

What is a Domestic Violence Restraining Order?

It is a court order that helps protect people who have been abused or threatened with abuse.

What are the legal requirements?

A Domestic Violence Restraining Order is available if:

- A person has been abused or threatened with abuse and
- The person who was abused has a certain relationship with the person who did the abuse (married, divorced, separated, registered domestic partnership, have a child together, dating or used to date, live together or used to live together as more than just roommates), or are closely related (mother or mother-in-law, father or father-in-law, child or stepchild, grandparent or grandparent-in-law, grandchild or grandchild-in-law, sister or sister-in-law, brother or brother-in-law, stepparent, daughter-in-law or son-in-law). (See Family Code § 6211).

What is abuse?

Abuse means to intentionally or recklessly cause or attempt to cause bodily injury to the protected person; or sexually assault the protected person; or to place the protected person or another person in reasonable fear of imminent serious bodily injury; or to molest, attack, hit, stalk, threaten, batter, harass, telephone, or contact the protected person; or to disturb the protected person's peace; or to destroy the protected person's personal property. Abuse can be spoken, written, or physical.

What if the legal requirements are not met?

There are other kinds of orders that might apply:

- Civil harassment order (can be used for neighbors, roommates, cousins, uncles, and aunts)
- Dependent adult or elder abuse restraining order
- Workplace violence order

What can a restraining order do?

The court can order the restrained person to:

- Not contact or harm the protected person, including children listed as protected people
- Stay away from all protected people
- Not have any guns or ammunition
- Move out of the house
- Follow child custody and visitation orders
- Pay child support
- Pay spousal support
- Obey property orders

How do I tell my side of the story?

File Form DV-120, *Response to Request for Domestic Violence Restraining Order*, before the hearing date. Also, have someone mail it to the person who asked for the order or to the person's lawyer. This is "Service." The person who mails it must fill out and sign a *Proof of Service by Mail* (Form DV-250). File the *Proof of Service* with the court clerk. Keep a copy. Then, bring a copy of your response on Form DV-120, and the filed *Proof of Service* (Form DV-250), to the hearing.

What if I also have criminal charges against me?

See a lawyer. Anything you say or write, including in this case, can be used against you in your criminal case.

How long does the order last?

If the court makes a temporary restraining order, it will last until the hearing date. At that time, the judge will decide to continue or cancel the order. The restraining order can last for up to 5 years. Custody, visitation, child support, and spousal support orders can last longer than 5 years and they do not end when the restraining order ends.

Is there a cost to file my Response (Form DV-120)?

No.

What if I have a gun or ammunition?

If a restraining order is issued, you cannot own, possess, or have a gun, other firearm, or ammunition while it is in effect. If you have a gun or other firearm in your immediate possession or control, you must sell it to a licensed gun dealer or turn it in to a law enforcement agency. Read Form DV-800-INFO, *How Do I Turn In or Sell My Firearms?*

What if I don't obey the court order?

The police can arrest you. You can go to jail and/or pay a fine.

Should I go to the court hearing?

If you do not go to court, the judge can make the orders without hearing from you. If you object to the orders being made, go to court on the hearing date listed on page 1 of Form DV-109, *Notice of Court Hearing*.

3 Notice of Court Hearing
A court hearing is scheduled

Hearing Date → Date: _____
Dept.: _____

What if the person seeking protection contacts me?

No matter what, you have to follow the court order. The order only says what you can do or cannot do.

Will I see the person seeking protection at the court hearing?

If the protected person comes to the hearing, you will see him or her. Do not talk to the protected person unless the judge or that person's lawyer says you can.

Do I need a lawyer?

Having a lawyer is always a good idea especially if you have children, but it is not required. You are not entitled to a free court-appointed lawyer. Ask the clerk how to find free or low-cost legal services and self-help centers in your county. You can also go to the Family Law Facilitator for help with child support.

Can I bring a witness or other document to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. The judge may or may not let a witness speak at the hearing. So you should also bring copies of the witnesses' written statements of what they saw or heard, signed under penalty of perjury, and provide the other party and the judge with a copy. Your witness can use Form MC-030, *Declaration*, to write a statement.

If we agree, can the person seeking protection and I cancel the order?

No. Once the order is issued, only the judge can change or cancel it.

What if I do not speak English?

When you file your papers, ask the clerk if a court interpreter is available. If an interpreter is not available for your court date, bring someone to interpret for you. Do not ask a child, a witness, or anyone to be protected by the order to interpret for you.

What if I do not have a green card?

The order is valid even if you are not a U.S. citizen. If you are worried about deportation, talk to an immigration lawyer.

Can I use the restraining order to get divorced or terminate a registered domestic partnership?

No. These forms will not end your marriage or registered domestic partnership. You must file other forms to end your marriage or registered domestic partnership. The court staff can tell you where to get legal help.

What if I have children with the person to be protected?

The judge can make temporary orders for child custody and visitation. If the judge makes a temporary order for child custody, the parent with custody may not remove the child from California before notice to the other parent and a court hearing. Read the order for any other limits. There are some exceptions. Ask a lawyer.

What if I want to leave the county or state?

You must still comply with the restraining order. The restraining order is valid anywhere in the United States.

What if I am deaf or hard of hearing?

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to www.courts.ca.gov/forms for *Request for Accommodations by Persons With Disabilities and Order* (Form MC-410). (Civil Code, § 54.8.)

What if I am a victim of domestic violence?

Ask the court clerk about free or low-cost legal help.
For a referral to a local domestic violence or legal assistance program, call the National Domestic Violence Hotline:

1-800-799-7233

TDD: 1-800-787-3224

It's free and private.

They can help you in more than 100 languages.

For help in your area, contact:

[Local information may be inserted]

Clerk stamps date here when form is filed.

1 Name of Person Asking for Protection:(See Form DV-100, item ①):
_____**2 Your Name:**

Your lawyer in this case (if you have one):

Name: _____ State Bar No.: _____

Firm Name: _____

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.):

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

_____**3 Use this form to respond to the Request for Domestic Violence Restraining Order (Form DV-100)**

- Fill out this form and take it to the court clerk.
- Have the person in ① served by mail with a copy of this form and any attached pages. (See Form DV-250, *Proof of Service by Mail*.)
- For more information, read Form DV-120-INFO, *How Can I Respond to Request for Domestic Violence Restraining Order?*

The judge will consider your Response at the hearing.Write your hearing date, time, and place from Form DV-109, *Notice of Court Hearing*, item ③ here:**Hearing Date**

→ Date: _____ Time: _____

Dept.: _____ Room: _____

You must obey the orders in Form DV-110, *Temporary Restraining Order*, until the hearing. At the hearing, the court may make restraining orders against you that could last up to 5 years and could be renewed.**4 Relationship to Person Asking for Protection**

- I agree to the relationship listed in item ④ on Form DV-100.
- I do not agree to the relationship listed in item ④ on Form DV-100. (Specify your reasons in item 23, page 4 of this form.)

5 Other Protected People

- I agree to the order requested.
- I do not agree to the order requested. (Specify your reasons in item 23, page 4 of this form.)

6 Personal Conduct Order

- I agree to the order requested.
- I do not agree to the order requested. (Specify your reasons in item 23, page 4 of this form.)

This is not a Court Order.

- 7** **Stay-Away Orders**
- a. I agree to the order requested.
- b. I do not agree to the order requested. (*Specify your reasons in item 23, page 4 of this form.*)
- 8** **Move-Out Order**
- a. I agree to the order requested.
- b. I do not agree to the order requested. (*Specify your reasons in item 23, page 4 of this form.*)
- 9** **Turn In Guns or Other Firearms**
- If you were served with Form DV-110, Temporary Restraining Order, you must turn in any guns or firearms in your immediate possession or control. You must file a receipt with the court from a law enforcement agency or a licensed gun dealer within 48 hours after you received Form DV-110.*
- a. I do not own or have any guns or firearms.
- b. I ask for an exemption from the firearms prohibition under Family Code § 6389(h) because
(specify): _____
- c. I have turned in my guns and firearms to law enforcement or sold them to a licensed gun dealer.
- d. A copy of the receipt showing that I turned in or sold my firearms
 is attached has already been filed with the court.
- 10** **Record Unlawful Communications Order**
- a. I agree to the order requested.
- b. I do not agree to the order requested. (*Specify your reasons in item 23, page 4 of this form.*)
- 11** **Animals: Possession and Stay-Away Order**
- a. I agree to the order requested.
- b. I do not agree to the order requested. (*Specify your reasons in item 23, page 4 of this form.*)
- 12** **Child Custody and Visitation Order**
- a. I agree to the order requested.
- b. I do not agree to the order requested. (*Specify your reasons in item 23, page 4 of this form.*)
- c. I am not the parent of the child listed in Form DV-105, *Request for Child Custody and Visitation Orders*.
- d. I ask for the following custody order (*specify*):

- e. I do I do not agree to the orders requested to limit the child's travel as listed in Form DV-108,
Request for Order: No Travel with Children.
You and the other parent may tell the court that you want to be legal parents of the children (use Form DV-180, Agreement and Judgment of Parentage).
- 13** **Child Support Order** (*Check all that apply*):
- a. I agree to the order requested.
- b. I do not agree to the order requested. (*Specify your reasons in item 23, page 4 of this form.*)
- c. I agree to pay guideline child support.
- Whether or not you agree to pay support, you must fill out, serve, and file Form FL-150, Income and Expense Declaration or FL-155, Financial Statement.*

This is not a Court Order.



- 14** **Property Control Order**
- a. I agree to the order requested.
- b. I do not agree to the order requested. *(Specify your reasons in item 23, page 4 of this form.)*
- 15** **Debt Payment Order**
- a. I agree to the order requested.
- b. I do not agree to the order requested. *(Specify your reasons in item 23, page 4 of this form.)*
- 16** **Property Restraint Order**
- a. I agree to the order requested.
- b. I do not agree to the order requested. *(Specify your reasons in item 23, page 4 of this form.)*
- 17** **Spousal Support Order**
- a. I agree to the order requested.
- b. I do not agree to the order requested. *(Specify your reasons in item 23, page 4 of this form.)*
Whether or not you agree, you must fill out, serve, and file Form FL-150, Income and Expense Declaration.
- 18** **Lawyer's Fees and Costs**
- a. I agree to the order requested.
- b. I do not agree to the order requested. *(Specify your reasons in item 23, page 4 of this form.)*
- c. I request the court to order payment of my lawyer's fees and costs.
Whether or not you agree, you must fill out, serve, and file Form FL-150, Income and Expense Declaration.
- 19** **Payments for Costs and Services**
- a. I agree to the order requested.
- b. I do not agree to the order requested. *(Specify your reasons in item 23, page 4 of this form.)*
- 20** **Batterer Intervention Program**
- a. I agree to the order requested.
- b. I do not agree to the order requested. *(Specify your reasons in item 23, page 4 of this form.)*
- 21** **Other Orders** *(see item 21 on Form DV-100)*
- a. I agree to the order requested.
- b. I do not agree to the order requested. *(Specify your reasons in item 23, page 4 of this form.)*
- 22** **Out-of-Pocket Expenses**
- I ask the court to order payment of my out-of-pocket expenses because the temporary restraining order was issued without enough supporting facts. The expenses are:
- Item: _____ Amount: \$ _____ Item: _____ Amount: \$ _____
- You must fill out, serve, and file Form FL-150, Income and Expense Declaration.*

This is not a Court Order.

23 **Reasons I do not agree to the orders requested**

Explain your answers to each of the orders requested (*give specific facts and reasons*):

? Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write, "DV-120, Reasons I Do Not Agree" as a title.

Lined area for providing reasons for not agreeing to the orders requested.

24 Number of pages attached to this form, if any: _____

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

▶ _____
Sign your name

Date: _____

Lawyer's name, if you have one

▶ _____
Lawyer's signature

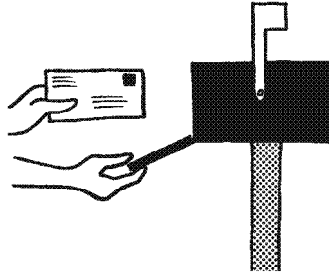
This is not a Court Order.

Clerk stamps date here when form is filed.

1 Name of Person Asking for Protection: _____**2** Name of Person to Be Restrained: _____**3** Notice to Server

The server must:

- Be 18 years of age or over.
- Not be listed in items **1** or **2** or **3** of form DV-100, *Request for Domestic Violence Restraining Order*.
- Mail a copy of all documents checked in **4** to the person in **5**.



Fill in court name and street address:

Superior Court of California, County of _____

Fill in case number:

Case Number: _____**4** I (the server) am 18 years of age or over and live in or am employed in the county where the mailing took place. I mailed a copy of all documents checked below to the person in **5**:

- a. DV-112, *Waiver of Hearing on Denied Request for Temporary Restraining Order*
- b. DV-120, *Response to Request for Domestic Violence Restraining Order*
- c. FL-150, *Income and Expense Declaration*
- d. FL-155, *Simplified Financial Statement*
- e. DV-130, *Restraining Order After Hearing (Order of Protection)*
- f. Other (*specify*): _____

Note: You cannot serve DV-100, DV-105, DV-109, or DV-110 by mail.**5** I placed copies of the documents checked above in a sealed envelope and mailed them as described below:

- a. Name of person served: _____
- b. To this address: _____
City: _____ State: _____ Zip: _____
- c. Mailed on (*date*): _____
- d. Mailed from: City: _____ State: _____

6 Server's Information

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

(If you are a registered process server):

County of registration: _____ Registration number: _____

7 I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print server's name_____
Server to sign here