

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.

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 “Petitioner” and the other person will be the “Respondent.”
3. Your 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.
4. Fill in the blanks that apply to your situation.
5. IF you and the Respondent have children together, part 3 of the 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.
6. IF you do not want the Respondent to know your address, do not put your current address on the Petition and:
 - a. Check the box in the Petition that says: **“I DO NOT WANT RESPONDENT 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 RESPONDENT NOT KNOW MY PRESENT ADDRESS.”**
7. IF you do not want the Respondent 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.
8. When you have finished the *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 PublicYou 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.**
9. Give the *Petition for Order of Protection From Domestic Abuse* to the District Court Clerk at the McKinley County Courthouse, 207 W. Hill Ave., Rm 200, Gallup, NM 87301:

10. The clerk will ask you to call or return later in the day or the next day to see if the Judge has granted the Temporary Order of Protection.

11. 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 *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.

12. The Respondent must be given, or “served” with, a copy of the Temporary Order of Protection as well as the *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 Respondent is served with a copy. However, you must complete another form included in this packet entitled *Service of Process Information For Petition For Order of Protection From Domestic Abuse and Petition For Emergency Order of Protection; Information About the Respondent*. See instructions later in the packet.

IF the Respondent lives in another state, county or on the reservation, YOU WILL BE RESPONSIBLE for having the Respondent served with the Order and 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 Petition For Order of Protection From Domestic Abuse and Petition For Emergency Order of Protection; Information About the Respondent*.)

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

14. 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.

COURT CLERK'S USE ONLY. THIS INFORMATION IS NOT TO BE DISCLOSED IS NOT TO PLACED IN COURT FILE.

INFORMATION SHEET FOR ORDER PROHIBITING DOMESTIC VIOLENCE

YOUR NAME: _____ TRIBAL NUMBER _____

SSN: _____ DOB _____ SEX M or F RACE: _____

HEIGHT _____ WEIGHT _____ EYE COLOR _____ HAIR COLOR _____

ADDRESS: _____

MAILING ADDRESS (If different than above) _____

YOUR PLACE OF EMPLOYMENT OR YOUR SCHOOL _____

PHONE (home): _____ PHONE (work): _____

CHILDREN'S SCHOOL _____

CHILDREN'S BABYSITTER(S) OR DAY CARE _____

ADDRESS: _____

THE PERSON(S) YOU ARE MAKING A PETITION AGAINST.

Respondent #1

NAME: _____ TRIBAL NUMBER _____

SSN: _____ DOB _____ SEX M or F RACE: _____

HEIGHT _____ WEIGHT _____ EYE COLOR _____ HAIR COLOR _____

ADDRESS: _____

MAILING ADDRESS (If different than above) _____

PHONE (home): _____ PHONE (work): _____

Any other places (and times) where the other party can be found: _____

Have you and the other party been involved in any similar cases? If so, give name(s) of the court(s) including Tribal Court, approximate date(s) County, and state(s) of the cases: _____

Respondent #2 NAME: _____ TRIBAL NUMBER _____

SSN: _____ DOB _____ SEX M or F RACE: _____

HEIGHT _____ WEIGHT _____ EYE COLOR _____ HAIR COLOR _____

ADDRESS: _____

MAILING ADDRESS (If different than above) _____

PHONE (home): _____ PHONE (work): _____

ANY OTHER PLACES (AND TIMES) WHERE THE OTHER PARTY CAN BE FOUND: _____

Have you and the other party been involved in any similar cases? If so, give name(s) of the court(s) including Tribal Court, approximate date(s) County, and state(s) of the cases: _____

CONFIDENTIAL/SEQUESTERED

STATE OF NEW MEXICO
COUNTY OF MCKINLEY
ELEVENTH JUDICIAL DISTRICT COURT

_____Petitioner

v.

No. D-1113-DV-_____

_____Respondent.

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

1. COURT ASSISTANCE REQUEST

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

me respondent

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

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

A. The respondent 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 respondent has the following weapons: _____

3. [CHILD] [CHILDREN]

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

Name	Year of Birth	Relationship of [Child] [Children] To You	Relationship of [Child] [Children] 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.)*

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 respondent or the state:

Type of Case	Year Filed (if known)	Case Number (if known)	Where Filed (city and state)
_____	_____	_____	_____
_____	_____	_____	_____

5. DOMESTIC ABUSE

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

- B. (1) that the respondent shall immediately leave my our residence at:_____.

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

- C. that the respondent 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:
 - respondent shall have the following contact with the [child] [children]: _____
 - _____.
 - respondent shall have no contact with the [child] [children].

- G. that the respondent shall pay:
 - support for the [child] [children]
 - support for me.

- H. that the respondent 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 PETITIONER (ME)**

(If you do not want the respondent 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 RESPONDENT 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 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.)*

_____.

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

9. LOCATION OF RESPONDENT

A. Respondent may be found at:

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

Respondent's:

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

B. Is respondent in jail? yes no

VERIFICATION

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

The petitioner was sworn and states: I, the Petitioner, being duly sworn upon my oath, depose and state that I am the Petitioner in the above-entitled cause and I have read the 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.

Date

Signature of Petitioner

Signed and sworn to before me this _____ day of _____, _____.

My commission expires/Title: _____
Judge, notary or other officer
authorized to administer oaths

INFORMATION COVER SHEET for PETITION FOR ORDER OF
PROTECTION FROM DOMESTIC ABUSE

() I REQUEST THAT RESPONDENT NOT KNOW MY PRESENT
ADDRESS

PETITIONER:

NAME: _____ Year of Birth: _____

Last 4 digits of SSN: _____

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 “Petitioner” and the other person will be the “Respondent.”
3. Fill out this form as completely as possible providing as much information as possible.
4. If the Temporary Order of Protection is granted by the Judge the information on this form assists the McKinley County Sheriff’s Office in giving or “serving” the respondent with a copy of the Temporary Order of Protection (as well as a copy of the *Petition for Order of Protection From Domestic Abuse* that you filed)
5. Remember,

IF the Respondent lives in another state, county or on the reservation, you will be responsible for having the Respondent served with the Order and 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 and Petition For Emergency Order of Protection; Information About the Respondent.*

STATE OF NEW MEXICO
COUNTY OF MCKINLEY
ELEVENTH JUDICIAL DISTRICT COURT

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

**SERVICE OF PROCESS INFORMATION FOR
PETITION FOR ORDER OF PROTECTION FROM DOMESTIC ABUSE
AND
PETITION FOR EMERGENCY ORDER OF PROTECTION
INFORMATION ABOUT THE RESPONDENT**

(Respondent's name)

(Respondent's year of birth)

Is respondent in jail yes no

If yes, where? _____

Respondent's physical address is:

_____ (street)

_____ (city)

_____ (county)

_____ (state and zip code)

Tribe Pueblo of _____

Respondent's workplace:

_____ (employer's name)

_____ (street)

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

Tribe Pueblo of _____

Respondent works the following hours:
_____ (a.m.)(p.m.) to _____ (a.m.)(p.m.)

Respondent's telephone numbers are:
Home _____ Work _____ Message _____

What does Respondent look like?

Hair _____ (color) Eyes _____ (color)

Height _____ Weight _____

Race - ethnicity: _____

Other physical characteristics or marks: _____

Do you consider the Respondent to be dangerous?
 yes no. If yes, why? _____

Does Respondent have any weapons? yes no.
If yes, please describe: _____

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

Date

Signature of Petitioner

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

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