

PETITION FOR ORDER OF PROTECTION FROM DOMESTIC ABUSE

General Information

IF YOU ARE GRANTED THIS ORDER, NEITHER YOU NOR THE RESTRAINED PARTY MAY HAVE ANY CONTACT WITH EACH OTHER BY PHONE, TEXT MESSAGING, INTERNET OR OTHERWISE WHILE THE ORDER IS IN EFFECT.

PURPOSE OF THESE PROCEEDINGS:

The purpose of an Order of Protection (also known as a Restraining Order) issued under the Family Violence Protection Act is to stop the violence and to prevent it from happening again.

The first Order of Protection is temporary and only lasts for 10 days. If the Court issues a Temporary Order of Protection, you will be required to attend a Court hearing in about 10 days so that the Court can decide whether the order should last longer. The Temporary Order of Protection, if issued, is also an Order to Appear at this hearing.

At the hearing, the Court may issue an order of Protection that restrains the actions of another person for a longer time period.

An Order of Protection can resolve other issues such as those regarding property, debts, spousal support and child support and custody, but only for 6 months. An Order of Protection is not a permanent solution for these problems. If you need a legal separation, divorce or permanent orders about child custody and child support, **YOU SHOULD SEEK THE ASSISTANCE OF A LAWYER**. Ask the Court Clerk for a list of legal resources.

PETITION FOR ORDER OF PROTECTION FROM DOMESTIC ABUSE

Instructions

1. **Type or print in ink** all of the information you enter on this form. Make sure your writing is readable.
2. You will be the "Petitioner" and the other person will be the "Respondent."
3. Your Petition for an Order of Protection is a very serious Court action to restrain the actions of another person. The information you provide must be honest and truthful.
4. Fill in the blanks that apply to your situation.
5. IF you and the Respondent have children together, part 3 of the Petition must be completed. The Uniform Child Custody Jurisdiction Enforcement Act (NMSA 1978 Section 40-10A-209) requires the first pleading of every custody action to give information under penalty of law as to the child(ren)'s present address, the places where the child(ren) has/have lived within the last five (5) years and the names and present addresses of the persons with whom the child(ren) has/have lived during that period.
6. IF you do not want the Respondent to know your address, do not put your current address on the Petition and:
 - a. Check the box in the Petition that says: **"I DO NOT WANT RESPONDENT TO KNOW MY ADDRESS NOW OR AFTER THE HEARING FOR THE FINAL ORDER OF PROTECTION. I HAVE COMPLETED FORM 4-961B AND GIVEN IT TO THE COURT CLERK.** The Court Clerk will give you form 4-961B to fill out.
 - b. Check the box at the top of the Information Cover Sheet that says: **"I REQUEST THAT RESPONDENT NOT KNOW MY PRESENT ADDRESS."**
7. IF you do not want the Respondent to know your address and you do not need an Order of Protection immediately, you may also consider participating in the "Confidential Address Program." Ask the District Court Clerk for a brochure that explains this program and its cost.
8. When you have finished filling in the *Petition for Order of Protection From Domestic Abuse* give it to the District Court Clerk at either of these locations:

103 So. Oliver Dr. Aztec, NM 87410 505-334-6151	851 Andrea Drive Farmington, NM 87401 505-326-2256
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9. Often, you may wait while the District Court Judge and/or the Domestic Violence Commissioner reads your *Petition* and decides whether to issue a Temporary Order of

Protection. Occasionally, you may be asked to check back later in the day as to whether a Temporary Order of Protection has been issued.

10. When a Temporary Order of Protection is issued, the Court Clerk will give you:
- a. A certified copy of the Temporary Order of Protection. (You may ask the Court Clerk to provide you with additional certified copies if you think you need additional copies.)

Keep a certified copy of the Temporary Order of Protection with you
at all times.

- b. A copy of the *Petition for Order of Protection From Domestic Abuse* that you have just filed. Bring your copy with you to the hearing that is scheduled in about 10 days.
11. The Respondent must be given, or “served” with, a copy of the Temporary Order of Protection as well as the *Petition for Order of Protection From Domestic Abuse* that you filed. The District Court Clerk will send these documents to the San Juan County Sheriff’s Office which will see that the Respondent is served with a copy. However, you must complete form 4-961A, included in this packet, entitled *Service of Process Information For Petition For Order of Protection From Domestic Abuse and Petition For Emergency Order of Protection; Information About the Respondent*. See instructions later in the packet.

IF the Respondent lives in another state, county or on the reservation, YOU WILL BE RESPONSIBLE for having the Respondent served with the Order and Petition and for seeing that proof of service is filed with this Court. (You will not need to complete the form entitled *Service of Process Information For Petition For Order of Protection From Domestic Abuse and Petition For Emergency Order of Protection; Information About the Respondent*. Form 4-961A)

12. READ THE ORDER SO THAT YOU KNOW WHAT IT SAYS.

13. MAKE SURE THAT YOU GO TO THE HEARING THAT IS SCHEDULED IN THE ORDER. THE ORDER WILL TELL YOU THE DATE, TIME AND PLACE OF THE HEARING. (Usually the hearing will take place at the **District Court, 851 Andrea Drive in Farmington** but check your order because it may be scheduled at another courthouse.)

4-961. Petition for order of protection from domestic abuse.

[Family Violence Protection Act,
Sections 40-13-1 to 40-13-8 NMSA 1978.]

STATE OF NEW MEXICO
COUNTY OF SAN JUAN
ELEVENTH JUDICIAL DISTRICT COURT

_____, Petitioner

v.

No. D-1116-DV

_____, Respondent

**PETITION FOR ORDER OF PROTECTION
FROM DOMESTIC ABUSE¹**

1. COURT ASSISTANCE REQUEST

We will need an interpreter in _____ to translate at hearings for
 me the respondent.

We will need _____ (*describe other request for special help*).

2. INFORMATION ABOUT THE RESPONDENT (*the person I am filing against*)

A. The respondent is:

my husband or my wife

my ex-husband or my ex-wife

the parent of my [child] [children]

a family member _____

(*describe the family relationship*)

a person with whom I have had a continuing personal relationship

_____ (*describe the relationship*)

a person who has sexually assaulted me

a person who has stalked me

B. The respondent has the following weapons: _____

3. [CHILD] [CHILDREN]²

A. List minor [child] [children] of either party.

Name	Year of Birth	Relationship of [Child] [Children] To You	Relationship of [Child] [Children] To Respondent
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

B. List address and with whom the [child] [children] are currently living. *(List each child separately if [child] [children] do not reside with same person.)*

C. List each address where [child] [children] have lived during the last five (5) years. *(List each child separately if [child] [children] did not reside with same person.)*

D. Does anyone else have physical custody of the [child] [children] or claim to have custody or visitation rights? yes no

If yes, complete the following for the [child] [children]:

Child's name

Person claiming rights

4. OTHER CASES

The following divorce, separation, order of protection, child support, paternity, abuse or neglect cases have been previously filed by me, the respondent or the state:

Type of Case	Year Filed <i>(if known)</i>	Case Number <i>(if known)</i>	Where Filed <i>(city and state)</i>
_____	_____	_____	_____
_____	_____	_____	_____

5. DOMESTIC ABUSE

A. The respondent committed the following act(s) of domestic abuse against me or a member of my household: *(describe in detail what happened to you or to a member of your household and when and where. Use the attached sheet if you need additional space to write.)*

Physical abuse: _____

Threats which caused fear that you or any household member would be injured: _____

Other abuse: _____

Date of abuse: _____

Place of abuse (address): _____

The location of abuse was on:

- Private land in New Mexico
- Allotment land in New Mexico
- Tribal land
- Other (describe) _____

B. Others present during the abuse: _____

C. Did drugs or alcohol play a role in the domestic abuse? yes no

D. Were weapons used during the abuse? yes no
If yes, what weapons? _____

E. Has there been prior domestic abuse? yes no
If so, please describe: _____

6. REQUESTS TO THE COURT

I REQUEST THAT THE COURT ORDER (*check all that you want*):

- A. that the respondent not contact me, not abuse me and that the respondent stay away from my residence [and] [place of employment] [and] [school].
- B. (1) that the respondent shall immediately leave my our residence at _____
(2) that the respondent provide me with temporary suitable alternative housing.
- C. that the respondent shall not sell, remove, pawn, hide, destroy or damage any property owned by me or the two of us jointly.
- D. that law enforcement officers assist me in retrieving my clothing and personal belongings from the residence at _____

- E. that I be given temporary custody of the [child] [children] listed in this petition.
- F. that until the court hearing:
 - respondent shall have the following contact with the [child] [children]: _____.
 - respondent shall have no contact with the [child] [children].
- G. that the respondent shall pay:
 - support for the [child] [children]
 - support for me.
- H. that the respondent shall pay me for the damage and medical bills resulting from the abuse.
- I. other relief that is necessary to resolve this domestic abuse problem (*list or describe what relief is necessary*):

 _____.

7. INFORMATION ABOUT THE PETITIONER (ME)

(If you do not want the respondent to know your address and phone number, do not include it on this form. Tell the court clerk that you need to complete form 4-961B and request that the clerk place your address under seal.)

- A. **I DO NOT WANT RESPONDENT TO KNOW MY ADDRESS NOW OR AFTER THE HEARING FOR THE FINAL ORDER OF PROTECTION. I HAVE COMPLETED FORM 4-961B AND GIVEN IT TO THE COURT CLERK.**

OR

- B. My physical address is: _____
 _____ in the [] County [] Indian
 Country of _____, State of New Mexico.

My mailing address is:

_____ (street address)
 _____ (city and zip)

My telephone numbers are:

Home

Work

Message

8. NOTICE TO RESPONDENT

- A. I have not told respondent that I am filing a petition to ask the court for an order of protection because I believe irreparable harm would result if I told respondent before coming to court. (*Describe what might happen to you*)

or what you are afraid might happen if the respondent knew you were asking for a court order of protection.)

B. I have told respondent that I am filing this petition.

9. LOCATION OF RESPONDENT

A. Respondent may be found at:

(address)
(city)
(state and zip code)
(if in Indian Country, please name tribe or pueblo).

Respondent's:

(year of birth)
(home telephone number)
(work address)
(work telephone number).

B. Is respondent in jail? yes no

VERIFICATION

I, the Petitioner, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause; that I have read the petition for order of protection from domestic abuse; and that the contents of the petition are true and correct to the best of my information and belief.

Date

Signature of Petitioner

USE NOTE

1. Petitioner should complete all information known by the petitioner.
2. This part must be completed if there are children. NMSA 1978, Section 40-10A-209 of the Uniform Child-Custody Jurisdiction Enforcement Act requires the first pleading of every custody action to give information as to the child's present address, the places where the child has lived within the last five (5) years and the names and present addresses of the persons with whom the child has lived during that period. If a child lives with you now, but you do not want the respondent to know your address, do not put your current address here, but do fill out Form 4-961B.

[Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective May 1, 2001; as amended, effective February 16, 2004; as amended by Supreme Court Order No. 08-8300-40, effective December 15, 2008; as amended by Supreme Court Order No. 14-8300-023, effective for all pleadings and papers filed on or after December 31, 2014.]

PETITIONER'S INFORMATION

for

PETITION FOR ORDER OF PROTECTION FROM DOMESTIC ABUSE

[] I REQUEST THAT RESPONDENT NOT KNOW MY PRESENT ADDRESS

NAME: _____

DOB: _____

GENDER: [] Male [] Female

MAILING ADDRESS:

PHYSICAL ADDRESS:

HOME PHONE: _____

CELL PHONE: _____

WORK PHONE: _____

EMPLOYER'S NAME: _____

WORK ADDRESS:

SERVICE OF PROCESS INFORMATION FORM

Instructions

1. **Type or print in ink** all of the information you enter on this form. Make sure your writing is readable.
2. You will be the “Petitioner” and the other person will be the “Respondent.”
3. Fill out this form as completely as possible providing as much information as possible.
4. If the Temporary Order of Protection is granted by the Judge or Hearing Officer the information on this form assists the San Juan County Sheriff’s Office in giving or “serving” the respondent with a copy of the Temporary Order of Protection (as well as a copy of the *Petition for Order of Protection From Domestic Abuse* that you filed.)
5. Remember:

IF the Respondent lives in another state, county or on the reservation, **YOU WILL BE RESPONSIBLE** for having the Respondent served with the Order and Petition and for seeing that proof of service is filed with this Court.

And

You will not need to complete the form entitled *Service of Process Information For Petition For Order of Protection From Domestic Abuse and Petition For Emergency Order of Protection; Information About the Respondent*, form 4-961A

4-961A. Service of process information for petition for order of protection from domestic abuse and petition for emergency order protection.

[For use with 4-961 and 4-972 NMRA.]

STATE OF NEW MEXICO
COUNTY OF SAN JUAN
ELEVENTH JUDICIAL DISTRICT COURT

_____, Petitioner

v.

No. D-1116-DV

_____, Respondent

**SERVICE OF PROCESS INFORMATION FOR
PETITION FOR ORDER OF PROTECTION FROM DOMESTIC ABUSE
AND
PETITION FOR EMERGENCY ORDER OF PROTECTION¹
INFORMATION ABOUT THE RESPONDENT**

Respondent's name

Respondent's date of birth

Is respondent in jail? yes no

If yes, where? _____

Respondent's physical address is:

_____ (street)
_____ (city)
_____ (county)
_____ (state and zip code)

Tribe Pueblo of _____

Respondent's workplace:

_____ (employer's name)
_____ (street)
_____ (city)
_____ (county)
_____ (state and zip code)

Tribe Pueblo of _____

