correctly – your help is appreciated. Everyone is welcome in this courtroom.
- You are allowed to have an interpreter if you cannot participate in English. Please let me know if you need an interpreter. I may also request an interpreter if I think it will be helpful.
- Please do not state or display your address or telephone numbers as this is a public hearing.

## LEGAL LANGUAGE

---

- You will hear some legal words today and I want to make sure everyone is comfortable with the language. I may use words like:
  - **Party or Parties** -- meaning the people involved in a court case. Here, the parties will be the **Petitioner** who asked for a protection order, and the **Respondent**, who may be restrained.
  - **Exhibits and Evidence** – meaning the information I will consider when I make a decision.
  - **Continuance** – if I reschedule your hearing, we will continue it on another day, so we call it a continuance.
  - **Burden of Proof** – This is what the petitioner has to prove before I can grant a protection order. Protection order cases are civil, not criminal, so the burden of proof is a "preponderance of the evidence." This means the petitioner must prove the allegations are more likely true than not true [Include definitions/what petitioners must prove either here, or when you call each case if it's a combined docket].
- If I use a word that is unfamiliar to you or if I ask a question that isn't clear for you – please let me know and I can clarify.

## PROCEDURE WHEN CASE IS CALLED:

- The Court will try to call Extreme Risk Protection Orders and interpreter-assisted matters first.
- **[Other information about your court's prioritization of matters.]**
  - [Consider addressing reissuances for continued service attempts first.]
  - [Consider holding more sensitive cases (e.g. sexual and domestic violence) at the end of the calendar.]
- **Updates during proceedings**
  - To respect everyone's time and avoid interrupting someone else's hearing, please talk to my bailiff/clerk if there is anything I should know about the timing of your hearing (such as hearing your case sooner or later) or if you and the other side have agreed to reissue the temporary order and reschedule to another day. [Identify who your bailiff or clerk is.]
- **For in-person hearings:**
  - [Let the parties know which table to sit at.]
  - A protection order advocate, sexual assault, or domestic violence advocate shall be allowed to accompany a petitioner and confer with them during the hearing. The advocate shall only be required to identify themselves if they speak directly to me or testify.
- **For remote hearings:**
  - I will ask people attending remotely to affirm their identity.
  - An advocate or support person is allowed to appear remotely with you, just as they would in person.
  - You may want to use a virtual background, or find a background that does not reveal your location.
- **Determine if the case is ready to proceed:**
  - [Confirm service – notice and opportunity to come to court.]
  - [Confirm proper filing and service of all exhibits.] For your case, I have reviewed these materials from the court file [list specific documents]. Have [petitioner/respondent] received all these documents?
  - Do either of you need more time to prepare before we get started?
  - You may have a 5<sup>th</sup> Amendment right to remain silent so that statements you make in this court are not used against you in any criminal investigation or prosecution related to the case. Knowing this, you can decide not to talk about the facts of the case. This does not prevent you from submitting evidence and documents that support your position. I can also draw an adverse inference from your refusal to testify, meaning that I can decide that what you might say if you testified would not be helpful to your case.
  - If you are facing potential criminal consequences from any testimony given today, such as if a criminal investigation or charge exists, you may request a continuance to allow you to consult with an attorney about your rights, about invoking the 5<sup>th</sup> Amendment, and decide how you want to proceed. The law instructs judges not to view continuance requests favorably and to balance your 5<sup>th</sup> Amendment right with other competing factors.
  - If the opposing side requests a continuance for any reason you may agree to the continuance if you also want more time, or you may object to the continuance. If you object to having the case continued, I will consider input from both sides and will balance everyone's interests to decide if a continuance is justified in the circumstances.
  - If I continue the case, the temporary order will be reissued and the court will set a new hearing date.
  - If the continuance is not granted, we will go forward with the hearing today.

- I will decide the case based on what the petitioner and respondent tell me today in their spoken testimony, and on written sworn statements. Spoken "live" testimony from other witnesses is usually not allowed unless I decide it is necessary and material.
- [Consider preliminary remarks to set expectations/explain the relevant type of protection orders if you find this useful. Example: For an anti-harassment protection order, ordinarily there must be more than a single act of harassment. However, if the single act is an act of violence or certain threats of violence, one may be enough.]
- In all cases, I must consider whether to require the surrender of weapons.
- If you have new materials you want me to consider, first hand them to the Clerk so they can be marked as exhibits.
- If we proceed to a full hearing in your case, I will swear both parties in. Your testimony will be under penalty of perjury. It is very important to be honest.
- Once everyone has had a chance to speak, I will make my decision. If I grant the order, we will discuss the specifics of the order.

## AFTER DECISION:

- **[Announce decision, discuss specifics of the order, invite questions.]** What questions do you have for me?
- **Signatures/Copies.** Please be patient and remain quiet while the paperwork is being finalized. [Explain the process of signing the orders and getting copies, including for remote participants.]
  - [For remote appearances] I will note that you appeared by video/telephone and a signature will not be required. I will then send you a copy of the order by email.
- **Renewal** [if order granted]. This protection order will last for [X year/s or other specific time]. You can ask for a renewal before the order expires (up to 90 days before) by contacting the clerk's office for the appropriate paperwork.
- **Reconsideration.** You may want me to consider new information or evidence that was not available today or ask me to reconsider my decision. If so, you must request your reconsideration in writing within the next 10 days.
- **Revision/Appeal.**
  - **Commissioner:** If you disagree with my decision, you have a right to ask for a revision. Revision is not an opportunity to submit more evidence. Instead, it is an opportunity to have an elected judge review my decision based on the record already created. If you want to request a revision of my decision, you must request it in writing within 10 days and follow the procedures in our local court rule.
  - **Judge:** If you disagree with my decision, you have a right to appeal it to another court. Appeal is not an opportunity to submit more evidence. Instead, it is an opportunity to have a higher court review my decision based on the record already created. If you want to appeal, you must file a notice of appeal within 30 days and follow the procedures in our local court rule.
- **Safe exit.** [If the parties are in person, have the parties leave separately to avoid contact, with the petitioner leaving first.]

**QUESTIONS:** *I cannot give you legal advice, and I cannot advise you on matters that are not before the court today, but I am happy to clarify any confusion about this process or any order I issue. Please don't hesitate to ask if you have such questions. It is also important to know that once I go off the record and/or the other party leaves the courtroom, I cannot answer any more questions.*