

**[NEW MATERIAL]**

1 **4-973**

2 *[Standard simplified emergency order of protection,*  
3 *Family Violence Protection Act, Sections 40-13-3.2 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 **EMERGENCY ORDER OF PROTECTION AGAINST RESPONDENT**

18 The court has reviewed the sworn written statement for an emergency order of protection.  
19 The court having considered the statement, **FINDS** that the court has jurisdiction, that  
20 there is reasonable cause to believe that an act of domestic abuse has occurred and that  
21 petitioner or a household member will suffer immediate and irreparable injury, loss or  
22 damage unless the court enters this order. The court **ORDERS**:

23 **1. NO CONTACT**

- 24  
25  
26  
27  
28 A. Respondent shall not write to, talk to, visit or contact the petitioner in any  
29 way except through petitioner's lawyer, if petitioner has a lawyer;  
30  
31 B. Respondent shall not abuse the petitioner or the petitioner's household  
32 members in any way. "Abuse" means any incident by respondent against  
33 petitioner or another household member resulting in (1) physical harm; (2)  
34 severe emotional distress; (3) bodily injury or assault; (4) a threat causing  
35 imminent fear of bodily injury; (5) criminal trespass; (6) criminal damage to  
36 property; (7) repeatedly driving by a residence or work place; (8) telephone  
37 harassment; (9) stalking; (10) harassment; (11) harm or threatened harm to  
38 children in any manner set forth above;  
39  
40 C. Respondent shall not ask or cause other persons to abuse the petitioner or  
41 the petitioner's household members.  
42  
43 D. Respondent shall not go within \_\_\_\_\_ yards of the petitioner's home or  
44 school or work place.  
45

46 *(Unless the court has entered an order sealing petitioner's address, include*  
47 *address of residence and employment for petitioner)*

48 **Petitioner's addresses**

49 \_\_\_\_\_ (home address)  
50 \_\_\_\_\_ (work address)

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1 \_\_\_\_\_ (city)  
2 \_\_\_\_\_ (if applicable, tribe or  
3 \_\_\_\_\_ pueblo)  
4 \_\_\_\_\_ (state and zip code)  
5

6 **2. CHILDREN**

- 7  
8 A. Petitioner shall have temporary physical custody of the following  
9 child(ren):  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
12  
13 B. Respondent shall have not have visitation with the child(ren) during the  
14 term of this order.  
15  
16 C. Neither party shall remove the child(ren) from the State of New Mexico or  
17 allow anyone else to do so.  
18

19 **3. PROPERTY AND RESIDENCE**

- 20  
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 respondent  
26 from the residence at \_\_\_\_\_.  
27  
28  C. Respondent is ordered to surrender all keys to the residence to law  
29 enforcement officers.  
30  
31  D. Law enforcement officers or \_\_\_\_\_ shall assist  
32 respondent to remove essential tools, clothing, and personal  
33 belongings from the residence at  
34 \_\_\_\_\_.  
35  
36 E. Neither party shall transfer, hide, add debt to, sell or otherwise dispose of  
37 the other's property or the joint property of the parties except in the usual  
38 course of business or for the necessities of life. The parties shall account to  
39 the court for all such changes to property made after the order is served or  
40 communicated to the party. Neither party shall disconnect the utilities of  
41 the other party's residence.  
42

43 **4. OTHER ORDERS SUPERSEDED**

44  
45 This order supersedes any other domestic relations order and domestic violence  
46 restraining orders between these two parties.  
47

48 **5. PETITIONER'S DUTY**

**[NEW MATERIAL]**

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

**6. EFFECTIVE AND EXPIRATION DATE OF THIS ORDER**

A. Upon service of this order on respondent, this order becomes effective on respondent.

B. This order expires seventy-two (72) hours after the time approved by the judge or at 5:00 p.m. on the next business day of the court, whichever time is latest.

**7. PETITION FOR ORDER OF PROTECTION OR RESTRAINING ORDER**

Petitioner may file a petition for a temporary and permanent order of protection based on the same allegations of domestic abuse.

**8. 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.

**9. 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 shall carry out the other provisions of this order.

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

**SO ORDERED:**

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

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

\_\_\_\_\_  
JUDICIAL DISTRICT COURT  
COUNTY OF \_\_\_\_\_  
STATE OF NEW MEXICO

**AFFIDAVIT OF SERVICE**

I, \_\_\_\_\_ (*name of law enforcement officer*), being duly sworn, oath states that I am a certified law enforcement officer for \_\_\_\_\_ (*name of agency*) and I personally served the respondent with a signed copy of this Emergency Order of Protection Against Respondent upon the respondent in \_\_\_\_\_ County, New Mexico on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (*date*) at \_\_\_\_\_ (a.m.) (p.m.).

**[NEW MATERIAL]**

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\_\_\_\_\_  
*Signature of law enforcement officer*

\_\_\_\_\_  
Title and agency

Signed and sworn before me on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Notary public:

\_\_\_\_\_

My commission expires: \_\_\_\_\_.

**USE NOTE**

This Emergency Order of Protection Against Respondent requires an affidavit of service. *See* Section 40-13-3.2 NMSA 1978.

Personal service of the Emergency Order of Protection will assure that the Emergency Order is fully enforceable. It is possible that actual notice to the respondent of the content of the Emergency 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).

The person who serves the respondent with a copy of this order should also "immediately provide the petitioner with a signed copy of the order". Section 40-13-3.2(B)(3) NMSA 1978.

Although Section 40-13-3.2 NMSA 1978 authorizes the law enforcement order to prepare and sign an emergency order, a judge must sign this order.

[Approved, effective November 1, 1999 until November 1, 2000.]

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