

Essay Prompt 2

“Refer to the attached statute and draft language to include in a petition for civil protection order against Mark by explaining:

- 1) The basis on which Jessica is seeking a protection order;
- 2) The most recent threat(s) or act(s) that cause Jessica to seek a protection order; and
- 3) The most serious incidents that cause Jessica to seek a protection order. In this section, please describe the reason(s) why you selected these incidents.”

This short essay evaluated the applicant’s ability to read and interpret a statute as well as identify and articulate facts that could be relevant to a client’s request for a protection order. Points for question 1 and 2 were based on whether the applicant identified or recognized the right statutory provision and certain facts. Question 3 was subjective, so points were awarded based on the applicant’s ability to provide a rationale for selecting those incidents (i.e., analysis of the seriousness of the incident). Applicants did not have to write their answer in any particular format, but a high-scoring essay would have included the information listed below.

1. The basis of the protection order

Jessica seeks a protection order under section 13-14-104.5(1)(a)(V) - to prevent stalking. Points were also given if applicants identified other bases for the protection order that were rationale in light of the facts provided.

2. Recent threat(s) or act(s)

Mark used to send Jessica hundreds of texts each day.

On October 15, Jessica told Mark to leave her alone and blocked his number.

On November 18, Jessica received a text from an unknown number that read, “you can run but you can’t hide.” The tone of this text is threatening.

Jessica believes the text is from Mark.

If this text is from Mark, then the act of obtaining a new phone number from which he can contact Jessica without being blocked suggests that Mark will continue to find ways to bother her unless he is prohibited from contacting her.

3. Examples of serious incidents and possible rationale for why these incidents are/are not serious.

Mark found out where Jessica worked.

Serious: Jessica did not tell Mark where she worked, suggesting that he followed her after one of their dates.

Not serious: Mark could live in the area and regularly shops in that store, or his appearance in that grocery store could have been a coincidence.

Mark obtained Jessica's last name and address.

Serious: Jessica did not give Mark this information, meaning that Mark had to discover it on his own. He could have searched online, tapped her phone, or, as Jessica thinks, followed her home.

Not serious: The facts did not suggest any innocent or coincidental way that Mark could have obtained this information.

Mark would take photos of Jessica during her regular routine (getting on the bus, at work, at a bar with friends) without Jessica being aware of his presence.

Serious: Mark is secretly following Jessica around town as she goes about her daily routine.

Not serious: The facts did not suggest any innocent or legitimate reason that Mark would engage in this behavior.

Mark appears at Jessica's workplace and the park where she takes her little sister to play.

Serious: Mark follows Jessica to the places where she spends her time.

Not serious: Mark could live in the same part of town as Jessica and his appearance at these locations is coincidental.

Mark sits in the parking lot of Jessica's apartment complex.

Serious: There is no indication from the facts that Mark lives in Jessica's apartment complex, so there is likely no reason for Mark to be in the parking lot. Sitting in the parking lot shows that Mark knows where Jessica lives and he watches her movements.

Not serious: Mark could live in the same apartment complex, could know someone else who lives in the apartment complex, or could be parking for another reason that has nothing to do with Jessica.

Mark wants Jessica to know he is watching her.

Serious: Mark is trying to intimidate Jessica with his appearance and let her know that he will be wherever she is.

Not serious: If the applicant recognized that Mark wanted Jessica to know he was watching her, then the applicant should also have recognized that his actions were designed to intimidate her.

The November 18 text ("you can run but you can't hide") sent after Jessica blocked Mark's phone number suggests that Mark will not stop bothering Jessica.

Serious: Mark must have obtained a new phone number from which he could contact Jessica. Mark is not deterred by Jessica's efforts to stop all contact and block his phone number.

Not serious: There is no proof that Mark sent the November 18 text.

Mark always seems to know where Jessica will be.

Serious: Mark follows Jessica regularly, knows her routine, and might be tracking her phone.

Not serious: Mark's appearance in the locations where Jessica spends her time could be coincidental.

Jessica's phone has been performing strangely. It is slow, randomly disconnects from wi-fi, and photos and calendar invites have disappeared. Jessica thinks Mark is tracking her phone.

Serious: When Jessica let Mark put his phone number into her phone, Mark could have installed an app or other spyware to follow Jessica and/or interfere with her life.

Not serious: Jessica's phone could be old or not performing correctly and these acts have nothing to do with Mark.

Mark's actions suggest that he will continue to stalk Jessica unless prohibited to do so.

Serious: Jessica has told Mark to leave her alone. Despite this, Mark follows Jessica, texts her (even from an unknown number), and continues to intimidate her with his presence.

Not serious: There is no proof that Mark has tried to contact Jessica since she told him to leave her alone on October 15.