

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

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

3 STATE OF NEW MEXICO

4 COUNTY OF \_\_\_\_\_

5 \_\_\_\_\_ JUDICIAL DISTRICT

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

7 v. No. \_\_\_\_\_

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

9 **TEMPORARY ORDER OF PROTECTION**

10 **AND ORDER TO APPEAR**

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

14 [ ] 1. [~~Respondent~~] The respondent shall not write to, talk to, visit, or contact the  
15 petitioner in any way except through the petitioner's lawyer, if the petitioner has a lawyer.

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

1  3. ~~[Respondent]~~ The respondent shall not ask or cause other persons to abuse the  
2 petitioner or the petitioner's household members.

3  4. ~~[Respondent]~~ The respondent shall not go within \_\_\_\_\_ yards of the  
4 petitioner's home or school or work place. ~~[Respondent]~~ The respondent shall not go within  
5 \_\_\_\_\_ yards of the petitioner at all times except  
6 \_\_\_\_\_ . If at a public place, such as a store, the  
7 respondent shall not go within \_\_\_\_\_ yards of the petitioner.

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

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

14	Child's Name	Date of Birth
15	_____	_____
16	_____	_____

17  ~~[6:]~~7. With respect to the child(ren) named in the preceding paragraph,  
18 \_\_\_\_\_ (*first and last name of ~~[parent]~~ party*) shall have:

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

21  B. Contact with the child(ren), subject to: \_\_\_\_\_  
22 \_\_\_\_\_ .

1  ~~[7-]~~8. Neither party shall remove the child(ren) named in ~~[the preceding]~~ paragraph 6  
2 from the ~~[State]~~ state of New Mexico or disenroll the child(ren) from the child(ren)'s present  
3 school during the period of this temporary order of protection.

4  ~~[8-]~~9. The court may decide temporary child and interim support at the hearing listed  
5 below. Both parties shall bring to the hearing proof of income in the form of the two latest pay  
6 stubs or the federal tax returns from the previous year, proof of ~~[work-related]~~ work-related day-  
7 care costs, and proof of medical insurance costs for the child(ren).

8  ~~[9-]~~10.

9  A. ~~[Respondent]~~ The respondent is ordered to immediately leave the residence  
10 at \_\_\_\_\_ and to not return until further court order.

11  B. Law enforcement officers are hereby ordered to evict the respondent from  
12 the \_\_\_\_\_ residence at  
13 \_\_\_\_\_.

14  C. ~~[Respondent]~~ The respondent is ordered to surrender all keys to the  
15 residence to law enforcement officers.

16  ~~[10-]~~11. Law enforcement officers or \_\_\_\_\_ shall  
17 accompany  the respondent  the petitioner to remove essential tools (*as specified in No. ~~[13]~~*  
18 14), clothing, and personal belongings from the residence at  
19 \_\_\_\_\_.

20  ~~[11-]~~12. Neither party shall transfer, hide, add debt to, sell, or otherwise dispose of  
21 the other's property or the joint property of the parties except in the usual course of business or for  
22 the necessities of life. The parties shall account to the court for all ~~[such]~~ changes to property made

1 after the order is served or communicated to the party. Neither party shall disconnect the utilities  
2 of the other party's residence.

3  ~~[12.]~~13. This order supersedes any inconsistent prior order in Cause No.  
4 \_\_\_\_\_ and any other prior domestic relations order and domestic violence  
5 restraining orders between these two parties.

6  ~~[13.]~~14. Other:  
7 \_\_\_\_\_

8  ~~[14.]~~15. While this order of protection is in effect, the petitioner should refrain from  
9 any act that would cause the respondent to violate this order. This provision is not intended to and  
10 does not create a mutual order of protection. Under NMSA 1978, Section 40-13-6(D)~~[NMSA~~  
11 ~~1978]~~, only the restrained party can be arrested for violation of this order.

12 **HEARING**

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

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

9 ~~[ ]~~ **DO NOT BRING ANY CHILDREN TO THE HEARING WITHOUT PRIOR**  
10 **PERMISSION OF THE COURT.**

11 **ENFORCEMENT OF ORDER**

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

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

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

17 **A LAW ENFORCEMENT OFFICER SHALL USE ANY LAWFUL MEANS TO**  
18 **ENFORCE THIS ORDER.**

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

21 \_\_\_\_\_

22 *(Signed)*

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

23 \_\_\_\_\_

