

1 **4-961. Petition for order of protection from domestic abuse.**

2 ~~[[Standard simplified petition form,—]]~~

3 Family Violence Protection Act,

4 Sections 40-13-1 to 40-13-8 NMSA 1978.]

5 ~~[[District Court Civil]]~~

6

7 STATE OF NEW MEXICO

8 COUNTY OF _____

9 _____ JUDICIAL DISTRICT COURT

10

11 _____, [No. _____]

12 _____, Petitioner

13

14 v. _____ No. _____

15

16 _____, Respondent

17

18 **PETITION FOR ORDER OF PROTECTION**

19 **FROM DOMESTIC ABUSE¹**

20

21 **1. COURT ASSISTANCE REQUEST**

22

1 We will need an interpreter in _____ to translate at hearings
2 for me the respondent.

3

4 We will need _____ *(describe other request for special help)*.

5

6 **2. INFORMATION ABOUT THE RESPONDENT** *(the person I am filing against)*

7

8 A. The respondent is:

9 my husband or my wife

10 my ex-husband or my ex-wife

11 the parent of my [child] [children]

12 a family member _____

13 *(describe the family relationship)*

14 a person with whom I have had a continuing personal relationship

15 _____ *(describe the*

16 *relationship)*

17

18 a person who has sexually assaulted me

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20 a person who has stalked me

21

22 B. The respondent has the following weapons: _____

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3. [CHILD] [CHILDREN]²

A. List minor [child] [children] of either party.

Name	Date of	Relationship of [Child] [Children]	
	Birth	To You	To Respondent
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

B. List address and with whom the [child] [children] are currently living. (*List each child separately if [child] [children] do not reside with same person.*)

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C. List each address where [child] [children] have lived during the last five (5) years. *(List each child separately if [child] [children] did not reside with same person.)*

D. Does anyone else have physical custody of the [child] [children] or claim to have custody or visitation rights? yes no

If yes, complete the following for the [child] [children]:

Child's name	Person claiming rights
_____	_____
_____	_____

4. OTHER CASES

The following divorce, separation, order of protection, child support, paternity, abuse or neglect cases have been previously filed by me, the respondent or the state:

Type of Case	Year Filed	Case Number	Where Filed
	<i>(if known)</i>	<i>(if known)</i>	<i>(city and state)</i>

1 _____
2 _____
3 _____
4 _____

5 **5. DOMESTIC ABUSE**

6 A. The respondent committed the following act(s) of domestic abuse against me
7 or a member of my household: *(describe in detail what happened to you or*
8 *to a member of your household and when and where.)*

9 **Physical abuse:** _____
10 _____.

11 **Threats which caused fear that you or any household member would be**
12 **injured:** _____
13 _____.

14 **Other abuse:** _____
15 _____.

16 **Date of abuse:** _____.

17 **Place of abuse:** _____.

18 B. Others present during the abuse: _____.

19
20 C. Did drugs or alcohol play a role in the domestic abuse? [] yes [] no

21
22 D. Were weapons used during the abuse? [] yes [] no

1 If yes, what weapons? _____.

2

3 E. Has there been prior domestic abuse? [] yes [] no

4

5 **6. REQUESTS TO THE COURT**

6

7 I REQUEST THAT THE COURT ORDER (*check all that you want*):

8

9 [] A. that the respondent not contact me, not abuse me and that the
10 respondent stay away from my residence [and] [place of
11 employment] [and] [school].

12

13

14 [] B. (1) that the respondent shall immediately leave [] my [] our
15 residence at _____.

16

17 [~~OR~~]

18

19 [] (2) that the respondent provide me with temporary suitable
20 alternative housing.

21

22 [] C. that the respondent shall not sell, remove, pawn, hide, destroy or

1 damage any property owned by me or the two of us jointly.

2

3 D. that law enforcement officers assist me in retrieving my clothing and
4 personal belongings from the residence at _____

5 _____.

6

7 E. that I be given temporary custody of the [child] [children] listed in
8 this petition.

9

10 F. that until the court hearing:

11

12 respondent shall have the following contact with the [child]
13 [children]: _____.

14

15 respondent shall have no contact with the [child] [children].

16

17 G. that the respondent shall pay:

18

19 support for the [child] [children]

20

21 support for me.

22

1 H. that the respondent shall pay me for the damage and medical bills
2 resulting from the abuse.

3

4 I. other relief that is necessary to resolve this domestic abuse problem
5 *(list or describe what relief is necessary):*

6

7

8

9 **7. INFORMATION ABOUT THE PETITIONER (ME)**

10 *(If you do not want the respondent to know your address and phone number, do not*
11 *include it on this form. Tell the court clerk that you need to complete two other forms (Forms*
12 *4-961A and 4-961B) for your name and address and request that the clerk place your*
13 *address under seal.)*

14

15 A. **I DO NOT WANT RESPONDENT TO KNOW MY ADDRESS**
16 **NOW OR AFTER THE HEARING FOR THE FINAL ORDER**
17 **OF PROTECTION. I HAVE COMPLETED FORM 4-961B AND**
18 **GIVEN IT TO THE COURT CLERK.**

19 OR

20

21 B. My physical address is: _____
22 _____ in the County Indian

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Country of _____, State of New Mexico.

My mailing address is:

_____ (street address)

_____ (city and zip)

My telephone numbers are:

Home	Work	Message
_____	_____	_____

8. NOTICE TO RESPONDENT

A. I have not told respondent that I am filing a petition to ask the court for an order of protection because I believe irreparable harm would result if I told respondent before coming to court. *(Describe what might happen to you or what you are afraid might happen if the respondent knew you were asking for a court order of protection.)*

1 _____.

2

3 B. I have told respondent that I am filing this petition.

4

5 **9. LOCATION OF RESPONDENT**

6 A. Respondent may be found at:

7 _____ (address)

8 _____ (city)

9 _____ (state and zip code)

10 _____ (if in Indian Country, please name

11 *tribe or pueblo*).

12 Respondent's:

13 [~~_____ (social security number)~~]

14 _____ (date of birth)

15 _____ (home telephone number)

16 _____ (work address)

17 _____ (work telephone number).

18

19 B. Is respondent in jail? yes no

20

21 **VERIFICATION**

22 STATE OF NEW MEXICO }

1 COUNTY OF _____ }

2 TRIBE OR PUEBLO _____ }

3

4 The petitioner was sworn and states: I, the Petitioner, being duly sworn upon my oath,
5 depose and state that I am the Petitioner in the above-entitled cause and I have read [this] the
6 petition for order of protection from domestic abuse[and it is true to the best of my
7 knowledge and belief. I understand that I can be punished both civilly and criminally if any
8 information in this petition is false]. I state that the contents thereof are true and correct to
9 the best of my information and belief.

10

11 _____

12 *Date*

Signature of Petitioner

13

14 Signed and sworn before me on this _____ day of _____, _____.

15 Notary public

16 _____

17 My commission expires: _____.

18

19

20 **USE NOTES**

- 21 1. Petitioner should complete all information known by the petitioner.
- 22 2. This part must be completed if there are children. Section 40-10A-209 NMSA 1978

1 of the Uniform Child-Custody Jurisdiction Enforcement Act requires the first
2 pleading of every custody action to give information under oath as to the child's
3 present address, the places where the child has lived within the last five (5) years and
4 the names and present addresses of the persons with whom the child has lived during
5 that period. If a child lives with you now, but you do not want respondent to know
6 your address, do not put your current address here, but do fill out Forms 4-961A and
7 4-961B.

8 3. Use Notes 1 and 2 are to be printed on pre-printed forms published for use by pro se
9 petitioners. This note and Use Note 4 should not be printed on the form. This form
10 has been approved by the Supreme Court of New Mexico for use in the courts of this
11 state and distribution pursuant to Section 40-13-3 NMSA 1978. Pre-printed pro se
12 forms should include a lined blank page at the end of the form for use by the
13 petitioner if the pre-printed form does not include adequate space for a complete
14 answer to a question.

15 4. Section 40-13-3.1(A)(4) NMSA 1978 provides that a victim in a domestic abuse case
16 shall not be required to pay for [~~“the issuance or service of a protection order”~~] “the
17 filing, issuance or service of a petition for an order of protection”. [~~This has been~~
18 ~~construed to mean that a petitioner or counter-petitioner in a domestic abuse case is~~
19 ~~not required to pay a docket or other filing fees or fee for service of process.~~]

20 [Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective
21 May 1, 2001; as amended, effective February 16, 2004; as amended by Supreme Court Order
22 No. 08-8300-40, effective December 15, 2008.]