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

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

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT COURT

_____, Petitioner

v. No. _____

_____, Respondent

COUNTER-PETITION
FOR ORDER OF PROTECTION
FROM DOMESTIC ABUSE[1]

1. COURT ASSISTANCE REQUEST

[ ] We will need an interpreter in _____ to translate at hearings for [ ] me [ ] the 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:

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[ ] 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][2]

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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.*)

_____

_____

_____.

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

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

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 and when and where.*)

Physical abuse: _____

_____.

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

Other abuse:_____

_____.

Date of abuse:_____.

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Place of abuse:_____.

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.

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] [place of employment] [and] [school].

[ ] B. (1) that the petitioner shall immediately leave [ ] my [ ] our residence

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at_____.

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

[OR]

[ ] (3) _____ Provide (*address of the place of eviction*).

[ ] 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.

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[ ] 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

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(*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 two other forms (Forms 4-961A and 4-961B) for your name and address 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.

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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.*)

_____

_____.

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[ ] 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

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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.

_____ _____

Date *Signature of Respondent*

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

Notary public

_____

My commission expires: _____.

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USE NOTES

1. Respondent should complete all information known by the respondent.

2. This part must be completed if there are children. 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's present address, the places where the child has lived within the last five (5) five 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 petitioner to know your address, do not put your current address here, but do fill out Forms 4-961A and 4-961B NMRA.

3. Use Notes 1 and 2 are to be printed on pre-printed forms published for use by pro se respondents. This note and Use Note 4 should not be printed on the form. This form has been approved by the Supreme Court of New Mexico for use in the courts of this state and distribution pursuant to Section 40-13-3 NMSA 1978. Pre-printed pro se forms should include a lined blank page at the end of the form for use by the respondent if the pre-printed form does not include adequate space for a complete answer to a question.

4. Section 40-13-3.1(A)(4) NMSA 1978 provides that a victim in a domestic abuse case shall not be required to pay for "the filing, issuance or service of a petition for an order of protection".

[Approved, effective May 1, 2001; as amended, effective February 16, 2004; as amended by Supreme Court Order No. 08-8300-40, effective December 15, 2008.]

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