

4-970. Stipulated order of protection.

Third Judicial District Dona Ana County, New Mexico Case No. _____	Order of Protection [] Amended Order
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PROTECTED PARTY ([] PETITIONER [] RESPONDENT)

PROTECTED PARTY IDENTIFIERS

First	Middle	Last

Date of Birth of Protected Party

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

Other Protected Persons (DOB)

RESTRAINED PARTY

RESTRAINED PARTY IDENTIFIERS

	SEX	RACE	DOB	HT	WT
First Middle Last					
	EYES	HAIR	SOCIAL SECURITY #		
Relationship to Protected Party _____			Not used in New Mexico		
	DRIVER'S LICENSE #		STATE	EXP DATE	

Restrained Party's Address

Distinguishing _____ Features

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 RESTRAINED PARTY:

This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, 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 may be 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.

Judge's signature on last page

ADDITIONAL PAGES¹ OF STIPULATED ORDER OF PROTECTION

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

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 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 that 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.

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

This order was entered on stipulation of the parties.

The relationship of the parties is that of an "intimate partner" as defined in 18 USC Section 921(a)(32). (*See 3 below*). This order may be entered into a federal firearms database.

Petitioner was present.

Petitioner was represented by counsel.

Respondent was present.

Respondent was represented by counsel.

3. EFFECT OF STIPULATION TO ORDER OF PROTECTION

Violation of this order 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) or both. You may be found to be 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 (3) years.

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 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 fifty-thousand dollars (\$250,000). 18 U.S.C. § 922, *et seq.*

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. DOMESTIC ABUSE PROHIBITED

The restrained party shall not abuse the protected party or members of the protected 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 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 members' 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.

5. CONTACT PROHIBITIONS

Restrained party shall stay 100 yards away from the protected party and the protected party’s home and workplace at all times, unless at a public place, where the restrained party shall remain 25 yards away from the protected party except as specifically permitted by this order.

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

(check only applicable paragraphs)

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

_____.

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

(Unless the court has entered an order sealing the protected party’s address, include it below.)

Protected party’s addresses:

_____ *(home address)*

_____ *(work address)*

_____ *(city)*

_____ *(if applicable, tribe or pueblo)*

_____ *(state and zip code)*

6. COUNSELING

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

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

Petitioner shall report to _____ for a drug [and] alcohol screen by _____, _____ *(date)* with the results returned to this court.

Respondent shall report to _____ for a drug [and] alcohol screen by _____, _____ *(date)* with the results returned to this court.

Other counseling requirements: _____.

7. CUSTODY²

The court's orders regarding the minor [child] [children] of the parties are found in the Custody, Support and Division of Property Attachment of this order of protection.

8. PROVISIONS RELATING TO SUPPORT²

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.

9. PROPERTY, DEBTS, PAYMENTS OF MONEY²

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

10. 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 ORDERED³: _____

11. PROTECTED PARTY 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 Section 40-13-6(D) NMSA 1978 only the restrained party can be arrested for violation of this order.

12. 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.

13. NOTICE TO PARTIES

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

14. AGREEMENT OF PARTIES

Without admitting that domestic abuse has occurred, the parties stipulate to the entry of this order and affirm that they have read and do understand the effects of this order as stated in Paragraph 3.

Protected party's signature

Restrained party's signature

Protected party's counsel, if any

Restrained party's counsel, if any

Date

Date

15. RECOMMENDATIONS

I have:

reviewed the pleading for order of protection;

prepared this order as my recommendation to the district court judge regarding disposition of requests for order of protection.

Signed

Domestic Violence Commissioner

Court's telephone number: _____

SO ORDERED.

District Judge

DATE

A copy of this order was hand delivered faxed mailed to restrained party restrained party's counsel on _____ (date).³

A copy of this order was hand delivered faxed mailed to protected party protected party's counsel on _____ (date).

Signed

Title

USE NOTE

1. The first page of this stipulated order of protection form shall be in the uniform format preceding the heading for additional pages of the order.
2. See Form 4-967 NMRA, "Custody, Support and Division of Property Attachment".
3. If appropriate, an order providing for restitution may be included in this paragraph.
4. Restrained party may be served at the time this order is issued. If restrained party is not present at the time this order is issued, service upon restrained party shall be made by delivering a copy to the party. See Section 40-13-6(A) NMSA 1978.

[Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective May 1, 2001; April 9, 2002; 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.]

Committee commentary.— This Stipulated Order of Protection is not the same as an Order of Protection entered pursuant to Form 4-965 NMRA. This order provides fewer protections to the parties than does the Form 4-965 Order of Protection. The decreased protection is the result of the fact that the order is not based upon findings of abuse, but is entered without reference to whether abuse has occurred. Nonetheless, there may be occasions when the parties and the court are satisfied that this Stipulated Order of Protection provides adequate relief to the parties.

The general provisions of the order of protection, including injunctive orders, shall "continue until modified or rescinded ... or until the court approves a subsequent consent agreement..." Section 40-13-6(B) NMSA 1978. In contrast, "[a]n order of protection ... involving custody or support shall be effective for a fixed period of time not to exceed six months". *Id.* The custody or support "order may be extended for good cause upon motion ... for an additional period of time not to exceed six months", *id.*, unless "the order supersedes or alters prior orders of the court" pertaining to child custody or child support. See Section 40-13-5(C) NMSA 1978. In the latter situation, "the court may enter an initial order

of protection, but the portion of the order dealing with child custody or child support will then be transferred to the court that has or continues to have jurisdiction over the pending or prior custody or support action". *Id.*

Factual Distinction Between Mutual Order of Protection and Stipulated Order of Protection

The core factual difference between the Form 4-965 NMRA order of protection and this stipulated order of protection is that Form 4-965 NMRA requires the court to make findings that each party has committed an act of domestic abuse. In contrast, this order is entered by the court with no finding of domestic abuse by respondent, but rather, is based solely on the stipulation of the parties that, without admitting to acts of abuse, each party is willing to have the restraining order issued against the restrained party.

[Amended 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.]