

[NEW MATERIAL]

1 4-971

2 \_\_\_\_\_ JUDICIAL DISTRICT COURT  
3 COUNTY OF \_\_\_\_\_  
4 STATE OF NEW MEXICO

5 \_\_\_\_\_  
6  
7 Petitioner

8  
9 v.

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

10 \_\_\_\_\_  
11  
12 Respondent.

13  
14 **STIPULATED ORDER OF PROTECTION**  
15 **AGAINST RESPONDENT<sup>1</sup>**

16 *[NON-REGISTRY]*

17 *This is not an order of protection under 18 U.S.C. Section*  
18 *922 or 18 U.S.C. Section 2265.*

19  
20 **THIS MATTER** came before the court on the \_\_\_\_\_ day of  
21 \_\_\_\_\_, \_\_\_\_\_, upon agreement of the parties to  
22 the entry of an order of protection against the respondent.

23  
24 The court, having determined that it has legal jurisdiction  
25 over the parties and the subject matter, **FINDS, CONCLUDES AND**  
26 **ORDERS:**

27  
28 *(check only applicable paragraphs)*

29  
30 **1. NOTICE AND APPEARANCES**

31  
32 This order was entered on stipulation of the parties.<sup>2</sup>

33  
34 **2. EFFECT OF STIPULATION TO ORDER OF PROTECTION.**

35  
36 Violation of a stipulated order of protection can have  
37 serious consequences, including:

38  
39 **A.** If you violate the terms of this order, you may be  
40 charged with a misdemeanor, which is punishable  
41 by imprisonment of up to 364 days and a fine of  
42 up to \$1,000.

43  
44 **B.** You may be found to be in contempt.

45  
46 **C.** If you are not a citizen of the United States, entry  
47 of this order may have a negative effect on your  
48 application for residency or citizenship.

49  
50 **3. DOMESTIC ABUSE PROHIBITED**

[NEW MATERIAL]

1 The respondent shall not abuse the petitioner or  
2 members of petitioner's household.  
3

4 "Abuse" means any incident by respondent against  
5 petitioner or another household member resulting in  
6 (1) physical harm; (2) severe emotional distress; (3)  
7 bodily injury or assault; (4) a threat by respondent  
8 causing imminent fear of bodily injury to petitioner or  
9 any household member; (5) criminal trespass; (6)  
10 criminal damage to property; (7) repeatedly driving by  
11 petitioner's or a household member's residence or work  
12 place; (8) telephone harassment; (9) stalking; (10)  
13 harassment; or (11) harm or threatened harm to  
14 children in any manner set forth above.  
15

16 The respondent shall not ask or cause other persons to  
17 abuse the petitioner or any other household members.  
18

19 **4. CONTACT PROHIBITIONS**

20  
21  Respondent shall stay \_\_\_\_\_ yards away  
22 from petitioner, petitioner's home and petitioner's  
23 workplace at all times, unless at a public place,  
24 where the respondent shall remain \_\_\_\_\_  
25 yards away from the petitioner except as  
26 specifically permitted by this order.  
27

28  Respondent shall not telephone, talk to, visit or  
29 contact the petitioner in any way except as  
30 follows:  
31

32 1. The parties may contact each other by  
33 telephone regarding medical emergencies of  
34 minor children;

35  
36 2. \_\_\_\_\_  
37 \_\_\_\_\_  
38 \_\_\_\_\_  
39 \_\_\_\_\_.

40  
41 *(Unless the court has entered an order sealing a party's address, include*  
42 *address of residence and employment for petitioner.)*  
43

44 **Petitioner's addresses**

45 \_\_\_\_\_ (home address)  
46 \_\_\_\_\_ (work address)  
47 \_\_\_\_\_ (city)  
48 \_\_\_\_\_ (if applicable,  
49 \_\_\_\_\_ tribe or

[NEW MATERIAL]

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\_\_\_\_\_ *pueblo)*  
*(state and zip*  
*code)*

**5. COUNSELING**

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

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

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

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

Other counseling requirements:  
\_\_\_\_\_  
\_\_\_\_\_.

**6. CUSTODY**

A. The [petitioner] [respondent] shall have temporary legal custody of the following child(ren):  
\_\_\_\_\_  
\_\_\_\_\_.

B. [Petitioner] [Respondent] shall have physical custody of the above child(ren) at all times, except that [respondent] [petitioner] shall have contact as follows:

No contact, and stay \_\_\_\_\_ yards from the child(ren)'s school at all times.

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Contact at the following specified times:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

The children shall be exchanged for visitation at \_\_\_\_\_ on \_\_\_\_\_.

Referred to \_\_\_\_\_ for evaluation or mediation, with appropriate safeguards to protect the parties and allow them to mediate fairly. Contact with the child(ren) is deferred until findings of mediator or counselor.

C. Custody, visitation and child support will be continued in accordance with the court order in \_\_\_\_\_ County, State of \_\_\_\_\_, Cause No. \_\_\_\_\_.

D. Other  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

E. The [parties] [respondent] [petitioner] shall not hide the child(ren) from the other parent or permanently remove the child(ren) from the State of New Mexico. Neither parent should speak negatively about the absent parent in front of the children or question the child(ren) about the other parent.

F. Each parent shall immediately notify the other parent about any emergency condition of the child(ren).

**7. PROVISIONS RELATING TO SUPPORT**

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

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1           [ ] Respondent shall provide suitable alternative  
2           housing to petitioner and any children to whom  
3           the respondent owes a legal obligation of support.  
4           This shall be provided as follows:

5           \_\_\_\_\_  
6           \_\_\_\_\_  
7           \_\_\_\_\_.

8  
9           [ ] All child support payments shall be made by  
10          check or money order made payable to and sent to

11          \_\_\_\_\_.

12  
13          [ ] A separate wage withholding order shall be  
14          entered and directed to (*employer*)

15          \_\_\_\_\_, at  
16          \_\_\_\_\_ (*address*).

17  
18       **8. PROPERTY, DEBTS, PAYMENTS OF MONEY**

19  
20          [ ] Neither party shall transfer, conceal, encumber or  
21          otherwise dispose of the other party's property or  
22          the joint property of the parties except in the  
23          usual course of business or for the necessities of  
24          life. Each party shall account to the other party  
25          for all such transfers, encumbrances and  
26          expenditures made by that party after the order is  
27          entered.

28  
29          This means that you shall not give away, hide,  
30          add debt to, sell or pawn the property.

31  
32          [ ] [Petitioner] [Respondent] shall have temporary  
33          physical custody of the following physical assets<sup>3</sup>:

34          \_\_\_\_\_  
35          \_\_\_\_\_  
36          \_\_\_\_\_.

37  
38       **9. ADDITIONAL ORDERS**

39  
40       **IT IS FURTHER ORDERED<sup>4</sup>:**

41       \_\_\_\_\_  
42       \_\_\_\_\_  
43       \_\_\_\_\_  
44       \_\_\_\_\_  
45       \_\_\_\_\_.

46  
47       **10. PETITIONER SHALL NOT CAUSE VIOLATION**

48       Petitioner shall refrain from any act the purpose or  
49

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1 effect of which is to cause an act of non-compliance by  
2 respondent.<sup>5</sup>  
3

4 **11. EFFECTIVE DATE OF ORDER; EXTENSION; MODIFICATION**

5  
6 This order is effective upon filing with the clerk of the  
7 court.  
8

9 This order [with the exception of the orders in the  
10 Counseling, Custody, Support and Division of  
11 Property Order<sup>6</sup>, if any] shall continue until  
12 \_\_\_\_\_ (date), or until modified or  
13 rescinded by the court.  
14

15 **12. NOT TO BE ENTERED IN STATE OR FEDERAL REGISTRY**

16  
17 This order shall not be entered into a national, state or  
18 tribal domestic violence registry or other national  
19 information system.  
20

21  
22 **13. NOTICE TO LAW ENFORCEMENT AGENCIES**

23  
24 **ANY LAW ENFORCEMENT OFFICER SHALL USE ANY LAWFUL**  
25 **MEANS TO ENFORCE THIS ORDER.**  
26

27  The [petitioner] [respondent] is ordered to  
28 surrender all keys to the residence to law  
29 enforcement officers.  
30

31  Law enforcement officers or  
32 \_\_\_\_\_ shall be present  
33 during any property exchange.  
34

35  This order supersedes prior orders in  
36 \_\_\_\_\_ County, State of \_\_\_\_\_,  
37 Cause No. \_\_\_\_\_ to the extent  
38 that there are contradictory provisions.  
39

40 **14. NOTICE TO PETITIONER AND RESPONDENT**

41  
42 This order does not serve as a divorce and does not  
43 permanently resolve child custody or support issues.  
44

45 **15. AGREEMENT OF PARTIES**

46  
47 Without admitting that domestic abuse has occurred,  
48 the parties stipulate to the entry of this order.  
49



[NEW MATERIAL]

1 \_\_\_\_\_ (date).<sup>7</sup>

2  
3 [ ] A copy of this order was [ ] hand delivered [ ] faxed [ ]  
4 mailed to  
5 [ ] petitioner's [ ] petitioner's counsel on  
6 \_\_\_\_\_ (date).

7  
8  
9  
10 \_\_\_\_\_  
11 Signed

12 USE NOTES

- 13  
14 1. This form may be used if the parties  
15 have stipulated to the entry of an order  
16 of protection against the respondent  
17 without any finding of abuse by the  
18 court. This is not an order of protection  
19 under 18 U.S.C. Section 922.

20  
21 This order is not entitled to full faith  
22 and credit under 18 U.S.C. Sections  
23 2265(c) and 2266 and Article IV of the  
24 Constitution of the United States. If  
25 enforcement, other than that provided  
26 for by the Family Violence Protection  
27 Act, Sections 40-13-1 to 40-13-8  
28 NMSA 1978, is appropriate there are  
29 three orders which are entitled to full  
30 faith and credit each of which requires a  
31 finding of abuse. Form 4-965 is used  
32 for an order of protection against  
33 respondent and Form 4-966 is used for  
34 an order of protection against the  
35 petitioner. When a petition and a  
36 counter-petition have been filed and the  
37 court finds abuse by both parties, the  
38 court may either use both Forms 4-965  
39 and 4-966 or the court may use Form 4-  
40 966A. See also Section 40-13-6(D)  
41 NMSA 1978 for the requirements of  
42 state law relating to full faith and  
43 credit. This order is binding on the  
44 respondent as well as the petitioner.

- 45  
46 2. This order may be entered only upon  
47 stipulation of the parties without a  
48 hearing. If a hearing is held on the  
49 issue of abuse, use Form 4-965, 4-966

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1 or 4-966A, as appropriate. If a hearing  
2 is held on any issue other than abuse,  
3 the Custody, Support and Division of  
4 Property Order, Form 4-967, must be  
5 used.

- 6
- 7 3. List personal assets. A separate schedule  
8 may be attached to this order.  
9
- 10 4. If appropriate, an order providing for  
11 restitution may be included in this  
12 paragraph.  
13
- 14 5. A violation of this provision may result  
15 in a finding of contempt of court,  
16 punishable by fine, imprisonment or  
17 both. Section 40-13-6 NMSA 1978  
18 also provides that a person convicted of  
19 violating an order of protection enter  
20 under the Family Violence Protection  
21 Act is guilty of a misdemeanor which is  
22 punishable by imprisonment of up to  
23 364 days and a fine of up to \$1,000.  
24
- 25 6. See Form 4-967 for the Counseling,  
26 Custody, Support and Division of  
27 Property Order.  
28
- 29 7. The respondent may be served at the  
30 time this order is issued. If the  
31 respondent is not present at the time  
32 this order is issued, service upon the  
33 respondent shall be made by delivering  
34 a copy to the respondent. See Section  
35 40-13-6(A) NMSA 1978.  
36

37 [Approved, effective November 1, 1999 until November 1,  
38 2000.]  
39

40 COMMITTEE COMMENT  
41

42 This Stipulated Order of Protection against  
43 Respondent is not the same as an Order of Protection (Form  
44 4-965). This order provides two and sometimes three fewer  
45 protections to the parties than does the Order of Protection  
46 against Respondent, Form 4-965. The decreased protection  
47 is the result of the fact that the order is not based upon a  
48 finding of abuse, but is entered without reference to  
49 whether abuse has occurred. In addition a hearing is not

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1 held on whether abuse has occurred. Nonetheless, there  
2 may be occasions when the parties and the court are  
3 satisfied that this stipulated order provides adequate relief  
4 to the parties.

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

23  
24 **Factual Distinction Between Order of Protection and Stipulated Order of Protection**

25  
26 The core factual difference between the Order of  
27 Protection against Respondent, Form 4-965, and this  
28 Stipulated Order of Protection against Respondent is that  
29 the former requires the court to make findings that  
30 respondent committed an act of domestic abuse. In  
31 contrast, this Stipulated Order of Protection against  
32 Respondent is entered by the court with no finding of  
33 domestic abuse. It is based solely on the stipulation of the  
34 parties that, without respondent admitting to acts of abuse,  
35 each party is willing to have the order of protection entered  
36 against respondent without the necessity of a trial.

37  
38 **Stipulated Order of Protection is Entitled to Full Faith and Credit**

39  
40 The broad definition of a protective order in the  
41 federal full faith and credit statute, *see* 18 U.S.C. Section  
42 2266, is met by this stipulated order. If the court has  
43 jurisdiction and has provided respondent with valid notice  
44 and opportunity to be heard, the Stipulated Order Against  
45 Respondent will be entitled to full faith and credit. 18  
46 U.S.C. 2265(b).

47  
48 **Stipulated Order of Protection against Respondent Not Placed in any Federal, State**  
49 **or Tribal Registry**

[NEW MATERIAL]

1 New Mexico has a computerized registry of Orders of  
2 Protection available to law enforcement officials. The  
3 federal government also has a registry for Orders of  
4 Protection. Orders entered in the state registry are often  
5 forwarded to the federal registry. No statute mandates that  
6 all such orders be registered in the state registry or the  
7 federal registry. Placement of orders in the state or federal  
8 registry can have serious negative consequences for parties.  
9 The committee is of the view that parties (most often acting  
10 *pro se*) who stipulate to entry of a protection order without  
11 admitting abuse should not be subject to such  
12 consequences. For this reason, this form Stipulated Order  
13 of Protection against Respondent directs that the order not  
14 be entered in any national, state or tribal registry.

15  
16 **Brady Bill Firearm Ban Does Not Apply if There is no Hearing**

17  
18 The so-called "Brady Bill", 18 U.S.C. Section 922,  
19 prohibits a person who is the subject of a court order  
20 prohibiting abuse from possessing a firearm or ammunition  
21 if the order meets the requirements set forth in the act. The  
22 applicable provision does not require a finding of abuse, but  
23 merely an other that "explicitly prohibits the use of physical  
24 force against [an] intimate partner." 18 U.S.C. Section  
25 922(g)(8)(c)(ii).

26  
27 This Stipulated Order of Protection Against  
28 Respondent could qualify as a trigger for the federal firearm  
29 ban if a hearing is held prior to its entry. However, the act  
30 has a separate specific requirement that also must be met  
31 before the Brady Bill ban is effective: Only an Order that  
32 "was issued after a hearing of which such person received  
33 actual notice and at which such person had an opportunity  
34 to participate" will trigger the federal firearm ban. 18  
35 U.S.C. Section 922(g)(8)(A).

36 DBD::DB2::st execute failed: [IBM][CLI  
37 Driver][DB2/6000] SQL0530N The insert or update value  
38 of the FOREIGN KEY  
39 "DBUSER.BILLDETAIL.SQL980508102800170" is not  
40 equal to any value of the parent key of the parent table.  
41 SQLSTATE=23503  
42