

4-965. Order of protection, mutual, non-mutual.

Judicial County, New Mexico	Order of Protection	[] Amended Order
Case No. _____		

PROTECTED PARTY ([] PETITIONER [] RESPONDENT)	PROTECTED PARTY IDENTIFIERS
_____	_____

First Middle Last
And/or on behalf of minor family member(s): (list name and
DOB)

Date of Birth of Protected Party

Other Protected Persons/DOB

V.

RESTRAINED PARTY	RESTRAINED PARTY IDENTIFIERS																														
_____	<table border="1"><tr><td>SEX</td><td>RACE</td><td>DOB</td><td>HT</td><td>WT</td></tr><tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr><tr><td>EYES</td><td>HAIR</td><td colspan="3">SOCIAL SECURITY #</td></tr><tr><td> </td><td> </td><td colspan="3"><i>Not used in New Mexico</i></td></tr><tr><td colspan="2">DRIVERS LICENSE #</td><td>STATE</td><td colspan="2">EXP DATE</td></tr><tr><td colspan="2"> </td><td> </td><td colspan="2"> </td></tr></table>	SEX	RACE	DOB	HT	WT						EYES	HAIR	SOCIAL SECURITY #					<i>Not used in New Mexico</i>			DRIVERS LICENSE #		STATE	EXP DATE						
SEX	RACE	DOB	HT	WT																											
EYES	HAIR	SOCIAL SECURITY #																													
		<i>Not used in New Mexico</i>																													
DRIVERS LICENSE #		STATE	EXP DATE																												
First Middle Last	Distinguishing Features _____																														
Relationship to Protected Party: _____	_____																														
Restrained Party's Address	_____																														

CAUTION:

[] Weapon Involved

[] Credible Threat. Firearm Delivery Ordered.

THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter, and the Restrained Party has been provided with reasonable notice and opportunity to be heard.

[] Additional findings of this order follow on succeeding pages.

THE COURT HEREBY ORDERS:

[] That the above named Restrained Party be restrained from committing further acts of abuse or threats of abuse.

[] That the above named Restrained Party be restrained from any contact with the Protected Party.

[] Additional terms of this order are as set forth on succeeding pages.

The terms of this order shall be effective until

_____ , _____ .

WARNINGS TO THE RESTRAINED PARTY:

This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, and any U.S. Territory, and may be enforced by Tribal Lands under 18 U.S.C. Section 2265. Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment under 18 U.S.C. Section 2262.

As a result of this order, it is unlawful for you to possess or purchase ammunition or a firearm, including a rifle, pistol, or revolver, under 18 U.S.C. Section 922(g)(8) and NMSA 1978, Section 30-7-16, and may be unlawful under 18 U.S.C. Section 921(a)(32). If you have any questions whether federal law makes it illegal for you to possess or purchase a firearm, you should consult an attorney. Only the court can change this order.

Page 1 of _____

Judge's signature on last page

ADDITIONAL PAGES¹ OF ORDER OF PROTECTION

THIS MATTER came before the court on the _____ day of _____, _____, through a hearing on the [] the petitioner's [] the respondent's request for an order prohibiting domestic abuse.

The court further **FINDS, CONCLUDES, AND ORDERS:**

(check only applicable paragraphs)

1. FINDING OF CREDIBLE THREAT

[] The restrained party presents a credible threat to the physical safety of the protected party or a member of the protected party's household. The court's order regarding relinquishment of firearms is addressed in paragraph five (5) of this order of protection.

[] The restrained party presents a credible threat to the physical safety of the protected party, who is a household member.

[] The restrained party shall, within forty-eight (48) hours, deliver any firearm in the restrained party's possession, care, custody, or control to a law enforcement agency, law enforcement officer, or federal firearms licensee while the order of protection is in effect, and shall refrain from purchasing, receiving, or possessing, or attempting to purchase, receive, or possess, any firearm while the order of protection is in place.

[] The restrained party is responsible for ensuring that the firearm delivery receipt is filed in this case within seventy-two (72) hours of entry of this order.

2. NOTICE, APPEARANCES, AND STATUS

[] The petitioner was present.

[] The petitioner was represented by counsel.

[] The respondent was present.

[] The respondent was represented by counsel.

[] The respondent was properly served with a copy of the petition, temporary order of protection prohibiting domestic abuse and order to appear.²

[] The respondent was properly served with a copy of the petition and order to appear.²

[] The respondent received actual notice of the hearing and had an opportunity to participate in the hearing.²

[] The petitioner was properly served with a copy of the counter-petition and order to appear.²

[] The petitioner was properly served with a copy of the temporary order of protection prohibiting domestic abuse and order to appear.

[] The petitioner received actual notice of the hearing and had an opportunity to participate in the hearing.²

[] The relationship of the parties is that of an "intimate partner" as defined in 18 U.S.C. Section 921 (a)(32). (See 3 below.)³

3. CONSEQUENCES OF ENTRY OF ORDER OF PROTECTION

Violation of this order by the restrained party can have serious consequences, including:

A. If you violate the terms of this order, you may be charged with a misdemeanor, which is punishable by imprisonment of up to three hundred sixty-four (364) days and a fine of up to one thousand dollars (\$1,000.00), or both. You may be found in contempt of court.

B. If you receive, transport, or possess a firearm or destructive device while the order of protection is in effect, you may be charged with a misdemeanor, which is punishable by imprisonment for up to three hundred and sixty-four (364) days and a fine of up to one thousand dollars (\$1,000.00).

C. If you are the spouse or former spouse of the other party, an individual who cohabitates with or has cohabitated with the other party, or if you and the other party have had a child together, federal law also prohibits you from possessing or transporting firearms or ammunition while this order is in effect. If you have a firearm or ammunition, you should immediately dispose of the firearm or ammunition. Violation of this law is a federal crime punishable by imprisonment for up to ten (10) years and a fine of up to two hundred and fifty thousand dollars (\$250,000.00).

D. If you are not a citizen of the United States, violation of this order will have a negative effect on your application for residency or citizenship.

4. FINDING OF DOMESTIC ABUSE

An act of domestic abuse was committed by [] the respondent [] the petitioner that necessitates an order of protection. [] The petitioner [] The respondent is the protected party under this order.

5. FINDING THAT THE RESTRAINED PARTY PRESENTS A CREDIBLE THREAT TO THE PROTECTED PARTY'S PHYSICAL SAFETY, ORDER

The restrained party presents a credible threat to the physical safety of the protected party, who is a household member.

The restrained party shall deliver any firearm in the restrained party's possession, care, custody, or control to a law enforcement agency, law enforcement officer, or federal firearms licensee while the order of protection is in effect, and shall refrain from purchasing, receiving, or possessing, or attempting to purchase, receive, or possess, any firearm while the order of protection is in effect.

6. DOMESTIC ABUSE PROHIBITED

The restrained party shall not abuse the other party or members of the other party's household. "Abuse" means any incident by one party against the other party or another household member resulting in (1) physical harm; (2) severe emotional distress; (3) bodily injury or assault; (4) a threat by the petitioner or the respondent causing imminent fear of bodily injury to the other party or any household member; (5) criminal trespass; (6) criminal damage to property; (7) repeatedly driving by the protected party's or a household member's residence or work place; (8) telephone harassment; (9) stalking; (10) harassment; or (11) harm or threatened harm to children in any manner set forth above.

The restrained party shall not ask or cause other persons to abuse the other party or any other household members.

7. CONTACT PROHIBITIONS

The restrained party shall stay one hundred (100) yards away from the other party, the other party's home, and any work place at all times, unless at a public place, where the restrained party shall remain twenty-five (25) yards away from the other party except as specifically permitted by this order.

The restrained party shall not telephone, talk to, visit, or contact the other party in any way except as follows: _____.

The parties may contact each other by telephone regarding medical emergencies of minor children;

The restrained party shall not post or cause another to post anything about the protected party on any form of social media, including, but not limited to, Facebook, Twitter, Instagram, or Snapchat. This prohibition includes posts about the protected party's family members, significant other, and children.

Other: _____.

The parties may attend joint counseling sessions at the counselor's discretion.

(Unless the court has sealed the protected party's address, include it below.)

Protected Party

Home address

City, State, Zip Code

Work Address

City, State, Zip Code

Tribe/Pueblo (*if applicable*)

City, State, Zip Code

8. COUNSELING

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

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

The restrained party shall report to _____, for a drug and alcohol screen by _____, _____ (date) with the results returned to this court.

The protected party shall report to _____, for a drug and alcohol screen by _____, _____ (date) with the results returned to this court.

Other counseling requirements: _____.

9. CUSTODY

The court's orders regarding the minor child(ren) are addressed in the Custody, Support and Division of Property Attachment of this order of protection.⁴

10. PROVISIONS RELATING TO SUPPORT

The court's orders regarding support issues for the parties are found in the Custody, Support and Division of Property Attachment of this order of protection.⁴

11. PROPERTY, DEBTS, AND PAYMENT OF MONEY

The court's orders regarding property, debts, and payment of money are found in the Custody, Support and Division of Property Attachment of this order of protection.⁴

12. PARTIES SHALL NOT CAUSE VIOLATION

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

13. ADDITIONAL ORDERS

[] Review hearing. The parties are ordered to appear for a review hearing on the _____ day of _____, _____, at _____ (a.m.) (p.m.). Failure to appear may result in the issuance of a bench warrant for your arrest or dismissal of this order.

Any party ordered to attend counseling shall bring proof of counseling to the review hearing.

IT IS FURTHER ORDERED:⁵ _____.

14. NOTICE TO LAW ENFORCEMENT AGENCIES ANY LAW ENFORCEMENT OFFICER SHALL USE ANY LAWFUL MEANS TO ENFORCE THIS ORDER.

_____ (name) is ordered to surrender all keys to the residence to law enforcement officers.

[] Law enforcement officers or _____ shall be present during any property exchange.

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

15. NOTICE TO PARTIES

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

To make a request to extend this order, the protected party should return to the court with a copy of this order at least three (3) weeks before this order expires.

16. RECOMMENDATIONS

I have:

[] reviewed the petition for order of protection;
[] reviewed the counter-petition for order of protection;
[] conducted hearings on the merits of the petition;
[] after notice and hearing, prepared this order as my recommendation to the district court judge regarding disposition of the request for order of protection. If any party disagrees with the recommendations, that party may, but is not required to, file written objections and a request for hearing on those objections with the district court within ten (10) days. A copy of those objections and a request for hearing must be served by mail on the other party.

Signed

Title

Court's telephone number: _____

The court has reviewed the recommendations and adopts them. This order remains in effect unless and until it is modified by a district court judge or it expires. If objections are filed the court may conduct a hearing to resolve the objections. (See Rule 1-053.1(H)(1)(a) NMRA.)

SO ORDERED:

District Judge

Date

[] A copy of this order was [] hand delivered [] faxed [] mailed to [] the respondent
[] the respondent's counsel on _____ (date).⁶
[] A copy of this order was [] hand delivered [] faxed [] mailed to [] the petitioner
[] the petitioner's counsel on _____ (date).

Signed

Title

USE NOTES

1. The first page of this order of protection shall be in the uniform format preceding the heading for additional pages of the order.

2. This order may be entered only after a hearing at which the respondent received actual notice and at which the respondent had an opportunity to participate if 18 U.S.C. Section 922 is to apply to this order.

3. The federal definition of "intimate partner" under the Gun Control Act, 18 U.S.C. Section 921(a)(32), is narrower than the state definition of "household member" under the Family Violence Protection Act, NMSA 1978, Section 40-13-2(E). Thus, while the parties subject to this order must be household members as a matter of state law, the court also must determine whether they are intimate partners and therefore subject to 18 U.S.C. Section 922(g)(8), as described in Paragraph 2, above.

4. See Form 4-967 NMRA for the Custody, Support and Division of Property Order attachment.

5. If appropriate, an order providing for restitution may be included in this paragraph.

6. The respondent or the petitioner should be served at the time this order is issued, before leaving the courthouse. If a default order is issued, service on the non-attending party shall be made by mail or by personal service. See NMSA 1978, Section 40-13-6(A).

[Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective May 1, 2001; as amended by Supreme Court Order No. 07-8300-020, effective September 17, 2007; by Supreme Court Order No. 08-8300-040, effective December 15, 2008; as amended by Supreme Court Order No. 19-8300-009, effective for all orders issued on or after July 1, 2019; as amended by Supreme Court Order No. 19-8300-015, effective for all cases pending or filed on or after December 31, 2019; as amended by Supreme Court Order No. 20-8300-010, effective for all cases pending or filed on or after December 31, 2020.]