

CLE Program

Recognition & Remedies: Family Offense Cases and Family Court Remedies

Monday, November 19, 2018 | 6:00-8:00 p.m.

New York Legal Assistance Group (NYLAG)

CLE Credits: 1 Areas of Professional Practice , 1 Skills

**Appropriate for both newly admitted and experienced attorneys.*

This program will explore cultural competency and best practices for cases involving domestic violence, specifically Family Offense Petitions, including forms of abuse specific to the LGBTQ community. Topics include methods of access to court and remedies, the mechanics of obtaining an Order of Protection, and a reflection on how these cases may affect the LGBTQ community.

Panelists:

Shani Adess, Esq., Associate Director, Matrimonial & Family Law Unit + Project Director, Project RISE, New York Legal Assistance Group (NYLAG)

Marjorie Cohen, Esq., Senior Staff Attorney, Domestic Violence Project (DVP), Urban Justice Center (UJC)

Mark Hager, Esq., Supervising Attorney, Matrimonial & Family Law Unit, New York Legal Assistance Group (NYLAG)

Christopher Oldi, Esq., Pro Bono Director, Legal Services of the Hudson Valley (LSHV)

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NYLAG
NEW YORK LEGAL ASSISTANCE GROUP

Recognition & Remedies:

Family Offense Cases and Family Court Remedies

CLE Program presented by the LGBT Bar Association of Greater New York (LeGaL)

Monday, November 19, 2018 | 6:00 – 8:00 p.m.

NYLAG | 77 Hanover Square | New York, NY

AGENDA

- 1) Introduction – 5 Minutes**
- 2) Part One – Cultural Competency – 15 Minutes**
- 3) Part Two – Mechanics of the Family Offense – 15 Minutes**
- 4) Part Three – Litigating a Family Offense – 60 Minutes**
- 5) Part Four – Practical Considerations – 15 Minutes**
- 6) Questions & Answers – 10 Minutes**

Recognition & Remedies:
Family Offense Cases and Family Court Remedies

Panelist Biographies

SHANI ADESS, ESQ. is Associate Director of NYLAG's Matrimonial & Family Law Unit and Project Director of FLU's Project RISE, representing survivors of domestic violence, sexual assault, and unaccompanied minors in family law and immigration matters. Shani previously worked with Safe Horizon Immigration Law Project, representing survivors of trauma, abuse, and violence in immigration proceedings, and has previously worked with refugees in the Southern Africa region. Shani has a Bachelor of Arts Degree in International Relations from Emory University and a JD from Georgetown University Law School in 2009.

MARJORIE P. COHEN, ESQ. is a Senior Staff Attorney with the Urban Justice Center's Domestic Violence Project, practicing both family and immigration law. Prior to her work at DVP, she was an attorney at Legal Services of the Hudson Valley representing victims/survivors of DV in Westchester County Family Court and IDV on family law matters. Marjorie also worked as a pro bono attorney for Public Counsel in San Francisco, where she co-authored a report, "Fostering Educational Success" that examined school climate and foster youth. Marjorie's experience also includes four years prosecuting abuse/neglect matters at NYC Administration for Children's Services in Bronx County. She is licensed to practice law in NY, CA and NJ. Marjorie received her Juris Doctor from Brooklyn Law School in 2009 and graduated from the University of Wisconsin-Madison in 2004 with a B.A. in Political Science.

MARK M. HAGER, ESQ is a Supervising Attorney in the Matrimonial & Family Law Unit. He has represented clients in matrimonial, custody, visitation, support, family offense cases and immigration matters including U-Visas, Battered Spouse Waivers, and VAWA Self-Petitions. Previously, Mark was Senior Staff Attorney and LGBTQ Initiative Coordinator at the Urban Justice Center's Domestic Violence Project. Prior to working with the Urban Justice Center, Mark was an associate attorney at Freiberg, Peck, & Kang, LLP litigating insurance and bodily injury claims. Mark received his J.D. from University of Detroit Mercy, School of Law in 2008 where he received a public interest fellowship and worked for the Wayne County District Attorney. Mark graduated from SUNY University at Albany in 2005, cum laude with a B.A. in English and a minor in Classics.

CHRISTOPHER OLDI, ESQ. is the Pro Bono Director at Legal Services of the Hudson Valley (LSHV) where he oversees the implementation and development of pro bono programming in the agency. Prior to becoming the Pro Bono Director, Christopher was a Supervising Attorney in the Yonkers office, supervising staff attorneys and support staff. Christopher also spearheaded and served as the staff attorney of LSHV's LGBTQ Legal Project from 2015-2016, where he represented low income LGBTQ individuals in the Hudson Valley in areas such as discrimination, name changes, landlord/tenant matters, disability advocacy, and other civil legal services. Prior to joining LSHV in 2014, Christopher was an associate with the law firm of Wormser, Kiely, Galef & Jacobs LLP, where he specialized in municipal law.

Christopher attended Vassar College where he received a BA, with honors, in Psychology and Italian and then went on to earn his Juris Doctorate at CUNY School of Law at Queens College. Christopher is the chair of the Westchester County LGBTQ Advisory Board. Christopher is also on the Family and Matrimonial Committee of The LGBT Bar Association of Greater New York, as well as a member of the New York State Bar Association. Because of his community work throughout the County, the Westchester County Legislature have named two "Christopher Oldi" days in his honor – June 22, 2016 and September 28, 2017.

Recognition & Remedies: Family Offense Cases and Family Court Considerations

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Training Goals

- Competently Working With LGBTQ Survivors of Intimate Partner Violence in Family Offense Cases
- Effectively Evaluate a Meritorious Family Offense Case
- Litigating A Family Offense Petition to Conclusion
- Understanding the Practice of Representing LGBTQ Litigants in Family Court

CULTURAL COMPETENCY

Alphabet Soup: LGBTQQIAA2P+

- ◉ Lesbian
- ◉ Gay
- ◉ Bisexual
- ◉ Transgender/Trans
- ◉ Queer
- ◉ Questioning
- ◉ Intersex
- ◉ Asexual
- ◉ Agender
- ◉ Two-Spirit
- ◉ Pansexual
- ◉ ...And more!

Building Blocks

- ◉ Birth Sex : A person's female or male sex assigned at birth
- ◉ Gender Identity: A person's deeply held internal sense of gender (i.e. being male, female, or somewhere else on the gender spectrum).
- ◉ Gender Expression: How a person chooses to communicate their gender identity to others through clothing, hairstyles, mannerisms, social interactions, etc.
- ◉ Sexual Orientation: Describes an individual's emotional, physical, and/or romantic attraction to other people.

Building Blocks

- ❑ **Transgender**: Someone who knows that their **gender identity** is significantly different from their **sex assigned at birth**.
- ❑ **Cisgender**: Someone who knows that their **gender identity** does *not* significantly differ from their **sex assigned at birth**.
 - ❑ someone who is *not* transgender
- ❑ **Gender Binary**: The concept that there are only two genders, male and female, and that everyone must identify with one or the other.
 - ❑ *GenderQueer*
 - ❑ *Non-Binary*
- ❑ **Gender Non-Conforming (GNC)**: A person who views their gender identity as one of many possible genders beyond strictly female or male.
 - ❑ *Androgynous*

Building Blocks

- ❑ **Affirmed Gender:** The gender to which someone has transitioned.
- ❑ **Two Spirit:** A third-gender term common to many First Nation cultures that implies a masculine spirit and feminine spirit residing in the same body.
- ❑ **MSM/WSW:** This term stands for men/women who have sex with men/women, which is different than gay or lesbian.
- ❑ **Genderqueer:** A term for people whose gender identities don't fit into the binary categories of male/female.
- ❑ **LGBTQQIA+** as the all-encompassing community acronym. (Lesbian, Gay, Bisexual, Transgender, Queer, Questioning, Intersex, Asexual, HIV+)

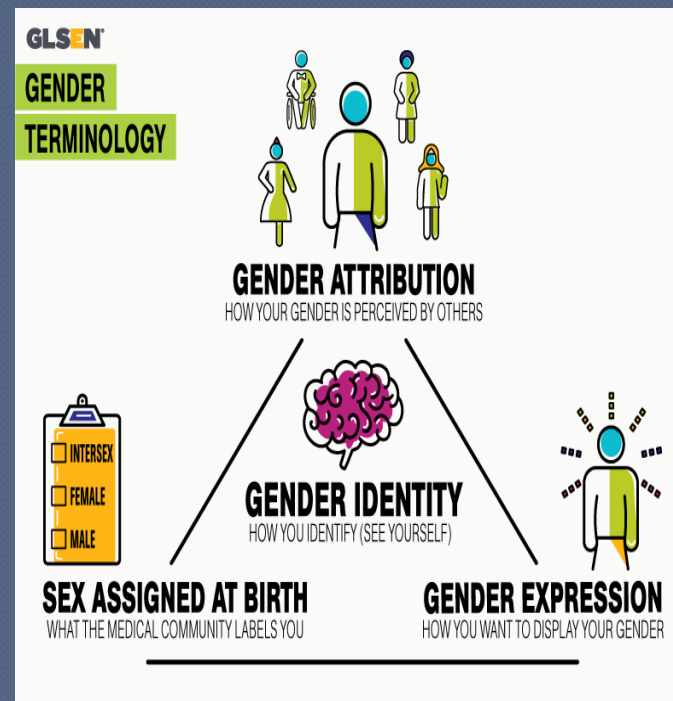
Gender Identity

- ❑ **Gender Identity**: The persistent internal sense of being a man or a woman or some other gender.
 - ❑ We all have a gender identity
 - ❑ For **cisgender** people, this gender identity matches the sex assigned at birth
 - ❑ **Transgender** people have a gender identity that does not match the sex assigned at birth.
- ❑ Our gender identity may or may NOT match our appearance, our body, or others' perceptions of us.

Gender Expression

■ Gender Expression:

How a person represents or expresses one's gender identity to others, often through behavior, clothing, hairstyles, voice or body characteristics.



Transition

- ❑ **Transition:** The process of changing one's gender presentation to match one's internal sense of gender.
- ❑ Transgender people may decide to transition at any age.
- ❑ Not all transgender people wish to transition completely to the other sex.
- ❑ They may, or may not, change their name/pronouns.
- ❑ They may, or may not, use hormones or surgery.

Gender Transition is Different for Everyone

- ☐ May Include (in no particular order):

- ☐ Name Change
- ☐ Pronoun Change
- ☐ Changing Clothing/Appearance
- ☐ Changing Legal IDs
- ☐ Medical Aspects

- ☐ Remember: All transgender people are entitled to the same dignity and respect, regardless of which transition steps they have taken or plan to take.

Best Practice: Language

- ❑ Be careful of who, when and how you disclose information regarding a client's LGBT identity.
- ❑ Be mindful that disclosing may result in prejudice and discomfort at your client's expense.
- ❑ This is especially important when a client is a member of the trans community.

Important Take-Aways

- ❑ Always use an individual's "preferred" name and pronouns
 - ❑ *if you're not sure, ask!*
- ❑ Rein in personal curiosity
 - ❑ it is NEVER ok to ask invasive personal questions about a person's identity or gender transition experience!
 - ❑ *How would you feel if someone asked you the same questions?*
- ❑ If necessary, limit any clarifying questions you may have to their legal/preferred name or gender marker as it relates to the legal issue at hand, and even then always ask respectfully.

Best Policies & Practices: Safeguarding Privacy of Transgender People

- ☐ Guard the client's identity/status in open court
- ☐ Ensure that LGBTQ-related info disclosed to Dept. of Probation, clerks, Corporation Counsel's office, Office Of Children and Family Services, Mental Health Services, etc. will not be mentioned in open court unless the person has given permission to disclose.
- ☐ Referrals to collateral services, programs, or evaluators should be sensitively handled (e.g., mental health, substance abuse, child custody, etc.) – *Is it ok with client to disclose?*
- ☐ *Why is it important to do so or not do so?*

DOMESTIC VIOLENCE LAW

DOMESTIC VIOLENCE

- A Pattern of Violence or Abuse Used in Order for One Intimate Partner to Exercise Control or Power Over the Other
- LGBTQ individuals experience DV at the same rates or more as their heterosexual counterparts.

What Remedies are Available to Domestic Violence Victims?

● Order of Protection

- Criminal or Family
- Limited or Full
- Temporary or Final

Criminal vs. Family Orders of Protection

● Criminal Court

- Anyone
- D.A.'s office proves the case
- Only Defendant has to go to court
- Survivor calls 911, files police report, and abuser must be arrested
- Enforcement in criminal court
- Trial in front of judge or jury

● Family Court

- Only family/household members can go
- Survivor proves the case
- Both parties MUST attend court
- File a Family Offense Petition
- Violations in family court
- Trial in front of judge or referee
- Exclusionary

Limited v. Full Order of Protection

- Limited
- “Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats or any criminal offense...

- FULL
- Stay away from:
 - Home
 - School
 - Place of Employment
 - Refrain from communication
 - By Mail, telephone, email, voice-mail, or any other electronic means
 - Plus language of limited OP

Temporary or Final Order of Protection

- Temporary
- Usually ordered until the next court date or appearance before the or shortly thereafter with good cause shown
- Final
- Order of Protection is enforceable for up to two years or five years, in specific circumstances
- Sometimes there is a possibility of renewal

Filing for a Family Offense Petition for a Client

FIRST QUESTION : IS IT SAFE TO FILE ?

- What Venue Is Safe for the Client ?
 - Filing Online
- Does a Legal Basis Exist for an Order of Protection?
 - Parties are or were Intimate Partners
 - Related by blood or marriage
 - Marriage to Respondent
 - Child in Common
- Drafting or Amending a Petition
 - Create a Coherent Narrative That Makes Out a Family Offense

Family Offense Petitions

- ◉ A petitioner for a family court order of protection must articulate the facts that make out a “Family Offense”
- ◉ Family Court Act Article 8
 - Disorderly conduct, harassment, sexual misconduct, stalking, assault, strangulation, grand larceny, identity theft, etc.
 - New York Penal Law

Allegations in the Petition

- They must make out an enumerated family offense as defined by statute.
 - Facts not alleged in the petition will not be considered by the court at a hearing.
 - Strategize what facts help your case, what facts do not, and how it fits with your theme of the case.

LITIGATING A FAMILY OFFENSE PETITION

Collecting Information From Client

Collect Information In a Trauma Informed Way

- What If Your Client Can't Remember?
- First, Worst, and Most Recent Incidents of Domestic Violence
- What Are You Asking the Court To Do?
 - Order of Protection for Whom/What ?
 - Full or Limited ? For How Long?
 - Additional Relief Requested?

Pro Se Petitions Can Be Amended as a Right or By Leave of the Court

Drafting the Petition

○ Documenting Abuse

- With Specificity, the Date, Time and Place of the Alleged Family Offense
 - Work With and Around Your Client's Recollection of Events
 - What happened?
 - Cross Check Action with Elements of the Family Offense Alleged.
 - Get comfortable Using Words You May Not Be Comfortable With Using In Open Court.

Evidentiary Issues

● Is there evidence?

- It Can Be Difficult For Survivors To Share the Story
- Corroborating Witnesses
- Photographs, Videos, or Other Recordings
- Medical Reports
- Social Media
- Police Reports
 - Will they get in?
 - What is Relevant Evidence in a Family Offense Case?

How Strong Is The Case ?

- Burden Of Proof in Family Offense Cases in Family Court
 - Preponderance of the Evidence
- Can you Address a Lack of Evidence?
 - Many Cases Are Based Solely on Client's Testimony
 - How Strong is Client's Testimony?

What happens After a Client Files for an Order of Protection?

- Presents petition to a judge *ex parte*
- Must provide notice to the other party
 - Personal Service
 - Alternative Service
- Petitioner and respondent are both entitled to an attorney in family and criminal courts
- Consent, withdraw, fact finding, or inquest
 - Burdens of proof differ in criminal court and family court

The Fact Finding Hearing

- Petitioner Bears the Burden of Proof
- First in Filing a Family Offense is First to Present Their Case
- Can Be Heard With or Separate From Corresponding Filings
- Negative Inferences

Domestic Violence in Custody Determinations

- ⦿ Care, control, and maintenance of a child that may be awarded by a court to a party
- ⦿ Physical and legal custody
 - Limitations of visitation and input by non-custodial parent
- ⦿ Joint custody
 - Inappropriate when the parties are “antagonistic and embattled.”

Best Interest of the Child

- ◉ No prima facie right
 - Except for biological parents and narrow exception
- ◉ Case by case analysis
- ◉ Gender neutral
- ◉ Factors
 - Relative fitness
 - Home environment
 - Primary caretaker & friendly parent
 - Indiscreet sexual activity

Interest Standard and Domestic Violence

◉ DRL § 240 (1)

- Where either party to an action concerning the custody of or a right of visitation with a child alleges in a sworn petition or complaint that the other party has engaged in an act of domestic violence against the party making the allegation or a family or household member of either party, as such family or household member is defined in article eight of the Family Court Act, and such allegation are proven by a preponderance of the evidence, the court **MUST CONSIDER** the effect of such domestic violence upon the best interest of the child, together with such of the facts and circumstances the court deems relevant in making such a direction pursuant to this section (emphasis added).

Domestic violence is extraordinary

- ◉ A parent's acts of DV can be the bases of extraordinary circumstances
 - Biological parents are entitled to bring up their own children
 - Birth parents have superior rights to all others
 - No Extraordinary Circumstances means No Best Interest Evaluation
 - Burden is on the person or agency seeking to depose the parent of custody
 - Equitable Estoppel for Non Biological Parents

Dispositional Hearing

- ◉ What order of disposition should be made?
- ◉ At completion of fact-finding hearing.
 - Dismissal
 - Suspending judgment for not longer than 6 months
 - Order of Protection
 - Restitution of not more than 10K.
- ◉ Evidentiary Issues
 - Hearsay is permitted

Practical Considerations for LGBTQ Survivors

Logistical Challenges

- Small Spaces for Litigants
- Court Atmosphere and environment
 - Is family court LGBTQ friendly?
 - Formerly narrowly allowed for people legally related by blood, marriage, or having children in common.

2008 - “Intimate Relationship”

- Intimate partners
- Dating couples
- Teenage couples
- Same-sex couples

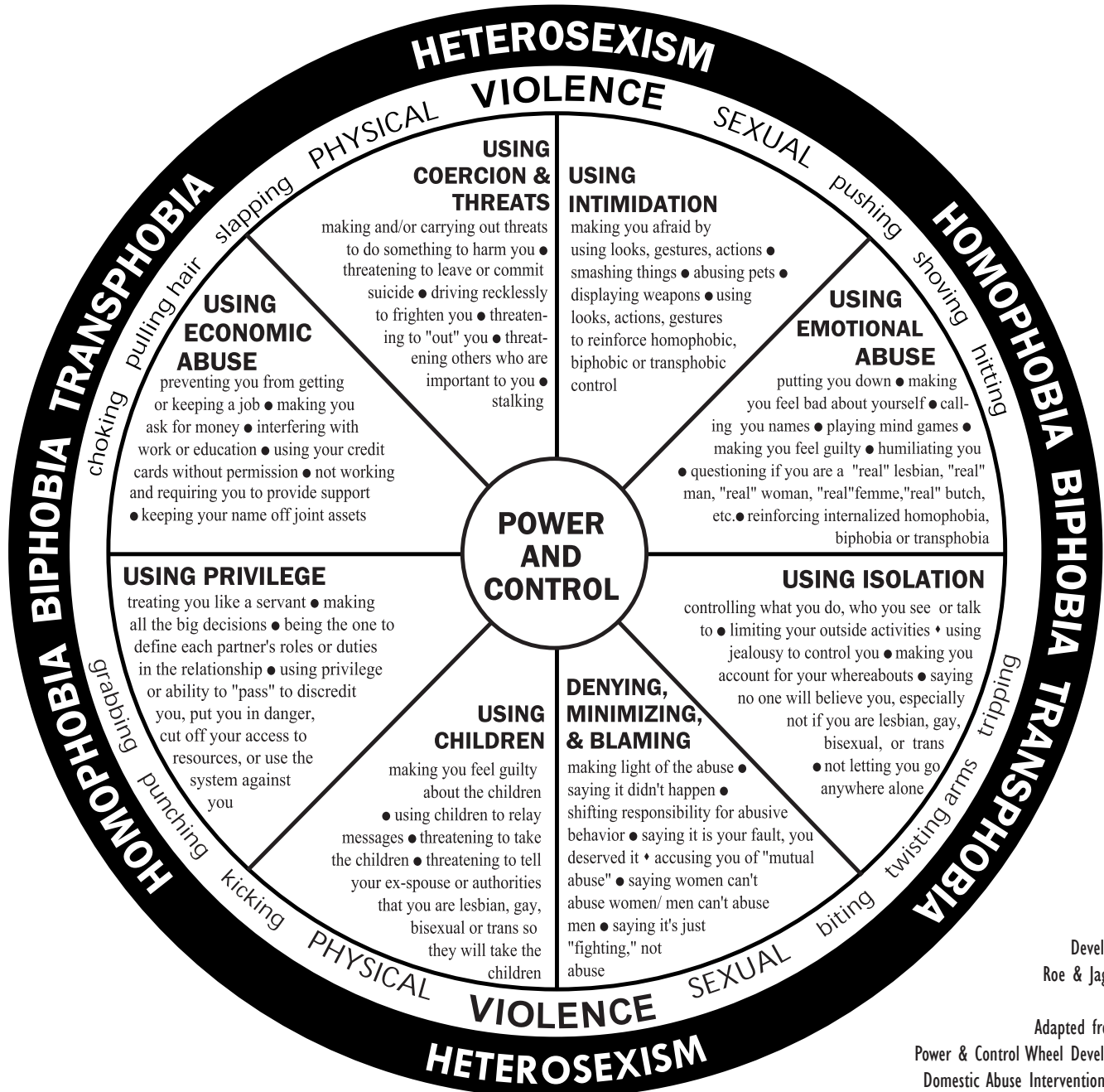
Other Options for DV Survivors

- Survivors may consider other options such as:
 - Filing for a divorce
 - Obtaining spousal support (if married)
 - Filing for child support (if the custodial parent)
 - Once a survivor is safe, these other options can be explored to establish full independence

Best Policies & Practices:

- Do not permit security, clerks, staff, or judges to turn someone away from accessing the court because the photo, name, and/or sex on their valid government-issued ID does not match their gender identity/expression.
- Correct Misgendering by Counsel, Judge, or Court Personnel.
- More Prejudicial Than Probative

Power and Control Wheel for Lesbian, Gay, Bisexual and Trans Relationships



Developed by
Roe & Jagodinsky

Adapted from the
Power & Control Wheel Developed by
Domestic Abuse Intervention Project
206 West Forth Street
Duluth, MN 55806

Adopted by:

**Texas Council On
FAMILY VIOLENCE**

P.O. Box 161810 • Austin, TX 78716
512/794-1133 • Fax: 512/794-1199

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF [insert county]

.....
[petitioner's name and any a.k.a.],
Petitioner,

File No.:
Docket No.

-against-

FAMILY OFFENSE
PETITION

[respondent's name and any a.k.a.],
Respondent.
.....

TO THE FAMILY COURT:

The undersigned Petitioner respectfully states that:

1. a. I reside at [specify address unless confidential]:¹

b. The Respondent resides at [specify address unless confidential]:

2. a. ☐ The Respondent and I are related as follows [check all applicable box(es)]:

- ☐ we are married we were married
- ☐ we have a child in common
- ☐ we are parent and child
- ☐ we are related by blood or marriage [specify how]:
- ☐ we are in an intimate relationship [describe]:
- ☐ we were in an intimate relationship [describe]:

3. The Respondent committed the following family offense(s) against me and/or my children, which constitute(s):

- | | |
|---|--|
| <input type="checkbox"/> Disorderly Conduct | <input type="checkbox"/> Aggravated Harassment in the 2 nd degree |
| <input type="checkbox"/> Harassment in the 1 st degree | <input type="checkbox"/> Harassment in the 2 nd degree |
| <input type="checkbox"/> Menacing in the 2 nd degree | <input type="checkbox"/> Menacing in the 3 rd degree |
| <input type="checkbox"/> Reckless Endangerment | <input type="checkbox"/> Assault in the 2 nd degree |
| <input type="checkbox"/> Assault in the 3 rd degree | <input type="checkbox"/> Attempted Assault |
| <input type="checkbox"/> Stalking in the 1 st degree | <input type="checkbox"/> Stalking in the 2 nd degree |
| <input type="checkbox"/> Stalking in the 3 rd degree | <input type="checkbox"/> Stalking in the 4 th degree |
| <input type="checkbox"/> Criminal Mischief | <input type="checkbox"/> Sexual Misconduct |
| <input type="checkbox"/> Forcible Touching | <input type="checkbox"/> Sexual Abuse in the 3 rd degree |

¹ If your health or safety or that of your child or children would be put at risk by disclosure of your address or other identifying information, you may apply to the Court for an address confidentiality order by submitting General Form GF-21, which is available on-line at www.nycourts.gov. See Family Court Act §154-b.

- | | |
|---|---|
| <input type="checkbox"/> Sexual Abuse in the 2 nd degree | <input type="checkbox"/> Criminal Obstruction of Breathing or Blood Circulation |
| <input type="checkbox"/> Strangulation in the 2 nd degree | <input type="checkbox"/> Strangulation in the 1 st degree |
| <input type="checkbox"/> Identity Theft in the 3 rd degree | <input type="checkbox"/> Identity Theft in the 2 nd degree |
| <input type="checkbox"/> Identity Theft in the 1 st degree | <input type="checkbox"/> Grand Larceny in the 4 th degree |
| <input type="checkbox"/> Grand Larceny in the 3 rd degree | <input type="checkbox"/> Coercion in the 2 nd degree |

In that: [Describe each incident; starting with the most recent incident; state date, time and location of each incident; specify all injuries and if any weapons were used. Use additional sheets where necessary]:

(a) *Include incidents that reflect any imminent risk of harm, recent harm suffered, serious harm regardless of remoteness, and/ or pattern of behavior. Include for each: location, time frame, and address the elements of each FO trying to prove in each incident. You should not include information outside the scope (e.g. 'why' respondent acted a certain way which is beyond the scope of your client's knowledge, extraneous information as to your client's actions/statements). Do include information that helps set the context and add detail: e.g. words stated by the Respondent (not just "they cursed, they yelled), and how they appeared (e.g. clenching fists, lunging at me). Try to steer away from setting a set chronology of events, if you don't have the opportunity to review that chronology repeatedly with your client. If you don't have extensive time with your client, leave open the door that there might be more information and incidents with a 'pattern of behavior' allegation towards the end.*

4. [Check applicable box(es)]:

☐ a. I have no children and there are no other children living in my home.

☐ b. The following children live with me [include children who are not yours]:

| | | | |
|-------------|----------------------|---------------------------|-----------------------------------|
| <u>Name</u> | <u>Date of Birth</u> | <u>Relationship to Me</u> | <u>Relationship to Respondent</u> |
|-------------|----------------------|---------------------------|-----------------------------------|

☐ c. The following children are mine but do not live with me.

| | | | |
|-------------|----------------------|-------------------|---|
| <u>Name</u> | <u>Date of Birth</u> | <u>Lives With</u> | <u>Child's Relationship to Respondent, if any</u> |
|-------------|----------------------|-------------------|---|

5. Upon information and belief, the following criminal, matrimonial or Family Court proceedings involving the respondent have been filed: [If so, please indicate court, county, docket or index number, nature of action and status, if known]

[Check boxes and complete any of the following paragraphs 6-13 that apply to you. Skip any that do not apply to you.]

6. The following aggravating circumstances, if any, are present in this case: [see Family Court Act Section 827 for aggravating circumstances]

7. [if it is believed that the Respondent has access to guns or a license, please include that information, as the court may suspend that during the pendency of the case and confiscate any owned guns]

8. I have not made any previous application to any court or judge for the relief requested in this petition, (except [specify the relief, if any, granted and the date of such relief; delete if inapplicable]):

WHEREFORE, Petitioner respectfully requests this Court to:

- A. Adjudge the Respondent to have committed the family offense(s) alleged;
- B. Enter an order of protection, specifying conditions of behavior to be observed by the respondent in accordance with Section 842 of the Family Court Act, including the following conditions:
 - i. Respondent shall be EXCLUDED from Petitioner's home [if seeking, if not or if the parties don't reside together, delete]
 - ii. Respondent shall STAY AWAY from PETITIONER, Petitioner's HOME, and Petitioner's WORKPLACE.
 - iii. Respondent shall STAY AWAY from PETITIONER'S CHILD, CHILD'S SCHOOL and DAY CARE.
 - iv. Respondent shall REFRAIN FROM COMMUNICATION OR CONTACT BY MAIL, EMAIL, TELEPHONE, VOICEMAIL, TEXT MESSAGE, OR ANY OTHER MEANS with Petitioner.
 - v. Respondent shall REFRAIN FROM THIRD PARTY CONTACT.
 - vi. Respondent shall not interfere with the care and custody of Petitioner's child.
 - vii. Respondent shall refrain from menacing, harassing and/or assaulting Petitioner or committing any family offense against her.
- C. Enter a finding of aggravated circumstances [delete if inapplicable];
- D. Enter a temporary order of child support in accordance with Family Court Act §828(4) [delete if inapplicable]; and
- E. Order such other and further relief as to the Court seems just and proper.

Dated:

SIGNED: _____

[petitioner name]

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

.....
N.T.

Petitioner,

-against-

L.M.

Respondent.
.....

File No.:
Docket No.

FAMILY OFFENSE
PETITION

TO THE FAMILY COURT:

The undersigned Petitioner respectfully states that:

1. a. I reside at 1234 Avenue Q, New York, NY.
- b. The Respondent resides at 4567 Avenue H, New York, NY.
2. a. ☐ The Respondent and I were in an intimate relationship: we dated each other for a period of three months between June to August 2018.
3. The Respondent committed the following family offense(s) against me which constitute(s):

Disorderly Conduct , Aggravated Harassment in the 2nd degree, Harassment in the 2nd Degree, Menacing in the 3rd degree, Assault in the 3rd degree, Attempted Assault, Stalking in the 4th degree, Criminal Mischief, Forcible Touching

In that:

- a. On or around October 31, 2018 through November 1, 2018, I received 120 text messages from the Respondent on my cell phone, despite asking the Respondent to stop contacting me. These texts messages included: “you slut, answer me”, “you are asking for it”, “you better watch your back tonight and lock your door”, and included threats to send nude photographs of me to employer if I did not respond with a set time. I felt afraid and alarmed for my safety, and fearful that I might lose my job.
- b. On or around October 30, 2018, Respondent appeared at my home located at 1234 Avenue Q, New York, NY, at approximately 2:00 a.m. Respondent knocked repeatedly, and yelled words to the effect of “N I know you are in there”, “Open the fuck up”, and “I am not leaving, I’ll stand here all night.” Respondent remained outside the door, until approximately 3:30 a.m. at which time Respondent began kicking the door repeatedly, causing a dent in the door and the frame to break. Fearful for my life, I

called the police. Respondent fled before the police arrived.

- c. On or around August 15, 2018, Respondent and I were in their home located at 4567 Avenue H, New York, NY. Respondent began to initiate sexual contact with me, and I declined. Respondent grabbed my arm, holding it tightly, preventing me from being able to leave. Respondent's other hand grabbed my neck, and held me down with their body weight against the couch as they got on top of me, and touched me about my body. I asked Respondent to get off of me, but they told me to "shup up" and shoved their hands in my pants, touching me against my will. Eventually, Respondent loosened their grip and I was able to flee the home.
- d. On or around July 23, 2018, Respondent became visibly intoxicated while we were out celebrating with friends at Lucky's on Roosevelt Avenue, Queens, NY. I told Respondent I was leaving, when they shoved me causing me to fall to the ground. While I was on the ground, Respondent threw their beer bottle at me, hitting me on my stomach, and causing pain and bruising that lasted for 2-3 days. I took out my phone to call the police, but Respondent grabbed my phone and smashed it under their foot, breaking it, while yelling words to the effect of "oh, you gonna call the cops on me, watch bitch."
- e. Between July 4, 2018 through August 15, 2018, Respondent engaged in a pattern of abusive behavior against me. This includes but is not limited to, calling my phone repeatedly if I failed to answer, including on two occasions in July 2018 over 30 times in a row, and pushing and shoving me about my body when intoxicated, at least 3-4 times each week.

4. I have no children and there are no other children living in my home.

5. Upon information and belief, the following criminal, matrimonial or Family Court proceedings involving the respondent have been filed: N/A. I believe there is a warrant out for Respondent's arrest based on the October 30, 2018 incident.

6. The following aggravating circumstances, if any, are present in this case: n/a

7. I do not believe Respondent has access to a gun.

8. I have not made any previous application to any court or judge for the relief requested in this petition.

WHEREFORE, Petitioner respectfully requests this Court to:

- A. Adjudge the Respondent to have committed the family offense(s) alleged;
- B. Enter an order of protection, specifying conditions of behavior to be observed by the respondent in accordance with Section 842 of the Family Court Act, including the following

conditions:

- i. Respondent shall STAY AWAY from PETITIONER, Petitioner's HOME, and Petitioner's WORKPLACE.
- ii. Respondent shall REFRAIN FROM COMMUNICATION OR CONTACT BY MAIL, EMAIL, TELEPHONE, VOICEMAIL, TEXT MESSAGE, OR ANY OTHER MEANS with Petitioner.
- iii. Respondent shall REFRAIN FROM THIRD PARTY CONTACT.
- iv. Respondent shall refrain from menacing, harassing and/or assaulting Petitioner or committing any family offense against her.

C. Order such other and further relief as to the Court seems just and proper.

Dated:

SIGNED: _____

N.T.