

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 against petitioner, 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 against petitioner, 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 legible.
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*, give it to the District Court Clerk at the McKinley County Courthouse, 207 W. Hill Ave, Room 200, Gallup, NM. (505) 863-6816

10. The clerk will give you a date and to return for your paperwork. Please call (505) 863-6816 to see if your Temporary Order of Protection against petitioner has been granted.

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

a. A certified copy of the Temporary Order of Protection against petitioner. (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 against petitioner 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.

12. The Petitioner must be given, or “served” with, a copy of the Temporary Order of Protection against petitioner 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 San Juan 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.

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. The hearing will take place at **District Court, 207 W. Hill Ave. in Gallup.**

4-962A. Counter-petition for order of protection from domestic abuse

[Family Violence Protection Act,  
Sections 40-13-1 to 10-13-8 NMSA 1978]

STATE OF NEW MEXICO  
COUNTY OF MCKINLEY  
ELEVENTH JUDICIAL DISTRICT COURT

\_\_\_\_\_,  
Petitioner

v.

No. D-1113-DV

\_\_\_\_\_,  
Respondent/Counter-Petitioner

**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 firearms (*make/model*):

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*(use additional page if needed)*

**3. INFORMATION ABOUT [CHILD] [CHILDREN]**

A. List minor [child] [children] of either party, even if from another relationship.

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.*)

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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.*)

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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
_____	_____
_____	_____

E. Describe how often the [child][children] have been with the other party during the past six (6) months.

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**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. Respondent is a credible threat to my physical safety because \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- C. Others present during the abuse: \_\_\_\_\_.
- D. Did drugs or alcohol play a role in the domestic abuse?  yes  no
- E. Were weapons used during the abuse?  yes  no  
 If yes, describe the weapons?  
 \_\_\_\_\_.
- F. 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*):  
 \_\_\_\_\_  
 \_\_\_\_\_
- J. the respondent be found to be a credible threat and be required to deliver any firearm in the respondent's care, custody, or control to a law enforcement officer or a federal firearms licensee.

**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 (*if different from above*):

\_\_\_\_\_ (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**

I, the Respondent/Counter-Petitioner affirm under penalty of perjury under the laws of the State of New Mexico that I am the Respondent/Counter-Petitioner in the above-entitled cause; that I have read the counter-petition for order of protection from domestic abuse; and that the contents of the counter-petition are true and correct to the best of my information and belief.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature of Respondent*

USE NOTE

1. Respondent/Counter-Petitioner should complete all information known by the petitioner
2. This part must be completed if there are children, NMSA 1978, Section 40-10A-209 of the Uniform Child-Custody Jurisdiction Enforcement Act requires the first pleading of every custody action to give information as to the child's present address, the places where the child has lived within the last five (5) years and the names and present addresses of the persons with whom the child has lived during that period. If a child lives with you now, but you do not want the respondent to know your address, do not put your current address here , but do fill out Form 4-961B.

[Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective May 1, 2001; as amended, effective February 16, 2004; as amended by Supreme Court Order No. 08-8300-40, effective December 15, 2008; as amended by Supreme Court Order No. 14-8300-023, effective for all pleading and papers filed on or after December 31, 2014; as amended by Supreme Court Order No. 19-8300-009, effective for all petitions filed on or after July 1, 2019.]



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/Counter-Petitioner” 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/Counter Petitioner

**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)*