

1 **4-970. Stipulated order of protection.**

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3 [Click here for PDF version of Order of Protection cover page]

_____ Judicial District _____ 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
Other Protected Persons/DOB

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

v.

RESTRAINED PARTY

RESTRAINED PARTY IDENTIFIERS

First	Middle	Last

SEX	RACE	DOB	HT	WT
EYES	HAIR	SOCIAL SECURITY #		
<i>Not used in New Mexico</i>				
DRIVERS LICENSE #			STATE	EXP DATE

Relationship to Protected Party: _____

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

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1 **ADDITIONAL PAGES¹ OF STIPULATED ORDER OF PROTECTION**

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

3 **1. FINDING OF CREDIBLE THREAT**

4 [] The restrained party presents a credible threat to the physical safety of the protected party
5 or a member of the protected party's household.

6 [] The restrained party presents a credible threat to the physical safety of the protected party,
7 who is a household member.

8 [] The restrained party shall, within forty-eight (48) hours, deliver any firearm in that party's
9 possession, care, custody, or control to a law enforcement agency, law enforcement officer, or
10 federal firearms licensee while the order of protection is in effect, and shall refrain from
11 purchasing, receiving, or possessing or attempting to purchase, receive, or possess any firearm
12 while the order of protection is in effect.

13 [] The restrained party is responsible for ensuring that the firearm delivery receipt is filed in
14 this case within seventy-two (72) hours of entry of this order.

15 **2. NOTICE, APPEARANCES AND STATUS**

16 This order was entered on stipulation of the parties.

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

19 [] Petitioner was present.

20 [] Petitioner was represented by counsel.

21 [] Respondent was present.

22 [] Respondent was represented by counsel.

23 **3. EFFECT OF STIPULATION TO ORDER OF PROTECTION**

1 Violation of this order can have serious consequences, including:

2 A. If you violate the terms of this order, you may be charged with a misdemeanor, which is
3 punishable by imprisonment of up to three hundred sixty-four (364) days and a fine of up to one
4 thousand dollars (\$1,000) or both. You may be found to be in contempt of court.

5 B. If you receive, transport, or possess a firearm or destructive device while the order of
6 protection is in effect, you may be charged with a misdemeanor, which is punishable by
7 imprisonment for up to [~~three (3) years~~] three-hundred and sixty-four (364) days and a fine of up
8 to one-thousand dollars (\$1,000.00).

9 C. If you are the spouse or former spouse of the other party, an individual who cohabitates
10 with or has cohabitated with the other party, or if you and the other party have had a child together,
11 federal law prohibits you from possessing or transporting firearms or ammunition while this order
12 is in effect. If you have a firearm or ammunition, you should immediately dispose of the firearm
13 or ammunition. Violation of this law is a federal crime punishable by imprisonment for up to ten
14 (10) years and a fine of up to two hundred fifty-thousand dollars (\$250,000). 18 U.S.C. § 922, *et*
15 *seq.*

16 D. If you are not a citizen of the United States, violation of this order will have a negative
17 effect on your application for residency or citizenship.

18 **4. DOMESTIC ABUSE PROHIBITED**

19 The restrained party shall not abuse the protected party or members of the protected party's
20 household. "Abuse" means any incident by one party against the other party or another household
21 member resulting in (1) physical harm; (2) severe emotional distress; (3) bodily injury or assault;
22 (4) a threat causing imminent fear of bodily injury to the other party or any household member;
23 (5) criminal trespass; (6) criminal damage to property; (7) repeatedly driving by the protected

1 party's or a household members' residence or work place; (8) telephone harassment; (9) stalking;
2 (10) harassment; or (11) harm or threatened harm to children in any manner set forth above.

3 The restrained party shall not ask or cause other persons to abuse the other party or any other
4 household members.

5 **5. CONTACT PROHIBITIONS**

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

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

11 *(check only applicable paragraphs)*

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

14 _____
15 _____.

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

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

18 **Protected party's addresses:**

19 _____ *(home address)*

20 _____ *(work address)*

21 _____ *(city)*

22 _____ *(if applicable, tribe or pueblo)*

23 _____ *(state and zip code)*

1 **6. COUNSELING**

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

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

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

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

12 [] Other counseling requirements: _____.

13 **7. CUSTODY²**

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

16 **8. PROVISIONS RELATING TO SUPPORT²**

17 [] The court's orders regarding support issues for the parties are found in the Custody, Support
18 and Division of Property Attachment of this order of protection.

19 **9. PROPERTY, DEBTS, PAYMENTS OF MONEY²**

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

22 **10. ADDITIONAL ORDERS**

1 Review hearing. The parties are ordered to appear for a review hearing on the
2 _____ day of _____, _____, at _____ (a.m.) (p.m). Failure to
3 appear may result in the issuance of a bench warrant for your arrest or dismissal of this order.

4 Any party ordered to attend counseling shall bring proof of counseling to the review hearing.

5 IT IS FURTHER ORDERED³: _____

6 _____

7 _____.

8 **11. PROTECTED PARTY SHALL NOT CAUSE VIOLATION**

9 While this order of protection is in effect, the protected party should refrain from any act that
10 would cause the restrained party to violate this order. This provision is not intended to and does
11 not create a mutual order of protection. Under Section 40-13-6(D) NMSA 1978 only the restrained
12 party can be arrested for violation of this order.

13 **12. NOTICE TO LAW ENFORCEMENT AGENCIES**

14 **ANY LAW ENFORCEMENT OFFICER SHALL USE ANY LAWFUL MEANS TO**
15 **ENFORCE THIS ORDER.**

16 _____ (name) is ordered to surrender all keys to the residence to law enforcement
17 officers.

18 Law enforcement officers or _____ shall be present during any property exchange.

19 This order supersedes prior orders in _____ County, State of
20 _____, Cause No. _____ to the extent that there are contradictory
21 provisions.

22 **13. NOTICE TO PARTIES**

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

3 **14. AGREEMENT OF PARTIES**

4 Without admitting that domestic abuse has occurred, the parties stipulate to the entry of this order
5 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

6 **15. RECOMMENDATIONS**

7 I have:

8 reviewed the pleading for order of protection;

9 prepared this order as my recommendation to the district court judge regarding disposition

10 of requests for order of protection.

Signed

Domestic Violence Commissioner

Court's telephone number: _____

11 **SO ORDERED.**

District Judge

DATE

12 A copy of this order was hand delivered faxed mailed to restrained party

13 restrained party's counsel on _____ (date).³

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

Signed

Title

3

4

USE [~~NOTE~~] NOTES

5 1. The first page of this stipulated order of protection form shall be in the uniform
6 format preceding the heading for additional pages of the order.

7 2. See Form 4-967 NMRA, "Custody, Support and Division of Property Attachment".

8 3. If appropriate, an order providing for restitution may be included in this paragraph.

9 4. Restrained party may be served at the time this order is issued. If restrained party
10 is not present at the time this order is issued, service upon restrained party shall be made by
11 delivering a copy to the party. See Section 40-13-6(A) NMSA 1978.

12 [Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective May
13 1, 2001; April 9, 2002; as amended by Supreme Court Order No. 07-8300-020 effective September
14 17, 2007; by Supreme Court Order No. 08-8300-040, effective December 15, 2008; as amended
15 by Supreme Court Order No. 19-8300-009, effective for all orders issued on or after July 1, 2019;
16 as amended by Supreme Court Order No. 19-8300-015, effective for all cases pending or filed on
17 or after December 31, 2019.]

18 **Committee commentary.**— This Stipulated Order of Protection is not the same as an
19 Order of Protection entered pursuant to Form 4-965 NMRA. This order provides fewer protections
20 to the parties than does the Form 4-965 Order of Protection. The decreased protection is the result

1 of the fact that the order is not based upon findings of abuse, but is entered without reference to
2 whether abuse has occurred. Nonetheless, there may be occasions when the parties and the court
3 are satisfied that this Stipulated Order of Protection provides adequate relief to the parties.

4 The general provisions of the order of protection, including injunctive orders, shall
5 "continue until modified or rescinded ... or until the court approves a subsequent consent
6 agreement...." Section 40-13-6(B) NMSA 1978. In contrast, "[a]n order of protection ... involving
7 custody or support shall be effective for a fixed period of time not to exceed six months". *Id.* The
8 custody or support "order may be extended for good cause upon motion ... for an additional period
9 of time not to exceed six months", *id.*, unless "the order supersedes or alters prior orders of the
10 court" pertaining to child custody or child support. *See* Section 40-13-5(C) NMSA 1978. In the
11 latter situation, "the court may enter an initial order of protection, but the portion of the order
12 dealing with child custody or child support will then be transferred to the court that has or continues
13 to have jurisdiction over the pending or prior custody or support action". *Id.*

14 **Factual Distinction Between Mutual Order of Protection and Stipulated Order of**
15 **Protection**

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

22 [Amended by Supreme Court Order No. 08-8300-040, effective December 15, 2008; as amended
23 by Supreme Court Order No. 19-8300-009, effective for all orders issued on or after July 1, 2019.]