

1 **4-963. Temporary order of protection and order to appear.**

2  
3 [Family Violence Protection Act, NMSA 1978, Sections 40-13-1 to 40-13-8]

4  
5 STATE OF NEW MEXICO

6 COUNTY OF \_\_\_\_\_

7 \_\_\_\_\_ JUDICIAL DISTRICT

8  
9 \_\_\_\_\_, Petitioner

10  
11 v. \_\_\_\_\_ No. \_\_\_\_\_

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

13  
14 **TEMPORARY ORDER OF PROTECTION**  
15 **AND ORDER TO APPEAR**

16  
17 The court has reviewed the sworn petition alleging domestic abuse. The court having  
18 considered the petition, **FINDS** that the court has jurisdiction and that there is probable cause to  
19 believe that an act of domestic abuse has occurred. The court **ORDERS**:

20  
21  1. The respondent shall not write to, talk to, visit, or contact the petitioner in any way  
22 except through the petitioner's lawyer, if the petitioner has a lawyer.

23  
24  2. The respondent shall not abuse the petitioner or the petitioner's household members  
25 in any way. "Abuse" means any incident by the respondent against the petitioner or the petitioner's  
26 household member resulting in (1) physical harm; (2) severe emotional distress; (3) bodily injury  
27 or assault; (4) a threat causing imminent fear of bodily injury; (5) criminal trespass; (6) criminal  
28 damage to property; (7) repeatedly driving by a residence or work place; (8) telephone harassment;  
29 (9) stalking; (10) harassment; (11) harm or threatened harm to children in any manner set forth  
30 above.

31  
32  3. The respondent shall not ask or cause other persons to abuse the petitioner or the  
33 petitioner's household members.

34  
35  4. The respondent shall not go within \_\_\_\_\_ yards of the petitioner's home or  
36 school or work place. The respondent shall not go within \_\_\_\_\_ yards of the petitioner at all  
37 times except \_\_\_\_\_. If at a public place, such as a  
38 store, the respondent shall not go within \_\_\_\_\_ yards of the petitioner.

39  
40  5. The respondent shall not post or cause another to post anything about the petitioner  
41 on any form of social media, including, but not limited to, Facebook, Twitter, Instagram, or  
42 Snapchat. This prohibition includes posts about the petitioner's family members, significant other,  
43 and children.

44  
45  6. \_\_\_\_\_ (*first and last name of party*) shall have  
46 temporary physical custody of the following child(ren):



1  13. This order supersedes any inconsistent prior order in Cause No.  
2 \_\_\_\_\_ and any other prior domestic relations order and domestic violence  
3 restraining orders between these two parties.

4  
5  14. Other: \_\_\_\_\_.

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

11  
12 **HEARING**

13  
14 IT IS FURTHER ORDERED that the parties shall appear in the \_\_\_\_\_ Judicial  
15 District Court, Room \_\_\_\_\_, at \_\_\_\_\_, before \_\_\_\_\_, at \_\_\_\_\_  
16 (a.m.) (p.m.) on \_\_\_\_\_ (date) for hearing on whether an extended order of  
17 protection against domestic abuse will be issued. Either party may bring witnesses or evidence and  
18 may be represented by counsel at this hearing. The respondent may file a Response to the Petition  
19 for Order of Protection from Domestic Abuse, *see* Form 4-962 NMRA, on or before the hearing.  
20 If the respondent fails to attend this hearing, an extended order may be entered by default against  
21 the respondent and a bench warrant may be issued for the respondent's arrest. If the petitioner  
22 willfully fails to appear at this hearing, the petition may be dismissed. This order remains in force  
23 until \_\_\_\_\_.

24  
25 **If an order of protection is entered, the restrained party is prohibited from receiving,**  
26 **transporting, or possessing a firearm or destructive device while the order of protection is in**  
27 **place.** If at the hearing the court finds that the restrained party presents a credible threat to the  
28 physical safety of the protected party, the court shall order the restrained party (a) to immediately  
29 deliver any firearm in the restrained party's possession, care, custody, or control to a law  
30 enforcement agency, law enforcement officer, or federal firearms licensee while the order of  
31 protection is in effect, and (b) to refrain from purchasing, receiving, or possessing, or attempting  
32 to purchase, receive, or possess any firearm while the order of protection is in effect.

33  
34 **DO NOT BRING ANY CHILDREN TO THE HEARING WITHOUT PRIOR**  
35 **PERMISSION OF THE COURT.**

36  
37 **ENFORCEMENT OF ORDER**

38  
39 If the restrained party violates any part of this order, the restrained party may be charged  
40 with a crime, arrested, held in contempt of court, fined, or jailed.

41  
42 **SERVICE AND NOTICE TO LAW ENFORCEMENT AGENCIES**

43  
44 Upon the signing of this order by a district court judge, a law enforcement officer shall  
45 serve on the respondent a copy of this order and a copy of the petition.

1 **A LAW ENFORCEMENT OFFICER SHALL USE ANY LAWFUL MEANS TO**  
2 **ENFORCE THIS ORDER.**

3  
4 [ ] I have reviewed the petition for order of protection and made recommendations to the  
5 district judge regarding its disposition.

6  
7 \_\_\_\_\_  
8 *(Signed)*

\_\_\_\_\_ Court telephone number

9  
10 \_\_\_\_\_  
11 *(Title)*

12 **SO ORDERED:**

13  
14 \_\_\_\_\_  
15 District Judge

\_\_\_\_\_ Date and time approved

16  
17 USE NOTES

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

21 2. Personal service of the temporary order of protection and order to appear will assure  
22 that the temporary order is fully enforceable. It is possible that actual notice to the respondent of  
23 the content of the temporary order will also suffice to bind the respondent to comply with the  
24 order. *Territory of New Mexico v. Clancy*, 1894-NMSC-012, 7 N.M. 580, 37 P. 1108.

25  
26 [Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective May  
27 1, 2001; as amended by Supreme Court Order No. 07-8300-020, effective September 17, 2007; by  
28 Supreme Court Order No. 08-8300-040, effective December 15, 2008; as amended by Supreme  
29 Court Order No. 19-8300-009, effective for all orders issued on or after July 1, 2019; as amended  
30 by Supreme Court Order No. 20-8300-010, effective for all cases pending or filed on or after  
31 December 31, 2020; as amended by Supreme Court Order No. S-1-RCR-2023-00049, effective  
32 for all cases filed on or after December 31, 2025.]