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Domestic Violence Orders of Protection Under New Mexico's Family Violence Protection Act

A domestic violence order of protection is a type of restraining order issued to protect victims of domestic violence under New Mexico's Family Violence Protection Act. Domestic violence cases in New Mexico are often filed in criminal court where the penal consequences can be severe. The Family Violence Protection Act provides another layer of protection for alleged victims of domestic violence in New Mew Mexico civil courts.

Though these cases are filed in civil court, a finding of domestic violence has very serious consequences. As such, it is imperative that anyone facing one of these proceedings consult with an attorney, and have one present at the hearing if at all possible.

After an alleged victim of domestic abuse (called the Protected Party) files a Petition for Order of Protection Against Domestic Abuse alleging that another person (called the Restrained Party) has committed an act of domestic abuse, the court will issue a Temporary Order of Protection against the Restrained Party and order both parties to appear at a hearing.

The Temporary Order of Protection forbids the Restrained Party from any contact with the Protected Party until the hearing. This often means that a Restrained Party cannot return to their home and it also prohibits contact by telephone, e-mail and texting.

Though an Order of Protection is not a criminal action, a Restrained Party who violates the Order of Protection in any way can be charged with a crime. In addition, the Restrained Party can also be charged with contempt of court and jailed until a hearing is held. In serious domestic violence cases, the judge can hold the Restrained Party following the hearing under its contempt powers. So if you are served with an Order of Protection, it is very important that you read the terms of the Order carefully and strictly obey them.

At the hearing, which should occur quickly after the filing of the Petition, the court will decide whether or not an act of domestic abuse has occurred. Depending on where you live, the hearing may be presided over by a judge, a hearing officer or a special commissioner. In Albuquerque, Santa Fe and Rio Rancho, these hearings are heard by Domestic Violence Hearing Officers. If the presiding official makes a finding that domestic abuse has occurred, the can issue an

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extended Order of Protection that extends for 6 months. The alleged victim may file a [Motion to Extend Domestic Violence Order of Protection](#) in cases where there is an ongoing threat of domestic violence.

As stated, a finding of domestic violence can have serious long-term implications, including registration as domestic violence offender, prohibitions on gun ownership, deportation, bars to certain employment including any job requiring a firearm, and problems with security clearance which is often most serious of all in New Mexico. Further, the extended Order of Protection not only prevents the Restrained Party from contacting the Protected Party, but it can also include provisions regarding custody of children, distribution of property and can order the parties involved to attend counseling.

Parties to a Petition for Order of Protection may want to consider agreeing to a Stipulated Order of Protection, which can allow them to avoid a finding of domestic violence while allowing the alleged victim all the protections of an Order of Protection. This will avoid the finding of domestic violence and most of the consequences outlined above. In most cases, this is not only best for the Restrained party but also for the alleged victim since a domestic violence finding will often result in the loss of employment and loss of support for the alleged victim and the children to the relationship.

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