

COUNTER-PETITION FOR ORDER OF PROTECTION FROM DOMESTIC
ABUSE

General Information

IF YOU ARE GRANTED THIS ORDER, NEITHER YOU NOR THE RESTRAINED PARTY MAY HAVE ANY CONTACT WITH EACH OTHER BY PHONE, TEXT MESSAGING, INTERNET OR OTHERWISE WHILE THE ORDER IS IN EFFECT.

PURPOSE OF THESE PROCEEDINGS:

The purpose of an Order of Protection (also known as a Restraining Order) issued under the Family Violence Protection Act is to stop the violence and to prevent it from happening again.

The first Order of Protection is temporary and only lasts for 10 days. If the Court issues a Temporary Order of Protection, you will be required to attend a Court hearing in about 10 days so that the Court can decide whether the order should last longer. The Temporary Order of Protection, if issued, is also an Order To Appear at this hearing.

At the hearing, the Court may issue an Order of Protection that restrains the actions of another person for a longer time period.

An Order of Protection can resolve other issues such as those regarding property, debts, spousal support and child support and custody, but only for 6 months. An Order of Protection is not a permanent solution for these problems. If you need a legal separation, divorce or permanent orders about child custody and child support, **YOU SHOULD SEEK THE ASSISTANCE OF A LAWYER**. Ask the Court Clerk for a list of legal resources.

COUNTER-PETITION FOR ORDER OF PROTECTION FROM DOMESTIC ABUSE

Instructions

1. **Type or print in ink** all of the information you enter on this form. Make sure your writing is readable.
2. You will be the “Respondent” and the other person will be the “Petitioner.” Because the other person was the first to file a petition based on domestic abuse, that person’s name will remain as the first party name listed in your case.
3. Fill in the “No. DV” blank with the case number on the court papers filed by the other person which you have received.
4. Your Counter-Petition for an Order of Protection is a very serious Court action to restrain the actions of another person. The information you provide must be honest and truthful.
5. Fill in the blanks that apply to your situation.
6. IF you and the Petitioner have children together, part 3 of the Counter-Petition must be completed. Section 40-10A-209 NMSA 1978 of the Uniform Child-Custody Jurisdiction Enforcement Act requires the first pleading of every custody action to give information under oath as to the child(ren)’s present address, the places where the child(ren) has/have lived within the last (5) years and the names and present addresses of the persons with whom the child(ren) has/have lived during that period.
7. IF you do not want the Petitioner to know your address, do not put your current address on the Counter-Petition and:
 - a. Check the box in the Counter-Petition that says: **“I DO NOT WANT PETITIONER TO KNOW MY ADDRESS NOW OR AFTER THE HEARING FOR THE FINAL ORDER OF PROTECTION. I HAVE COMPLETED FORM 4-961B AND GIVEN IT TO THE COURT CLERK.”** The Court Clerk will give you form 4-961B to fill out.
 - b. Check the box at the top of the Information Cover Sheet that says: **“I REQUEST THAT PETITIONER NOT KNOW MY PRESENT ADDRESS.”**
8. IF you do not want the Petitioner to know your address and you do not need an Order of Protection immediately, you may also consider participating in the “Confidential

Address Program.” Ask the District Court Clerk for a brochure that explains this program and its cost.

9. When you have finished the *Counter-Petition for Order of Protection From Domestic Abuse*, you must sign it **before a notary**. Present picture identification and then sign it either:

- a. In front of the Court Clerk (who acts as a Notary)
- b. In front of a Notary Public

You are swearing, under oath and penalty of perjury, that the information in the form is true and correct. **Make sure that the information IS true and correct.**

10. Give the *Counter-Petition for Order of Protection From Domestic Abuse* to the District Court Clerk at: 207 West Hill Ave., Rm 200, Gallup, NM 87301 (505) 863-6816.

11. The Clerk will give you a date and time to return for your paperwork. Please call (505) 863-6816 to see *if your Temporary Restraining Order* has been granted.

12. When a Temporary Order of Protection is issued, the Court Clerk will give you:

- a. A certified copy of the Temporary Order of Protection. (You may ask the Court Clerk to provide you with additional certified copies if you think you need additional copies.)

Keep a certified copy of the Temporary Order
of Protection with you at all times.

- b. A copy of the *Counter-Petition for Order of Protection From Domestic Abuse* that you have just filed. Bring your copy with you to the hearing that is scheduled in about 10 days.

13. The Petitioner must be given, or “served” with, a copy of the Temporary Order of Protection as well as the *Counter-Petition for Order of Protection From Domestic Abuse* that you filed. The District Court Clerk will send these documents to the McKinley County Sheriff’s Office which will see that the Petitioner is served with a copy. However, you must complete another form included in this packet entitled *Service of Process Information For Counter Petition For Order of Domestic Abuse; Information about the Petitioner*. See instructions later in this packet.

IF the Petitioner lives in another state, county or on the reservation, YOU WILL BE

RESPONSIBLE for having the Petitioner served with the Order and Counter Petition and for seeing that proof of service is filed with this Court. (You will not need to complete the form entitled *Service of Process Information For Counter Petition For Order of Domestic Abuse; Information about the Petitioner*.)

14. READ THE ORDER SO THAT YOU KNOW WHAT IT SAYS.

15. MAKE SURE THAT YOU GO TO THE HEARING THAT IS SCHEDULED IN THE ORDER. THE ORDER WILL TELL YOU THE DATE, TIME AND PLACE OF THE HEARING (McKinley County Courthouse, 207 W. Hill, Rm 200, Gallup, NM 87301.)

STATE OF NEW MEXICO
COUNTY OF MCKINLEY
ELEVENTH JUDICIAL DISTRICT COURT

_____Petitioner
v. No. D-1113-DV _____
_____Respondent

**COUNTER-PETITION FOR ORDER OF PROTECTION
FROM DOMESTIC ABUSE**

1. COURT ASSISTANCE REQUEST

We will need an interpreter in _____ to interpret at hearings for
 me petitioner

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

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

A. The petitioner is:

- my husband or my wife
- my ex-husband or my ex-wife
- the parent of my [child] [children]
- a family member _____ (*describe the family relationship*)
- a person with whom I have had a continuing personal relationship
_____ (*describe the relationship*)
- a person who has sexually assaulted me
- a person who has stalked me

B. The petitioner has the following weapons: _____

3. [CHILD] [CHILDREN]

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

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

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

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.)*

C. List each address where [child] [children] have lived during the last (5) five 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 petitioner or the state:

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

5. DOMESTIC ABUSE

A. The petitioner committed the following act(s) of domestic abuse against me or a member of my household. *(Describe in detail what happened to you or to a member of your household. Use the attached sheet if you need additional space to write.)*

Physical abuse: _____

Threats which caused fear that you or any household member would be injured:

Other abuse: _____

Date of abuse: _____

Place of abuse:(address)_____

The location of abuse was on:

- Private land in New Mexico
- Allotment land in New Mexico
- Tribal land
- Other(describe)_____

B. Others present during the abuse: _____.

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

D. Were weapons used during the abuse? yes no
If yes, what weapons? _____.

E. Has there been prior domestic abuse? yes no
If so, please describe: _____

6. REQUESTS TO THE COURT

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

A. that the petitioner not contact me, not abuse me and that the petitioner stay away from my residence and
 my place of employment
 my school
 other _____.

B. (1) that the petitioner shall immediately leave my our residence at _____.

(2) that the petitioner provide me with temporary suitable alternative housing.

C. that the petitioner shall not sell, remove, pawn, hide, destroy or damage any property owned by me or the two of us jointly.

- D. that law enforcement officers assist me in retrieving my clothing and personal belongings from the residence at _____.
- E. that I be given temporary custody of the [child] [children] listed in this petition.
- F. that until the court hearing:
 petitioner shall have the following contact with the [child] [children]: _____
 petitioner shall have no contact with the [child] [children].
- G. that the petitioner shall pay:
 support for the [child] [children]
 support for me.
- H. that the petitioner shall pay me for the damage and medical bills resulting from the abuse.
- I. other relief that is necessary to resolve this domestic abuse problem (*list or describe what relief is necessary*):

_____.

7. INFORMATION ABOUT THE RESPONDENT (ME)

(If you do not want the petitioner to know your address and phone number, do not include it on this form. Tell the Court Clerk that you need to complete form 4-961B and request that the Clerk place your address under seal.)

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

OR

- B. My physical address is: _____ in the
 County Indian 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 PETITIONER

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

_____.

B. I have told petitioner that I am filing this counter-petition.

9. LOCATION OF PETITIONER

A. Petitioner may be found at:

_____ *(address)*
_____ *(city)*
_____ *(state and zip code)*
_____ *(if in Indian Country, please name tribe or pueblo).*

Petitioner's

_____ *(date of birth)*
_____ *(home telephone number)*
_____ *(work address)*
_____ *(work telephone number).*

B. Is petitioner in jail? yes no

VERIFICATION

STATE OF NEW MEXICO }
COUNTY OF _____ }
TRIBE OR PUEBLO _____ }

The respondent was sworn and states: I, the Respondent/Counter-Petitioner, being duly sworn upon my oath depose and state that I am the Respondent/Counter-Petitioner in the above-entitled cause and I have read the counter-petition for order of protection from domestic abuse. I state that the contents thereof are true and correct to the best of my information and belief.

**INFORMATION COVER SHEET for COUNTER-PETITION FOR ORDER
OF PROTECTION**

() I REQUEST THAT PETITIONER NOT KNOW MY PRESENT ADDRESS

RESPONDENT (me):

NAME: _____ DOB: _____ SS# _____

GENDER: [] Male [] Female

MAILING ADDRESS: _____

PHYSICAL ADDRESS: _____

HOME PHONE: _____ CELL PHONE: _____

EMPLOYER'S NAME: _____

WORK ADDRESS: _____

WORK PHONE: _____

SERVICE OF PROCESS INFORMATION FORM

Instructions

1. **Type or print in ink** all of the information you enter on this form. Make sure your writing is readable.
2. You will be the “Respondent” and the other person will be the “Petitioner.” Because the other person was the first to file a petition based on domestic abuse, that person’s name will remain as the first party name listed in your case.
3. Fill in the “No. DV” blank with the case number on the court papers filed by the other person which you have received.
4. Fill out this form as completely as possible providing as much information as possible.
5. If the Temporary Order of Protection is granted by the Judge or Hearing Officer the information on this form assists the San Juan County Sheriff’s Office in giving or “serving” the petitioner with a copy of the Temporary Order of Protection (as well as a copy of the *Counter Petition for Order of Protection From Domestic Abuse* that you filed)
6. Remember,

IF the Petitioner lives in another state, county or on the reservation, YOU WILL BE RESPONSIBLE for having the Petitioner served with the Order and Counter Petition and for seeing that proof of service is filed with this Court.

And

You will not need to complete the form entitled *Service of Process Information For Petition For Order of Protection From Domestic Abuse; Information About the Petitioner.*

STATE OF NEW MEXICO
COUNTY OF MCKINLEY
ELEVENTH JUDICIAL DISTRICT COURT

_____Petitioner
v. No. D-1113-DV _____
_____Respondent.

**SERVICE OF PROCESS INFORMATION FOR
COUNTER PETITION FOR ORDER OF PROTECTION FROM DOMESTIC ABUSE
INFORMATION ABOUT THE PETITIONER**

(Petitioner's name)

(Petitioner's date of birth)

Is petitioner in jail yes no

If yes, where? _____

Petitioner's physical address is:

_____ (street)
_____ (city)
_____ (county)
_____ (state and zip code)

Tribe Pueblo of _____

Petitioner's workplace:

_____ (employer's name)
_____ (street)
_____ (city)
_____ (county)
_____ (state and zip code)

Tribe Pueblo of _____

Petitioner works the following hours:

_____ (a.m.)(p.m.) to _____ (a.m.)(p.m.)

Petitioner's telephone numbers are:

Home

Work

Message

What does Petitioner look like?

Hair _____ (color)

Eyes _____ (color)

Height _____

Weight _____

Race - ethnicity: _____

Other physical characteristics or marks: _____

Do you consider the Petitioner to be dangerous?

yes no. If yes, why? _____

Does Petitioner have any weapons? yes no.

If yes, please describe: _____

Places where Petitioner can be found apart from physical address and workplace:

Date

Signature of Respondent

*(Respondent's street address
unless Respondent files Form 4-961B)*

*(City, state and zip code
unless Respondent files Form 4-961B)*