

## ***What is domestic violence?***

Domestic violence, also called family violence and domestic abuse, is actual violence and threats of violence between people in certain relationships. Whether behavior is “domestic violence” varies from state to state. If the law says that behavior is domestic violence, the person who was harmed by that behavior is entitled to special legal protections.

In New Mexico, the kinds of harm covered by the law include:

- Physical harm caused by kicking, hitting, punching, biting, slapping or other physical attack
- Severe emotional distress caused by bodily injury or assault, threats that cause fear of bodily injury, criminal trespass or criminal damage to property, repeatedly driving by a residence or workplace, harassment, or harm or threats to harm a child

For harm to be domestic violence, it must be done by a spouse or former spouse, partners, current or past boyfriends or girlfriends, family members, including stepparents, in-laws, children, co-parents, someone in your household, or anyone with whom you have a continuing personal relationship.

If you are unsure if you are a victim of domestic violence, talk to someone at a domestic violence shelter.

## ***What should I do if I am a victim of domestic violence?***

Your safety is the most important thing to consider when deciding what to do if you are a victim of domestic violence. There are several options, and you can choose to do more than one of them:

- Call the police
- Get an Order of Protection from a court
- Call a domestic abuse hotline, such as the National Domestic Abuse Hotline, 800-799-SAFE (7233), or the New Mexico Coalition Against Domestic Violence, 800-773-3645 (toll free inside New Mexico)
- Contact a domestic violence shelter
- Create a safety plan to protect yourself or your children from further abuse. Click here for help with a safety plan.  
[http://www.ncadv.org/protectyourself/SafetyPlan\\_130.html](http://www.ncadv.org/protectyourself/SafetyPlan_130.html)

## ***What is a Temporary Order of Protection?***

A temporary order of protection (TPO) is a court order to your abuser (called the “respondent” in court) to stay away from you (the “petitioner”).

It is the first step in getting a long-term protection order. If the petitioner and the respondent are living together, the court may require the abuser to move out. The court that gives you a TPO is also able to award temporary child custody for the length of the order, even if your abuser now has the child. The police will bring the child to you. With a court order, the police also will go with either the petitioner or the respondent to pick up belongings, turn over keys to the residence or car, from the property where the other party is living.

The court may order temporary financial support for the victim and children; order the abuser to undergo counseling; or pay for expenses, such as medical bills, caused by the abuse.

### ***How do I get a Temporary Order of Protection?***

To get a temporary order, you will need to fill out a short form describing the abuser and what happened. The form is available at the courthouse. Fill out the form carefully and accurately, and turn it in to the court clerk. There is no charge to file the petition.

You may have to wait several hours for a judge to sign the temporary order. That judge may ask you questions. If at all possible, do not bring small children with you to the court house.

The TPO is good until a judge makes a decision about a long-term order at a hearing. The hearing is scheduled for no later than ten days after the court issues the TPO.

### ***How does the TPO protect me?***

The order allows you to get help from the police and the court if your abuser violates the order. Keep a copy of the order with you at all times. Keep another copy in a safe place. Give copies of the order to people who can help you enforce it, such as your attorney, your employer, your landlord, neighbors or friends, and your children's schools. If you feel comfortable telling your employer what has happened, you should also give your employer a copy of your order. (An employer who fires you for being a victim of domestic violence will be required to pay unemployment benefits to you.)

If the abuser violates the court order, you can call the police. Violating a protection order is a crime. It is also a contempt of the court, and can mean the respondent must pay a fine.

The TPO lasts only until the court schedules a hearing to see if you are eligible for a permanent order of protection. The respondent gets notice of the hearing, and is entitled to tell his or her side of the story.

## ***What happens at the hearing?***

At the hearing, the judge decides if the behavior you described is domestic abuse under New Mexico law. The judge does this by asking about what happened. You should have all the evidence you can of what happened—photos, damaged possessions, medical documentation of injuries, etc. If there were witnesses who saw or heard what happened, those witnesses should attend, too. If the respondent comes to the hearing, the judge may question both of you. Sometimes the abuser will agree to the order even if you do not testify or present other evidence.

The court can also make visitation and child support orders. Depending on the case, the court may have the authority to forbid the respondent from purchasing or having a gun while the protection order is in place.

## ***How long does the final protection order last?***

The judge will decide how long the final order of protection will last—months or even years. A temporary custody order that is part of a protection order expires in six months, however (unless the judge sets a shorter time for it). To obtain permanent custody of children, you must file additional court papers. **(For more information about custody,**

see LawHelp topic, “Custody of Children”.)

## ***Do I need an attorney?***

It is always a good idea to get legal advice as soon as possible, especially if you will be going to court. A lawyer can help you organize what you need to say to prove that you need a permanent order of protection. A lawyer can also explain how to subpoena witnesses and how to give evidence in your case.

Normally, you do not need an attorney to represent you when you ask for a TPO. Sometimes it is good to have a lawyer with you at the hearing for a permanent order, however, especially if the abuser has a lawyer.

You should talk with a domestic violence shelter about how to protect your safety in and around the courthouse when you have your hearing.

## ***How can I protect my safety at home?***

Create and follow your safety plan, and decide if you want to make your home address confidential under New Mexico’s Confidential Address Program (CAP).

## ***How does CAP work?***

CAP assigns a “contact” address to you that is not the same as your

physical address. When an eligible person obtains a CAP address, she or he can use it as an official address on court documents and in dealing with state and local agencies.

### ***Who is eligible to use CAP?***

A person is eligible to use CAP if he or she has experienced

- domestic violence
- rape or attempted rape; or
- stalking

and fears for his or her safety or the safety of a family member.

### ***How do I get a CAP address?***

To get a CAP address, you must apply through a domestic violence shelter or other domestic violence program, or the Secretary of State's office. In some areas, a few other state agencies may be able to help you with an application.

### ***Does CAP keep my real address confidential?***

Yes. But if you do not use the contact address for all of your dealings with state and local agencies, the other address you use is no longer confidential. You are the only one who can truly protect your privacy.