



## **OLMSTED COUNTY ATTORNEY DOMESTIC ABUSE PROSECUTION POLICY**

### **POLICY STATEMENT:**

It is the policy of the Olmsted County Attorney to pursue all domestic abuse allegations with zealous, yet discretionary prosecution that will protect individual victims of future abuse; that will require those accused to enter into and complete domestic violence programming; and that will ensure against recidivism to achieve an overall reduction in the number of events referred.

### **SCOPE:**

It is the intent of the Olmsted County Attorney that the Domestic Abuse Prosecution Policy encompasses all cases referred or charged as a Qualified Domestic Violence Related Offense (QDVRO) as defined in section 609.02, subdivision 16. However, cases referred or charged as murder; first, second- or third-degree assault; criminal sexual conduct; or non-domestic assaults shall not be eligible for disposition pursuant to this policy. This policy becomes effective **November 14, 2011** (*updated May 17, 2022*) and supersedes any and all prior Olmsted County Attorney Domestic Abuse Prosecution Policies.<sup>1</sup>

Domestic abuse cases shall be promptly assigned to an attorney upon referral to the County Attorney's Office. It is the aspiration of the County Attorney that the case shall be assigned to the attorney who will make the charging decision and prosecute the matter through the conclusion of the case. Attorneys wishing to contemplate a disposition inconsistent with this policy shall first consult with the County Attorney with/through the respective Managing Attorney.

### **VICTIM CONTACT/NOTIFICATION:**

In all charged cases, contact with the victim shall be initiated by the Victim Witness Coordinator and by the assigned attorney. Contact by the Victim Witness Coordinator shall be made within 24 hours of charging. Contact by the assigned attorney shall be made within 7 business days of charging. Model contact letters or meeting scripts for this initial contact have been developed and are attached to this policy and will be made part of the template database in the Olmsted County Attorney Case Management System Prosecutor by Karpel (PBK).

In the event a case is declined or dismissed, pursuant to Minn. Stat. 611A.0315, contact with the victim shall be made promptly in person or by telephone along with mail. If the suspect is

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<sup>1</sup> Some misdemeanor domestic cases may be appropriate to amend to Fifth Degree Assault for immigration purposes. Before this is done speak with your Managing Attorney.

still in custody, the notification attempt shall be made prior to the release of the suspect. Notification shall include information on obtaining an order for protection or restraining order.

Subpoenas shall be used to require victims and lay witnesses to appear for trial. It is the aspiration of the County Attorney that subpoenas are personally served on victims of domestic abuse. Personal service is preferred to ensure that the victim is timely notified of the time and date of trial and to further personal interaction with the victim.

Pursuant to Minn. Stat. 611A.03 the assigned attorney shall make a reasonable and good faith effort to inform the victim of the contents of plea negotiations and the right to be present at the plea hearing to express the victim's response to the substance of the negotiated settlement and at sentencing.

### **DOMESTIC ABUSE NO CONTACT ORDER (DANCO):**

- **Pre-trial DANCO:** Pursuant to 629.75, Subd. 1(b), the District Court is authorized to enter a Domestic Abuse No Contact Order (DANCO) before final disposition of the underlying criminal case. A DANCO is independent of any condition of pretrial release. It is the policy of the Olmsted County Attorney to request a DANCO at the arraignment of all domestic abuse cases. If possible, this office shall attempt to establish the victim's interests relative to a DANCO; however, at this stage of the proceedings, this office shall request a DANCO on behalf of the victim.
- **Post-conviction DANCO:** Pursuant to 629.75, Subd. 1(b), the District Court is authorized to enter a Domestic Abuse No Contact Order (DANCO) as a post-conviction probationary order of the underlying criminal case. A DANCO is independent of probation imposed on the defendant. A DANCO may be issued in addition to a similar restriction imposed as a condition of probation.

It is the policy of the Olmsted County Attorney **Not** to request a DANCO at the Sentencing/Disposition of any domestic abuse cases. If possible, this office shall attempt to establish the victim's interests relative to contact by the defendant. If the victim wishes to have a separate order prohibiting contact by the defendant, the Olmsted County Attorney's Office shall provide a copy of any police reports and court minutes or other documentation necessary to the victim to apply for an Order for Protection (OFP).

### **NEGOTIATED DISPOSITIONS<sup>2</sup>:**

#### **MISDEMEANOR DOMESTIC ASSAULT<sup>3</sup>:**

- **Early Disposition Alternative<sup>4</sup>:** First Time Offenders, those without any prior domestic assault incidents, shall be offered an opportunity to resolve their matter

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<sup>2</sup> It is understood that a person's Criminal History score must be contemplated in the context of negotiated settlements. All Felony level charges that are encompassed by this policy are SL 4 offenses. Persons with more than 2 points should have 30 days per point over 2 of additional incarceration added to the jail sanction of the underlying Disposition Alternative.

<sup>3</sup> For purposes of Negotiated Dispositions the term Domestic Assault includes Violation of OFP, Violation of HRO and Violation of DANCO. Terroristic Threats is included in Felony Domestic Assault,

without a conviction pursuant to a **Stay of Adjudication** as part of the **Olmsted County Domestic Assault Pre-Trial Supervision Program**. **The window of opportunity for this disposition shall be available for no more than 30 days from the date of the Rule 8 hearing.** Beyond that window, a Stay of Adjudication **shall not** be available without the consent of the County Attorney through the Managing Attorney. A fully executed Rule 15 Petition shall be required along with an Appendix D to Rule 15, Plea Agreement fully outlining the specific terms and conditions. A model Appendix D is attached as Exhibit 1 to this policy. Specific terms shall include:

- Full and accurate factual basis made to the court on the record and in writing attached or made part of the guilty plea petition;
  - Court defers acceptance of the plea but notes on the record that elements have been met;
  - Pre-Trial supervision by DFO Community Corrections;
  - Pay any fees associated with supervision and/or individualized programming or treatment;
  - Sentence date continued for six months;
  - Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by DFO Community Corrections;
  - Enter into and be in good standing or have completed treatment/counseling as recommended before sentencing date;
  - Pay restitution as supported by restitution affidavits;
  - No threatening or assaultive behavior;
  - Abide by any existing Order for Protection or Harassment Restraining Order involving the same victim;
  - Contact with the victim shall be at a level deemed appropriate by a probation officer.
  - Pay \$300 Prosecution fee;
  - At sentencing date, Stay of Adjudication of conviction for an additional two years. Level of supervision during this period to be determined by DFO Community Corrections;
  - The offender acknowledges that if he/she violates the terms of the agreement the court will schedule the matter for adjudication and sentencing.
- **Pre-trial Disposition:** First Time Offenders, those without any prior domestic assault convictions, who did not choose or did not qualify for the early disposition alternative above, shall be offered an opportunity to resolve their matter prior to trial pursuant to a **Stay of Imposition of Sentence**. A fully executed Rule 15 petition shall be required along with an Appendix D fully outlining the specific terms and conditions. A model Appendix D is attached as Exhibit 1 to this policy. Standard conditions shall include:
- Full and accurate factual admission to the elements of the offense;
  - Probation at a level deemed appropriate as determined by community corrections;

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<sup>4</sup> A First Time Offender is a person who has not previously been formally charged or ticketed for a QDVRO. Persons who have been previously charged with a QDVRO and whose case was dismissed or pled to a non-QDVRO shall not be eligible for this Early Disposition Alternative.

- Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by DFO Community Corrections and follow recommendations;
  - \$300 fine plus appropriate surcharges;
  - Pay any fees associated with supervision and/or individualized programming or treatment;
  - Pay restitution as supported by restitution affidavits;
  - No threatening or assaultive behavior;
  - Abide by any existing Order for Protection or Harassment Restraining Order involving the same victim;
  - Contact with the victim shall be at a level deemed appropriate by a probation officer.
- **Post-trial disposition:** The Olmsted County Attorney's Office shall recommend **Execution of a 90 day sentence** for first-time offenders, those without any prior domestic assault incidents, who are found guilty after trial. Pursuant to a Minnesota Statute §609.2244 a Presentence Domestic Abuse Investigation must be conducted. No further recommendation will be offered to the court.

#### **GROSS MISDEMEANOR INTERFERENCE WITH EMERGENCY CALL:**

Interference with a victim's call for assistance raises the lethality of the immediate situation. It is presumed the legislature recognized that risk when determining the level of crime for that conduct.

- **Early Disposition Alternative:** In those cases where the offender is also charged with **Misdemeanor Domestic Assault** and would be considered a **First Time Offender** as defined above, the offender shall be offered the **Misdemeanor Domestic Assault Early Disposition Alternative** until 30 days after the Rule 8 hearing.
- **Pre-Trial Disposition:** Offenders who did not choose the Early Disposition Alternative shall be eligible for the **Misdemeanor Domestic Assault Pre-Trial Disposition**. In each instance an additional term of the negotiated settlement shall be dismissal of the Gross Misdemeanor Interference with Emergency Call charge.
- **Post-trial disposition:** The Olmsted County Attorney's Office shall recommend **Execution of a 365 day sentence** for offenders that are found guilty after trial. Pursuant to a Minnesota Statute §609.2244 a Presentence Domestic Abuse Investigation must be conducted. No further recommendation will be offered to the court.

#### **GROSS MISDEMEANOR DOMESTIC ASSAULT:**

The Olmsted County Attorney recognizes that persons charged for gross misdemeanor domestic assault have a prior conviction on their record. The Olmsted County Attorney makes the presumption that anyone with a prior conviction has been afforded the opportunity for counseling and other interventions. The following disposition alternatives shall also be available to persons charged with Gross Misdemeanor Malicious Punishment of a Child, 609.377 and Child Neglect, 609.378.

- **Early Disposition Alternative:** From the date of the incident until 30 days after the Rule 8 hearing, offenders shall be offered an opportunity to resolve their matter by virtue of an **amended charge to Misdemeanor Domestic Assault with a Stay of Imposition of Sentence**. **The window of opportunity for this disposition shall be**

**available for no more than 30 days from the date of the Rule 8 hearing.** Beyond that window, an amendment of the charge to Misdemeanor Domestic Assault **shall not** be available without the consent of the County Attorney through the Managing Attorney. A fully executed Rule 15 Petition shall be required along with an Appendix D to Rule 15, Plea Agreement fully outlining the specific terms and conditions. A model Appendix D is attached as Exhibit 2 to this policy. Specific terms shall include:

- **Amend charge to Misdemeanor Domestic Assault;**
- Stay Imposition of Sentence;
- Full and accurate factual admission to the elements of the offense;
- Probation at a level deemed appropriate as determined by community corrections;
- Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by DFO Community Corrections and follow recommendations;
- \$300 fine plus appropriate surcharges;
- Pay any fees associated with supervision and/or individualized programming or treatment;
- Pay restitution as supported by restitution affidavits;
- No threatening or assaultive behavior;
- Abide by any existing Order for Protection or Harassment Restraining Order involving the same victim;
- Contact with the victim shall be at a level deemed appropriate by a probation officer.

➤ **Pre-trial Disposition:** Offenders who did not choose the Early Disposition Alternative above shall be offered an opportunity to resolve their matter prior to trial pursuant to a **Stay of Execution of a Gross Misdemeanor Sentence.** A fully executed Rule 15 petition shall be required along with an Appendix D fully outlining the specific terms and conditions. A model Appendix D is attached as Exhibit 2 to this policy. Standard conditions shall include:

- Sentence to 365 days jail and \$3000 fine plus appropriate surcharges;
- Execution of 345 days jail and \$2100 fine stayed for 2 years;
- Full and accurate factual admission to the elements of the offense;
- Probation at a level deemed appropriate as determined by community corrections;
- Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by DFO Community Corrections and follow recommendations;
- Pay any fees associated with supervision and/or individualized programming or treatment;
- Pay restitution as supported by restitution affidavits;
- No threatening or assaultive behavior;
- Abide by any existing Order for Protection or Harassment Restraining Order involving the same victim;
- Contact with the victim shall be at a level deemed appropriate by a probation officer.

➤ **Post-trial disposition:** The Olmsted County Attorney's Office shall recommend **Execution of a 365 day sentence** for offenders that are found guilty after trial.

Pursuant to a Minnesota Statute §609.2244 a Presentence Domestic Abuse Investigation must be conducted. No further recommendation will be offered to the court.

**FELONY DOMESTIC ASSAULT STRANGULATION:**

- **Early disposition Alternative:** First Time Offenders<sup>5</sup>, those without any prior domestic assault incidents, shall be offered an opportunity to resolve their matter without a conviction pursuant to a **Stay of Adjudication** as part of the **Olmsted County Domestic Assault Pre-Trial Supervision Program**. **The window of opportunity for this disposition shall be available for no more than 30 days from the date of the Rule 8 hearing.** Beyond that window, a Stay of Adjudication **shall not** be available without the consent of the County Attorney through the Managing Attorney. A fully executed Rule 15 Petition shall be required along with an Appendix D to Rule 15, Plea Agreement fully outlining the specific terms and conditions. A model Appendix D is attached as Exhibit 3 to this policy. Specific terms shall include:
- Full and accurate factual basis made to the court on the record and in writing attached or made part of the guilty plea petition;
  - Court defers acceptance of the plea but notes on the record that elements have been met;
  - Pre-Trial supervision by DFO Community Corrections;
  - Pay any fees associated with supervision and/or individualized programming or treatment;
  - Sentence date continued for six months;
  - Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by DFO Community Corrections;
  - Enter into and be in good standing or have completed treatment/counseling as recommended before sentencing date;
  - Pay restitution as supported by restitution affidavits;
  - Pay \$1000 Prosecution fee;
  - No threatening or assaultive behavior;
  - Abide by any existing Order for Protection or Harassment Restraining Order involving the same victim;
  - Contact with the victim shall be at a level deemed appropriate by a probation officer.
  - At sentencing date, Stay of Adjudication of conviction for an additional three years. Level of supervision during this period to be determined by DFO Community Corrections;
  - The offender acknowledges that if he/she violates the terms of the agreement the court will schedule the matter for adjudication and sentencing.

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<sup>5</sup> A First Time Offender is a person who has not previously been formally charged or ticketed for a QDVRO. Persons who have been previously charged with a QDVRO and whose case was dismissed or pled to a non-QDVRO shall not be eligible for this Early Disposition Alternative.

It is possible that a "Felony Domestic Assault Strangulation First Time Offender" has a prior domestic assault incident on his/her record. If so, such an offender does not qualify for the Felony Domestic Assault Strangulation Early Disposition Alternative and will be offered the corresponding Gross Misdemeanor Domestic Assault Early Disposition Alternative or the Felony Domestic Assault Early Pretrial Disposition during this timeframe.

- **Early Pre-trial Disposition:** First Time Offenders who did not choose or did not qualify for the Early Disposition Alternative above, shall be offered an opportunity to resolve their matter prior to trial pursuant to a **Stay of Execution of Sentence as a Gross Misdemeanor Stalking, 609.749, subd. 2(1)**. **The window of opportunity for this disposition shall be available until no later than 30 days prior to the first calendared trial date.** A fully executed Rule 15 petition shall be required along with an Appendix D fully outlining the specific terms and conditions. A model Appendix D is attached as Exhibit 3 to this policy. Standard conditions shall include:
  - Amend the charge to 609.749, Subd. 2(1)
  - Sentence to 365 days jail and \$3000 fine plus appropriate surcharges;
  - Execution of 320 days jail and \$2000 fine stayed for 2 years;
  - Full and accurate factual admission to the elements of the offense;
  - Probation at a level deemed appropriate as determined by community corrections;
  - Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by DFO Community Corrections and follow recommendations;
  - Pay any fees associated with supervision and/or individualized programming or treatment;
  - Pay restitution as supported by restitution affidavits;
  - No threatening or assaultive behavior;
  - Abide by any existing Order for Protection or Harassment Restraining Order involving the same victim;
  - Contact with the victim shall be at a level deemed appropriate by a probation officer.
- **Late Pre-trial Disposition:** Offenders, who did not choose the Felony Strangulation disposition alternatives above, shall be offered an opportunity to resolve their matter prior to trial pursuant to a **Stay of Imposition of Sentence**. A fully executed Rule 15 petition shall be required along with an Appendix D fully outlining the specific terms and conditions. A model Appendix D is attached as Exhibit 3 to this policy. Standard conditions shall include:
  - Full and accurate factual admission to the elements of the offense;
  - Probation at a level deemed appropriate as determined by community corrections;
  - Serve 60 days jail;
  - Pay \$1000 fine plus appropriate surcharges;
  - Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by DFO Community Corrections and follow recommendations;
  - Pay any fees associated with supervision and/or individualized programming or treatment;
  - Pay restitution as supported by restitution affidavits;
  - No threatening or assaultive behavior;
  - Abide by any existing Order for Protection or Harassment Restraining Order involving the same victim;
  - Contact with the victim shall be at a level deemed appropriate by a probation officer.

- **Post-trial disposition:** The Olmsted County Attorney's Office shall recommend disposition pursuant to Minnesota Sentencing Guidelines for offenders that are found guilty after trial. Pursuant to a Minnesota Statute §609.2244 a Presentence Domestic Abuse Investigation must be conducted. If the presumptive disposition is a Stay, the Olmsted County Attorney's Office shall recommend the Stay be in the form of a Stay of Execution with the following terms and conditions:
  - Sentence to 12 months and one day to the Commissioner of Corrections and \$1500 fine;
  - Stay of Execution of Sentence for 4 years;
  - Probation at a level deemed appropriate as determined by community corrections;
  - Serve 180 days jail;
  - Pay \$1000 fine plus appropriate surcharges;
  - Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by DFO Community Corrections and follow recommendations;
  - Pay any fees associated with supervision and/or individualized programming or treatment;
  - Pay restitution as supported by restitution affidavits;
  - No threatening or assaultive behavior;
  - Abide by any existing Order for Protection or Harassment Restraining Order involving the same victim;
  - Contact with the victim shall be at a level deemed appropriate by a probation officer.
  - No further recommendation will be offered to the court.

#### **FELONY DOMESTIC ASSAULT:**

The Olmsted County Attorney recognizes that persons charged for Felony Domestic Assault have prior convictions on their record. The Olmsted County Attorney makes the presumption that anyone with a prior conviction has been afforded the opportunity for counseling and other interventions. The following disposition alternatives shall also be available to persons charged with Felony Malicious Punishment of a Child, 609.377 and Child Neglect, 609.378.

- **Early Pre-trial Disposition<sup>6</sup>:** Offenders shall be offered an opportunity to resolve their matter prior to trial pursuant to a **Stay of Execution of Sentence as a Gross Misdemeanor. The window of opportunity for this disposition shall be available for no more than 30 days from the date of the Rule 8 hearing.** Beyond that window, a Stay of Execution of Sentence as a Gross Misdemeanor **shall not** be available without the consent of the County Attorney through the Managing Attorney. A fully executed Rule 15 petition shall be required along with an Appendix D fully outlining the specific terms and conditions. A model Appendix D is attached as Exhibit 3 to this policy. Standard conditions shall include:
  - Amend the charge to Gross Misdemeanor Domestic Assault;
  - Sentence to 365 days jail and \$3000 fine plus appropriate surcharges;

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<sup>6</sup> If an offender has taken advantage of this disposition alternative in a previous case, the offender will not be given the opportunity for this disposition again in future cases. Similarly, if the offender has a prior conviction for Felony Domestic Assault, he/she will not be afforded this Early Pre-Trial Disposition alternative.



- Execution of 320 days jail and \$2000 fine stayed for 2 years;
  - 96 hours of incarceration must be served consecutively;
  - Full and accurate factual admission to the elements of the offense;
  - Probation at a level deemed appropriate as determined by community corrections;
  - Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by DFO Community Corrections and follow recommendations;
  - Pay any fees associated with supervision and/or individualized programming or treatment;
  - Pay restitution as supported by restitution affidavits;
  - No threatening or assaultive behavior;
  - Abide by any existing Order for Protection or Harassment Restraining Order involving the same victim;
  - Contact with the victim shall be at a level deemed appropriate by a probation officer.
- **Late Pre-trial Disposition:** Offenders, who did not choose the Early Pre-trial Disposition alternative above<sup>7</sup>, shall be offered an opportunity to resolve their matter prior to trial pursuant to a **Stay of Imposition of Sentence**. A fully executed Rule 15 petition shall be required along with an Appendix D fully outlining the specific terms and conditions. A model Appendix D is attached as Exhibit 3 to this policy. Standard conditions shall include:
- Full and accurate factual admission to the elements of the offense;
  - Probation at a level deemed appropriate as determined by community corrections;
  - Serve 90 days jail;
  - Pay \$1000 fine plus appropriate surcharges;
  - Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by DFO Community Corrections and follow recommendations;
  - Pay any fees associated with supervision and/or individualized programming or treatment;
  - No threatening or assaultive behavior;
  - Abide by any existing Order for Protection or Harassment Restraining Order involving the same victim;
  - Contact with the victim shall be at a level deemed appropriate by a probation officer.
- **Post-trial disposition:** The Olmsted County Attorney's Office shall recommend disposition pursuant to Minnesota Sentencing Guidelines for offenders that are found guilty after trial. Pursuant to a Minnesota Statute §609.2244 a Presentence Domestic Abuse Investigation must be conducted. If the presumptive disposition is a Stay, the Olmsted County Attorney's Office shall recommend the Stay be in the form of a Stay of Execution with the following terms and conditions:
- Sentence to 12 months and one day to the Commissioner of Corrections and \$3000 fine;
  - Stay of Execution of Sentence for 5 years;

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<sup>7</sup> This is the only pretrial disposition that will be offered to an offender who has previously benefited from the Felony Early Pre-trial Disposition in a separate case.

- Probation at a level deemed appropriate as determined by community corrections;
- Serve 365 days jail;
- Pay \$1500 fine plus appropriate surcharges;
- Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by DFO Community Corrections and follow recommendations;
- Pay any fees associated with supervision and/or individualized programming or treatment;
- Pay restitution as supported by restitution affidavits;
- No threatening or assaultive behavior;
- Abide by any existing Order for Protection or Harassment Restraining Order involving the same victim;
- Contact with the victim shall be at a level deemed appropriate by a probation officer.
- No further recommendation will be offered to the court.

**APPENDIX D TO MISDEMEANOR RULE 15  
DOMESTIC ASSAULT PLEA AGREEMENT**

STATE OF MINNESOTA  
COUNTY OF OLSTED

DISTRICT COURT  
THIRD JUDICIAL DISTRICT  
District Court File No. \_\_\_\_\_

State of Minnesota,  
Plaintiff,  
vs.

**APPENDIX D TO MISDEMEANOR RULE 15  
DOMESTIC ASSAULT PLEA AGREEMENT**

\_\_\_\_\_,  
Defendant.

**1. Negotiation Status**

\_\_\_\_ The terms and conditions outlined in this negotiation are required by the agreement. If the Court will not sentence the defendant to the terms outlined in this agreement, either party may withdraw from the agreement.

**2. Charges/Dismissals/Deferrals**

\_\_\_\_ The defendant will enter a plea of guilty to the following counts from the following files: \_\_\_\_\_

\_\_\_\_ Successful completion of probation will result in vacation of plea and dismissal of charge. (Stay of adjudication cases only)

\_\_\_\_ The following counts in this case or other criminal complaints will be dismissed: \_\_\_\_\_

**3. Level of Conviction**

\_\_\_\_ The parties agree to a stay of adjudication for \_\_\_\_ years.

\_\_\_\_ The parties agree to a stay of imposition of sentence for \_\_\_\_ years.

**4. If this is a probationary sentence the parties agree to the following terms and conditions:**

\_\_\_\_ Full and accurate factual basis made to the court on the record and in writing attached or made part of the guilty plea petition;

\_\_\_\_ Probation at a level deemed appropriate by DFO Community Corrections;

- \_\_\_ Pay any fees associated with supervision and/or individualized programming or treatment;
- \_\_\_ Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by DFO Community Corrections;
- \_\_\_ No threatening or assaultive behavior;
- \_\_\_ Abide by any existing Order for Protection or Harassment Restraining Order involving the same victim;
- \_\_\_ Contact with the victim shall be at a level deemed appropriate by probation officer;

**Stay Adjudication cases only:**

- \_\_\_ Court defers acceptance of the plea but notes that elements have been met;
- \_\_\_ Pre-Trial supervision by DFO Community Corrections;
- \_\_\_ Sentence date continued for six months;
- \_\_\_ Enter into and be in good standing or have completed treatment/counseling as recommended before sentencing date;
- \_\_\_ Pay \$300 Prosecution fee;
- \_\_\_ At sentencing date, Stay of Adjudication of conviction for an additional two years.
- \_\_\_ Level of supervision during this period to be determined by DFO Community Corrections;
- \_\_\_ The offender acknowledges that if he/she violates the terms of the agreement the court will schedule the matter for adjudication and sentencing, original plea may not be withdrawn;

**Stay of Imposition cases only:**

- \_\_\_ \$300 fine plus appropriate surcharges;
- \_\_\_ Other: \_\_\_\_\_

**5. Restitution:**

- \_\_\_ Defendant agrees to make restitution in the amount of \_\_\_\_\_ as supported by restitution affidavits.

**6. Miscellaneous Provisions:**

- \_\_\_ The defendant agrees to comply with pre-trial supervision and attend future court hearings. The defendant understands that he/she must be in good standing with supervision and any treatment/counseling that has been recommended before disposition hearing. Failure to be in good standing at sentencing will result in termination from the agreement and the court will accept my plea, enter a judgment of conviction and set the matter on for sentencing.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Prosecuting Attorney

\_\_\_\_\_  
Defense Attorney

**APPENDIX D TO GROSS MISDEMEANOR RULE 15  
DOMESTIC ASSAULT PLEA AGREEMENT**

STATE OF MINNESOTA  
COUNTY OF OLSTED

DISTRICT COURT  
THIRD JUDICIAL DISTRICT  
District Court File No. \_\_\_\_\_

State of Minnesota,  
Plaintiff,

**APPENDIX D TO GROSS MISDEMEANOR RULE 15  
DOMESTIC ASSAULT PLEA AGREEMENT**

vs.

\_\_\_\_\_,  
Defendant.

**1. Negotiation Status**

\_\_\_\_\_ The terms and conditions outlined in this negotiation are required by the agreement. If the Court will not sentence the defendant to the terms outlined in this agreement, either party may withdraw from the agreement.

**2. Charges/Dismissals/Deferrals**

\_\_\_\_\_ The defendant will enter a plea of guilty to the following counts from the following files: \_\_\_\_\_

\_\_\_\_\_ The following counts in this case or other criminal complaints will be amended: \_\_\_\_\_

\_\_\_\_\_ The following counts in this case or other criminal complaints will be dismissed: \_\_\_\_\_

**3. Level of Conviction**

\_\_\_\_\_ The parties agree to stay imposition of a misdemeanor sentence for 1 year.

\_\_\_\_\_ The parties agree to stay execution of a gross misdemeanor sentence for 2 years.

**4. If this is a probationary sentence the parties agree to the following terms and conditions:**

\_\_\_\_\_ Full and accurate factual basis made to the court on the record and in writing attached or made part of the guilty plea petition;

\_\_\_\_\_ Probation at a level deemed appropriate by DFO Community Corrections;

\_\_\_\_\_ Pay any fees associated with supervision and/or individualized programming or treatment;

\_\_\_\_\_ Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by DFO Community Corrections;

- \_\_\_ Enter into and be in good standing or have completed treatment/counseling as recommended before sentencing date;
- \_\_\_ No threatening or assaultive behavior;
- \_\_\_ Abide by any existing Order for Protection or Harassment Restraining Order involving the same victim;
- \_\_\_ Contact with the victim shall be at a level deemed appropriate by probation officer;

**Additional terms, Stay of Imposition-Misdemeanor sentence only:**

- \_\_\_ Pay \$300 fine;

**Additional terms, Stay of Execution-Gross Misdemeanor sentence only:**

- \_\_\_ Sentence to 365 days jail and \$3000 fine plus appropriate surcharges;
- \_\_\_ Execution of 345 days jail and \$2100 fine stayed for 2 years;

\_\_\_ Other: \_\_\_\_\_  
\_\_\_\_\_

**5. Restitution:**

- \_\_\_ Defendant agrees to make restitution in the amount of \_\_\_\_\_ as supported by restitution affidavits.

**6. Miscellaneous Provisions:**

- \_\_\_ The defendant agrees to comply with pre-trial supervision and attend future court hearings. The defendant understands that he/she must be in good standing with supervision and any treatment/counseling that has been recommended before disposition hearing. Failure to be in good standing at sentencing will result in termination from the agreement and the court will accept my plea, enter a judgment of conviction and set the matter on for sentencing.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Prosecuting Attorney

\_\_\_\_\_  
Defense Attorney

STATE OF MINNESOTA  
COUNTY OF OLMDISTED

DISTRICT COURT  
THIRD JUDICIAL DISTRICT  
District Court File No. \_\_\_\_\_

State of Minnesota,  
Plaintiff,

**APPENDIX D TO FELONY RULE 15  
DOMESTIC ASSAULT PLEA AGREEMENT**

vs.

\_\_\_\_\_,  
Defendant.

**1. Negotiation Status**

\_\_\_ The terms and conditions outlined in this negotiation are required by the agreement. If the Court will not sentence the defendant to the terms outlined in this agreement, either party may withdraw from the agreement.

**2. Charges/Dismissals/Deferrals**

\_\_\_ The defendant will enter a plea of guilty to the following counts from the following files: \_\_\_\_\_

\_\_\_ Successful completion of probation will result in vacation of plea and dismissal of charge. (Strangulation Stay of Adjudication cases only)

\_\_\_ The following counts in this case or other criminal complaints will be dismissed: \_\_\_\_\_

**3. Level of Conviction**

\_\_\_ The parties agree to a stay of adjudication for \_\_\_ years. (Strangulation cases only.)

\_\_\_ The parties agree to a \_\_\_ gross misdemeanor sentence.

\_\_\_ The parties agree to a stay of imposition of sentence for \_\_\_ years.

\_\_\_ The parties agree to a stay of execution of sentence for \_\_\_ years.

**4. If this is a probationary sentence the parties agree to the following terms and conditions:**

\_\_\_ Full and accurate factual basis made to the court on the record and in writing attached or made part of the guilty plea petition;

\_\_\_ Probation at a level deemed appropriate by DFO Community Corrections;

\_\_\_ Pay any fees associated with supervision and/or individualized programming or treatment;

\_\_\_ Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by DFO Community Corrections;

\_\_\_ No threatening or assaultive behavior;

- \_\_\_ Abide by any existing Order for Protection or Harassment Restraining Order involving the same victim;
- \_\_\_ Contact with the victim shall be at a level deemed appropriate by probation officer;

**Additional terms, Stay Adjudication-Strangulation cases only:**

- \_\_\_ Court defers acceptance of the plea but notes that elements have been met;
- \_\_\_ Sentence date continued for six months;
- \_\_\_ Pre-Trial supervision by DFO Community Corrections;
- \_\_\_ Enter into and be in good standing or have completed treatment/counseling as recommended before sentencing date;
- \_\_\_ Pay \$1000 Prosecution fee;
- \_\_\_ At Sentencing date, Stay of Adjudication of conviction for an additional two years;
- \_\_\_ Level of supervision during this period to be determined by DFO Community Corrections;
- \_\_\_ The offender acknowledges that if he/she violates the terms of the agreement the court will schedule the matter for adjudication and sentencing, original plea may not be withdrawn;

**Additional terms, Stay of Execution-Gross Misdemeanor cases only:**

- \_\_\_ Sentence to 365 days jail and \$3000 fine plus appropriate surcharges;
- \_\_\_ Execution of 320 days jail and \$2000 fine stayed for 2 years;

**Additional terms, Stay of Imposition-Felony cases only:**

- \_\_\_ Probation for \_\_\_ years;
- \_\_\_ Serve 60 days jail;
- \_\_\_ Pay \$1000 fine plus appropriate surcharges;
- \_\_\_ Other: \_\_\_\_\_

**5. Restitution:**

- \_\_\_ Defendant agrees to make restitution in the amount of \_\_\_\_\_ as supported by restitution affidavits.

**6. Miscellaneous Provisions:**

- \_\_\_ The defendant agrees to comply with pre-trial supervision and attend future court hearings. The defendant understands that he/she must be in good standing with supervision and any treatment/counseling that has been recommended before disposition hearing. Failure to be in good standing at sentencing will result in termination from the agreement and the court will accept my plea, enter a judgment of conviction and set the matter on for sentencing.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Prosecuting Attorney

\_\_\_\_\_  
Defense Attorney