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Consequences of a Domestic Violence Order of Protection Under the New Mexico Family Violence Protection Act

In New Mexico, the Family Violence Protection Act allows a victim of domestic violence to file a petition for order of protection, asking the Court to enter an order of protection preventing the person committing the domestic violence (called the restrained party) from having any contact with the abused party (called the protected party). Orders of protection are a specific type of civil restraining order and they can have a variety of consequences for all of the parties involved.

The primary consequence of an order of protection is that the restrained party cannot go within 100 yards of the protected party's home or workplace and must stay 25 yards away from the protected party in public. An order of protection may also prevent or regulate contact between any children that the parties may have together. The order of protection also prevents telephone, which includes texting, and e-mail contact between the parties.

All of these requirements will be explained in the actual order of protection; however, an order of protection has other consequences that are not as clear. If the order of protection is issued after a hearing at which the judge or special commissioner makes a formal finding of domestic violence, then the order may have long-term consequences on the restrained party's future employment opportunities, firearm rights, and immigration rights. The immigration consequences are perhaps the most serious of the collateral consequences since a finding of domestic violence may result in removal or deportation of the immigrant offender. Because of these very serious consequences, the parties may also agree to a Stipulated Order of Protection that does not include a finding of domestic violence.

Both types of orders of protection are filed with the National Crime Information Center (NCIC) so that they can be easily enforced by police across jurisdictions. In the case of a stipulated order, the restrained party is still prevented from any and all contact with the protected party and cannot possess a firearm while the stipulated order is in place, but there is no formal finding of domestic violence that would have to be reported later when applying for jobs, a firearms license or immigration procedures.

Finally, a violation of an order of protection can also result in criminal and civil penalties, including fines, jail time or both. Thus, if you are a party to a petition of order of protection, it is important that you discuss your case with an attorney to make sure that the appropriate type of order of protection is entered and to ensure that it is properly enforced.

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