

NEW MEXICO CIVIL PROTECTION ORDERS

Survivors across the country seek safety through civil protection orders. Courts use these vital orders to issue stay away orders, or order an abuser pay medical bills, and even make temporary custody decisions. The remedies are important, but jurisdictions often have several types of orders and the distinctions are not always clear. This resource provides a brief overview of the different types of civil protection orders in each jurisdiction, answering vital questions such as: who can apply; and who can be restrained? The orders included in this resource are limited to those where a survivor can apply themselves, other protective measures may exist in your jurisdiction—reach out to VRLC’s TA team if you have questions!

In New Mexico, there are 2 types of civil protection orders:

- ☐ **Domestic Violence Protective Orders** are available for individuals seeking protection from domestic violence committed by a household member (NMSA § 40-13-2(D)(1)).
- ☐ **Stalking and Sexual Abuse Restraining Orders** are available for individuals seeking protection from any individual who stalked or sexually assaulted them (NMSA § 40-13-2(D)(2)).

DOMESTIC VIOLENCE PROTECTIVE ORDER

Who can apply?	Victims of the following committed by a household member may apply for a domestic violence order of protection against them: • Physical harm, bodily injury, assault, or threat thereof; • Severe emotional distress; • Criminal trespass; • Criminal property damage; • Harassment (including by phone); or • Harm or threatened harm to children. <i>NMSA § 40-13-2(D)(2).</i> See “Who can be Restrained?” for the definition of a household member.
Can minors apply?	The statute applies to any victim, though does not specifically indicate minors can apply. <i>NMSA § 40-13-2(D)(2).</i>
Who can be restrained?	A household member. Household member includes: • A spouse or former spouse; • Parent or present or former stepparent; • Present or former parent-in-law; • Grandparent or grandparent-in-law; • Child, stepchild, or grandchild; • Those with a child in common; or • A person with whom the petitioner has had a continuing personal relationship. <i>NSMA § 40-13-2(F).</i>

DOMESTIC VIOLENCE PROTECTIVE ORDER

What types of relief may a court order?	An ex parte temporary order can include the following: • Prohibit the respondent from committing acts of domestic abuse; • Prohibit contact with the petitioner; or • Grant temporary custody of shared minor children. <i>NSMA § 40-13-3.2(C).</i> A final order must prohibit the respondent from abusing the protected party and any household members. <i>NSMA § 40-13-5(A).</i> A final order may include the following: • Prohibit respondent from possessing firearms; • Grant sole possession of a residence or household to the petitioner; • Award temporary custody of minor children and order visitation rights and child support (final decisions to be made by family court); • Prohibit respondent from contacting petitioner; • Restrain respondent from controlling petitioner's property or joint property; • Require respondent to pay or reimburse for reasonable expenses including medical, counselling, temporary shelter, lost wages, property damage, etc.; • Require respondent to participate in counselling or substance use treatment; or • Other relief as deemed appropriate. <i>NSMA § 40-13-5(A)(2); NSMA § 40-13-5(B).</i>
How long does the order last?	A temporary order lasts up to 10 days, or until a final hearing occurs. <i>NSMA § 40-13-4.</i> <i>continued on next page</i>

DOMESTIC VIOLENCE PROTECTIVE ORDER

How long does the order last?	Final protection orders generally last until a party asks for modification or cancellation of the order. But a judge may impose an expiration date at their discretion. Additionally, orders that include child support or custody cannot last longer than 6 months. <i>N.M. Stat. § 40-13-6(C).</i> If respondent has been convicted of criminal sexual penetration, the order of protection can be granted for any length of time, up to and including, petitioner's life. <i>NSMA § 40-13-5.1(D).</i>
Can the order be renewed?	Injunctive orders shall continue until modified or rescinded upon motion by either party or until the court approves a subsequent consent agreement entered into by the parties. If the order includes child support or custody, it may be extended for good cause upon motion of the protected party for an additional period of time not to exceed 6 months. <i>NMSA sec. 40-13-6(C).</i>
Is a hearing with the respondent required?	A temporary restraining order may be obtained without the respondent. If granted, a hearing with the respondent must be held within 10 days. If denied, a hearing with the respondent must be held within 72 hours. <i>NSMA 40-13-4(A).</i>

STALKING AND SEXUAL ABUSE RESTRAINING ORDER

Who can apply?	A victim of stalking or sexual assault may apply for an order of protection. <i>NMSA § 40-13-2(D)(1).</i> Stalking is defined as: Knowingly pursuing a pattern of conduct directed at a specific person that would place them in reasonable fear of death, bodily harm, sexual assault, confinement, or restraint of the individual or another individual. <i>NMSA § 30-3A-3.</i>
Can minors apply?	The statute applies to “any victim,” though does not specifically indicate minors can apply. <i>NMSA § 40-13-2(D)(1).</i>
Who can be restrained?	Any person. <i>NMSA § 40-13-2(D)(1).</i>
What types of relief may a court order?	An ex parte temporary order can include the following: • Prohibit the respondent from committing acts of domestic abuse; • Prohibit contact with the petitioner; or • Grant temporary custody of shared minor children. <i>NSMA. § 40-13-3.2(C).</i> A final order must prohibit the respondent from abusing the protected party and any household members. <i>NSMA § 40-13-5(A).</i> A final order may include the following: • Prohibit respondent from possessing firearms; <i>continued on next page</i>

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How long does the order last?	A temporary order lasts up to 10 days, or until a final hearing occurs. <i>NSMA § 40-13-4.</i> Final protection orders generally last until a party asks for modification or cancellation of the order. But a judge may impose an expiration date at their discretion. Additionally, orders that include child support or custody cannot last longer than 6 months. <i>N.M. Stat. § 40-13-6(C).</i> If respondent has been convicted of criminal sexual penetration, the order of protection can be granted for any length of time, up to and including, petitioner's life. <i>NSMA § 40-13-5.1(D).</i>
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NSMA 40-13-4(A).

HOW TO APPLY

Forms available at courthouse or online at: <https://www.nmcourts.gov/self-help/domestic-violence-forms/>

Petitioner should file in the circuit court for the county where either petitioner or respondent resides.

SCAN ME!



For specific questions about how to use this guide, or if you have any other questions, VRLC is here to help!

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