

INSTRUCTIONS FOR FILING
THE PETITION FOR ORDER OF PROTECTION
PLEASE PRINT ONLY!

Fill out the Petition. You are the Petitioner, the person you are filing against is the Respondent.

Complete all pages **UNTIL** you get to the page that says **ATTENTION**. On the following pages just fill out the names of the Petitioner and Respondent.

Bring the packet back to the District Court Clerk's Office on the 2nd floor of the Eddy County Courthouse.

The Judge will review your Petition and issue an Order.

If issued the Temporary Order will prohibit the Respondent from abusing the Petitioner and may also provide for Temporary Custody of the child(ren) and Temporary possession of the home.

Both parties will be required to attend a hearing within ten (10) days. The Clerk will set a time and date for the hearing.

After the Judge signs the Order, the Clerk will give you four (4) copies of the Petition and Temporary Order. Keep one (1) copy and immediately take three (3) copies to the Eddy County Sheriff's Department. The Sheriff will serve one (1) copy on the Respondent, send one (1) copy to the Police Department and keep one (1) copy in his file.

If you believe the Order has been filed, call the Carlsbad Police Department if you live in the Carlsbad city limits, the Eddy County Sheriff's Department if you live in the county, or the Artesia Police Department if you live in Artesia. Call 911 if there is an immediate threat of danger.

The Temporary Order will be enforced by all law enforcement officers. Any law enforcement officer can check the validity of the Order by calling the Eddy County Sheriff's Department, which keeps a permanent file of the Orders and the date of service.

YOUR PETITION FOR ORDER PROHIBITING DOMESTIC VIOLENCE IS A VERY SERIOUS COURT ACTION AGAINST ANOTHER PERSON. YOUR ANSWERS AND THE INFORMATION ON THE FORMS MUST BE HONEST AND TRUTHFUL. IF THE COURT FINDS OUT THAT ANY OF THE INFORMATION OR ANSWERS YOU HAVE GIVEN ARE FALSE, YOU MAY BE PUNISHED BY THE COURT.

BE CALM AND REASONABLE. TRY TO AVOID SITUATIONS THAT MAY INCREASE THE TENSION BETWEEN YOU AND THE RESPONDENT. CALL LAW ENFORCEMENT FOR HELP RATHER THAN TRYING TO SOLVE YOUR OWN PROBLEMS.

PLEASE INFORM THE CLERK'S OFFICE **NOW** IF AN INTERPRETER IS NEEDED FOR ANY PARTY INVOLVED IN THIS SUIT.

**FIFTH JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF EDDY**

_____,
Petitioner,

VS

DV-

_____,
Respondent.

PRO SE AFFIDAVIT

AFFIANT, being first duly sworn upon Oath, deposes and states:

1. I am the Petitioner in the above-styled cause.

2. I am not represented by an attorney. The Domestic Violence Application which I am now filing was completed by _____.

3. I have not paid or given anything of value to anyone preparing or helping prepare the pleadings or giving advise concerning this case except _____
(write NONE if applicable)
to _____
(Name of person)

AFFIANT/PETITIONER

ADDRESS

DATE OF BIRTH

MAILING ADDRESS

TELEPHONE NUMBER

CITY

STATE

ZIPCODE

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20____.

NOTARY/CLERK OF COURT/DEPUTY CLERK

MY COMMISSION EXPIRES:

Form 4-961A
(For use with Form 4-961, 4-962A and 4-972)

STATE OF NEW MEXICO
COUNTY OF _____
FIFTH JUDICIAL DISTRICT COURT

_____, Petitioner

VS.

No. _____

_____, Respondent

**SERVICE OF PROCESS INFORMATION FOR
PETITION/COUNTER-PETITION FOR ORDER OF PROTECTION FROM
DOMESTIC ABUSE AND PETITION FOR EMERGENCY ORDER OF PROTECTION**

INFORMATION ABOUT THE RESPONDENT PETITIONER

 Respondent's name

 Respondent's **DATE OF BIRTH**

Is respondent petitioner in jail? yes no
If yes, where? _____

Respondent's physical address is:

(street address)

(city)

(county)

(state and zip code)

Tribe Pueblo of _____

Respondent's workplace:

(employer's name)

(street address)

(city)

(county)

(state and zip code)

Tribe Pueblo of _____

Respondent Petitioner works the following hours:

_____ (a.m.) (p.m.) to _____ (a.m.) (p.m.)

Respondent's _____ telephone numbers are :

Home

Work

Message

What does respondent _____ look like?

Hair _____ (color) Eyes _____ (color)

Height _____ Weight _____

Race-ethnicity: _____

Other physical characteristics or marks:

Do you consider the respondent _____ to be dangerous?

yes no

If yes, why?

Does respondent _____ have any weapons? yes no

If yes, please describe:

Places where respondent _____ can be found apart from physical address and workplace:

Date

Signature of Petitioner/

Petitioner's/ _____ street address
(unless petitioner/respondent files Form 4-961B)

City, state and zip code
(unless petitioner/respondent files Form 4-961B)

(Approved, effective November 1, 1999 until July 1, 2001; approved, effective May 1, 2001; as amended by Supreme Court Order No. 08-8300-40, effective December 15, 2008.)

Does the Respondent have a vehicle? Yes _____ No _____

If you checked yes please give a description of the vehicle. _____

Is there any other vehicles they may be in? _____

Does the Respondent carry any weapons on them? If yes, please list what type. _____

Do you believe the Respondent will be violent with law enforcement? If yes, list why. _____

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 _____

_____ JUDICIAL DISTRICT COURT

_____, Petitioner

v.

No. _____

_____, 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 firearms (make/model):

(use additional page if needed)

3. INFORMATION ABOUT [CHILD] [CHILDREN]²

A. List minor [child] [children] of either party, even if from another relationship.

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.)*

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

_____	_____
_____	_____

E. Describe how often the [child] [children] have been with the other party during the past six (6) months.

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.)*

Physical abuse: _____

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

Other abuse: _____

Date of abuse: _____

Place of abuse: _____

B. Respondent is a credible threat to my physical safety because: _____

C. Others present during the abuse: _____

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

E. Were weapons used during the abuse? yes no

If yes, describe the weapons?

F. Has there been prior domestic abuse? yes no
[continuation sheets to be inserted here]

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*)

J. the respondent be found to be a credible threat and be required to deliver any firearm in the respondent's care, custody, or control to a law enforcement officer or a federal firearms licensee.

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 NMRA) for your name and address 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 (*if different from above*):

(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:

_____ (date 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 Forms 4-961A and 4-961B NMRA.
3. Use Notes 1 and 2 are to be printed on pre-printed forms published for use by pro se petitioners. This note and Use Note 4 should not be printed on the form. This form has been approved by the Supreme Court of New Mexico for use in the courts of this state and distribution pursuant to NMSA 1978, Section 40-13-3. Pre-printed pro se forms should include a lined blank page at the end of the form for use by the petitioner if the pre-printed form does not include adequate space for a complete answer to a question.
4. NMSA 1978, Section 40-13-3.1(A)(4) provides that a victim in a domestic abuse case shall not be required to pay for "the filing, issuance or service of a petition for an order of protection."
[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; as amended by Supreme Court Order No. 19-8300-009, effective for all petitions filed on or after July 1, 2019.]

ATTENTION!

FILL OUT THE PETITIONER'S NAME

AND RESPONDENT'S NAME ONLY

ON THE FOLLOWING FORMS:

**TEMPORARY ORDER OF PROTECTION AND ORDER TO
APPEAR**

ORDER AND NOTICE TO APPEAR

SHERIFF'S RETURN OF SERVICE

4-963. Temporary order of protection and order to appear.
[Family Violence Protection Act, Sections 40-13-1 to 40-13-8 NMSA 1978.]

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

_____, Petitioner

v.

No. _____

_____, Respondent

**TEMPORARY ORDER OF PROTECTION
AND ORDER TO APPEAR**

The court has reviewed the sworn petition alleging domestic abuse. The court having considered the petition, **FINDS** that the court has jurisdiction and that there is probable cause to believe that an act of domestic abuse has occurred. The court **ORDERS**:

1. Respondent shall not write to, talk to, visit or contact the petitioner in any way except through petitioner's lawyer, if petitioner has a lawyer.

2. Respondent shall not abuse the petitioner or the petitioner's household members in any way. "Abuse" means any incident by respondent against petitioner or petitioner's household member resulting in (1) physical harm; (2) severe emotional distress; (3) bodily injury or assault; (4) a threat causing imminent fear of bodily injury; (5) criminal trespass; (6) criminal damage to property; (7) repeatedly driving by a residence or work place; (8) telephone harassment; (9) stalking; (10) harassment; (11) harm or threatened harm to children in any manner set forth above.

3. Respondent shall not ask or cause other persons to abuse the petitioner or the petitioner's household members.

4. Respondent shall not go within _____ yards of the petitioner's home or school or work place. Respondent shall not go within _____ yards of the petitioner at all times except _____. If at a public place, such as a store, respondent shall not go within _____ yards of petitioner.

5. _____ (first and last name of party) shall have temporary physical custody of the following child(ren):

Child's Name

Date of Birth

6. With respect to the child(ren) named in the preceding paragraph, (first and last name of parent) shall have:

A. No contact with the child(ren) until further order of this court and shall stay _____ yards away from the child(ren)'s school.

B. Contact with the child(ren), subject to:

7. Neither party shall remove the child(ren) named in the preceding paragraph from the State of New Mexico or disenroll the child(ren) from the child(ren)'s present school during the period of this temporary order of protection.

8. The court may decide temporary child and interim support at the hearing listed below. Both parties shall bring to the hearing proof of income in the form of the two latest pay stubs or the federal tax returns from the previous year, proof of work related day-care costs and proof of medical insurance costs for the child(ren).

9.

A. Respondent is ordered to immediately leave the residence at _____ and to not return until further court order.

B. Law enforcement officers are hereby ordered to evict respondent from the residence at _____

C. Respondent is ordered to surrender all keys to the residence to law enforcement officers.

10. Law enforcement officers or _____ shall accompany

respondent petitioner to remove essential tools (as specified in No. 13), clothing, and personal belongings from the residence at _____.

11. Neither party shall transfer, hide, add debt to, sell or otherwise dispose of the other's property or the joint property of the parties except in the usual course of business or for the necessities of life. The parties shall account to the court for all such changes to property made after the order is served or communicated to the party. Neither party shall disconnect the utilities of the other party's residence.

12. This order supersedes any inconsistent prior order in Cause No. _____ and any other prior domestic relations order and domestic violence restraining orders between these two parties.

13. Other: _____.

14. While this order of protection is in effect, petitioner should refrain from any act that would cause the respondent to violate this order. This provision is not intended to and does not create a mutual order of protection. Under Section 40-13-6(D) NMSA 1978, only the restrained party can be arrested for violation of this order.

HEARING

IT IS FURTHER ORDERED that the parties shall appear in the _____ Judicial District Court, Room _____, at _____, before _____, at _____ (a.m.) (p.m.) on _____ (date) for hearing on whether an extended order of protection against domestic abuse will be issued. Either party may bring witnesses or evidence and may be represented by counsel at this hearing. Respondent may file a Response to the Petition for Order of Protection from Domestic Abuse, see Form 4-962 NMRA, on or before the hearing. If the respondent fails to attend this hearing, an extended order may be entered by default against respondent and a bench warrant may be issued for respondent's arrest. If petitioner willfully fails to appear at this hearing, the petition may be dismissed. This order remains in force until _____.

If an order of protection is entered, the restrained party is prohibited from receiving, transporting, or possessing a firearm or destructive device while the order of protection is in place. If at the hearing the court finds that the restrained party presents a credible threat to the physical safety of the protected party, the court shall order the restrained party (a) to immediately deliver any firearm in the restrained party's possession, care, custody, or control to a law enforcement agency, law enforcement officer, or federal firearms licensee while the order of protection is in effect, and (b) to refrain from purchasing, receiving, or possessing, or attempting to purchase, receive, or possess any firearm while the order of protection is in effect.

DO NOT BRING ANY CHILDREN TO THE HEARING WITHOUT PRIOR PERMISSION OF THE COURT.

ENFORCEMENT OF ORDER

If the restrained party violates any part of this order, the restrained party may be charged with a crime, arrested, held in contempt of court, fined or jailed.

SERVICE AND NOTICE TO LAW ENFORCEMENT AGENCIES

Upon the signing of this order by a district court judge, a law enforcement officer shall serve on the respondent a copy of this order and a copy of the petition. **A LAW ENFORCEMENT OFFICER SHALL USE ANY LAWFUL MEANS TO ENFORCE THIS ORDER.**

[] I have reviewed the petition for order of protection and made recommendations to the district judge regarding its disposition.

(Signed)

Court telephone number

(Title)

SO ORDERED:

District Judge

Date and time approved

USE NOTE

1. The temporary order of protection and order to appear requires a proof of return of service. The committee has been informed that each local law enforcement agency has its own return of service form, which will be used for this purpose.

2. Personal service of the temporary order of protection and order to appear will assure that the temporary order is fully enforceable. It is possible that actual notice to the respondent of the content of the temporary order will also suffice to bind the respondent to comply with the order. *Territory of New Mexico v. Clancy*, 7 N.M. 580, 583 (1894).

[Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective May 1, 2001; as amended by Supreme Court Order No. 07-8300-020, effective September 17, 2007; by Supreme Court Order No. 08-8300-040, effective December 15, 2008; as amended by Supreme Court Order No. 19-8300-009, effective for all orders issued on or after July 1, 2019.]

STATE OF NEW MEXICO
COUNTY OF EDDY
FIFTH JUDICIAL DISTRICT COURT

Petitioner (s)

vs.

Case # - DV -

Respondent (s)

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

THIS MATTER having come before the Court upon the filing of a **Petition for Order of Protection from Domestic Abuse**, and the Court having reviewed the Petition and finding that it should be denied for the following reason (s):

- The statements made in the **Petition for Order of Protection from Domestic Abuse** do not allege "domestic abuse" as defined in **Section 40-13-2 (C) NMSA 1978**.
- The statements made in the **Petition for Order of Protection from Domestic Abuse** involve child custody or divorce issues and do not allege domestic abuse as defined in **Section 40-13-2 (C) NMSA 1978**. The issued should be addressed in the proper court proceedings.
- The Respondent is not a household member as defined in **Section 40-13-2 (D) NMSA 1978**.
- The statements contained in the **Counter-Petition for Order of Protection from Domestic Abuse** do not meet the criteria of the Family Violence Protection Act.
- Other: _____

IT IS THEREFORE ORDERED that the Petition for Order of Protection from Domestic Abuse is hereby **DENIED**.

District Judge

STATE OF NEW MEXICO
COUNTY OF _____
FIFTH JUDICIAL DISTRICT COURT

_____, Petitioner

VS.

No. _____

_____, Respondent

ORDER TO APPEAR

You are hereby ordered to appear in the Fifth Judicial District Court, Room _____, at

(address), before _____
at _____ (a.m.) (p.m.) on _____ (date) for hearing on

whether an Order of Protection against Domestic Abuse will be issued. You may bring witnesses or evidence and may be represented by counsel at this hearing. You may file a Response to Petition for Order of Protection for Domestic Abuse (Form 4-962) at or before the hearing.

If you fail to attend this hearing, an Order of Protection may be entered by default against you and a bench warrant may be issued for your arrest.

[] DO NOT BRING ANY CHILDREN TO THE HEARING.

District Judge

(Approved, effective November 1, 1999 until July 1, 2001; approved, effective May 1, 2001)

ATTENTION:

- ❖ **It is your responsibility to take your packet to the Eddy County Sheriff's Department at 1502 Corrales Dr. Carlsbad, NM for service on the Respondent.**
- ❖ **If you fail to take your packet to the Sheriff's Department the Temporary Order of Protection and Order to Appear will not be served and is not enforceable by Law Enforcement.**

FIFTH JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF EDDY

_____,
Petitioner,

vs.

No. DV-_____

_____,
Respondent.

SHERIFF'S RETURN OF SERVICE

I, the undersigned Sheriff of Eddy County, New Mexico, hereby certify that this

PETITION AND TEMPORARY ORDER OF PROTECTION [],

COUNTER PETITION [],

ORDER TO SHOW CAUSE [],

MOTION/NOTICE OF HEARING [],

PETITION AND ORDER TO EXTEND [],

ORDER AND NOTICE TO APPEAR [],

DEFAULT ORDER OF PROTECTION []

came to my hand this ___ day of _____, _____, and that I executed the same in Eddy County, New Mexico, by serving the same personally to the persons therein named on the dates shown opposite their respective names, as follows, to-wit:

<u>PETITIONER:</u>	<u>RESPONDENT:</u>
SERVED ON: _____	SERVED ON: _____
DATE SERVED: _____	DATE SERVED: _____
TIME SERVED: _____	TIME SERVED: _____
UNABLE TO LOCATE: _____	UNABLE TO LOCATE: _____
UNABLE TO SERVE: _____	UNABLE TO SERVE: _____
SHERIFF OF EDDY COUNTY, NM	Location of Service _____
By: _____	SHERIFF OF EDDY COUNTY, NM
Deputy	By: _____
	Deputy

PARTIES SHALL BE PERSONALLY SERVED. SUBSTITUTE SERVICE SHALL NOT BE ENFORCABLE.