

[NEW MATERIAL]

1 4-966

2 *[Standard simplified order of protection, Family Violence*  
3 *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

14 v.

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

15  
16

17 \_\_\_\_\_  
18 Respondent.

19  
20

21 **ORDER OF PROTECTION**  
22 **AGAINST THE PETITIONER<sup>1</sup>**

23  
24  
25  
26  
27

*This order is an order of protection under 18 U.S.C.  
Section 922, 18 U.S.C. Section 2265 and Section  
40-13-6(D) NMSA 1978. This order shall be accorded full  
faith and credit by the courts of every state and Indian  
Tribe and shall be enforced as if it were the order of such  
other State or Tribe.*

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32

THIS MATTER came before the court on the \_\_\_\_\_ day of  
\_\_\_\_\_, \_\_\_\_\_ through a hearing on the  
respondent's request in a written pleading for an order  
prohibiting domestic abuse.

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34  
35  
36

The court, having determined that it has legal jurisdiction  
over the parties and the subject matter, **FINDS, CONCLUDES AND  
ORDERS:**

37  
38

*(check only applicable paragraphs)*

39  
40

**1. NOTICE AND APPEARANCES**

41  
42  
43  
44  
45  
46  
47  
48

- Respondent was present.
- Respondent was represented by counsel.
- Petitioner was present.
- Petitioner was represented by counsel.
- Petitioner was properly served with a copy of the  
respondent's cross-petition, counter-petition or  
other pleading.

49  
50

Petitioner received actual notice of the hearing and had  
an opportunity to participate in the hearing.<sup>2</sup>

[NEW MATERIAL]

1  
2  
3 **2. CONSEQUENCES TO ENTRY OF ORDER OF PROTECTION**  
4

5 Violation of an order of protection by the petitioner  
6 can have serious consequences, including:  
7

- 8 A. If you violate the terms of this order, you may be  
9 charged with a misdemeanor, which is punishable  
10 by imprisonment of up to 364 days and a fine of  
11 up to \$1,000.  
12  
13 B. If you are an "intimate partner" of respondent (the  
14 spouse of respondent, an individual who lives  
15 with or has lived with respondent, or if you and  
16 respondent have had a child together), federal law  
17 prohibits you from possessing or transporting  
18 firearms or ammunition while this order is in  
19 effect. If you have a firearm or ammunition, you  
20 should immediately dispose of the firearm or  
21 ammunition. Violation of this law is a federal  
22 crime punishable by imprisonment for up to 10  
23 years and a fine of up to \$250,000.  
24  
25 C. If you are not a citizen of the United States, entry  
26 of this order may have a negative effect on your  
27 application for residency or citizenship.  
28

29 **3. FINDING OF DOMESTIC ABUSE**  
30

31 An act of domestic abuse was committed by petitioner  
32 that necessitates an order of protection of respondent.  
33

34 **4. DOMESTIC ABUSE PROHIBITED**  
35

36 [ ] The petitioner shall not abuse the respondent or  
37 members of respondent's household. "Abuse"  
38 means any incident by petitioner against  
39 respondent or another household member  
40 resulting in (1) physical harm; (2) severe  
41 emotional distress; (3) bodily injury or assault;  
42 (4) a threat by petitioner causing imminent fear of  
43 bodily injury to respondent or any household  
44 member; (5) criminal trespass; (6) criminal  
45 damage to property; (7) repeatedly driving by  
46 respondent's or a household member's residence  
47 or work place; (8) telephone harassment; (9)  
48 stalking; (10) harassment; or (11) harm or  
49 threatened harm to children in any manner set

[NEW MATERIAL]

1           forth above.

2  
3       [ ]   Petitioner shall not ask or cause other persons to  
4           abuse the respondent or any other household  
5           members.

6  
7   **5. CONTACT PROHIBITIONS**

8  
9       [ ]   Petitioner shall stay \_\_\_\_\_ yards away from  
10           respondent, respondent's home and respondent's  
11           workplace at all times, unless at a public place,  
12           where the petitioner shall remain \_\_\_\_\_  
13           yards away from the respondent except as  
14           specifically permitted by this order.

15  
16       [ ]   Petitioner shall not telephone, talk to, visit or  
17           contact the respondent in any way except as  
18           follows:

19  
20           1.    The parties may contact each other by  
21                telephone regarding medical emergencies of  
22                minor children;

23  
24           2.    \_\_\_\_\_  
25                \_\_\_\_\_  
26                \_\_\_\_\_  
27                \_\_\_\_\_.

28  
29       [ ]   The parties may attend joint counseling sessions  
30           at the counselor's discretion.

31  
32       *(Unless the court has entered an order sealing the respondent's address, include*  
33       *address of residence and employment for the respondent.)*

34  
35       **Respondent's addresses:**

36           \_\_\_\_\_ (home address)  
37           \_\_\_\_\_ (work address)  
38           \_\_\_\_\_ (city)  
39           \_\_\_\_\_ (if applicable,  
40                    tribe or  
41                    pueblo)  
42           \_\_\_\_\_ (state and zip  
43                    code)

44  
45   **6. COUNSELING**

46  
47       [ ]   The petitioner shall attend counseling at  
48           \_\_\_\_\_, contacting that office  
49           within five (5) days. The petitioner shall

[NEW MATERIAL]

1 participate in, attend and complete counseling as  
2 recommended by the named agency.

3  
4  The respondent shall attend counseling at  
5 \_\_\_\_\_, contacting that office  
6 within five (5) days. The respondent shall  
7 participate in, attend and complete counseling as  
8 recommended by the named agency.

9  
10  The  petitioner  respondent shall report to  
11 \_\_\_\_\_, for a  drug [and]   
12 alcohol screen by \_\_\_\_\_, \_\_\_\_\_ (date)  
13 with the results returned to this court.

14  
15  Other counseling requirements:  
16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_.

19  
20 **7. PROVISIONS RELATING TO CHILDREN**

21  
22  The court's findings regarding the minor  
23 child(ren) are addressed in the attached  
24 Counseling, Custody, Support and Division of  
25 Property Order<sup>3</sup> of this Mutual Order of  
26 Protection.

27  
28 **8. PROVISIONS RELATING TO SUPPORT**

29  
30  Temporary support shall be paid by petitioner to  
31 respondent in the amount of \$\_\_\_\_\_ per  
32 month payable \_\_\_\_\_.

33  
34  Petitioner shall provide suitable alternative  
35 housing to respondent and any child(ren) to  
36 whom the petitioner owes a legal obligation of  
37 support. This shall be provided as follows:  
38 \_\_\_\_\_  
39 \_\_\_\_\_  
40 \_\_\_\_\_.

41  
42 **9. PROPERTY, DEBTS AND PAYMENTS OF MONEY**

43  
44  Neither party shall transfer, conceal, encumber or  
45 otherwise dispose of the other party's property or  
46 the joint property of the parties except in the  
47 usual course of business or for the necessities of  
48 life. Each party shall account to the court for all  
49 such transfers, encumbrances and expenditures

[NEW MATERIAL]

1                   made by that party after the order is entered.  
2

3                   This means that you shall not give away, hide,  
4                   add debt to, sell or pawn the property.  
5

6           [ ]   The parties' property shall be temporarily  
7           distributed as set forth in the attached Counseling,  
8           Custody, Support and Division of Property  
9           Order<sup>3</sup>.

10  
11  
12   **10.   RESPONDENT SHALL NOT CAUSE VIOLATION**

13  
14           Respondent shall refrain from any act the purpose or  
15           effect of which is to cause an act of non-compliance by  
16           petitioner.<sup>4</sup>  
17

18   **11.   ADDITIONAL ORDERS**

19  
20           **IT IS FURTHER ORDERED<sup>5</sup>:**  
21  
22           \_\_\_\_\_  
23           \_\_\_\_\_  
24           \_\_\_\_\_  
25           \_\_\_\_\_.

26  
27   **12.   EFFECTIVE DATE OF ORDER; EXTENSION; MODIFICATION**

28  
29           This order is effective upon filing with the clerk of the  
30           court.  
31

32           This order [with the exception of the orders in the  
33           attached Counseling, Custody, Support and Division of  
34           Property Order<sup>3</sup>, if any] shall continue until  
35           \_\_\_\_\_ (date), or until modified or  
36           rescinded by the court.  
37

38   **13.   NOTICE TO LAW ENFORCEMENT AGENCIES**

39  
40           **ANY LAW ENFORCEMENT OFFICER SHALL USE ANY LAWFUL**  
41           **MEANS TO ENFORCE THIS ORDER.**  
42

43           [ ]   The petitioner is ordered to surrender all keys to  
44           the residence to law enforcement officers.  
45

46           [ ]   Law enforcement officers or  
47           \_\_\_\_\_ shall be present  
48           during any property exchange.  
49

[NEW MATERIAL]

This order supersedes prior orders in  
\_\_\_\_\_ County, State of \_\_\_\_\_,  
Cause No. \_\_\_\_\_ to the extent  
that there are contradictory provisions.

**14. NOTICE TO PARTIES**

This order does not serve as a divorce and does not  
permanently resolve child custody or support issues.

**15. RECOMMENDATIONS**

I have:

- reviewed the pleading for order of protection;
  - conducted hearings on the merits of the request;
  - after notice and hearing as indicated in this order
- I prepared this order as my recommendation to  
the district court judge regarding disposition of  
requests for order of protection.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Title

Court's telephone number:  
\_\_\_\_\_

**SO ORDERED.**

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

\_\_\_\_\_  
Date

A copy of this order was  hand delivered  faxed   
mailed to  petitioner  petitioner's counsel on  
\_\_\_\_\_ (date).<sup>6</sup>

A copy of this order was  hand delivered  faxed   
mailed to  
 respondent  respondent's counsel on  
\_\_\_\_\_ (date).

[NEW MATERIAL]

Signed

\_\_\_\_\_  
Title

USE NOTES

1. This order of protection is directed only against the petitioner. The court should use this form only when respondent has filed a counter-petition and the court determines that the counter-petition should be granted. So called mutual orders of protection binding on the respondent as well as the petitioner are not entitled to full faith and credit unless certain procedural requirements are met. *See* 18 U.S.C. Section 2261(c). To assure compliance with federal requirements, the court normally should enter separate orders unless the requirements for entry of a mutual order of protection (Form 4-966A) are met. Form 4-965 provides an appropriate order of protection against respondent. Form 4-970 may be used in appropriate cases when full faith and credit is not required. Form 4-971 may be used if the petitioner waives the right to a hearing by the court as to whether or not abuse has occurred.
2. This order may be entered only after a hearing of which petitioner received actual notice and at which petitioner had an opportunity to participate if 18 U.S.C. Section 922 is to apply to this order.
3. See Form 4-967 for the Counseling, Custody, Support and Division of Property Order.
4. A violation of this provision may result in a finding of contempt of court, punishable by fine, imprisonment or both.



[NEW MATERIAL]

1 statutory language in the portion of the Final Order  
2 describing the power of a law enforcement officer to make  
3 a warrantless arrest for the misdemeanor crime (Section  
4 40-13-6(D) NMSA 1978), of violating the Final Order of  
5 Protection. The Committee substituted more general  
6 language, which does not prejudice the constitutional issue.  
7

8 The general provisions of the order of protection,  
9 including injunctive orders "shall continue until modified or  
10 rescinded . . . or until the court approves a subsequent  
11 consent agreement. . . ." Section 40-13-6(B) NMSA 1978.  
12 In contrast, "[a]n order of protection . . . involving custody  
13 or support shall be effective for a fixed period of time not to  
14 exceed six months". *Id.* "The custody or support "order  
15 may be extended for good cause upon motion . . . for an  
16 additional period of time not to exceed six months", *id.*,  
17 unless "the order supersedes or alters prior orders of a  
18 court" pertaining to child custody or child support. *See*  
19 Section 40-13-5(C) NMSA 1978. In the latter situation,  
20 "the court may enter an initial order of protection, but the  
21 portion of the order dealing with child custody or child  
22 support will then be transferred to the court that has or  
23 continues to have jurisdiction over the pending or prior  
24 custody or support action". *Id.*

25 DBD::DB2::st execute failed: [IBM][CLI  
26 Driver][DB2/6000] SQL0530N The insert or update value  
27 of the FOREIGN KEY  
28 "DBUSER.BILLDETAIL.SQL980508102800170" is not  
29 equal to any value of the parent key of the parent table.  
30 SQLSTATE=23503  
31