

1 **4-963A. Temporary order of protection against petitioner 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 v.

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

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

12  
13 **TEMPORARY ORDER OF PROTECTION AGAINST PETITIONER**  
14 **AND ORDER TO APPEAR**

15  
16 The court has reviewed the sworn counter-petition alleging domestic abuse. The court  
17 having considered the petition, FINDS that the court has jurisdiction and that there is probable  
18 cause to believe that an act of domestic abuse has occurred. The court ORDERS:

19  
20  1. The petitioner shall not write to, talk to, visit, or contact the respondent in any way  
21 except through the respondent's lawyer, if the respondent has a lawyer.

22  
23  2. The petitioner shall not abuse the respondent or the respondent's  
24 household members in any way. "Abuse" means any incident by the petitioner against the  
25 respondent or the respondent's household members resulting in (1) physical harm; (2) severe  
26 emotional distress; (3) bodily injury or assault; (4) a threat causing imminent fear of bodily injury;  
27 (5) criminal trespass; (6) criminal damage to property; (7) repeatedly driving by a residence or  
28 work place; (8) telephone harassment; (9) stalking; (10) harassment; (11) harm or threatened harm  
29 to children in any manner set forth above.

30  
31  3. The petitioner shall not ask or cause other persons to abuse the respondent or the  
32 respondent's household members.

33  
34  4. The petitioner shall not go within \_\_\_\_\_ yards of the respondent's home or  
35 school or work place. The petitioner shall not go within \_\_\_\_\_ yards of the respondent at all  
36 times except \_\_\_\_\_. If at a public place, such as a store, the  
37 petitioner shall not go within \_\_\_\_\_ yards of the respondent.

38  
39  5. The petitioner shall not post or cause another to post anything about the respondent  
40 on any form of social media, including, but not limited to, Facebook, Twitter, Instagram, or  
41 Snapchat. This prohibition includes posts about the respondent's family members, significant  
42 other, and children.

43  
44  6. \_\_\_\_\_ (*first and last name of party*) shall have  
45 temporary physical custody of the following child(ren):  
46



1  
2  14. Other: \_\_\_\_\_.

3  
4  15. While this order of protection is in effect, the respondent should refrain from any  
5 act that would cause the petitioner to violate this order. This provision is not intended to and does  
6 not create a mutual order of protection. Under NMSA 1978, Section 40-13-6(D), only the  
7 restrained party can be arrested for violation of this order.  
8

9 **HEARING**

10  
11 IT IS FURTHER ORDERED that the parties shall appear in the \_\_\_\_\_ Judicial  
12 District Court, Room \_\_\_\_\_, at \_\_\_\_\_, before \_\_\_\_\_, at \_\_\_\_\_  
13 (a.m.) (p.m.) on \_\_\_\_\_ (*date*) for hearing on whether an extended order of  
14 protection against domestic abuse will be issued. Either party may bring witnesses or evidence and  
15 may be represented by counsel at this hearing. The petitioner may file a Response to the Petition  
16 for Order of Protection from Domestic Abuse, *see* Form 4-962 NMRA, on or before the hearing.  
17 If the petitioner fails to attend this hearing, an extended order may be entered by default against  
18 the petitioner and a bench warrant may be issued for the petitioner's arrest. If the respondent  
19 willfully fails to appear at this hearing, the counter-petition may be dismissed. This order remains  
20 in force until \_\_\_\_\_, \_\_\_\_\_.

21  
22 **If an order of protection is entered, the restrained party is prohibited from receiving,**  
23 **transporting, or possessing a firearm or destructive device while the order of protection is in**  
24 **place.** If at the hearing the court finds that the restrained party presents a credible threat to the  
25 physical safety of the protected party, the court shall order the restrained party (a) to immediately  
26 deliver any firearm in the restrained party's possession, care, custody, or control to a law  
27 enforcement agency, law enforcement officer, or federal firearms licensee while the order of  
28 protection is in effect, and (b) to refrain from purchasing, receiving, or possessing, or attempting  
29 to purchase, receive, or possess any firearm while the order of protection is in effect.  
30

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

33  
34 **ENFORCEMENT OF ORDER**

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

39 **SERVICE AND NOTICE TO LAW ENFORCEMENT AGENCIES**

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41 Upon the signing of this order by a district court judge, a law enforcement officer shall  
42 serve on the petitioner a copy of this order and a copy of the counter-petition.  
43

44 **A LAW ENFORCEMENT OFFICER SHALL USE ANY LAWFUL MEANS TO**  
45 **ENFORCE THIS ORDER.**  
46

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

3

4

5 \_\_\_\_\_  
(Signed)

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

6

7 \_\_\_\_\_  
(Title)

8

9 **SO ORDERED:**

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12 \_\_\_\_\_  
District Judge

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

13

14

USE NOTES

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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 petitioner of the content of the temporary order will also suffice to bind the petitioner to comply with the order. *Territory of New Mexico v. Clancy*, 1894-NMSC-012, 7 N.M. 580, 37 P. 1108.

[Approved, 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; as amended by Supreme Court Order No. 20-8300-010, effective for all cases pending or filed on or after December 31, 2020; as amended by Supreme Court Order No. S-1-RCR-2023-00049, effective for all cases filed on or after December 31, 2025.]