

[NEW MATERIAL]

1 **4-963.**

2 *[Standard simplified temporary order prohibiting domestic abuse,*
3 *Family Violence Protection Act, Sections 40-13-1 to 40-13-8 NMSA 1978.]*

4
5 _____ JUDICIAL DISTRICT COURT
6 COUNTY OF _____
7 STATE OF NEW MEXICO

8
9
10 _____
11 Petitioner

12
13 v. No. _____

14
15 _____
16 Respondent

17
18 **TEMPORARY ORDER OF PROTECTION**
19 **AND ORDER TO APPEAR**

20
21 The court has reviewed the sworn petition alleging domestic abuse. The court having
22 considered the petition, **FINDS** that the court has jurisdiction, that there is probable cause
23 to believe that an act of domestic abuse has occurred and that petitioner or a household
24 member will suffer immediate and irreparable injury, loss or damage unless the court
25 enters this order. The court **ORDERS**:

26
27 [] 1. Respondent shall not write to, talk to, visit or contact the petitioner in any
28 way except through petitioner's lawyer, if petitioner has a lawyer;

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

38
39 [] 3. Respondent shall not ask or cause other persons to abuse the petitioner or
40 the petitioner's household members.

41
42 [] 4. Respondent shall not go within _____ yards of the petitioner's home or
43 school or work place. Respondent shall not go within _____ yards of the
44 petitioner at all times except _____.
45 _____. If at a public place, such as a
46 store, respondent shall not go within _____ yards of petitioner.

47
48 [] 5. _____ shall have temporary physical custody of
49 the following child(ren): _____
50 _____

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- 1 _____
2
3 6. With respect to the child(ren) named in the preceding paragraph,
4 respondent petitioner shall have:
5
6 A. No contact with the child(ren) until further order of this
7 court and shall stay _____ yards away from the child(ren)'s school.
8
9 B. Contact with the child(ren), subject to:
10 _____
11 _____
12 _____
13
14 7. The court shall decide temporary child and interim support at the hearing
15 listed below. Both parties shall bring to the hearing proof of income in the
16 form of the two latest pay stubs or the federal tax returns from the previous
17 year, proof of work related day-care costs and proof of medical insurance
18 costs for the child(ren).
19
20 8.
21 A. Respondent is ordered to immediately leave the residence at
22 _____, and to not return until
23 further court order.
24
25 B. Law enforcement officers are hereby ordered to evict
26 respondent from the residence at _____
27 _____.
28
29 C. Respondent is ordered to surrender all keys to the residence
30 to law enforcement officers.
31
32 9. Law enforcement officers or _____ shall assist respondent to
33 remove essential tools (as specified in No. 12), clothing, and personal
34 belongings from the residence at
35 _____
36
37 10. Neither party shall transfer, hide, add debt to, sell or otherwise dispose of
38 the other's property or the joint property of the parties except in the usual
39 course of business or for the necessities of life. The parties shall account to
40 the court for all such changes to property made after the order is served or
41 communicated to the party. Neither party shall disconnect the utilities of
42 the other party's residence.
43
44 11. This order supersedes inconsistent prior order in Cause No.
45 _____ and any other prior domestic relations order and
46 domestic violence restraining orders between these two parties.
47
48 12. Other: _____
49 _____

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_____.

[] 13. Petitioner shall refrain from any affirmative act the purpose or effect of which is to cause respondent to violate this order.

14. **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 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
_____, _____.

[] **DO NOT BRING ANY CHILDREN TO THE HEARING.**

15. **ENFORCEMENT OF ORDER**

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

16. **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

[NEW MATERIAL]

USE NOTE

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.

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 November 1, 2000.]

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