

Responding to a Domestic Violence Restraining Order

These forms can be used to respond to the court to a request for a Domestic Violence Restraining Order. If you complete the “**Answer to Temporary Restraining Order**” [DV-120], you must have someone over the age of 18 other than you serve a copy of the **Answer** on the person who is seeking the Restraining Order. The copy may be served by mail. The person who mails the copy to the other party must complete a “**Proof of Service by Mail**” [DV-25] and you must file the **Proof of Service** with the court along with the original **Answer**. The **Answer** and **Proof of Service** must be filed at least 2 days before the hearing.

You must attend the hearing if you wish to be heard on the issues requested in the documents that you received from the person who wants the restraining order against you. At the hearing the court may make a 3-year order keeping you away from the person asking for the Restraining Order. The court may also make an order keeping you away from your children and may make permanent custody, visitation and support orders. If you do not attend the hearing the court will not hear your side of the story.

This packet includes an “**Answer to Temporary Restraining Order**” [DV 120] and a “**Proof of Service by Mail**” [DV-250].

NOTE: The Family Law Facilitator can review your documents and assist you in correcting any mistakes before you submit your forms to the court. You may wish to speak with a private attorney regarding your rights before you complete these documents, especially if there are criminal charges that may be pending against you.

What is a restraining order?

It is a court order.

What does the order do?

It can order you to:

- Not contact or go near the protected person
- Not have a gun while the order is in effect
- Move out of the house
- Follow child custody and visitation orders
- Pay child support and
- Pay spousal support

Read the order carefully. If you disobey the order, you can go to jail or be fined.

What if I have a gun?

You cannot own, possess, or have a gun or firearm while the order is in effect. If you have a gun now, you must sell it to a licensed gun dealer or turn it in to police. Read Form DV-810-INFO.

Should I go to the hearing?

Yes. Go to court on the hearing date listed on page 1 of Form DV-110. If you do not go to court, the judge can make the orders without hearing from you.

How do I tell my side of the story?

File Form DV-120 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.

Do I have to get a lawyer?

No. But it is a good idea, especially if you have children. Ask the clerk how to find free or low-cost legal services.

What if I also have criminal charges against me?

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

What if I am a victim of domestic violence?

Call the National Domestic Violence Hotline:

1-800-799-7233

TDD: 1-800-787-3224

Ask who can help you file a restraining order.

DV-110 Temporary Restraining Order and Notice of Hearing

1 Name of person asking for protection (protected person):
 Protected person's address (skip this if you have a lawyer); (if you want your address to be private, give a mailing address instead):
 City: _____ State: _____ Zip: _____
 Telephone number: _____
 Protected person's lawyer (if any): (Name, address, telephone number, and State Bar number): _____

2 Restrained person's name:
 Description of that person: Sex: M F Height: _____
 Weight: _____ Race: _____ Hair Color: _____
 Eye Color: _____ Age: _____ Date of Birth: _____

3 List the full names of all family or household members protected by this order: _____

4 Court Hearing Date (Fecha de la Audiencia)
 Clerk will fill out section below.
 Hearing Date: _____ Date: _____ Time: _____
 Dept.: _____ Name and address of court if different from above: _____

To the person in (2): At the hearing, the judge can make restraining orders that last for up to 5 years. The judge can also make other orders about your children, child support, spousal support, money, and property. File an answer on Form DV-120 before the hearing. At the hearing, you can tell the judge that you do not want the orders against you. Even if you do not attend the hearing, you must obey the orders.
 Para la persona nombrada en (2): En esta audiencia el juez puede hacer que la orden de restricción sea válida hasta un máximo de 5 años. El juez puede también hacer otros órdenes acerca de niños, manutención, dinero y propiedad. Presente una respuesta en el formulario DV-120 antes de la audiencia. Si Usted se opone a estas órdenes, vaya a la audiencia y dígaselo al juez. Aunque no vaya a la audiencia, tiene que obedecer estas órdenes.

To the person in (3): At the hearing, the judge will consider whether denial of any orders will jeopardize your safety and the safety of children for whom you are requesting custody, visitation, and child support. Safety concerns related to the financial needs of you and your children will also be considered.
 Para la persona nombrada en (3): En esta audiencia el juez considerará si la denegación de cualquier orden pone en peligro su seguridad y la seguridad de los niños por quienes usted está solicitando custodia, visitas y apoyo para el niño. Las preocupaciones relacionadas con las necesidades financieras de usted y sus hijos también serán consideradas.

5 Temporary Orders (Órdenes Temporales)
 Any orders made in this form end at the time of the court hearing in (4), unless a judge extends them.
 Read this form carefully. All checked boxes and items 10 and 11 are court orders.
 Todas las órdenes hechas en esta formulario terminarán en la fecha y hora de la audiencia en (4), al menos que un juez las extienda. Lea este formulario con cuidado. Todas las casillas marcadas y los artículos 10 y 11 son órdenes de la corte.

This is a Court Order.
 Temporary Restraining Order and Notice of Hearing (CLETS-TRO) (Domestic Violence Prevention)

Judicial Council of California, www.courtinfo.ca.gov
 Revised July 1, 2006
 Domestic Violence Prevention Form
 Family Code, § 6200 et seq. "Adoptive" (10/04)

DV-110, Page 1 of 3



Can I bring a witness to the court hearing?

You can bring witnesses or documents that support your case, but the judge may not have enough time to talk to the witnesses. So bring their written statements of what they saw or heard. *You must file and mail witness statements at least 10 days before the hearing or when you mail your Answer (Form DV-120) to the protected person.*

Will I see the protected person 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 says you can.

How long does the order last?

The first (temporary) order lasts until your next court date. At that time, the judge will decide to grant or deny a longer-term order. That order can last for up to 5 years. Spousal support orders can last longer than 5 years. Custody, visitation, and child support orders can last until the child turns 18.

What if the protected person contacts me?

No matter what, you have to follow the court order. The order does not affect the protected person. It only affects what *you* can do. Tell the protected person you cannot have contact.

Can I agree with the protected person to cancel the order?

No. Only the judge can change or cancel the order.

What happens if I don't obey the court order?

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

What if I don't have a green card?

The order is valid whether you have a green card or not. If you are worried about being deported, talk to an immigration lawyer.

What if I don't speak English?

Ask someone who speaks English to call the court clerk before your hearing and ask for a court interpreter. If the interpreter is not available, bring someone to interpret for you. Do not ask a child, a witness, or a protected person to interpret for you.

What if I am deaf or hard of hearing?**Requests for Accommodations**

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.courtinfo.ca.gov/forms for *Request for Accommodations by Persons With Disabilities and Order* (Form MC-410). (Civil Code, § 54.8.)

Clerk stamps date here when form is filed.

- 1 Name of person who asked for the order (protected person):

- 2 Your name: _____
Your address (skip this if you have a lawyer): (If you want your address to be private, give a mailing address instead):

City: _____ State: _____ Zip: _____
Your telephone (optional): _____
Your lawyer (if you have one): (Name, address, telephone number, and State Bar number):

Fill in court name and street address:

Superior Court of California, County of _____

Clerk fills in case number:

Case Number: _____

Give the judge your answers to DV-100:

- 3 **Personal Conduct Orders**
I do do not agree to the order requested.
- 4 **Stay-Away Order**
I do do not agree to the order requested.
- 5 **Move-Out Order**
I do do not agree to the order requested.
- 6 **Child Custody**
 - a. I do do not agree to the custody order requested.
 - b. I am not the parent of the child listed in DV-105.
 - c. I ask for the following custody order (specify):

 - d. I do do not agree to the orders requested to prevent child abduction.

The judge can consider your Answer at the hearing. Write your hearing date and time here:

Hearing Date → Date: _____ Time: _____
Dept.: _____ Room: _____

You must obey the orders until the hearing.
If you do not come to this hearing, the judge can make the orders last for 3 years or longer.

- 7 **Visitation**
 - a. I do do not agree to the visitation order requested.
 - b. I ask for the following visitation order (specify): _____

- 8 **Child Support**
 - a. I do do not agree to the order requested.
 - b. I agree to pay guideline child support.
You must fill out, serve, and file Form FL-150 or FL-155.
- 9 **Spousal Support**
I do do not agree to the order requested.
Whether or not you agree, you must fill out, serve, and file Form FL-150.

Your name: _____

- 10** **Property Control**
 I do do not agree to the order requested.
 If you have other requests, list them in **(20)** below.
- 11** **Debt Payment**
 I do do not agree to the order requested.
 If you have other requests, list them in **(20)** below.
- 12** **Property Restraint**
 I do do not agree to the order requested.
 If you have other requests, list them in **(20)** below.
- 13** **Attorney Fees and Costs**
 I do do not agree to the order requested.
- 14** **Payments for Costs and Services**
 I do do not agree to the order requested.
- 15** **Animals**
 I do do not agree to the order requested.
- 16** **Batterer Intervention Program**
 I do do not agree to the order requested.
- 17** **Other Orders** (see item 21 on Form DV-100)
 I do do not agree to the orders requested.
- 18** **Turn in guns or other firearms.**
 a. I do not own or have any guns or firearms.
 b. I have have not turned in my guns and firearms to the police or a licensed gun dealer.
 c. A copy of the receipt is attached. has already been filed with the court.
 You must file a receipt with the court within 48 hours after being served with temporary orders.
- 19** **I ask the court to order payment of my**
 a. Attorney fees
 b. 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.
- 20** **My Answer to the Statements in DV-100 and Other Requests**
 Please attach your statement. Write "DV-120, Item 20—More Information" at the top. Be specific.
- 21** 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

| | |
|-----------------------|--------------|
| SHORT TITLE: _____ | CASE NUMBER: |
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(Required for verified pleading) The items on this page stated on information and belief are *(specify item numbers, not line numbers)*:

This page may be used with any Judicial Council form or any other paper filed with the court.

Page _____

Clerk stamps below when form is filed.

Court name and street address:

Case Number:

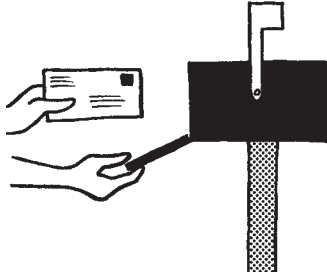
1 Protected person's name:

2 Restrained person's name:

3 Notice to Server

You must:

- Be 18 or over.
- Not be listed on the restraining order.
- Mail a copy of all documents checked in **4** to the person in **5**.



4 I mailed to the person in **5** a copy of all documents checked below:

- a. DV-120 (Answer to Temporary Restraining Order)
- b. FL-150 (Income and Expense Declaration)
- c. FL-155 (Simplified Financial Statement)
- d. DV-130 (Restraining Order After Hearing)
- e. Other (specify): _____

Remember: You cannot serve DV-100, DV-105, DV-110, or DV-125 by mail.

5 I placed copies of the documents checked above in a sealed envelope and mailed them as listed below:

- a. Date: _____
- b. Mailed from (city): _____ (state): _____
- c. Mailed to (write name): _____
- d. At this address: _____

6 Server's Information

Name: _____

Address: _____

Telephone: _____

(If you are a 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

Be prepared.

- Bring documents that support your case (police or medical reports, rental agreements or receipts, pictures, bills, etc.).
- You can bring a witness to help support your case. Witnesses may or may not be permitted to testify. But you can bring a written statement of what the witness saw or heard. (You must file and serve witness statements by mail or in person, along with your *Answer* (Form DV-120). Bring filed copies of your *Answer* and *Proof of Service* [Form DV-250] to your hearing.)
- Most courtrooms do not allow children. Ask the court clerk if there is a children's waiting room in the courthouse.
- **Don't miss the hearing! If you miss it, the judge can make the orders without hearing from you.**

Get there 30 minutes early.

- Find the courtroom.
- When the courtroom opens, go in and tell the clerk or officer that you are present.
- If the person who asked for the order is present, do not sit near or talk to him or her.
- Watch the other cases so you will know what to do.
- When your name is called, go to the front of the courtroom.
- Your hearing may last just a few minutes or up to an hour or more. However, you may be at court several hours, depending on the number of other cases.

What if I don't speak English?

Ask someone who speaks English to call the court clerk before your hearing and ask for a court interpreter. If the interpreter is not available, bring someone to interpret for you. Do not ask a child, a witness, or a protected person to interpret for you.

What if I am deaf or hard of hearing?



Requests for Accommodations

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.courtinfo.ca.gov/forms for *Request for Accommodations by Persons With Disabilities and Order* (Form MC-410). (Civil Code, § 54.8.)

Practice telling what you disagree with.

Make a list of the orders you disagree with. Practice saying why you disagree. Do not take more than 3 minutes to say which orders you disagree with.

If you get nervous at the hearing, just read from your list. Use your list to make sure you have told the judge about each order you disagree with.



The judge may ask questions.

- Tell the truth. Speak slowly. You can read from your list.
- The other person or a lawyer may also ask you questions.
- Give complete answers.
- If you don't understand, say "I don't understand the question."
- If the other person lies in court, wait until he or she finishes talking. Then tell the judge.
- Speak only to the judge. Do not talk to the other person unless it is your turn to ask questions.
- When people are talking to the judge, wait for them to finish. Then you can ask them questions about what they said.
- Do not sit near or talk to the other person.

The judge will decide.

- At the end of the hearing, the judge will say what the orders are.
- You will be served with the *Restraining Order After Hearing* (Form DV-130) within a few days, by mail or in person.
- If anything on the Form DV-130 is different from what the judge ordered, talk to a lawyer right away. Or ask the court clerk how to find free or low-cost legal services.

The judge may "continue" your case.

This means you have to come back another day. The judge can do this if:

- You need more time to get a lawyer or prepare an answer
- The judge wants more information
- Your hearing is taking longer than planned

If your case is continued . . .

- The judge may make the orders last until the new hearing date.
- Bring all your papers back to court at the next hearing.

What about child custody or visitation?

- If you need child custody or visitation orders, the judge will send you to mediation. Mediation helps parents agree on a plan for custody and visitation that is best for the children.
- If you are sent to mediation, the judge may make your temporary custody and visitation orders last until the next hearing or until another court order.
- Either parent can ask to meet with the mediator separately.

What happens after the hearing?

- If the judge makes the orders, you must obey them. If you don't, you can be arrested.
- If you do not receive a copy of the orders, ask the clerk for a copy, or talk to a lawyer.