

INFORMATION FOR VICTIMS OF DOMESTIC VIOLENCE

TYPES OF RESTRAINING ORDERS

1. EMERGENCY PROTECTIVE ORDER (EPO)

The EPO is good for 5 work days, 7 days if issued on a weekend. The responding law enforcement officer grants it at the time of the incident after authorization by a judge. An EPO can include orders for custody, residence kick out or stay away orders. The person seeking protection must be in immediate danger of violence or have had the threat of serious harm made towards the victim or family members. An EPO is free.

2. DOMESTIC VIOLENCE RESTRAINING ORDER (DV-TRO) Family Law

To obtain a DVPA Restraining Order:

- you must have/had a first degree familial relationship with the abuser
- Recent acts or threats of violence against you or a family member (within 30 days).
- The order can include other members of your family or household.
- You must keep track of what happened and when.
- Police Reports or Emergency Protective Orders about acts or threats of violence are helpful but not required to obtain a Restraining Order.

Any copies of EPOS, DV Police Reports or medical records concerning the Domestic Violence Should be attached to the initial papers and filed as Exhibits to help prove the domestic violence has occurred. [Family Code Section 6228 gives domestic violence victims the right to obtain, free of charge, a copy of all domestic violence incident reports upon request].

The Temporary Restraining Order is usually granted until the hearing, and can include custody, use of a vehicle, or home, stay away order and/or kick-out orders. In most cases the abuser is not granted any visitation until the time of the hearing. DV-TROs must be served on the other party personally, at least five days before the hearing, and a "Proof of Service" filed with the Court before the Court date. A copy of the Domestic Violence Restraining Order must be on file with the Sheriff's office for the order to be enforced.

You must attend the hearing to have a permanent restraining order granted. The final order is good for three to five years. Custody and visitation orders may also be made if minor children are involved. You may be referred to mediation for a custody and visitation recommendation. The custody/visitation orders do not expire and will remain in effect until new orders are made.

If you are not able to have the abuser served with the initial restraining order at least 5 days before the hearing, you may need to have it extended for an additional period of time. You must

go to the hearing and ask for the extension, make sure your orders are extended to the new hearing date.

The court will prepare an "Order after Hearing" and file a copy filed with the court, and sheriff's office so that the restraining order can be in effect.

There are currently three places that help review and possibly prepare DV-TROS free of charge.

They are:

1. The Self-Help Center/Family Law Facilitator's Office
(559) 457-2143 or toll free within Fresno County at 1-866-665-2345.
Email: selfhelpfamilylaw@fresno.courts.ca.gov.
Address: 1130 "O" St., First Floor, Fresno, CA 93721-2220
2. Central California Legal Services (CCLS)
(559) 570-1200 or Legal Advice Line: 1(800)675-8001
Online application for services: centralcallegal.org and click on "client application".
Address: 2115 Kern St., Fresno, CA 93721
3. Centro La Familia Advocacy Services (CLFA)
(559) 237-2961 or Toll Free (877) 294-3772
Online: centrolafamilia.org then click on "contact us".
302 Fresno St., Ste. 102, Fresno, CA 93706

All three agencies have Spanish and Hmong speaking staff. However you must qualify as "low income" to get help from CCLS and CLFA. The Self Help Center does not have income eligibility restrictions. Domestic violence services at all three locations are free of charges and there is no filing fee with the court to file a request for a Restraining Order.

All three agencies are affected by COVID 19 Restrictions on when they are open to the public. The Self Help Center is not open to the public and handles all of its business via phone, email and zoom. Call Central California Legal Services and Centro La Familia for dates and times they are open.

3. CRIMINAL PROTECTIVE ORDER (CPO)

A Criminal Protective Order is a restraining order that is granted by the judge at any hearing on a criminal domestic violence case against the violent person. You must let the District Attorney's Office know that you want a Criminal Protective Order. This order can include provisions for "stay away" from you and from your children and household members but it does not grant custody orders. The CPO is free and is good until the criminal case is dismissed. If the abuser is sentenced to probation, the Criminal Protective Order is good and may extend beyond the term of probation. You will be given copy of the Criminal Protective Order if you are the court hearing. If not, a copy will be mailed to you. The case is dismissed against the abuser you can file for a DVPA restraining order.

4. CIVIL ORDER PREVENTING HARRASSMENT

This is a restraining order for parties who are not related by blood, marriage or an intimate relationship (e.g. neighbors, co-workers, etc.) but whom experience violence at the hands of another. Forms are available through SELF HELP (559) 457-2143.

ADDITIONAL REFERRALS:

- ▶ MARJAREE MASON CENTER (559) 237-HELP (4357) –Shelter
- ▶ SAFETY AT HOME 1(877) 322-5227 – Confidential addresses
- ▶ VINE –Victim Information and Notification Everyday 1 (800) 491-5170
- ▶ CRIME VICTIM ASSISTANCE CENTER (559) 600-2822
- ▶ RAPE COUNSELING CENTER (559) 222-7273
- ▶ NATIONAL DOMESTIC VIOLENCE HOTLINE (800)799-SAFE (7233).

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 Response* (Form MC-410). (Civil Code, § 54.8.)

Need more information?

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.

Can the restrained person and I agree to cancel the order?

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

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.

Can the order stop the other parent from taking our children away?

If you get a temporary restraining order that includes an order for custody, the parent with custody may not remove the child from California before notice to the other parent and a court hearing on the request to establish or modify custody. Read the order and Form DV-140, *Child Custody and Visitation Order*, if issued, for any other limits. There are some exceptions. Ask a lawyer.

What if I want to leave the county or state?

The restraining order is valid anywhere in the United States. If you move out of California, contact the local police so they will know about your orders.



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DV-5

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1 Use this form as a checklist.

(Look at the numbers at the top of your forms.)

a. For a restraining order you need these forms:

- DV-100 *Request for Domestic Violence Restraining Order*
- CLETS-001 *(Confidential CLETS Information)*
- DV-109 *Notice of Court Hearing*
- DV-110 *Temporary Restraining Order*

b. If you have children with the person you want protection from, you also need these forms:

- DV-105 *Request for Child Custody and Visitation Orders*
- DV-140 *Child Custody and Visitation Order*

c. If you want child support or spousal/partner support, you also need form:

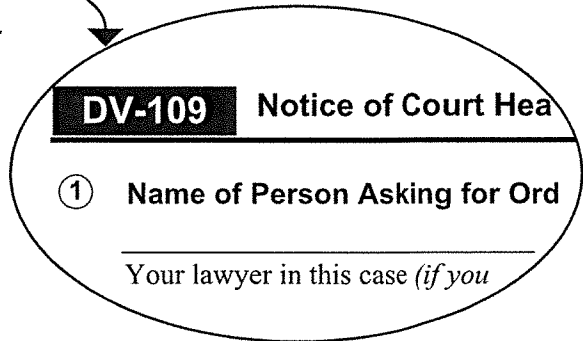
- FL-150* *Income and Expense Declaration* or
- FL-155* *Financial Statement (Simplified)*

* Read *Which Financial Form—FL-155 or FL-150?* (form DV-570) to know which one is right for you.

d. Ask the clerk if your county has special forms or rules.

e. There are other forms you will need later (*do not fill them out now*):

- DV-120 *Response to Request for Domestic Violence Restraining Order*
- DV-130 *Restraining Order After Hearing (Order of Protection)*
- DV-200 *Proof of Personal Service*



2 Fill out the forms you need and take them to the court clerk. The clerk will give your forms to the judge. The judge will look at them and decide whether to make (“grant”) the temporary orders. Sometimes the judge will want to talk to you. If so, the clerk will tell you.

3 Find out if the judge made the temporary restraining orders. Ask the clerk when to come back to see if the judge signed the order form DV-110. The judge must decide by the next business day. If the judge grants a temporary restraining order, check it carefully to see what the orders are. The judge might not order everything you requested. The court will set a hearing date on form DV-109 whether or not the judge grants any temporary orders.

4 "File" the judge's order. The clerk will keep the original forms for the court and will file-stamp up to three copies for you. If you need more, you may make them yourself.

What to do with your copies:

- Keep one copy with you, always. You may need to show it to the police.
- Keep another copy in a safe place.
- Give a copy to anyone else protected by the order.
- Take copies to places where the restrained party is ordered not to go (school, work, child care, etc.)
- Give a copy to the security officers in your apartment building and workplace.

Restraining orders get entered into CLETS, a statewide computer system that lets police know about your order. The court will send the order to law enforcement or CLETS for you.



5 Know your hearing date: Form DV-109

Look at form DV-109 for the date and time of your hearing. You **must** go to your hearing to get a permanent order.

The order you have now only lasts for about three weeks. Any orders made on form DV-110 (Temporary Restraining Order) will end on the hearing date.

You have the right to cancel the hearing. Read page 2 of form DV-109 for information.

6 "Serve" the restrained party.

Ask someone you know, a process server, or law enforcement to personally "serve" (give) the restrained party a copy of the notice of hearing, the order, and other papers. You **cannot** serve the papers yourself. They **cannot** be sent by mail. The server must:

- Be 18 years of age or older
- Not be listed in item ① or ③ of form DV-100, Request for Domestic Violence Restraining Order.

Law enforcement will serve the orders for **free**, but you have to ask.

A "process server" is a business you pay to deliver court forms. Look in the Yellow Pages or on the Internet under "Process Serving."

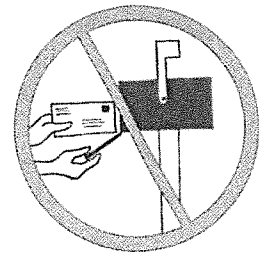
If law enforcement or the process server uses a different proof of service form, make sure the form lists all the forms served.

7 File the Proof of Personal Service (Form DV-200).

The *Proof of Personal Service* shows the judge and police that the restrained person got a copy of the request for orders. Make three copies of the completed *Proof of Personal Service*. Take the original and copies to the court clerk as soon as possible **before your hearing**. The clerk will keep the original and give you back the copies stamped "Filed." Bring a copy to your hearing.

Keep one copy with you and another in a safe place in case you need to show it to the police. Give the other copies out as you did in ④. The court will send your completed *Proof of Personal Service* to law enforcement or CLETS for you. CLETS is a statewide computer system that lets police know about your order.

If the sheriff serves your order, he or she will send the *Proof of Personal Service* to the court and to CLETS for you.



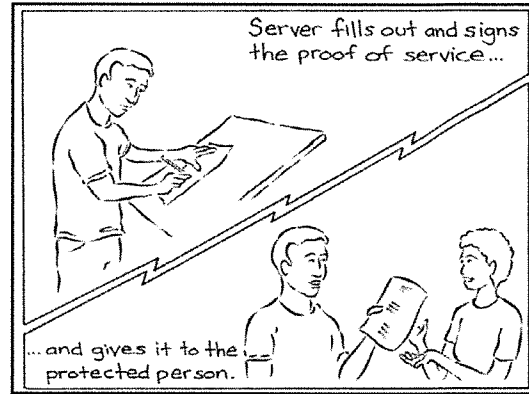
Don't serve it by mail!



8 If the restrained party wasn't served . . .

The restrained party **must** be served before the hearing. If the restrained party wasn't served, fill out form DV-115 (Request to Continue Hearing) and the top of form DV-116 (Order on Request to Continue Hearing) to ask the judge for a new hearing date. Do this **before** or **at** your hearing. (If you wait until after the hearing, you have to start from the beginning and complete all of the forms again.)

If the judge signs form DV-116, any restraining orders will last until the end of the new hearing.



- File the signed order (form DV-116) with the clerk. The clerk will send it to law enforcement or CLETS for you.
- Attach form DV-115 and form DV-116 to your other court papers and have the restrained party personally served.
- After serving the orders, the server fills out and signs form DV-200, Proof of Personal Service, and gives it to you.
- File the original form DV-200, *Proof of Personal Service*, and bring a copy to your hearing.
- Bring a copy of form DV-115 and form DV-116 to your hearing.

9 Need help?

The clerk has information sheets that can help you. Or you can get them at www.courts.ca.gov/forms.

- *Can a Domestic Violence Restraining Order Help Me?* (form DV-500-INFO)
- *What Is "Proof of Personal Service"?* (form DV-200-INFO)
- *Get Ready for the Court Hearing* (form DV-520-INFO)
- *How to Enforce Your Restraining Order* (form DV-530-INFO)
- *How Can I Respond to a Request for Domestic Violence Restraining Order?* (form DV-120-INFO)
- *How Do I Ask the Court to Renew My Restraining Order?* (form DV-700-INFO)
- *Which Financial Form—FL-155 or FL-150?* (form DV-570)

10 Need more help?

- 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.

This form explains what to do *before*, *during*, and *after* the restraining order hearing. You can go to www.courts.ca.gov/dvforms for more information and to find the court forms listed in this information form

Before the hearing

Take these papers to court (you can use the check boxes on this page to keep track of what you need or have):

- 3 copies of **all** papers you filed for your case.
- 3 copies of documents that support your case (police or medical reports, rental agreements or receipts, photos, bills). Be ready to give the other party copies of what you give to the judge. Sometimes the judge cannot look at or consider certain documents. The judge will decide which documents can be included in your case.
- 3 copies of pay stubs or other proof of income (only if orders about money, such as child or spousal support, were requested). If the judge accepts your proof, s/he will also give a copy to the other person.
- The signed Proof of Service form.** For more information, see **DV-200-INFO**, *What Is "Proof of Personal Service?"*
- Make a list of the orders you want (or don't want), and practice saying it. You may only have a few minutes to talk to the judge. If you get nervous at the hearing, just read from your list. You may also write a statement and read it to the judge. You may also say other things after you read the statement.
- Childcare.** Most of the time, children will not be allowed in the courtroom during the hearing. Call the court and ask if they have a children's waiting room. If not, arrange for childcare.

If needed, make arrangements for:

- A support person.** But that person cannot speak for you in court.
- Witness(es)** to testify in court. Or you may bring a witness's signed statement of what they saw or heard. The witness's statement can be on a sheet of paper that says *Declaration* at the top, and *Signed under penalty of perjury* at the bottom, just above the witness's signature. Or the witness may use form **MC-030**, *Declaration* instead.



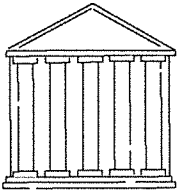
request form if you want the court to have an interpreter at the hearing. If the court cannot give you an interpreter, bring an adult to interpret for you. Do not ask a witness or a child involved in your case to interpret for you.

Exception: If the other person objects to your witness, that witness must be in court if you want the judge to hear from him or her.

If the hearing is about getting a restraining order **against** you:

- **Go to the hearing!** If you miss it, the judge can make orders without hearing your side.
- Read **DV-120-INFO**, *How Can I Respond to a Request for Domestic Violence Restraining Order?*
- You can fill out and file a court form to tell the judge your side (form **DV-120**, *Response to Request for Domestic Violence Restraining Order*). Take 3 copies of this form to the court hearing.
- **Note:** If the other person asks for orders about money (child or spousal support or other financial orders), read form **DV-570** to see if you should fill out an Income and Expense Declaration or a Simplified Financial Statement.



At the hearing

Get to court at least **30 minutes early**. Find your courtroom. When it opens, go in and tell the courtroom clerk or law enforcement officer you are present, and the names of any witnesses, and if the witness needs an interpreter.

- Do not sit near or talk to the other person. If you are afraid of the other person, tell the officer.
- Watch the other cases so you will know what to do.
- Go to the front of the courtroom when they call your name.
- You may be at court several hours. It depends on how many cases there are. Your hearing may last just a few minutes or over an hour.

Warning! If you asked for the restraining order but do not go to the hearing, your temporary restraining order will end and there may not be a hearing. The court could make other orders if the other side asks, even if the restraining order is not granted. To get another restraining order, you must fill out and file a new set of forms.

In the courtroom

The judge may ask you questions. The other people in the case and their lawyers may ask questions, too.

- Tell the truth. Speak slowly. Give complete answers. You can read from your list.
- Try to answer exactly what the judge asks.
- If you don't understand, say "I don't understand the question."
- Speak only to the judge unless it's your turn to ask questions or the judge tells you to answer a question from the other person or his/her lawyer.
- Do not interrupt anyone! If the other person tells a lie, wait until s/he finishes talking, then tell the judge.

Family Court Services

If you ask for parenting time (custody and visitation) orders, the court may send both parents to Family Court Services for *court-connected mediation* or *child custody recommending counseling*. For more information, see forms: FL-313-INFO, *Child Custody Information Sheet—Recommending Counseling*, or FL-314-INFO, *Child Custody Information Sheet—Child Custody Mediation*. If you are sent to Family Court Services, the judge may extend the date of the orders (or make new temporary orders) to last until your next court date.

The court may postpone (continue) your case if:

- The person to be restrained has not been served or needs time to get a lawyer or prepare an answer.
- The judge wants more information or your hearing is taking longer than planned.

If this happens, you will have to come back another day. The person who asked for the order may ask the judge to make the temporary orders last until the new hearing date. The court might use form DV-116 for the new hearing.

At the end of the hearing

For most cases, the judge will make decisions about your case at the end of the hearing. To decide if the requested orders should be approved or not, the judge will decide if the evidence shows that the person asking for protection is entitled to a restraining order. The judge will consider the evidence and the safety risks of the adults and children involved in the case. If the judge makes orders at the hearing, the orders will be on form DV-130, *Restraining Order After Hearing*.

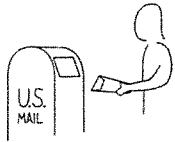
If you asked for the order(s):

- The court clerk might fill out form DV-130. If so, s/he will take it to the judge. If not, ask who should fill it out, and where to file it. After the form is filed, the court clerk will give you up to 3 copies.
- Read the signed form DV-130 carefully. If anything is different from what the judge said in court, ask the clerk for help right away. Or talk to your lawyer, if you have one.
- Your temporary orders expire at midnight of the date of your hearing. File your new order the same day so you will be protected.
- If the court makes the restraining order, the clerk will send form DV-130, *Restraining Order After Hearing* to law enforcement. Doing this puts your orders in a database called CLETS. This lets police everywhere in the state know about the orders.
- **Important!** Always keep a copy of the restraining order with you.



After the hearing

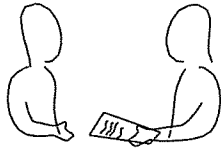
If you **asked** for the restraining order, and the court made the order...



You must have the other person served with a copy of form DV-130. You may have him or her served with a copy of form DV-130 in the courtroom after the hearing or by mail.

If the restrained person was *not* at the hearing and the new orders are

- the **same** as the temporary order, you may have the other person served with a copy of form DV-130 by mail. Ask the server to complete form DV-250.
- **different** from the temporary order, you must have someone serve form DV-130 in person, not by mail. Ask the server to complete form DV-200, *Proof of Personal Service*, and give it back to you.



Important! You must file a completed form DV-200, *Proof of Personal Service*, or form DV-250, *Proof of Service by Mail*. Keep a copy for your records. Keep a copy of the orders with you at all times.

Other orders

If you asked for support or child custody/visitation orders, you may also get one of these forms:

- Form DV-140, *Child Custody and Visitation Order*, if the judge ordered child custody or visitation.
- Form FL-342, *Child Support Information and Order Attachment*, or form FL-343, *Spousal, Partner, or Family Support Order Attachment*, if the judge orders child support and/or spousal support.

**What if you are 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)

If the court made a restraining order **against** you...

- You must obey orders the judge makes at the hearing. Orders are written on form DV-130. If you do not obey them, you could be arrested.
- You will be served the *Restraining Order After Hearing* (form DV-130) at the hearing or within a few days, by mail or in person.
- Read the signed form DV-130 carefully when you receive it. If anything is different from what the judge said, ask the court clerk for help right away. Or talk to your lawyer, if you have one.

If you do not receive a copy of the orders within a few days, ask the clerk for a copy.

Review *How Do I Turn In, Sell, or Store My Firearms* (DV-800-INFO/JV-252-INFO).

Need more help?

Ask the court clerk about free or low-cost legal help. Ask for information at the court about the Self-Help Center or Family Law Facilitator Office.

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.

1 You may need to ask for a new court date if:

- You are the **protected party** and are unable to have form DV-109, *Notice of Court Hearing*, and other papers served in time before your court date.
- You are the **restrained party** and it is your first time asking the court to reschedule your court date.
- You have a good reason for needing a new court date (the court may grant your request to reschedule your court date on a showing of “good cause”).

2 What does form DV-115 do?

Use form DV-115 to ask the court to reschedule your court date. If your court date is rescheduled and a *Temporary Restraining Order* (form DV-110) was granted, that order will be extended until the end of your new court date, unless the court decides to modify or terminate it. “Extend” means to keep any temporary orders in effect until the new court date.

3 Follow these steps:

- Fill out all of form DV-115.
- Fill out items ① through ② on form DV-116, *Order on Request to Continue Hearing*.
- The judge will need to review your papers. In some courts, you must give your papers to the clerk. Ask the court clerk for information on how you ask the judge to review your papers.
- After you turn in your forms as required by your local court, check with the clerk’s office to see if the judge approved (granted) your request to reschedule your court date.
- If the judge signed form DV-116, you will have a new court date. If the judge did NOT sign the form, you should go to court at the date, time, and location that is on form DV-109.
- Next, file both forms DV-115 and DV-116 with the clerk. The clerk will make up to three file-stamped copies for you. Keep at least one copy to bring to your court date.
- The other party must be served a copy of the court papers as described in item ⑥ on form DV-116.
- Ask the person who serves the papers to complete a proof of service form and give it to you. If service was in person, use form DV-200, *Proof of Personal Service*. If service was by mail, use form DV-250, *Proof of Service by Mail*. Make two copies of the completed forms.
- File the completed and signed proof of service form with the clerk’s office before your court date.
- If the court reschedules your court date and extends the expiration date of the temporary restraining order to the end of your new court date, the clerk will send the restraining order to law enforcement or CLETS for you. CLETS is a statewide computer system that lets police know about the order.

4 Go to your court date

- Take at least two copies of your documents and filed forms to your court date. Include a copy of the filed proof of service form. Your documents may include exhibits, declarations, and financial statements, and the court may enter them into evidence at its discretion.
- If the protected party does not go to the court date, the temporary domestic violence restraining orders will expire on the date and time of the court date. If the restrained party does not go to the court date, the court can still make orders against them that can last for up to five years.

5 Need help?

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.