

Dear Petitioner:

This packet assists you in seeking a restraining order due to domestic abuse under the Family Violence Protection Act (NMSA 1978 §40-13-1 et seq.).

Instructions - Filling out the forms

1. Fill out all information in the Petition for Order of Protection. Remember, YOU are the Petitioner.
2. Do not sign the Petition until you are in front of a notary public.
3. Fill out the Service of Process form on the Respondent (the person you are filing against). The form asks for detailed information to ensure the Respondent can be quickly found and served.
4. If you wish to keep your current address unknown to the Respondent, fill out form 4-961B which seals your address from others.
5. Bring the completed Petition to the District Court Clerk's Office. The Domestic Violence Commissioner reviews the Petition to make sure it meets the requirements of the Family Violence Protection Act. If it does, the Commissioner will issue a Temporary Protective Order with a Notice to Appear at a hearing.
6. You, the Petitioner, must then file the Petition and Temporary Order of Protection with the court clerk's office. A copy of these documents will be given to you. Take them to the Sheriff's office to serve upon the Respondent.
7. REMEMBER the Temporary Order of Protection is not enforceable until the Respondent is personally served with the documents.

Instructions - Attending the Hearing

1. A hearing in front of the Domestic Violence Commissioner on your Petition for an Order of Protection occurs approximately within ten (10) days.
2. Make sure you attend this hearing.
3. Have all documents with you concerning child custody, interim support, distribution of property, medical bills or other damages, other evidence and witnesses at the hearing.
4. DO NOT BRING CHILDREN TO THE HEARING unless you have received special permission from the Domestic Violence Commissioner to do so.

# **KEEP A COPY OF THE TEMPORARY ORDER OF PROTECTION AND ANY SUBSEQUENT ORDER ON YOU AT ALL TIMES.**

## **NEW MEXICO VICTIM'S RIGHTS**

In New Mexico there is law, the Victims of Crime Act (§31-26-1 et seq. NMSA 1978), that gives you specific rights. Those rights are summarized as:

1. Be treated with fairness and respect.
2. Timely disposition of the case.
3. Reasonable protection from the accused.
4. Notification of court proceedings.
5. Attend all scheduled court proceedings on the case and make a statement about your rights as a victim.
6. Confer with the prosecuting attorney.
7. Request restitution.
8. Make a statement to the court at sentencing and post-sentencing hearings.
9. Receive information about the conviction, sentencing, imprisonment, escape or release of the accused.
10. Promptly receive any personal property held for evidence.
11. Be informed by the court at sentencing that the defendant may earn merits to reduce his/her sentence.

\_\_\_\_\_, Petitioner

v.

\_\_\_\_\_, Respondent

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

**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)

B. The respondent has the following weapons: \_\_\_\_\_

**3. [CHILD] [CHILDREN]**

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

Name	Date of Birth	Relationship of [Child] [Children] To You	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.)

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

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- 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 (if known)	Case Number (if known)	Where Filed (city and state)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

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.)

Physical abuse:

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

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Other abuse:

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- 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

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.
- OR
- (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 two other forms (Forms 4-961A and 4-961B) for your name and address and request that 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 petitioner knew you were asking for a court order of protection.)*

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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:

\_\_\_\_\_ *(social security number)*  
\_\_\_\_\_ *(date of birth)*  
\_\_\_\_\_ *(home telephone number)*  
\_\_\_\_\_ *(work address)*  
\_\_\_\_\_ *(work telephone number).*

B. Is respondent in jail?  yes  no

VERIFICATION

STATE OF NEW MEXICO        }  
COUNTY OF \_\_\_\_\_       }  
TRIBE OR PUEBLO \_\_\_\_\_ }

The petitioner was sworn and states: I have read this petition for order of protection from domestic abuse and it is true to the best of my knowledge and belief. I understand that I can be punished both civilly and criminally if any information in this petition is false.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature of Petitioner*

Signed and sworn before me on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Notary public

\_\_\_\_\_  
My commission expires: \_\_\_\_\_.

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
THIRTEENTH JUDICIAL DISTRICT

\_\_\_\_\_  
Petitioner,

Vs.

No. \_\_\_\_\_

\_\_\_\_\_  
Respondent.

REQUEST FOR ORDER TO OMIT PETITIONER'S ADDRESS  
AND TELEPHONE NUMBER FROM PETITION,  
TO PLACE REFERENCES TO PETITIONER'S ADDRESS UNDER SEAL  
AND FOR AN ORDER PROVIDING ALTERNATIVE MEANS OF SERVICE  
UPON PETITIONER (FORM 4-961B)

1. I do not want my current address and telephone number to be made known to the Respondent for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. My current mailing address and telephone numbers (home, cell, work) are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. I ask the court not to disclose my current address and telephone numbers.
4. I ask that if my request is granted, all process and papers be served on my by delivering them to the clerk of the court who shall serve me at my current address.
5. I agree that if either my address or telephone numbers change during this lawsuit, I will immediately file another form like this one giving my new address and telephone numbers.



STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
THIRTEENTH JUDICIAL DISTRICT

\_\_\_\_\_  
Petitioner,

Vs.

No. \_\_\_\_\_

\_\_\_\_\_  
Respondent.

**SERVICE OF PROCESS INFORMATION FOR  
PETITION FOR ORDER OF PROTECTION  
FROM DOMESTIC VIOLENCE AND  
PETITION FOR TEMPORARY ORDER OF PROTECTION**

INFORMATION ABOUT THE RESPONDENT

\_\_\_\_\_  
Respondent's name

\_\_\_\_\_  
Respondent's date of birth

\_\_\_\_\_  
Respondent's social security number

Is the Respondent in jail?     yes     no

If yes, where? \_\_\_\_\_

Respondent's physical address is:

\_\_\_\_\_ (street)

\_\_\_\_\_ (city)

\_\_\_\_\_ (county)

\_\_\_\_\_ (state and zip code)

Tribe or     Pueblo of \_\_\_\_\_

Respondent's workplace:

\_\_\_\_\_ (employer's name)

\_\_\_\_\_ (street)

\_\_\_\_\_ (city)

\_\_\_\_\_ (county)

\_\_\_\_\_ (state and zip code)

Tribe or  Pueblo of \_\_\_\_\_

Respondent works the following hours: \_\_\_\_\_  a.m.  p.m. to \_\_\_\_\_  a.m.  p.m.

What does Respondent look like?

Hair \_\_\_\_\_ (color)      Eyes \_\_\_\_\_ (color)

Height \_\_\_\_\_      Weight \_\_\_\_\_

Race/Ethnicity \_\_\_\_\_

Other physical marks or characteristics: \_\_\_\_\_

Do you consider the Respondent to be dangerous?  yes  no If yes, describe why: \_\_\_\_\_

Does the Respondent have any weapons?  yes  no If yes, describe \_\_\_\_\_

Places where the Respondent may be found beside the physical address and workplace: \_\_\_\_\_

\_\_\_\_\_ Date

\_\_\_\_\_ Signature of Petitioner

\_\_\_\_\_ Petitioner's street address (unless Petitioner has completed Request for Order to Omit)

\_\_\_\_\_ City, state and zip code (unless Petitioner has completed Request for Order to Omit)

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
THIRTEENTH JUDICIAL DISTRICT

\_\_\_\_\_  
Petitioner,

Vs.

No. \_\_\_\_\_

\_\_\_\_\_  
Respondent.

RESPONSE TO PETITION FOR  
ORDER OF PROTECTION FROM DOMESTIC ABUSE

Respondent, in response to the allegations in the Petition for Order of Protection from Domestic Abuse, states: *(Set forth a response to each paragraph of the Petition you do not agree with. Please include the paragraph number of the Petition preceding each response.)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(If you need additional space, please attach additional pages.)*

Respondent requests that the Court:

(Check and complete applicable alternatives)

Modify the temporary order of protection as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Terminate the temporary order of protection because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
THIRTEENTH JUDICIAL DISTRICT

\_\_\_\_\_  
Petitioner,

Vs.

No. \_\_\_\_\_

\_\_\_\_\_  
Respondent.

**SHERIFF'S/OFFICER'S RETURN OF SERVICE**

I, \_\_\_\_\_, a duly qualified and acting Deputy Sheriff/Officer in and for the County and State aforesaid, hereby certify that I received a Petition/Counter-Petition, a Temporary Order of Protection and an Order to Appear in the above-entitled matter on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, and that I served the same on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, by delivering to:

\_\_\_\_\_ *(name of respondent/petitioner if serving counter-petition)* in

person, within the County and State aforesaid, a true copy of the said Temporary Order of Protection and Order to Appear to which was attached a true and correct copy of the Petition/Counter-Petition filed in the above-entitled action.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

\_\_\_\_\_ COUNTY SHERIFF

\_\_\_\_\_ (other law enforcement agency)

By: \_\_\_\_\_  
Deputy/Officer