

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee  
Hon. Mary Ann Grilli and Hon. Susan Huguenor, Co-chairs  
Christopher Wu, Supervising Attorney  
Jennifer Wyllie-Pletcher, Attorney, 415-865-7712, [Jennifer.Wyllie-T@jud.ca.gov](mailto:Jennifer.Wyllie-T@jud.ca.gov)

DATE: March 11, 2005

SUBJECT: Domestic Violence (revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250)  
(Action Required)

---

Issue Statement

This domestic violence forms proposal includes implementation of legislative amendments and technical and formatting changes. The legislative amendments require notice, on applicable Judicial Council forms, that, upon service of a protective order, the respondent must relinquish possession or control of any firearms, that the court must consider whether failure to make specified orders will jeopardize the safety of the petitioner and the children for whom custody or visitation orders are sought and that the court must also consider safety concerns related to financial needs of the petitioner and children. In addition, the amendments require inclusion of spousal support requests and orders in Domestic Violence Prevention Act (DVPA) actions.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 1, 2005, revise Judicial Council forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250 to implement legislative, technical, and formatting changes.

The revised forms are attached at pages 6–35.

## Rationale for Recommendation

### *Firearms relinquishment: Senate Bill 1391 (Stats. 2004, ch.250), amending Family Code section 6389*

Prior to implementation of SB 1391, effective January 1, 2005, a person subject to a protective order could not own, possess, purchase, or receive a firearm while that protective order was in effect. The Judicial Council provided notice on all forms requesting a protective order that the respondent is required to relinquish possession or control of any firearms. If the respondent was present in court at a duly noticed hearing, the court was required to order the respondent to relinquish any firearm in that person's immediate possession or control, and if the respondent was not present at the hearing, the respondent was required to relinquish all firearms within 48 hours after being served with the order.

SB 1391's amendments to Family Code section 6389 require notice on applicable Judicial Council forms that, upon service of a protective order, the respondent must relinquish possession or control of any firearms within 24 hours of being served with the order. The proposed revised forms DV-100, DV-110, DV-120, DV-130, DV-540, JV-245, and JV-250 include this notice.

### *Safety considerations and spousal support: Assembly Bill 2148 (Stats. 2004, ch.472), amending Family Code sections 6340 and 6341*

Existing law relating to prevention of domestic violence allows the court to issue various types of orders enjoining a party from contacting, molesting, attacking, striking, stalking, threatening, sexually assaulting, or engaging in other specified behavior. AB 2148's amendments to Family Code section 6340 require notice on applicable Judicial Council forms that the court must consider whether failure to issue orders enjoining a party from these actions will jeopardize the safety of the petitioner and the children for whom custody or visitation orders are sought. In addition, AB 2148's amendments to Family Code section 6341 require notice on applicable Judicial Council forms that the court must also consider safety concerns related to financial needs of the petitioner and children. Forms DV-110 and DV-520 have been revised to include both notices.

Judicial Council forms DV-100, DV-120, DV-130, DV-500, DV-505, and DV-540 have been revised to reflect additional AB 2148 changes. Existing law provides that the court may issue child support orders in domestic violence proceedings. AB 2148's amendment to Family Code section 6341 allows spousal support requests and orders in a Domestic Violence Prevention Act (DVPA) action when the parties are married and no spousal support order exists. The court may order spousal support after notice and a hearing.

In addition to married parties, registered domestic partners may request spousal support. In 2003 the California Domestic Partner Rights and Responsibilities Act was enacted and became effective January 1, 2005. One of the new additions from this act, Family Code section 297.5(a) and (b), provides that registered domestic partners have the same rights, protections, and benefits and are subject to the same responsibilities, obligations, and duties under law, whether derived from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed on spouses and former spouses. Therefore, the forms have been revised to include registered domestic partners.

#### *Technical changes*

The committee recommends a clarifying technical revision to form JV-250, new item 1e: “Person to be restrained present. No further service is needed.”

Form JV-250 also includes a technical revision. Effective January 1, 2004, AB 1710 (Stats.2003, ch.365) added Welfare and Institutions Code section 213.6. This section provides that a person named in a temporary restraining order or emergency protective order who has been personally served with the order and notice of hearing and who does not appear at the hearing can be served by first-class mail. The orders, except the duration, must be the same as on the temporary restraining order. The Judicial Council was directed to provide notice on the applicable forms.

The committee also recommends a technical revision to form DV-120, removing the option to agree or disagree to a requested order to record unlawful communications. The committee believes that the person responding to the request does not have a legal basis for objecting to it.

#### *Formatting change*

California is participating in a national initiative called Extending Project Passport. The initiative’s goal is to improve recognition and enforcement of protection orders across state lines by encouraging states to adopt a recognizable, regionally accepted first page for protective orders. This effort is led by the National Center for State Courts (NCSC) and the Kentucky Domestic Violence Association (KDVA), with support from the federal Office on Violence Against Women. They are joined in their efforts by the National Center on Full Faith and Credit, National Criminal Justice Association, National Sheriffs’ Association, Conference of Chief Justices, and Conference of State Court Administrators.

The first regional meeting of the Western-Pacific region, which included Alaska, California, Hawaii, Oregon, Washington, Nevada, Guam, American Samoa, and the Northern Marianas, was held October 28-29, 2004. Every team endorsed the

concept and committed to recommending that its state or territory adopt a recognizable first page for protection orders. All the states and territories will follow a similar template, though the orders will not be exactly the same as each jurisdiction has different laws. The committee recommends starting this effort with form DV-130.

### Alternative Actions Considered

#### *Legislative amendments*

The proposed amendments and revisions are necessary to bring the forms into compliance with governing law. No alternative actions were considered.

#### *Technical and formatting changes*

The proposed technical changes to JV-250 and DV-120 provide necessary clarifications. The proposed technical and formatting changes to DV-130 implement California's commitment to join other states, territories, and tribes in a regional effort to adopt a recognizable first page for protection orders. No alternative actions were considered.

### Comments From Interested Parties

The invitation to comment on the proposal was circulated from December 8, 2004, through February 4, 2005, to the standard mailing list for family and juvenile law proposals, as well as the regular rules and forms mailing list. This distribution list includes judges, court administrators, attorneys, social workers, probation officers, mediators and other family and juvenile law professionals. The committee received a total of 24 comments. Eight commentators agreed with the proposal. Fourteen commentators agreed with the proposal if modified and suggested both substantive and technical changes. Two commentators disagreed with the proposal.

#### *Firearms relinquishment*

There were no objections to this item.

#### *Safety considerations and spousal support*

The majority of technical changes submitted by commentators were made to the forms.

#### *Technical changes*

There were no specific comments on these items.

### *Formatting change*

The majority of technical changes submitted by commentators were made to DV-130. Overall the specific comments to this portion of the proposal were positive. One commentator wrote, “This recognizable first page looks great.”

### *New forms to vacate or modify DVPA orders*

The invitation to comment on this proposal included a section of new forms to vacate or modify a DVPA order. The proposal was first circulated from April 17, 2003, through July 1, 2003 and generated a total of 25 comments. Because of commentators concerns, the Family and Juvenile Law Advisory Committee withdrew the proposal for further consideration but following review, decided to move forward with the proposal. These comments are attached at pages 83–120.

The majority of concern during both circulations focused on the following three issues: (1) either the protected person or the restrained person would be able to request a modification or termination; (2) the proposed forms did not allow for modification of child custody child visitation or child support orders; and (3) no specific standards to modify or vacate were proposed. Owing to concerns raised by commentators during two comment periods, and the need for legislative guidance, the committee has withdrawn this section of the proposal.

The comments for the December 8, 2004, through February 4, 2005 circulation are attached at pages 36–82.

### Implementation Requirements and Costs

Implementation of the forms will require courts to retrain clerks and incur standard reproduction costs.

Clerk stamps date here when form is filed.

DRAFT 9
03/08/05 mc

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number when form is filed.

Case Number:

1 Your name (person asking for protection):

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 number (optional):

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

2 Name of person you want protection from:

Description of that person: Sex: M F Height: Weight: Race: Hair Color: Eye Color: Age: Date of Birth:

3 Besides you, who needs protection? (Family or household members):

Table with 4 columns: Full Name, Age, Lives with you?, How are they related to you? Includes checkboxes for Yes/No.

Check here if you need more space. Attach Form MC-020 and write "DV-100, Item 3—Protected People" by your statement. NOTE: In any item that asks for Form MC-020, you can use an 8 1/2 x 11 inch sheet of paper instead.

4 What is your relationship to the person in 2? (Check all that apply):

- a. We are now married or registered domestic partners.
b. We used to be married or registered domestic partners.
c. We live together.
d. We used to live together.
e. We are relatives, in-laws, or related by adoption (specify relationship):
f. We are dating or used to date.
g. We are engaged to be married or were engaged to be married.
h. We are the parents together of a child or children under 18:
i. We have signed a Voluntary Declaration of Paternity for our child or children.

This is not a Court Order.



Your name: \_\_\_\_\_

**5 Other Court Cases**

a. Have you and the person in (2) been involved in another court case?  No  Yes

If yes, where? County: \_\_\_\_\_ State: \_\_\_\_\_

What are the case numbers? (If you know): \_\_\_\_\_

What kind of case? (Check all that apply):

Registered Domestic Partnership  Divorce/Dissolution  Parentage/Paternity  Legal Separation

Domestic Violence  Criminal  Juvenile  Child Support  Nullity  Civil Harassment

Other (specify): \_\_\_\_\_

b. Are there any domestic violence restraining/protective orders now (criminal, juvenile, family)?

No  Yes *If yes, attach a copy if you have one.*

**What orders do you want? Check the boxes that apply to your case.**

**6  Personal Conduct Orders**

I ask the court to order the person in (2) not to do the following things to me or any of the people listed in (3):

a.  Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, or block movements

b.  Contact (either directly or indirectly), or telephone, or send messages or mail or e-mail

**7  Stay-Away Order**

I ask the court to order the person in (2) to stay at least \_\_\_\_\_ yards away from: (Check all that apply):

a.  Me

e.  The children's school or child care

b.  The people listed in (3)

f.  My vehicle

c.  My home

g.  Other (specify): \_\_\_\_\_

d.  My job or workplace \_\_\_\_\_

If the person listed in (2) is ordered to stay away from all the places listed above, will he or she still be able to get to his or her home, school, job, or place of worship?  Yes  No (If no, explain): \_\_\_\_\_

**8  Move-Out Order**

I ask the court to order the person in (2) to move out from and not return to (address):

I have the right to live at the above address because (explain): \_\_\_\_\_

**9  Child Custody, Visitation, and Child Support**

I ask the court to order child custody, visitation, and/or child support. *You must fill out and attach Form DV-105.*

**10  Spousal Support**

*You must fill out and file form FL-150 or FL-155 before your hearing. You can make this request only if you are married to, or are a registered domestic partner of, the person in (2) and no spousal support order exists.*

**This is not a Court Order.**



Your name: \_\_\_\_\_

**What orders do you want? Check the boxes that apply to your case.**

**11  Record Unlawful Communications**

I ask for the right to record communications made to me by the person in ② that violate the judge's orders.

**12  Property Control**

I ask the court to give *only* me temporary use, possession, and control of the property listed here:

\_\_\_\_\_

**13  Debt Payment**

I ask the court to order the person in ② to make these payments while the order is in effect:

*Check here if you need more space. Attach Form MC-020 and write "DV-100, Item 13—Debt Payment" by your statement.*

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

**14  Property Restraint**

I am married to or have a registered domestic partnership with the person in ②. I ask the judge to order that the person in ② not borrow against, sell, hide, or get rid of or destroy any possessions or property, except in the usual course of business or for necessities of life. I also ask the judge to order the person in ② to notify me of any new or big expenses and to explain them to the court.

**15  Attorney Fees and Costs**

I ask that the person in ② pay some or all of my attorney fees and costs.

*You must complete and file Form FL-150, Income and Expense Declaration.*

**16  Payments for Costs and Services**

I ask that the person in ② pay the following:

*You can ask for lost earnings or your costs for services caused directly by the person in ② (damaged property, medical care, counseling, temporary housing, etc.). You must bring proof of these expenses to your hearing.*

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

**17  Batterer Intervention Program**

I ask the court to order the person listed in ② to go to a 52-week batterer intervention program and show proof of completion to the court.

**18  No Fee to Serve (Notify) Restrained Person**

*If you want the sheriff or marshal to serve (notify) the restrained person about the orders for free, ask the court clerk if you need to file more forms. You may need Form CH-101/DV-290 and Form 982(a)(17).*

**This is not a Court Order.**



Your name: \_\_\_\_\_

**What orders do you want? Check the boxes that apply to your case.**

**19  More Time for Notice**

I need extra time to notify the person in (2) about these papers. Because of the facts explained on this form, I want the papers served up to \_\_\_\_\_ days before the date of the hearing. *For help, read DV-210.*

*If necessary, add additional facts:* \_\_\_\_\_

**20  Other Orders**

What other orders are you asking for? \_\_\_\_\_

*Check here if you need more space. Attach MC-020 and write "DV-100, Item 20—Other Orders" by your statement.*

**21 Turn in guns or other firearms.**

*If the judge approves the order, the person in (2) will be required to sell to a gun dealer or turn in to police any guns or firearms that he or she has or controls. Describe any use or threatened use of firearms in (22).*

**22 Describe the most recent abuse.**

a. Date of most recent abuse: \_\_\_\_\_

b. Who was there? \_\_\_\_\_

c. What did the person in (2) do or say that made you afraid?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

d. Describe any use or threatened use of guns or other weapons: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

f. Did the police come?  No  Yes

If yes, did they give you an Emergency Protective Order?  Yes  No  I don't know

*Attach a copy if you have one.*

*Check here if you need more space. Use Form MC-020 and write "DV-100, Item 22—Recent Abuse" by your statement.*

*Check here if the person in (2) has abused you (or your children) other times. Use Form DV-101 or Form MC-020 to describe any previous abuse.*

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*

**This is not a Court Order.**

Clerk stamps date here when form is filed.

DRAFT 10 03/08/05 mc

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number:

Case Number:

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: Name and address of court if different from above: Dept.: Rm.:

To the person in 2: At the hearing, the judge can make restraining orders that last for up to 3 years. The judge can also make other orders about your children, child support, spousal support, money, and property. 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 restriccion sea valida hasta un maximo de 3 años. El juez puede tambien hacer otras ordenes acerca de niños, manutencion, dinero y propiedad. Si Usted se opone a estas ordenes, vaya a la audiencia y dígaselo al juez. Aunque no vaya a la audiencia, tiene que obedecer estas ordenes.

To the person in 1: 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 your financial needs and the children's will also be considered.

5 Temporary Orders (Ordenes 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 ordenes hechas en esta formulario terminaran 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 articulo 10 son ordenes de la corte.

This is a Court Order.

Your name: \_\_\_\_\_

**6**  **Personal Conduct Orders**

The person in **(2)** must *not* do the following things to the protected people listed in **(1)** and **(3)**:

- a.  Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, or block movements
- b.  Contact (either directly or indirectly), or telephone, or send messages or mail or e-mail
  - Except for brief and peaceful contact as required for court-ordered visitation of children unless a criminal protective order says otherwise

Peaceful written contact through a process server or another person to serve legal papers is allowed and does not violate this order.

**7**  **Stay-Away Order**

The person in **(2)** must stay at least \_\_\_\_\_ yards away from:

- a.  The person listed in **(1)**
- b.  The people listed in **(3)**
- c.  Home     Job     Vehicle of person in **(1)**
- d.  The children’s school or child care
- e.  Other (*specify*): \_\_\_\_\_

**8**  **Move-Out Order**

The person in **(2)** must take only personal clothing and belongings needed until the hearing and move out immediately from (*address*): \_\_\_\_\_

**9**  **Child Custody and Visitation Order**

- a.  You and the other parent must make an appointment for court mediation (*address and phone number*): \_\_\_\_\_
- b.  Follow the orders listed in Form DV-140, which is attached.

**10**  **No Guns or Other Firearms**

The person in **(2)** cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get a gun or firearm.

**11**  **Turn in or sell guns or firearms:**

The person in **(2)**:

- Must sell to a licensed gun dealer or turn in to police any guns or firearms that he or she has or controls. This must be done within 24 hours of receiving this order.
- Must bring a receipt to the court within 72 hours of receiving this order, to prove that guns and firearms have been turned in or sold.

**12**  **Property Control**

Until the hearing, *only* the person in **(1)** can use, control, and possess the following property and things:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**This is a Court Order.**



Your name: \_\_\_\_\_

**13**  **Property Restraint**  
 If the people in ① and ② are married to each other or are registered domestic partners, they must not transfer, borrow against, sell, hide, or get rid of or destroy any property, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court.

**14**  **Record Unlawful Communications**  
 The person in ① can record communications made by the person in ② that violate the judge’s orders.

**15** **No Fee to Notify**  
 If the sheriff or marshal serves this order, he or she will do it for free.

**16**  **Other Orders** (*specify*): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**17** If the judge makes a restraining order at the hearing, which has the same orders as in this form, the person in ② will get a copy of that order by mail at his or her last known address. (*Write restrained person’s address here*):

\_\_\_\_\_

If this address is not correct, or to know if the orders were made permanent, contact the court.

**18**  **Time for Service**

**A To: Person Asking for Order**  
 Someone 18 or over—**not you or the other protected people**—must personally “serve” a copy of this order to the restrained person at least \_\_\_\_\_ days before the hearing.

**B To: Person Served With Order**  
 If you want to respond in writing, someone 18 or over—**not you**—must “serve” Form DV-120 on the person in ①, then file it with the court at least \_\_\_\_\_ days before the hearing.

*For help with Service or answering, read Form DV-210 or DV-540.*

Date: \_\_\_\_\_

▶ \_\_\_\_\_  
*Judge (or Judicial Officer)*

**Certificate of Compliance With VAWA**

This temporary protective order meets all Full Faith and Credit requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in all jurisdictions throughout the 50 United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

**This is a Court Order.**



Your name: \_\_\_\_\_

**Warnings and Notices to the Restrained Person in 2****19 If you do not obey this order, you can be arrested and charged with a crime.**

- It is a felony to take or hide a child in violation of this order. You can go to prison and/or pay a fine.
- If you travel to another state or to tribal lands, or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime.
- If you do not obey this order, you can go to prison and/or pay a fine.

**20 You cannot have guns or firearms.**

**You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get a gun while the order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to a gun dealer or turn in to police any guns or firearms that you have or control. The judge will ask you for proof that you did so. If you do not obey this order, you can be charged with a crime. Federal law says you cannot have guns or ammunition if you are subject to a restraining order made after a noticed hearing.**

**21 After You Have Been Served With a Restraining Order**

- Obey all the orders.
- If you want to respond, fill out Form DV-120. Take it to the court clerk with the forms listed in item 22.
- File DV-120 and have all papers served on the protected person by the date listed in item 18 of this form.
- At the hearing, tell the judge if you agree or disagree with the orders requested.
- Even if you do not attend the hearing, the judge can make the restraining orders last for 3 years.

**22 Child Custody, Visitation, and Support**

- **Child Custody and Visitation:** If you do not go to the hearing, the judge can make custody and visitation orders for your children without hearing your side.
- **Child Support:** The judge can order child support based on the income of both parents. The judge can also have that support taken directly from your paycheck. Child support can be a lot of money, and usually you have to pay until the child is 18. File and serve a *Financial Statement* (FL-155) or an *Income and Expense Declaration* (FL-150) so the judge will have information about your finances. Otherwise, the court may make support orders without hearing your side.
- **Spousal Support:** File and serve a *Financial Statement* (FL-155) or an *Income and Expense Declaration* (FL-150) so the judge will have information about your finances. Otherwise, the court may make support orders without hearing your side.

**This is a Court Order.**

Your name: \_\_\_\_\_

**Instructions for Law Enforcement****23 Start Date and End Date of Orders**

The start date is the date next to the judge's signature on page 3. The orders end on the hearing date on page 1 or the hearing date on Form DV-125, if attached.

**24 Arrest Required If Order Is Violated**

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

**25 Notice/Proof of Service**

- Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Fam. Code, § 6383.)

Consider the restrained person "served" (noticed) if:

- The officer sees a copy of the Proof of Service or confirms that the Proof of Service is on file *or*
- The restrained person was at the restraining order hearing or was informed of the order by an officer (Fam. Code, § 6383; Pen. Code, § 836(c)(2).) An officer can obtain information about the contents of the order in the Domestic Violence Restraining Orders System (DVROS). (Fam. Code, § 6381(b)(c).)

**26 If the Protected Person Contacts the Restrained Person**

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

**27 Child Custody and Visitation**

- Custody and visitation orders are on Form DV-140, items ③ and ④. They are sometimes also written on additional pages or referenced in DV-140 or other orders that are not part of the restraining order.
- **Forms DV-100 and DV-105 are not orders. Do not enforce them.**

**28 Enforcing the Restraining Order in California**

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, or on the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

**29 Conflicting Orders**

If a criminal restraining order (CR-160) conflicts with a civil restraining order (DV-110 or DV-130), enforce the criminal order. Even if the criminal order is older, the officer must still enforce it over the civil order. (Pen. Code, § 136.2(h).) Any nonconflicting terms of the civil restraining order remain in full force.

*Clerk's Certificate**[seal]*

I certify that this Temporary Restraining Order is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

Clerk stamps date here when form is filed.

DRAFT 9
03/08/05 mc

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):

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.

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

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 or FL-155.

Your name: \_\_\_\_\_

- 10**  **Property Control**  
 I  do  do not agree to the order requested.  
*If you have other requests, list them in 19 below.*
- 11**  **Debt Payment**  
 I  do  do not agree to the order requested.  
*If you have other requests, list them in 19 below.*
- 12**  **Property Restraint**  
 I  do  do not agree to the order requested.  
*If you have other requests, list them in 19 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**  **Batterer Intervention Program**  
 I  do  do not agree to the order requested.
- 16**  **Other Orders** (see item 20 on Form DV-100)  
 I  do  do not agree to the orders requested.
- 17**  **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 72 hours after receiving Form DV-110.*
- 18**  **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.*
- 19**  **My Answer to the Statements in DV-100 and Other Requests**  
*Please attach your statement. Write "DV-120, Item 19 — More Information" at the top. Be specific.*
- 20** 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*

Clerk stamps date here when form is filed.

DRAFT 13 03/08/05 mc

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number when form is filed.

Case Number:

1 Protected person's name: [ ]

(first) (middle) (last)

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 (optional):

Lawyer (if any): (Name, address, telephone number, and State Bar number):

2 List the full names of all other family or household members protected by this order:

3 Restrained person's name: [ ]

(first) (middle) (last)

Description of that person: Sex: [ ] M [ ] F Height: Weight: Race: Hair Color: Eye Color: Age: Date of Birth: Relationship to protected person:

4 THE COURT ORDERS are on pages 2 and 3 and attachment pages (if any).

The orders end on (date): [ ] at (time): [ ]

- If no date is written, the restraining order ends 3 years after the date of the hearing. The hearing was on (date):
If no time is written, the restraining order ends at midnight on the end date.
Note: Custody, visitation, child support, and spousal support orders have different end dates. Custody, visitation, and child support orders usually end when the children are 18.

5 [ ] The people in 1 and 3 must return to this court/department on (date): at (time): [ ] a.m. [ ] p.m. to review (specify issues):

Certificate of Compliance With VAWA

This protective order meets all Full Faith and Credit requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA). This court has jurisdiction over the parties and the subject matter; the restrained person has been afforded reasonable notice and an opportunity to be heard as provided by the laws of this jurisdiction. This order is valid and entitled to enforcement in all jurisdictions throughout the 50 United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.

This is a Court Order.

Your name: \_\_\_\_\_

**6**  **Personal Conduct Orders**

The person in **3** must **not** do the following things to the protected people listed in **1** and **2**:

- a.  Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, or block movements
- b.  Contact (either directly or indirectly), or telephone, or send messages or mail or e-mail
  - Except for brief and peaceful contact as required for court-ordered visitation of children unless a criminal protective order says otherwise

Peaceful written contact through a lawyer or a process server or another person in order to serve legal papers is allowed and does not violate this order.

**7**  **Stay-Away Order**

The person in **3** must stay at least \_\_\_\_\_ yards away from:

- a.  The person listed in **1**
- b.  The people listed in **2**
- c.  Home     Job     Vehicle of person in **1**
- d.  The children’s school or child care
- e.  Other (*specify*): \_\_\_\_\_

**8**  **Move-Out Order**

The person in **3** must move out immediately from (*address*): \_\_\_\_\_

**9**  **Child Custody and Visitation**

Child custody and visitation are ordered on the attached Form DV-140 or (*specify other form*): \_\_\_\_\_

**10**  **Child Support**

Child support is ordered on the attached Form DV-160 or (*specify other form*): \_\_\_\_\_

**11**  **Spousal Support**

Spousal support is ordered on the attached Form FL-343 or (*specify other form*): \_\_\_\_\_

**12** **No Guns or Other Firearms**

The person in **3** cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get a gun or firearm.

**13** **Turn in or sell guns and firearms.**

The person in **3**:

- Must sell to a licensed gun dealer or turn in to police any guns or firearms that he or she has or controls. This must be done within 24 hours of receiving this order.
- Must bring a receipt to the court within 72 hours of receiving this order, to prove that guns and firearms have been turned in or sold.

**14**  **Record Unlawful Communications**

The person in **1** has the right to record communications made by the person in **3** that violate the judge’s orders.

**This is a Court Order.**



Your name: \_\_\_\_\_

**15**  **Batterer Intervention Program**

The person in ③ must go to and pay for a 52-week batterer intervention program and show written proof of completion to the court. This program must be approved by the probation department.

**16** **No Fee to Notify Restrained Person**

If the sheriff or marshal serves this order, he or she will do it for free.

**17**  **Other Orders**

Other orders relating to property control, debt payment, attorney fees, restitution, and/or other issues are in attached Form DV-170 or (*specify other form*): \_\_\_\_\_

**18**  **Service**

- a.  The people in ① and ③ were at the hearing. No other proof of service is needed.
- b.  The person in ① was at the hearing. The person in ③ was not. But proof of service of DV-110 was presented to the court.
  - (1)  The judge's orders in this form are the same as in DV-110 except for the end date. The person in ③ must be served. This order can be served by mail.
  - (2)  The judge's orders in this form are different from the orders in DV-110. Someone—not the people in ① or ②— must personally "serve" a copy of this order to the person in ③.
- c.  The people in ① and ③ have agreed in writing to this order. No other proof of service is needed.

**19** **Attached Pages are orders.**

- Number of pages attached to this 5-page form: \_\_\_\_\_
- All of the attached pages are part of this order.
- Attachments include (*check all that apply*):
  - DV-140    DV-145    DV-150    DV-160    DV-170    FL-343
  - Other (*specify*): \_\_\_\_\_

Date: \_\_\_\_\_

▶ \_\_\_\_\_  
*Judge (or Judicial Officer)*

**This is a Court Order.**

Your name: \_\_\_\_\_

**Instructions for Law Enforcement****20 Start Date and End Date of Orders**

The orders *start* the earlier of the following dates:

- The hearing date on page 1 *or*
- The date next to the judge's signature on page 3.

The orders *end* on the end date on page 1. If no end date is listed, they end 3 years from the start date.

**21 Arrest Required If Order Is Violated**

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

**22 Notice/Proof of Service**

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Fam. Code, § 6383.)

Consider the restrained person "served" (noticed) if:

- The officer sees a copy of the Proof of Service or confirms that the Proof of Service is on file *or*
- The restrained person was at the restraining order hearing or was informed of the order by an officer. (Fam. Code, § 6383; Pen. Code, § 836(c)(2).) An officer can obtain information about the contents of the order in the Domestic Violence Restraining Orders System (DVROS). (Fam. Code, § 6381(b)(c).)

**23 If the Protected Person Contacts the Restrained Person**

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

**24 Child Custody and Visitation**

- The custody and visitation orders are on Form DV-140, items ③ and ④. They are sometimes also written on additional pages or referenced in DV-140 or other orders that are not part of the restraining order.
- **Forms DV-100 and DV-105 are not orders. Do not enforce them.**

**25 Enforcing the Restraining Order in California**

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

**26 Conflicting Orders**

If a criminal restraining order (CR-160) conflicts with a civil restraining order (DV-110 or DV-130), enforce the criminal order. Even if the criminal order is older, the officer must still enforce it over the civil order. (Pen. Code, § 136.2(h).) Any nonconflicting terms of the civil restraining order remain in full force.

**This is a Court Order.**

Your name: \_\_\_\_\_

**Warnings and Notices to the Restrained Person in ③**

**27 If you do not obey this order, you can be arrested and charged with a crime.**

- It is a felony to take or hide a child against this order. You can go to prison and/or pay a fine.
- If you travel to another state or to tribal lands, or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime.
- If you do not obey this order, you can go to prison and/or pay a fine.

**28 You cannot have guns or firearms.**



**You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get a gun while the order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to a licensed gun dealer or turn in to police any guns or firearms that you have or control. The judge will ask you for proof that you did so. If you do not obey this order, you can be charged with a crime. Federal law says you cannot have guns or ammunition while the order is in effect.**

*(Clerk will fill out this part)*

**—Clerk's Certificate—**

*Clerk's Certificate  
[seal]*

I certify that this *Restraining Order After Hearing (Order of Protection)* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

## What is a Domestic Violence Restraining Order?

It is a court order that helps protect people from abuse.

## What is abuse?

Abuse means to hit, kick, hurt, scare, throw things, pull hair, push, follow, harass, sexually assault, or threaten to do any of these things. Abuse can be spoken, written, or physical.

## Can I get a restraining order?

You can ask for one if:

- A person has abused you *and*
- You have a close relationship with that person (married, divorced, separated, registered domestic partnership, dating or used to date, live together or used to live together\*), or you are related (parent, child, brother, sister, grandmother, grandfather, in-law)

\* You have to be more than just roommates.

## What if I don't qualify for a restraining order?

If you do not qualify, there are other kinds of orders you can ask for:

- Civil harassment order (can be used for neighbors, roommates, and co-workers)
- Dependent adult or elder abuse restraining order

Ask the court clerk for the forms you need for these special kinds of orders. You may also want to talk to a lawyer.

## How soon can I get the order?

The judge will decide whether or not to make the order within 24 hours. Sometimes the judge decides sooner.

## How will the restraining order help me?

It can order the restrained person to:

- Not contact or go near you, your children, other relatives, or others who live with you
- Not have a gun
- Move out of your house
- Follow child custody and visitation orders
- Pay child support
- Pay spousal support

## How long does the order last?

The first (temporary) order lasts until your next court date. At that time, the judge will decide to continue or cancel the order. The order issued at the hearing could last for up to 3 years. Child custody, visitation, and support orders last longer.

## How much does it cost?

Nothing.

## What if I don't have a green card?

You can still get a restraining order. The people at the courthouse do not work for INS (Immigration and Naturalization Service). If you are worried about deportation, talk to an immigration lawyer.

## Do I have to go to court?

Yes. Go to court on the date the clerk gives you. If you do not, your order will end.

## Do I need a lawyer?

No. But it is a good idea, especially if you have children.

Ask the court clerk about legal services and domestic violence help centers in your county. The clerk can also send you to the Family Law Facilitator for help with child support.

## Do I need to bring a witness to the court hearing?

No. But it helps to have proof of the abuse. You can bring:

- A statement from a witness, made under oath
- A witness
- Photos
- Medical or police reports
- Damaged property
- A threatening letter, an e-mail, or a telephone message

The judge may or may not let a witness speak at the hearing.

**Will I see the restrained person at the hearing?**

If the restrained person comes to the hearing, yes. But that person does not have the right to speak to you. If you are afraid, tell the court officer. The court officer will make sure you are safe. Read “Get Ready for Your Hearing (For Protected Person)” (DV-520).

**Can I bring someone with me to the court?**

Yes. You can bring someone to sit with you during the hearing. But that person cannot speak for you in court. Only you or your lawyer (if you have one) can speak for you.

**What if I don't speak English?**

When you file your papers, ask the clerk for a court interpreter. You may have to pay a fee. If the interpreter is not available for your court date, bring someone to interpret for you. Do not ask a child to interpret for you.

**What if I am deaf?**

If you are deaf, contact the clerk at least 1 week before the hearing. Ask for an interpreter or other accommodation.

**How will the restrained person know about the order?**

Someone who is at least 18—not you or anyone else protected by the order—must “serve” (give) him or her a copy of the order. The police will do it for free if the restrained person is in jail. For more help, ask the court clerk for Form DV-210.

**What if the restrained person doesn't obey the order?**

Call the police. The restrained person can be arrested and charged with a crime.

**Can I agree with the restrained person to cancel the order?**

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

**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 clerk can tell you where to get legal help.

**Can this order stop the other person from taking our children away?**

Yes. The judge can order the person named in the orders *not* to take the children out of California, or the county you live in, without your written agreement or another court order.

**What if I move?**

Your restraining order works anywhere in the United States. If you move out of California, contact your new local police so they will know about your orders. If you want to move with your minor children, you need the other parent’s permission or a court order. (There are some exceptions. Talk to a lawyer.)

**Need more information?**

Ask the court clerk about free or low-cost legal help.

Or call the National Domestic Violence Hotline:

**1-800-799-7233**

**TDD: 1-800-787-3224**

They can help you in more than 100 languages.

It’s free and private.

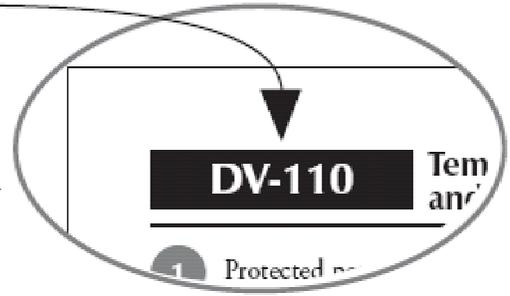
For help in your area, contact:

Look at the numbers at the top of your forms.

You can use this form as a checklist.

- 1 For a restraining order you need:
  - DV-100 *Request for Order*
  - DV-110 *Temporary Restraining Order and Notice of Hearing*
- 2 If you have children with the person you want protection from, you also need:
  - DV-105 *Child Custody, Visitation, and Support Request*
  - DV-140 *Child Custody and Visitation Order*
- 3 If you want child support or spousal support, you also need:
  - 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.
- 4 Ask the clerk if your county has special forms or rules. Fill out the forms. Then take them back to the court clerk.
- 5 Other forms you will need (*don't fill them out now*):
  - DV-120 *Answer to Temporary Restraining Order*
  - DV-130 *Restraining Order After Hearing (Order of Protection)*
  - DV-200 *Proof of Service (In Person)*



### 6 Need help?

The clerk has information sheets that can help you. Or you can get them at: [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms)

- *Can a Domestic Violence Restraining Order Help Me?* (DV-500)
- *I Filled Out the Forms—What Now?* (DV-510)
- *What Is “Proof of Service”?* (DV-210)
- *Get Ready for Your Hearing (For Protected Person)* (DV-520)
- *How to Enforce Your Order* (DV-530)
- *Information for the Restrained Person* (DV-540)
- *Get Ready for Your Hearing (For Restrained Person)* (DV-550)
- *How to Reissue a Temporary Restraining Order* (DV-126)
- *How Can I Make the Order Permanent?* (DV-560)
- *Which Financial Form—FL-155 or FL-150?* (DV-570)

### 7 Need more help?

Ask the court clerk about free or low-cost legal help.

Or 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.

**Be prepared.**

- Bring documents that support your case (police or medical reports, rental agreements or receipts, photos, bills, etc.). Bring two copies of all documents and filed forms, including the Proof of Service.
- You can bring a friend or relative (a “support” person), but that person must not talk for you in court.
- 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 at the same time that you file Forms DV-100 and DV-110.
- Most courtrooms do not allow children. Ask if there is a children’s waiting room in the courthouse.

**Don't miss your hearing!**

If you miss it, the restraining orders will end and you will have to start from the beginning.

**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 you are afraid of the restrained person, tell the officer.
- 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.

**What if you don't speak English?**

When you file your papers, tell the clerk you will need an interpreter. You may have to pay a fee. If a court interpreter is not available, bring someone to interpret for you. Do not ask a child, a protected person, or a witness to interpret for you.

**What if you are deaf?**

When you file your papers, ask for an interpreter or other accommodation.

**Practice what you want to say.**

Make a list of the orders you want and practice saying them. Do not take more than 3 minutes to say what you want.

If you get nervous at the hearing, just read from your list. Use that list to see if the judge has made every order you asked for.

**The judge may ask questions.**

- Tell the truth. Speak slowly. You can read from your list.
- The restrained person or his or her lawyer may also ask you questions.
- Give complete answers.
- If you don't understand, say “I don’t understand the question.”
- If the restrained person lies in court, wait until he or she finishes talking. Then tell the judge.
- Speak only to the judge 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.

**The judge will decide.**

- 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 your financial needs and the children's will also be considered.
- At the end of the hearing, the judge will say what the orders are.
- Make sure your Form DV-130 says what the judge has ordered. Sometimes the clerk fills out the form for you. If not, fill it out yourself. If you filled it out before the hearing, you may have to make changes.
- Review it and make sure you understand. If anything is wrong or missing, tell the clerk right away.
- If the judge makes the orders, the judge will sign your DV-130. Take it to the clerk to file it. The clerk will give you up to 5 copies.

**The judge may “continue” your case.**

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

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

Ask the judge to extend the temporary orders until the new hearing date.

Ask the clerk for the forms you need.

**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 restraining, custody, and visitation orders last until the next hearing or until another court order.
- Either parent can ask to meet with the mediator separately. You can bring a support person with you to mediation. A support person can provide emotional support but cannot speak for you.

**What happens after the hearing?**

- Ask the clerk if the court will fill out DV-130 for you. If not, fill it out.
- If the judge makes the orders, go to the clerk and file DV-130.
- Take a copy of DV-130 to your local police or sheriff if the clerk does not send it for you.
- If the restrained person was at the hearing, you can have him or her served with a copy of DV-130 by mail. Ask the server to complete Form DV-250 and give it back to you after he or she mails DV-130.
- If the restrained person was not at the hearing, but the judge's orders are the *same* as the temporary order, you can have him or her served with a copy of DV-130 by mail. Ask he or she to complete Form DV-250 and give it back to you.
- If the restrained person was not at the hearing, and the judge's orders are *different* from the temporary order, you must have someone serve DV-130 in person, not by mail. Ask the server to complete Form DV-200 and give it back to you.

**Remember, you and other protected people cannot serve the orders.**

The sheriff or marshal will serve the orders for free. Ask the court clerk if you need to file more forms. You may need Form CH-101/DV-290 and Form 982(a)(17). Otherwise, take your Proof of Service (DV-200 or DV-250) to the clerk and file it. Keep a copy. Read DV-210 for help.

**DV-540****Information for the Restrained Person****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.

**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* (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 them who can help you file a restraining order.

<b>DV-110 Temporary Restraining Order and Notice of Hearing</b>		Clerk stamps below when forms filed								
<p>1 Protected person's name: _____</p> <p>Protected person's address (Skip this if you have a lawyer). (If you want your address to be private, give a mailing address instead): _____</p> <p>City: _____ State: _____ Zip: _____</p> <p>Phone # (optional): _____</p> <p>Protected person's lawyer (if any) (Name, address, phone # and State Bar #): _____</p>	<p>2 Restrained person's name: _____</p> <p>Description of that person: Sex: <input type="checkbox"/> M <input type="checkbox"/> F Ht.: _____</p> <p>Wt.: _____ Race: _____ Hair Color: _____</p> <p>Eye Color: _____ Age: _____ Date of Birth: _____</p>	<p>3 List the full names of all family or household members protected by this order: _____</p>								
<p>4 Court Hearing Date (Fecha de la Audiencia)</p> <p>Court will fill in box below:</p> <table border="1"> <tr> <td>Hearing Date</td> <td>Date: _____</td> <td>Time: _____</td> <td>The court hearing will be at:</td> </tr> <tr> <td></td> <td>Dept.: _____</td> <td>Rm.: _____</td> <td></td> </tr> </table>		Hearing Date	Date: _____	Time: _____	The court hearing will be at:		Dept.: _____	Rm.: _____		<p>Court name and street address: _____</p> <p>Superior Court of California, County of _____</p> <p>Case Number: _____</p>
Hearing Date	Date: _____	Time: _____	The court hearing will be at:							
	Dept.: _____	Rm.: _____								
<p>To the person in 2: At the hearing, the judge can make restraining orders that last for up to 3 years. The judge can also make other orders about children, child support, money, and property. At the hearing, you can tell the judge if 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 3 años. El juez puede también hacer otras órdenes acerca de niños, manutención, dinero y propiedad. 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.</p> <p>To the person in 1: 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 your financial needs and the children's will also be considered.</p>										
<p>5 Temporary Orders (Órdenes Temporales)</p> <p>Any orders made in this form end on the date and time of the court hearing in 4, unless a judge extends them. Recibí this form carefully. All checked boxes <input checked="" type="checkbox"/> and item 10 are court orders. Todas las órdenes hechas en este formulario terminarán en la fecha y hora de la audiencia en 4, al menos que un juez las extienda. Lee este formulario con cuidado. Todas las casillas marcadas <input checked="" type="checkbox"/> y artículo 10 son órdenes de la corte.</p>										
<p><b>This is a Court Order</b></p> <p>Temporary Restraining Order (CLETS) <span style="float: right;">DV-110, Page 1 of 2</span></p> <p>Órdenes Temporales Preventivas <span style="float: right;">9</span></p>										

**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 (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 the order. The order can last for up to 3 years, but child custody, visitation, child support and spousal support orders have different end dates. Custody, visitation, and child support orders usually 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 at least a week before your hearing. Ask for a court interpreter. You may have to pay a fee. If an interpreter is not available, bring someone to interpret for you. Do not ask a child to interpret for you.

**What if I am deaf?**

If you are deaf, contact the clerk at least 1 week before the hearing. Ask for an interpreter or other accommodation.

PETITIONER OR ATTORNEY (Name, State Bar number, and address):  <hr/> TELEPHONE NO. (Optional): _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>  <b>DRAFT 3</b> <b>03/09/04 MC</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	CASE NUMBERS: JUVENILE: FAMILY:
<b>APPLICATION AND AFFIDAVIT FOR RESTRAINING ORDER—JUVENILE</b>	
RELATED CASES (if any):	

1. The child is
- a.  a dependent of the court under Welfare and Institutions Code section 300; or
  - b.  the subject of a petition that has been filed in this court under Welfare and Institutions Code section 300; or
  - c.  a ward of the court under Welfare and Institutions Code section 601; or
  - d.  a ward of the court under Welfare and Institutions Code section 602; or
  - e.  the subject of a petition that has been filed in this court under Welfare and Institutions Code section 601; or
  - f.  the subject of a petition that has been filed in this court under Welfare and Institutions Code section 602.

2. Petitioner is the
- a.  mother.
  - b.  father.
  - c.  child.
  - d.  guardian.
  - e.  social worker.
  - f.  probation officer.
  - g.  present caretaker of child.
  - h.  court-appointed special advocate.
  - i.  representative of Indian child's tribe.
  - j.  other (state interest or relationship to child):

3. **PERSONS TO BE PROTECTED** (List full names and ages of all persons to be protected; also list relationship to child in item 1):

Name                                      Age                                      Relationship to child (child, parent, legal guardian, current caretaker):

4. a. **PERSON TO BE RESTRAINED** (full name):

b. <b>DESCRIPTION:</b>  Sex: <input type="checkbox"/> M <input type="checkbox"/> F    Ht.: ____ Wt.: ____    Hair color: ____    Eye color: ____    Race: ____    Age: ____    Date of birth: ____
--

5. The person to be restrained has (check at least one box):
- a.  assaulted or attempted to assault one or more of the persons to be protected.
  - b.  caused, threatened, or attempted bodily injury on one or more of the persons to be protected.
  - c.  caused one or more of the persons to be protected to fear physical or emotional harm.
  - d.  sexually assaulted or attempted to sexually assault one or more of the persons to be protected.
  - e.  stalked one or more of the persons to be protected.
  - f.  other (specify):

- as described in item 7
- as described in attached report by:  police officer     social worker     probation officer
- other

CASE NAME: 	CASE NUMBERS: JUVENILE: FAMILY:
----------------	---------------------------------------

**6. PERSONAL CONDUCT ORDERS**

- a.  Restrained person must not harass, molest, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, destroy the personal property of, disturb the peace of, keep under surveillance, or block movements of any person named in item 3.
- b.  Restrained person must not contact (either directly or indirectly), or telephone, or send messages, mail, or e-mail to any person named in item 3
  - (1)  except for brief and peaceful contact as required for court-ordered visitation of children, unless a criminal protective order says otherwise.
  - (2)  except for peaceful written contact through a process server or another person to serve legal papers related to a court case.
- c.  Restrained person must move immediately from (address):

and take only personal clothing and effects.

- d.  Restrained person must stay at least (specify): \_\_\_\_\_ yards away from the following persons and places (the addresses of these places are optional and may be kept confidential):
  - (1)  Protected persons named in item 3.
  - (2)  Protected person's residence (address optional):
  - (3)  Protected person's place of work (address optional):
  - (4)  Child's school or place of child care (address optional):
  - (5)  Protected person's vehicle (description optional):
  - (6)  Other (specify):  
(address optional):

- e. Restrained person must sell or give up any firearms that he or she has or controls for a period not to exceed the duration of the restraining order. Describe in item 7 any use of or threat regarding use of firearms . Petitioner believes the restrained person has the following firearms (specify):
- f.  The child is a ward or the subject of a petition under section 601 or 602 and must not contact, threaten, stalk, or disturb the peace of (list names):
- g.  Other orders:

**7. DESCRIPTION OF CONDUCT** (describe in detail the most recent incidents supporting this application or attach copies of reports of law enforcement officers, social workers, probation officers, or other professional persons):



ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>  TELEPHONE NO. <i>(Optional):</i> _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	<b>FOR COURT USE ONLY</b>  <b>DRAFT 7</b> <b>03/09/05 xyz</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<b>RESTRAINING ORDER—JUVENILE (CLETS)</b> <input type="checkbox"/> Temporary Order <input type="checkbox"/> Order After Hearing	CASE NUMBERS: JUVENILE: FAMILY:

**THIS TEMPORARY ORDER WILL EXPIRE AT MIDNIGHT ON** *(must be within 15 days of the temporary order or, upon a finding of good cause, within 20 days; specify date):*

**THIS ORDER AFTER HEARING WILL EXPIRE AT MIDNIGHT ON** *(not more than three years from date of hearing; specify date):*

1. a.  **Ex parte order**

- (1)  Person to be restrained received notice.
- (2)  Person to be restrained did not receive notice.
- (3)  If, at the hearing, the judge makes a restraining order that has the same orders as in this form, the person to be restrained will receive a copy of that order by mail at his or her last known address. *(Write restrained person's address here):*

If this address is not correct or to determine whether the orders were made permanent, contact the clerk of this court.

b. Date of hearing:	Time:	Dept.:	Room:
---------------------	-------	--------	-------

c. Judicial officer *(name):*

d. Persons and attorneys present *(names):*

e.  Person to be restrained present. No further service needed.

f.  Person to be restrained not present.

- (1)  The judge's orders in this form are the same as in the prior temporary restraining order except for the end date. The restrained person can be served by mail.
- (2)  The judge's orders are different from those in the prior temporary restraining order. Someone—not the person or persons to be protected—must personally serve a copy of this order on the restrained person.

**THE COURT FINDS AND ORDERS**

2. This order is based on the following findings of fact by the court:

CASE NAME: _____	CASE NUMBERS: JUVENILE: FAMILY:
---------------------	---------------------------------------

3. PERSONS TO BE PROTECTED (*insert full names of ALL persons to be protected*):

4. PERSON TO BE RESTRAINED (*full name*):

Sex: <input type="checkbox"/> M <input type="checkbox"/> F Ht.: _____ Wt.: _____ Hair color: _____ Eye color: _____ Race: _____ Age: _____ Date of birth: _____
---

5. RESTRAINED PERSON

- a.  **must not** harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property of, disturb the peace of, keep under surveillance, or block movements of each person named in item 3.
- b.  **must not** contact (either directly or indirectly), or telephone, or send messages or mail or e-mail to each person named in item 3
  - (1)  except for brief and peaceful contact as required for court-ordered visitation of children, as provided in item 5e, unless a criminal protective order says otherwise.
  - (2)  except for peaceful written contact through a process server or another person to serve legal papers related to a court case.
- c.  **must move** immediately from (*address*):

and take only personal clothing and effects.

- d.  **must stay away** at least (*specify*): \_\_\_\_\_ yards from the following persons and places (*the addresses of these places are optional and may be kept confidential*):
  - (1)  Protected persons named in item 3
  - (2)  Protected person's residence (*address optional*):
  - (3)  Protected person's place of work (*address optional*):
  - (4)  The children's school or place of child care (*address optional*):
  - (5)  Protected person's vehicle (*description optional*):
  - (6)  Other (*specify*):

- e.  **has the right to visit the minor children** named in item 3 as follows:
  - (1)  None
  - (2)  Visitation according to the attached schedule (*form JV-205 must be attached if any visitation is ordered*)

- f.  **must NOT remove the minor children** named in item 3 from
  - the state of California  other (*specify*):
  - without order of the court or other condition (*specify*):

CASE NAME:  _____	CASE NUMBERS: JUVENILE:  FAMILY:
-------------------------	---

6.  The child is a ward of the court or the subject of a petition under Welfare and Institutions Code section 601 or 602 and must not contact, threaten, stalk, or disturb the peace of *(list names)*:

7. The juvenile court  has  has not terminated jurisdiction over the minor children named in item 3.

**8. FIREARM RESTRICTION**

Within 24 hours after receiving this order, the restrained person is ordered to give up any firearm in or subject to his or her immediate possession or control.

Any firearms should be surrendered to the control of local law enforcement or to a licensed gun dealer. **Within 72 hours of receiving this order, the restrained person must provide the court with a receipt or with form DV-800/JV-252 (Proof of Firearms Turned In or Sold) showing compliance with this order.**

9. **Other orders** *(specify)*:

<input type="checkbox"/> <b>TO THE PERSON RESTRAINED UNDER A TEMPORARY ORDER</b>				
A court hearing has been set at the time and place indicated below. You may attend this hearing, with or without an attorney, to provide any legal reason that the orders above should not be extended. If you do not appear at this hearing, the court may extend or modify the orders for up to three years without further notice to you.				
Date:	Time:	Dept:	Room:	

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER

CASE NAME:  _____	CASE NUMBERS: JUVENILE: FAMILY:
-------------------------	---------------------------------------

This order is effective when made. It is enforceable in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories and shall be enforced as if it were an order of that jurisdiction by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If proof of service on the restrained person has not been received and the restrained person was not present at the court hearing, the law enforcement agency shall advise the restrained person of the terms of the order and then shall enforce it.

**Violations: Any person subject to a restraining order is prohibited from owning, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. Under federal law, the issuance of a restraining order after hearing will generally prohibit the restrained person from owning, accepting, transporting, or possessing firearms or ammunition. A violation of this prohibition is a separate federal crime.**

**Violation of this restraining order may be punished as a contempt of court, a misdemeanor punishable by one year in jail or a \$1,000 fine, or both, or a felony. Taking or concealing a child in violation of this order is subject to state and federal criminal penalties.**

**Certificate of Compliance With VAWA for Temporary Orders**

This temporary protective order meets all Full Faith and Credit requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in all jurisdictions throughout the 50 United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

**Certificate of Compliance With VAWA for Orders After Hearing**

This protective order meets all Full Faith and Credit requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA). This court has jurisdiction over the parties and the subject matter; the restrained person has been afforded reasonable notice and an opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in all jurisdictions throughout the 50 United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

**CLERK'S CERTIFICATE**

[SEAL]

I certify that the foregoing *Restraining Order—Juvenile (CLETS—JUV)* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Hon. Ronald L. Bauer Judge Orange County Superior Court Santa Ana	A	N	<i>No specific comment</i>	No response required.
2.	Wendy Carson CompuLaw Los Angeles	AM	N	<b>DV-110</b> Number 11 says guns or firearms must be turned in or sold within 24 hours of receiving the order. Family Code section 6389, however, says the guns/firearms are to be sold or turned in within 24 hours of being served with the order (rather than of receiving the order). Same issue for DV-130, number 12, and possibly on other forms as well.	Plain-language format seeks to use simpler language.
3.	Hon. John Chemeleski Court Commissioner Superior Court of Los Angeles County Long Beach	N	N	<b>DV-100</b> Item #2: Space should be provided for the address of the person to be restrained and his or her place of employment (as on civil harassment forms) to help avoid problems of the court unintentionally ordering a stay-away that might include these locations. Item #4d: Should include a space for the date the parties last lived together. Item #4b: Should include a space for the date marriage ended.  <b>DV-110:</b> The judicial officer’s signature should be at the bottom of the first page containing the notice of the hearing, the potentially restrained party’s identifying information, the requesting party’s information and time for service orders. The TRO (#6-14, 16) should be on a separate second page with a separate line at the bottom of that page for the judicial officer’s signature, which would not be signed for those cases where a hearing is set without	Item 7 specifically asks if ordering specified stay-away orders will keep the restrained person from getting to home, school, job, or place of worship. These dates are not required for the issuance or denial of the restraining order.  This will be considered in future proposals for modifications.

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250;  
adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>TRO. The pages are often mixed up with the request form pages by the time they get to the RP or others and proposed orders are mistaken for TRO. I've had too many cases where a party mistakenly believed that he or she had been excluded from a residence or had custody taken away when such an order had been denied. The "This is a Court Order" language is not sufficient and is confusing when it appears on a form that has not been signed by the court. It is not a court order unless the original has been signed by the court.</p> <p>The notice of hearing should not refer to the parties as "protected" or "restrained" as this presumes that a TRO is being issued with the notice, which is not always the case.</p> <p>Item #2: This should be combined with par. #17 to include the RP's address.</p> <p>Item #4: This should include the information now in par. 15 (No fee) and 18 (Time for Service), eliminating the need for those separate paragraphs.</p> <p>Item #7: The reference to a stay-away order from a "vehicle" should be deleted from this and other DVPA forms. There is no statutory authority (in Family Code section 6320 or otherwise) for ordering a stay-away from a movable item of personal property. A broad reading of Family Code section 6322 (enjoining specified behavior) could be argued to be such a basis but this requires that it be</p>	<p>For ease of understanding and consistency in the form the parties are referred to as "protected" and "restrained".</p> <p>There is insufficient space to move item 17 to page 1. Item #4 will be considered in future proposals for modifications.</p> <p>The committee feels that Family Code section 6322 does give the court authority to order stay-away from the protected person's vehicle. The restrained party is enjoined from specified behavior, including destroying personal property. Protected persons are commonly</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>“necessary to effectuate” other orders. If such necessity were shown it could be added under “other.” Having it in the preprinted language, however, leads judicial officers and others to conclude that it is standard procedure to include the vehicle stay-away order.</p> <p><b>DV-130:</b> This would be a fine name for a form if we were operating in a vacuum. The name “judicial council” could probably also be replaced with something more descriptive. However, I suspect that there are thousands of people who deal with DVPA orders, some less frequently than others, including judges, clerks, court staff, attorneys, prosecutors, police, psychologists, therapists, mediators, shelter staff, doctors, school personnel, as well as the litigants themselves and others who will have one more thing to learn and adjust to. I assume that they will learn and adjust as we all have to all the other changes each year, but at what cost, a few more misunderstood orders, a few more confused litigants who will ask “where’s the restraining order?”? I don’t know if it is worth it.</p> <p>Item #4 a, b, and c should not be added and are likely to cause additional confusion. Adding additional check boxes only increases the chance of mistakes being made. What if 4a and/or b is checked and 5a and/or b is not? Or vice versa? Does 4a apply to abuse against the protected party or to abuse against</p>	<p>harassed while in their vehicles, or their vehicles are damaged by the perpetrator, thus this stay-away order is “necessary to effectuate” the order. The court is not required to grant this order.</p> <p>The form will retain its current title <i>Restraining Order After Hearing</i> and will include <i>Order of Protection</i> in parentheses.</p> <p>Agree to remove items 4a and 4b.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>anyone? Why would this additional vague language and further confusion be necessary?</p> <p>The sentence “Note: Custody, visitation, or support orders have different end dates and usually end when the children are 18” is misleading. In my experience such orders “usually” end with the end of the RO (or should I use OOP). Although the court could state a different ending date for such orders, if it fails to do so, such orders would automatically end after three years as provided by Family Code section 6345. Under Family Code section 6323 the court is only authorized to make “temporary” child custody orders. Family Code section 6340 authorizes the court to make section 6323 orders after hearing, but does not provide that such orders be anything but temporary. This is consistent with the stated purpose of the DVPA in Family Code section 6220 and section 6300 as “providing a period of separation...to enable these persons to seek a resolution of the causes of the violence.” It does not appear that the legislature intended that such issues be fully resolved in the DVPA proceedings. This is also consistent with the summary nature of the DV PO proceedings with minimum due process (five days notice, no discovery, no time for mediation, etc.). There is no cooling off period before the hearing as the hearing is intended to start the cooling off period.</p> <p>Wherefore I suggest the following language: “Note:</p>	<p>At the court’s discretion, the residence exclusion, personal conduct restraints, and stay-away orders are in effect no longer than three years from the date of the order. (Fam. Code section 6345(a)). The other orders are in effect until further order of the court (they are governed by the law relating to their specific topic). (Fam. Code section 6345(b)).</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Custody, visitation, or support orders may have different end dates, however, if no end date is specified herein the order ends three years from the date of this order.”</p> <p>Items #8,9, &amp; 10: These paragraph headings (for child custody and support) should start with the word “Temporary” for the reasons stated above.</p> <p>To avoid confusion, for the reasons previously stated, I suggest that all orders have a signature line at the bottom of each order page. For this form the basic RO (#5, 6, 7, 11, and 12) could be on one page to be signed by the court and the other orders could be on a separate page to be signed by the court.</p>	<p>This will be considered in future proposals for modifications.</p>
4.	Lt. David Chilimidus Concord Police Department Concord	A	N	<i>No specific comment</i>	No response required.
5.	Emberly C. Cross Coordinating Attorney Cooperative Restraining Order Clinic	AM	N	<b>DV-130</b> Pages 1 and 2: Items 4a and 4b are confusing in conjunction with Item 5. They appear to be duplicative. If they are <i>not</i> duplicative, I am not clear what additional restraint is imposed by Items 4a and 4b. Is “abuse or threats of abuse” (Item 4a) different from the more specific actions prohibited in Item 5 (“harass, attack, strike, threaten” etc.)? If the two items <i>are</i> duplicative, I am not clear	Agree to remove items 4a and 4b.

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>why both are necessary. I understand that this form is being revised pursuant to Project Passport; I assume Item 4 is a result of that process. While I agree with the idea of consistent cover pages for neighboring states, I would not want to see clarity sacrificed in favor of uniformity.</p> <p>Page 3, Item 19, Attached Pages: With the addition of Item 10, on page 2 referring to spousal support attachment Form FL-343, it is appropriate to add a check-box to Item 19 specifically for Form FL-343.</p> <p>Page 5: Clerk’s Certificate: I believe it should read, “I certify that this <i>Order of Protection</i> is a true and correct copy...” instead of, “I certify that this <i>Order of Protection</i> After Hearing is a true and correct copy...”</p> <p><b>DV-500</b> How will the restraining order help me? There is a typo in the second bullet point, which should read, “Not have a gun” instead of “Nor have a gun.”</p> <p>I suggest adding another question after the “What if I don’t have a green card?” section that reads, “What if there is a warrant out for my arrest?” Family Code section 6306 requires a criminal history search in restraining order cases, but is unclear whether that search should be conducted regarding solely the person to be restrained or both parties. In at least one</p>	<p>Agree to add check box to item 20.</p> <p>The form will retain its current title <i>Restraining Order After Hearing</i> with <i>Order of Protection</i> in parentheses. Agree to make correction.</p> <p>Agree to make correction.</p> <p>This will be considered in future proposals for modifications.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>county I am aware of, it is now routine practice to run criminal history searches on both parties, which could lead to a protected person being arrested on an outstanding warrant. Persons seeking protection from the courts should be made aware of the possibility that seeking such protection could lead to their own arrest.</p> <p><b>DV-520:</b> Page 1: I suggest the items “What if you don’t speak English?” and “What if you are deaf?” be made consistent with the same items on DV-500 and DV-540.</p> <p>Page 2: Under “What happens after the hearing?” I suggest changing bullet point 4 from “...give it back to you after the restrained person receives DV-130” to “...give it back to you after the server mails DV130.”</p> <p><b>JV-245</b> Item #3: Persons to be Protected: I suggest changing the column “Relationship” to “Relationship to child.”</p> <p><b>DV-300:</b> Given the change of the title of DV-130 “Restraining Order After Hearing” to “Order of Protection” or “Restraining Order After Hearing/Order of Protection?”</p> <p><b>DV-310:</b> Item 3: The first sentence has a typo and</p>	<p>Agree to modify text for clarification purposes while maintaining simplicity.</p> <p>Agree to modify text for clarification purposes while maintaining simplicity.</p> <p>Agree to modify text for clarification purposes.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>should instead read, “The judge has set a court hearing date. The second sentence reads, “Unless changed by the court, the current restraining orders stay in effect until the end date.” Does this contemplate that the court can make ex parte orders changing the current restraining order based on the Request for Court Hearing to Change or End Restraining Order, before the hearing? If so, what form would be used to indicate those changes (particularly in a way that makes sense to law enforcement)?</p> <p>Item 4A, Service and Answer, To person asking for order: This item reads, “Someone 18 or over-not you or anyone else protected or restrained by the order...” Why does it refer to anyone else restrained by the order? Since each restraining order restrains only one person, the singular reference to “you” should be sufficient, and the words “or restrained” can be removed.</p> <p>Item 5, Other Orders: What “other orders” are contemplated by this item?</p> <p><b>DV-370</b> Item 1: The word “protected” should be removed from “Protected person’s lawyer,” as either the protected or restrained person could be the moving party.</p> <p>Item 2: Other person’s name: This item is confusing.</p>	<p>DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Which other person’s name(s) should be listed here: the other party, the protected people? It might be better to change this to “Protected person’s name,” as Item 3 asks for the restrained person’s name.</p> <p>Item 3, Restrained person’s name: For clarity, I suggested changing “Description of <i>that</i> person,” to “Description of <i>restrained</i> person.”</p> <p>Item 5, Court order: Someone (I suggest it be the court clerk) should be <i>ordered</i> to transmit this Order to End Restraining Order to the police to ensure modification of any CLETS entry of the prior restraining order.</p> <p><b>DV-320</b> Item 4: What Next? Under the second bullet point, Form DV-130 is again referred to as “Restraining Order After Hearing,” but it is being renamed “Order of Protection.” This item instructs the moving party to make two copies of DV-300 (the Request) and DV-310 (the Notice of Hearing), and to attach DV-130 to each copy of the forms (plural). Why should DV-130 be attached to both the Request and Notice of Hearing? I assume this should instead say to attach DV-130 only to the copies of the Request, not the Notice of Hearing.</p> <p>Item 6, The clerk or judge will set a hearing date: I suggest moving the text that is currently below the picture of the form above the picture of the form. I</p>	<p>The committee has withdrawn the DV-300 series from this approval cycle.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>missed the text the first time I reviewed this form.</p> <p>Item 7, Personally serve the other person a copy of...: I suggest changing the title of this item to “Have the other person personally served a copy of...” The third bullet point again refers to DV-130 by its prior name. I would change the fourth bullet point to read “<i>Blank Answer to Request.</i>”</p> <p>Item 9, If the judge changes the orders at the hearing: The first bullet point refers to DV-130 by its prior name. This item instructs the moving party to make five copies of the new Order of Protection, but does not explain the significance of this number of copies. Is there a particular reason s/he must make <i>five</i> copies, and what is to be done with each of the <i>five</i> copies? A litigant reading this document could be left wondering what s/he is to do with each of the copies.</p> <p>Item 10, File the Proof of Service: The third bullet point indicates that the court will send the Proof to law enforcement. My understanding is that this does not happen every county. This item also instructs the party to make five copies of the Proof, but only explains what to do with one of the five copies. The party could be left wondering what to do with the other four copies.</p> <p><b>DV-380</b> Item 5: End Restraining Orders: The word</p>	<p>The committee has withdrawn the</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>“you” should be removed from, “Did the other person ask you to end the restraining orders?”</p> <p>Is there an opportunity on this form to respond to a request by the moving party to change the restraining order, or just to a request to end the order?</p> <p>There is a typo in the hearing date box. There should be a period after the first sentence, “The judge can consider your Answer at the hearing.”</p> <p><b>DV-390</b> Item 1: Make sure it’s what you really want: There is a typo in that the third bullet point should be removed, as it’s bulleting the second line of the same sentence. The comma at the end of the first line of the sentence should also be removed under the second bullet point (to instead read “Child custody, visitation, or child support orders will not be...).</p> <p>Item 2, If you’re sure you want to end the order: Under the fourth bullet point, Form DV-130 is again referred to as “Restraining Order After Hearing,” but it is being renamed “Order of Protection.” This item instructs the moving party to make two copies of DV-300 (the Request) and DV-310 (the Notice of Hearing), and to attach DV-130 to each copy of the forms (plural). Why should DV-130 be attached to both the Request and the Notice of Hearing? I assume this should instead say to attach DV-130 only</p>	<p>DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>to the copies of the Request, not the Notice of Hearing.</p> <p>Item 4, The clerk or judge will set a hearing date: I suggest moving the text that is currently below the picture of the form. I missed the text the first time I reviewed this form.</p> <p>Item 5, Personally serve the other person a copy of...: I suggest changing the title of this item to “Have the other person personally served a copy of...” The third bullet point again refers to DV-130 by its prior name. I would change the fourth bullet point to read “<i>Blank Answer to Request.</i>”</p> <p>Item 7, If the judge ends the orders at the hearing: This item instructs the party to make five copies of the Order ending the restraining order, but does not explain the significance of this number of copies. Is there a particular reason s/he must make five copies, and what is to be done with each of the five copies? A litigant reading this document could be left wondering what s/he is to do with each of the copies.</p> <p>Item 8, File the Proof of Service: The second bullet point instructs the party to keep a copy of the Proof of Service in a safe place in case it needs to be shown to the police. Is this necessary? I do not know why the police would need to see a Proof of Service form indicating that the Order to End the Restraining</p>	

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Order had been served on the other party. The third bullet point indicates that the court will send the Proof to law enforcement. My understanding is that this does not happen in every county. This item also instructs the party to make five copies of the Proof, but only explains what to do with one of the five copies. The party could be left wondering what to do with the other four copies.</p> <p><u>Standards to Modify or Vacate a Restraining Order</u> I strongly believe there should be no established standard of review created by the Judicial Council for modification or set-aside of restraining orders. If any standard of review is to be created, it should be legislated and included in the body of Family Code section 6345. This is a very complex issue, and I would be happy to discuss it further with the Council staff.</p>	The committee has withdrawn the DV-300 series from this approval cycle.
6.	Katie David/Dean Scott Wylie Student/Dean Whittier Law School Costa Mesa	A	N	We agree with the proposed changes and compliment the use of plain language that can be understood by pro per litigants. We have one comment for the DV-500 form to add the question: What happens after a 3-year order ends?	This will be considered in future proposals for modifications.
7.	Stephanie Eshoo Director, Legal and Community Services, Women Escaping A Violent Environment (WEAVE) Inc. Sacramento	AM	N	<p><b>Relinquishing Firearms</b>—I agree with the proposed revisions to forms DV-100, DV-110, DV-120, DV-130, and DV-540 regarding mandatory firearm prohibitions and time frame for relinquishment.</p> <p><b>Unlawful Communications</b>—I agree with the proposed revisions to form DV-120 regarding not</p>	<p>No response required.</p> <p>No response required.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>giving the respondent an opportunity to object to the recording of unlawful communications.</p> <p><b>Spousal Support</b>—I agree with the proposed revisions to forms DV-100, DV-120, DV-130, DV-500, DV-505, DV-520 and DV-540 regarding spousal support and the mandate of the court to consider safety issues when considering denial of an order, including safety concerns related to financial needs. I do, however, have two comments related to this section.</p> <p>At the bottom of form DV-110 there will be language added to reflect the mandate on the court in English. It appears that the previous and sub paragraphs in sections 4 and 5 are in English and Spanish. Will this new section also be in English and Spanish? If not, why?</p> <p>At the bottom of form DV-120 there will be an additional item for spousal support. There is also an indication that the person filling out the form must fill out, serve, and file form FL-150 or FL-155. Perhaps language could be added to explain that whether or not the person agrees with the order requested, either of those forms must be filled out. It could be implied that if the person marks the “do not agree to the order requested” that they are not required to fill out FL-150 or FL-155.</p>	<p>No response required.</p> <p>The sections of item 4 and item 5 that are in English and Spanish are directed at the restrained party to ensure adequate notice. The new section directed to the protected person will be included on the Spanish forms.</p> <p>Agree to modify text for clarification purposes.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p><b>Order of Protection</b>—I agree with the proposal to create uniform Restraining Order forms to improve recognition and enforcement of orders of protection. I also agree with the proposed revisions to form DV-130. I do, however, have two comments related to this section.</p> <p>It is clearly understood that form DV-130 Restraining Order After Hearing in its current format describes a permanent restraining order as opposed to a temporary restraining order. I would suggest that whatever new name the form has, that it would retain its status of referring to a restraining order that has been granted after a hearing. So, in renaming the other forms in the restraining order packet, no other form would have a similar name.</p> <p>The new section in item 5 regarding whether the order is a modification of a prior order will not make the order more clear; instead it will add confusion. As far as enforcement, it does not matter if the current order is the first one or a modification of a previous one. If the box is marked indicating this order is a modification of a previous order, law enforcement will become confused as to how many orders there are in the case and which one is the most current and should be enforced. I do not agree to this new section.</p> <p><b>Change/End Restraining Order Forms</b>—I do not</p>	<p>No response required.</p> <p>Other forms in the packet retain their current title. The form will retain its current title <i>Restraining Order After Hearing</i> with <i>Order of Protection</i> in parentheses.</p> <p>Agree to remove item 5.</p> <p>The committee has withdrawn the</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>agree with the proposal to create forms for changing or ending a restraining order. I understand that the Family Code does authorize termination or modification by further order of the court; however, creating these specific forms and procedures for doing so creates yet another tool for perpetrators to use to further abuse their victims through the civil justice system.</p> <p>It is extremely common for a victim of domestic violence to get discouraged while trying to navigate through the court system. Often times, the perpetrator uses the legal system to further abuse their victim. The perpetrators will file motion after motion simply to harass the victim, sometimes forcing them to take time off work, only to come to court and find the perpetrator either does not appear or the motion is denied because there is no basis for the request. These proposed forms will make it even easier for perpetrators to file motions without merit. Without the form, the perpetrator still has the right under the Family Code to request termination or modification of the restraining order. The underlying right is not being taken away, but we are not required to make it easy for someone to abuse the procedures and cause further undue hardship to victims.</p> <p>As for the format/content of the forms, if they are adopted for use, here are some suggestions for revising them. Throughout the forms, wherever it</p>	<p>DV-300 series from this approval cycle.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>states that this request does not apply to custody, visitation or child support orders, “spousal support” should also be added as that is a new item that can be requested through a restraining order.</p> <p>On page 1 of <b>DV-300</b>, item 4, change the third bullet point to “I understand that this is a request for all of the restraining orders to end.” The current statement indicates that the person filling out the form has the authority to end the restraining orders and only a judge has that authority.</p> <p>On page 1 of <b>DV-300</b>, item 6, if the request is for the names and ages of the parties to add or remove, then create a space for both pieces of information. Without a specific place for name and age, most will not completely fill out the section. Should also add a statement to attach a separate sheet of paper for more space.</p> <p>On page 2 of <b>DV-300</b>, item 10 should be removed. This item was removed from the request for an answer to restraining orders, so it should not be included in these forms either.</p> <p>On page 1 of <b>DV-310</b>, item 5 is a space for other orders. What other order could be requested in this process? By having that space, people will come up with very creative requests for other orders that are not appropriate or relevant to these proceedings.</p>	<p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>On page 1 of <b>DV-320</b>, item 1 lists the possible orders to change through this process. Again, recording unlawful communications should be deleted from this section. Also, should add that the person can request modifications to the protected person sections of the restraining order. I would imagine this would be the issue driving these petitions most of the time.</p> <p>On page 1 of <b>DV-380</b>, item 9 should be deleted, as it is no longer an option to object to this item.</p>	<p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p>
8.	Keri Griffith Court Program Manager Ventura Superior Court Ventura	AM	N	<p><b>DV-130:</b> If the name of the DV-130 is amended to Order of Protection, several of the other forms need the document title changed where this form is referenced.</p> <p>With respect to the concern about adopting forms that would facilitate modification or termination of restraining orders, I believe the forms should be approved even with those reservations. The code allows a party to request modification or termination, and the development of the forms was requested by several groups, including domestic violence advocates, to eliminate confusion and inconsistencies.</p>	<p>The form will retain its current title <i>Restraining Order After Hearing with Order of Protection</i> in parenthesis.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p>
9.	JoAnn Johnson Family Law Facilitator Ventura Superior Court	AM	N	<p><b>DV-300 series:</b> I agree that a uniform process for modification should be implemented.</p>	<p>The committee has withdrawn the DV-300 series from the approval cycle.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	Ventura			<p>Child custody and support should not be modified within the DV case. I would like to see an advisement that litigants also file a Disso or Paternity case, whichever applies, if they wish to modify a child custody or visitation order if no other case is on file already.</p> <p>Standards for modification: My concern is that some restrained persons will use this form as a second bite of the apple. The order was issued, they don't like it and they will file this to try to fight it again. If there are no standards as to what is the appropriate basis for modification, perhaps a notice as to what is an inappropriate use of the form can be included. "If you have already filed an Answer and the Permanent Restraining Order was issued over your objection, you cannot use this form to ask the court to reconsider that order."</p>	
10.	Dennis Kessinger Legal Assistance Coordinator Shasta County Women's Refuge Redding	A	N	We strongly support the proposed changes in W05-04. We specifically, and strongly, support the amending of Family Code section 6389 to require notice on the mandatory relinquishment of firearms.	No response required.
11.	Kathlyn Lamoure Unified Family Court Coordinator Yolo Superior Court Woodland	A	N	<i>No specific comment</i>	No response required.
12.	Stephen V. Love	AM	N	<b>DV-100:</b> On page 1, reverse items #2 and #3 so that	Because of formatting and space

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250;  
adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	Executive Officer Superior Court of San Diego County San Diego			<p>this form is consistent with the “Order of Protection” which has the protected person first, the other persons they want to protect second and person to be restrained third. Change all the 2’s to 3’s and 3’s to 2’s throughout the body of the text.</p> <p>Page 1, #4 of this form, add a box for checking and “We have a Registered Domestic Partnership” as one of the options.</p> <p>Page 3, #14 add, I am married or have a Registered Domestic Partnership with the person in....</p> <p><b>DV-110:</b> Throughout the form in both English and Spanish, should all references to “...the judge can make restraining orders...” be changed to read, “...the judge can make orders for protection...”?</p> <p><b>DV-110:</b> On page 1, reverse items #2 and #3 and change the 2’s to 3’s and 3’s to 2’s throughout the text.</p> <p><b>DV-110:</b> Item 12, add more space to itemize the items to be listed, or include language referring to an attachment page.</p> <p><b>DV-110:</b> Item 13, change “...are married to each other...” to read “...are married to each other, or are registered domestic partners...” This change will conform to the new registered domestic partner laws.</p>	<p>issues this change cannot be made.</p> <p>Agree to add registered domestic partnership.</p> <p>Agree to add registered domestic partnership.</p> <p>These references are not to the specific form (DV-130). For ease of understanding we will retain the reference to restraining orders.</p> <p>Because of formatting and space issues this change cannot be made.</p> <p>Agree to make attempt to add more space.</p> <p>Agree to add registered domestic partnership.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250;  
adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p><b>DV-300 series:</b> Right now, because there is no standard form to go to police and sheriffs, restraining orders that are dismissed, set aside, or modified do not make it into the CLETS system because they do not look like CLETS forms. People are subject to arrest and possible prosecution because the system is not current. Peace officers do not honor OAHs that are subsequent to CLETS orders because they are taught to honor the CLETS form above all else. In addition, many people do not need a three-year order to protect them and most are adults and should be allowed to make reasonable changes in their own life. The formerly restrained person needs something that peace officers would recognize especially when they end up with custody of the children because the protected person got into trouble and is not available to the children. Not all restraining orders are based upon sound allegations, true statements and certainly there are one or two where the proof of service is questionable. FLF strongly supports adoption of these forms.</p> <p><b>DV-300:</b> Change the title to "...Request for Court Hearing to Change or End Order for Protection..." This will conform the title of the form to correctly state the name of the form that it is changing or ending.</p> <p><b>DV-300:</b> Item 12, change "...to change child custody, child visitation or child support orders..." to</p>	<p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250;  
adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>read "...to change or terminate child custody, child visitation, child support, spousal support, or domestic partner support orders...." This will clarify that the child custody, child visitation, child support, spousal support, or domestic partner support orders will not be changed or terminated when the Order for Protection ends.</p> <p><b>DV-310:</b> Change the title to "...Notice of Hearing to Change or End Order for Protection...." This will conform the title of the form to correctly state the name of the form that it is changing or ending.</p> <p><b>DV-320:</b> Change the title to "...How Do I Change An Order for Protection?" This will conform the title of the form to correctly state the name of the form that is changing or ending.</p> <p><b>DV-380:</b> Change the title to "...Answer to Request for Court Hearing to Change or End Order of Protection...." This will conform the title of the form to correctly state the name of the form that it is changing or ending.</p> <p><b>DV-390:</b> Change the title to "...How Do I End an Order of Protection?" This will conform the title of the form to correctly state the name of the form that is changing or ending.</p> <p><b>DV-390:</b> After an Order of Protection has been</p>	<p>cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>terminated or otherwise ended, will the case be considered closed, or can the parties still file for modification of child custody and visitation, child support, spousal support, and domestic partner support, within that same case? If not, will the parties be required to open a new case (with new filing fees) to address those issues?</p> <p><b>DV-390:</b> Under #4, under the box, have the sentence read, “At the hearing, the judge will decide whether or not to change or end the order.”</p> <p>Under #7, add a point and say, “Give a copy of DV-370 to local law enforcement for entry into their computer system.”</p> <p><b>DV-500:</b> Page 1, under “Can I Get a Restraining Order?” add Registered Domestic Partnership.</p> <p>Under “How Long Does the Order Last?” change the last sentence to read, “The order issued at the hearing could last for up to 3 years.</p> <p>Page 2, under “Can I use the restraining order to get divorced?” add “or terminate a Registered Domestic Partnership?” and also add, “will not end your marriage or registered domestic partnership.”</p> <p><b>DV-520:</b> Page 2, under “The Judge may...,” add a phrase, “Ask the Judge to extend the Temporary</p>	<p>DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>Agree to add registered domestic partnership.</p> <p>Agree to modify text for clarification purposes while maintaining simplicity.</p> <p>Agree to add registered domestic partnership.</p> <p>Agree to modify text for clarification purposes while</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250;  
adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Orders until the new hearing date.”</p> <p><b>DV-540:</b> Page 1, under “Should I go to the hearing,” the last sentence should be extended to indicate the “judge can make the orders extend for 3 years or longer without hearing from you.”</p> <p>Under “Do I have to get a lawyer,” after the first full sentence, add “You could be subject to possible criminal sanctions if the restraining orders are made permanent or long term and you do not follow them carefully. Also, these order may impact your employment depending on the type of work that you do.”</p> <p>At the end of the last sentence, add, “or call the local attorney referral service or Bar Association.”</p> <p>Of great note, according to state and federal law, not all guns are firearms. Family Code section 6389(a) says that you may not own, buy, etc. a firearm, but the restraining orders talk about guns and firearms. That is not the law. Some streamlining and clarification should be added.</p>	<p>maintaining simplicity.</p> <p>Not all the orders are subject to the three years; therefore, for ease of understanding the sentence will not be changed.</p> <p>The notices and warnings to the restrained person contained in DV-110 and DV-130 provide proper notice to the restrained person.</p> <p>As indicated on the form, the clerk can provide these referrals.</p> <p>Plain language format seeks to use simpler language. “Gun” is the common term used by most people. Under federal law, the term “firearm” means (A) any weapon (including a starter gun) that will or is designed to convert or readily may be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer;</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250;  
adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p><b>JV-245:</b> Remove item 6e, as firearm prohibition is mandatory for a minor.</p> <p><b>JV-250:</b> Item 8, the box is removed for the same reason as stated above. Additional proposed change to JV-250, add item 1e. "Person to be restrained present. No further service is needed."</p>	<p>or (D) any destructive device. (18 U.S.C. section 921(a)(3).) Under California law, "firearm" means any device designed to be used as a weapon, and from which is expelled a projectile by the force of any explosion or other form of combustion (Pen. Code section 12001(b).)</p> <p>The box was removed on the revised form that was sent out for comment.</p> <p>These changes were made to the revised form that was sent out for comment.</p>
1.	Hon. Laura Masunaga Commissioner Siskiyou County Superior Court Yreka	A	N	<i>No specific comment</i>	No response required.
13.	Gail Pincus Executive Director Domestic Abuse Center Northridge	N	N	<b>DV-300:</b> This form will allow a restrained person to remove a restraining order against him or herself. No notice is required—this can be a form of harassment even if notice is required. The law needs to be specific and should be modified to address only the protected person.	The committee has withdrawn the DV-300 series from this approval cycle.
14.	Kendra Rupe, Esq.	AM	Y	If you are changing the name of DV-130 to "ORDER	The form will retain its current title

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250;  
adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	<p>Chair, Legal Action Committee San Diego Domestic Violence Council San Diego</p>			<p>OF PROTECTION” for a common and recognizable first page for protection orders, all places where it says “RESTRAINING ORDER” should be changed to “PROTECTION ORDER.”</p> <p>It will be too confusing for client to have a Temporary Restraining Order which later turns into an Order for Protection. When you switch terminology, and switch it inconsistently, it confuses victims. Either do not switch the terminology or switch it consistently throughout all DV forms.</p> <p><b>DV-100</b> Item 2 should read, “Name of person you want protection from (restrained person):”</p> <p><b>DV-110</b> should be named “Temporary Order for Protection and Notice of Hearing.”</p> <p><b>DV-110</b> Item 4 should include spousal support; and third paragraph, sentence 1, should use a simpler word than “jeopardize” such as “risk.”</p> <p><b>DV-130</b> Item 17(b)1: Currently this section reads such that victims will think 17(b)1 is permissive as it uses the word “can,” and not mandatory that the defendant be served again.</p>	<p><i>Restraining Order After Hearing with Order of Protection</i> in parentheses.</p> <p>The person is not restrained in the request. For ease of understanding and for retaining simplicity, the reference to “restrained person” is not included.</p> <p>This will be considered in future proposals for modifications.</p> <p>Agree to add spousal support. The notice required by statute uses “jeopardize.”</p> <p>Agree to modify text for clarification purposes while retaining simplicity.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>This section should read, “The restrained person must be served a copy of this order. A copy of the proof of service must be submitted to law enforcement and entered into California’s statewide registry. This order can be served by mail.”</p> <p><b>DV-300</b> Issue—allowing the restrained person to request modification or termination of protection order invites further abuse of the victim through the legal system. Items 4 and 5 should read “Order of Protection.”</p> <p><b>DV-310</b> Should be named, “Notice of Hearing to Change or End Protection Order.” Item 3, two places should read, “Protection Order.”</p> <p><b>DV-320</b> Should be named, “How Do I Change a Protection Order.” Items 2, 4, 6, 7, and 9 should read, “Protection Order.”</p> <p><b>DV-370</b> Should be named, “Order to End Protection Order.” Item 1 and 5, and the Clerks Certificate should read, “Protection Order.”</p> <p><b>DV-380</b> Should be named, “Answer to Request for Court Hearing to Change or End Protection Order.” Item 5, three place should read, “Protection Order.”</p> <p><b>DV-390</b> Should be named “How Do I End a Protection Order.” Items 1, 2, 4, 5, and 7 should read</p>	<p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>“Protection Order.”</p> <p><b>DV-500</b> Should be named “Can a Domestic Violence Order of Protection Help Me”</p> <p><b>DV-505</b> Items 1, 5 and 6 should say, “Order for Protection.”</p> <p><b>DV-520:</b> What happens after the hearing? Should read:</p> <p>If the restrained person was at the hearing, no other proof of service is necessary.</p> <p>If the restrained person was not at the hearing, but the Judge’s orders were the same as the temporary order, you can have him or her served with a copy of DV-130 by mail. You must have the restrained person served by some manner of service. Ask the server to complete the Proof of Service and give it back to you after the restrained person receives the DV-130. You need to make at least 2 copies of Proof of Service and take the original and your 2 copies to the court clerk’s office. Make sure law enforcement gets a copy and their CLETS computer system is updated.</p> <p>If the restrained person was not at the hearing and the</p>	<p>cycle.</p> <p>DV-130 is retaining its current title; therefore, this change is not necessary.</p> <p>DV-130 is retaining its current title; therefore, this change is not necessary.</p> <p>The committee feels this information is properly conveyed under “What happens after the hearing?” and “Remember, you and other protected people cannot serve the orders.”</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				judge's orders are different from the temporary order, you must have someone serve DV-130 in person, not by mail. Ask the server to complete DV-250 and give it back to you. You need to make at least 2 copies of DV-200 and take the original and your 2 copies to the court clerk's office. Make sure law enforcement gets a copy of the DV-200 and their CLETS computer system is updated.	
15.	Julie Saffren Attorney Law Offices of Jillian Laxton and Julie Saffren San Jose	AM	Y	<b>DV-300 forms:</b> As domestic violence practitioners, we understand very well that victims of domestic violence ("protected parties") sometimes wish to modify or even end their orders of protection. Forms that facilitate those changes allow protected parties a self-determined position and certainly streamlines the protected party's experience returning to court again. However, the fact the DV-300 forms are currently designed for use by restrained parties as well as protected parties is extremely troubling and that is the basis for the attorney feedback contained herein. The restrained party is a perpetrator of domestic violence. A DVPA order would not have been granted unless a court had found that abuse against the protected party had occurred. Thus, restrained parties and protected parties are not similarly situated in the eyes of the court, in the eyes of law enforcement and in our communities at large. While Family Code 6345 establishes the restrained party has the right to petition the court to modify or end a restraining order, we attorneys feel it is unwise to	The committee has withdrawn the DV-300 series from this approval cycle.

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>make these simplified forms available to restrained parties with the same ease as protected parties. We have the following specific concerns:</p> <ul style="list-style-type: none"> <li>-Simplified forms make it too easy for the restrained party to harass the protected party by dragging her back to court during the duration of the permanent order.</li> <li>-Simplified forms are subject to misuse by restrained parties who wish to relitigate the underlying domestic violence that resulted in orders they disagree with.</li> <li>-Simplified forms would most likely be publicized through court self-help centers. By making these forms widely known to restrained parties, the courts had a weapon to the party who has already been found by the court to have been abusive to the other party.</li> <li>-The lack of standards means that any properly filed and served request by a restrained party for a hearing requires the presence of the protected party in court, regardless of how recently the restraining order was obtained.</li> <li>-Once these simplified forms are in widespread use, protected parties have to take the time to answer and appear, asserting that they still wish to retain their protections. Missed work, arranging childcare, facing their abuser again, agreeing to modifications because they are worn down are hardships and risks to victims.</li> <li>-The lack of standards creates the potential for</li> </ul>	

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>abuses of judicial discretion to take place including vacating orders if the protected party is too afraid to appear or was improperly served. Depending on how recently the order was issued, some courts may even improperly relitigate the domestic violence which led to the original order, giving the restrained party who missed his chance for a timely Motion for Reconsideration another chance.</p> <p>For these reasons, we recommend these simplified forms are for use only by the party who sought and obtained protection in the first place.</p> <p>We anticipate the concern that making simplified forms only available to protected parties creates an “access to justice” issue, in that the parties are not being treated equally. We respectfully disagree. The parties, who are not similarly situated to begin with, both have mechanisms to petition the court to modify or end orders. Thus, there is no undue hardship to restrained parties as long as both parties have a mechanism. It is true that filling out simplified forms will be easier for protected parties than filling out an OSC will be for restrained parties. However, the most important factor for access to justice is the mechanism to petition the court. It does not have to be identical.</p> <p>We ask the Judicial Council to agree with us that the potential for abuse of the simplified form by</p>	

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250;  
adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>restrained parties could very likely outweigh the benefits to protected parties. However, if the Judicial Council feels that the same forms must be used by both parties, then our alternative recommendation is to forego having simplified forms at all. We believe it is better to keep the existing OSC mechanism, which is equally difficult for both parties, then to create a tool that abusers will surely wield against their victims. In fact, we can identify certain advantages to keeping the status quo. We believe if the process stays somewhat difficult for both parties there is a greater possibility that each party will seek assistance in order to do it. A protected party may contact a domestic violence agency and obtain more information as to her options and resources, and make a better decision as to what protections she needs. A restrained party who seeks modification in bad faith may get legal advice to discourage him from trying it.</p> <p>While we appreciate the intent of these simplified forms, we remain very concerned about the actual impact of their use. If these new forms cannot be made specific to the needs of the protected party in a domestic violence matter, then we would prefer no new forms at all.</p> <p><b>DV-300:</b> Item 4 and 5 -Before this item, instruct users that they only fill in item 4 or item 5, not both. -These items use the term Restraining Order After</p>	<p>The committee has withdrawn the DV-300 series from this approval cycle.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250;  
adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Hearing, which is inconsistent with the new terminology Order of Protection. -Should spousal support be listed as one of the orders that cannot be changed? (If so, also need to include it in item 15).</p> <p><b>DV-300:</b> Item 12, Other Orders -The note in italics should route people to the form number(s) they should use if they wish to change custody, visitation and support. -Can someone use DV-105 to request modifications to custody, visitation and support and submit it at the same time as DV-300? If not, can they use FL-300 and submit it at the same time as DV-300? -If a request to modify custody, visitation and support is submitted at the same time as DV-300, will the court hear both modifications at the same hearing? For reasons of judicial economy, perhaps they should. If not, the information sheets (DV-320, DV-390) should be explicit so pro pers know what to expect.</p> <p><b>DV-310:</b> Item 3 -The item states “File a written answer on DV-350 if you disagree.” Should be DV-380.</p>	<p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p>
16.	Hon. Robert Schnider Supervising Judge (Family Law) Los Angeles Superior Court	AM	N	<p>The form revisions are ok.</p> <p>The adoption of a form to change or terminate a restraining order is appropriate, in the abstract.</p>	<p>No response required.</p> <p>The committee has withdrawn the DV-300 series from this approval</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	Los Angeles			However, that form should include provision for modification of all orders granted including custody/visitation, child support, spousal support and debt payment. These are all orders, which are modifiable if there is a change in circumstances after the date of the initial order. The only suggested reason for not including them on this form or a similar separate form appears to be that we wish to encourage litigants to file more comprehensive and appropriate actions such as a dissolution or parentage petition. But that logic would equally apply to the initial grant of these orders. If we allow any such orders to be made part of the DV filing, logic and fairness dictate that we must allow the same opportunity for changes in our orders.	cycle.
2.	Ms. Mary Sugarman Paralegal Family Court Clinic, Placer County Auburn	AM	N	<p>1. <b>DV-110:</b> Item 28 on page 5 has what I think is a missing word. “Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy <b>OR</b> on (not just on) the California Law Enforcement . . .”</p> <p>2. <b>DV-370:</b> This form has a place to mark the dissolution of the order but not a place to mark changes made. I assume that a DV-130 would be completed to reflect modifications but that is not clear from the instructions for the modification process.</p> <p>3. It is really great that a process is being set up (the DV-300 series) to modify or dismiss a</p>	<p>Agree to make the correction.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>restraining order. People often want to go to counseling together, etc. A method of doing that has long been needed. However, only the protected party should be allowed to remove the restraining order. That the Request to Change or End the Restraining Order, DV-300, can be made by the restrained party is very disturbing for the following reasons: (1) It gives the restrained party an excuse to seek out (stalk) the protected party in the guise of serving her with papers; (2) If the protected party is enrolled in Safe-at-Home, s/he may not get personal service at all or will be forced to reveal her location by showing up at Court, where s/he could be followed; (3) If the protected party cannot be found the restrained party can serve by publication or posting and effectively have the restraining order removed without any input or knowledge of the protected party. S/he would think protection is in place when, in reality, the protection was gone. If there is no way to preclude the restrained party from removing or modifying the restraining order, then there should be a provision that bars service by publication or posting in all circumstances.</p> <p>4. <b>DV-300:</b> Add a question between items 3 and 4– “Have you talked to anyone about removing or changing the restraining order? If so, how is this person you talked to related to the restrained party?” The reason for this is to bring to light any third-party pressure, from in-laws or friends.</p>	<p>cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				5. <b>DV-380:</b> Change the question in item 5 to read, “Has anyone asked you to end the restraining order? If so, how is this person related to the restrained party?” Again, the purpose of making the question more general is to bring to light any third-party pressure to remove or change the order.	The committee has withdrawn the DV-300 series from this approval cycle.
17.	Ms. Barbara Suskind Attorney/Mediator Law Office of Barbara Suskind Pleasant Hill	AM	N	<p>1. <b>DV-110:</b> Page 1 of 5, notices at items 4 and 5 should include “spousal support” when listing the “other orders” the judge can make.</p> <p>Page 4 of 5 at item 22 should have a third bullet re: spousal support.</p> <p>2. <b>DV-130:</b> Page 1 of 5 at item 4, need a reference to the duration of spousal support, which does not end when the restraining order ends, nor is it based on the age/s of the child/ren.</p> <p>3. <b>DV-540:</b> Page 2 of 2, “How long does the order last?,” need a reference to the duration of spousal support, which does not end when the restraining order ends, nor is it based on the age/s of the child/ren.</p> <p>4. <b>JV-250:</b> Page 1, paragraph 1.d: If this form is intended to be used in the Juvenile Dependency Court, more room is needed to list the “Persons and attorneys present.” There are rarely fewer than five persons and attorneys present. Often, there are seven</p>	<p>Agree to include “spousal support” in “other orders” listing.</p> <p>Agree to add spousal support to item 22.</p> <p>Agree to add spouse support to list of orders with ending dates different from those on the restraining order.</p> <p>Agree to add spouse support to list of orders with ending dates different from those on the restraining order.</p> <p>These recommended changes to JV-250 will be considered in future proposals for modification.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>or more. Page 3: Should Certificates of Compliance be moved to the front of the form?</p> <p>5. <b>DV-300:</b> Page 1 of 3, sixth bullet at item 4, need reference to “spousal support.” Page 1 of 3, bullet number 4 at item 5, need reference to “spousal support.” Page 2 of 3, parenthetical “Note” at item 12, need reference to “spousal support.” Page 3 of 3, add at item 15 reference to “spousal support” or simply drop “child” from reference to support orders.</p> <p>6. <b>DV-370:</b> Page 1 of 1, third bullet at item 5, need reference to “spousal support.”</p> <p>7. <b>DV-390:</b> Item 5 should provide notice of deadline for service of motion to modify the restraining order.</p> <p>8. Forms for modifying restraining orders: Granting unlimited and unrestricted license to batterers to petition to modify restraining orders is tantamount to the court (or legislature) declaring open season on DV victims for legal harassment by their batterers.</p>	<p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p>
18.	Valerie Fercho-Tillery ASP Manager California Department of Justice	AM	N	<b>DV-100</b> Item number 4: Add boxes for “We are now registered domestic partners.” And “We used to be registered domestic partners.” Item number 5a: Add a box for Domestic Partnership.	Agree to add registered domestic partners.

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	<p>Sacramento</p> <p>Peggy Kelly DVROS Field Representative California Department of Justice Sacramento</p>			<p><b>DV-110</b> Why is Spanish language needed on the first page when there is a Spanish version of the form?</p> <p>Item numbers 1 and 3: Add date of birth, race, and sex for parties to be protected. This information is known to parties involved in domestic violence and advocates should have no objections to including this vital information. Additionally, this information will aid law enforcement in clearly identifying the person(s) to be protected. This could result in ensuring both the safety of the parties named in the court order and the officers who have responded to a dispute. Without a date of birth, protected person information cannot be sent to the national system (NCIC's Protection Order File).</p> <p>Item number 5: Add to third sentence, "All checked boxes and items 10 and 11 are court orders." To both the English and Spanish sentences. OR delete the sentences entirely.</p> <p>To the bottom of the form (on all 5 pages), add TRO in the parenthesis with CLETS-i.e., (CLETS-TRO). Adding TRO after CLETS will assist the agency entering the information into DVROS. Each order type has a unique code for entry. The DV-110 is</p>	<p>If the English form (order) is served on a Spanish Speaking restrained person, then it is important that he or she have notice of critical information.</p> <p>The date of birth is not always common knowledge. The committee does not want to include the protected person identifying information on a public document. Confidential information can be captured on DV-260.</p> <p>Agree to modify text for clarification purposes.</p> <p>Agree to add TRO in the parentheses with CLETS.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250;  
adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>TRO. By adding the code after CLETS, agencies will be less likely to enter the information incorrectly.</p> <p>Item number 25: Add a fourth bullet that reads, “The served information is obtained through DVROS (Family Code 6381).”</p> <p><b>DV-120</b> Add as a numbered item: “Record Unlawful Communications. I do/do not agree to the order requested.” (This was on the DV-120 revision dated July 1, 2003, and is in the DV-100.)</p> <p><b>DV-130</b> This recognizable first page looks great. However, law enforcement in California will have trouble understanding what type of protection order this is. There are so many different types of orders of protection in California, that Domestic Violence should be added to the top and bottom of the form. Also, with the “CLETS” information missing, agencies may think they don’t have to enter this order into the Domestic Violence Restraining Order System (DVROS).</p> <p>At the top of the form put: DV-130 Order of Protection-Domestic Violence</p> <p>At the bottom of the form put: Order of Protection Domestic Violence (CLETS-OAH)</p>	<p>Agree to modify text for clarification purposes.</p> <p>The protected person can make the request. The committee feels the person responding to the request does not have a legal basis for objecting to this request.</p> <p>The form will retain its current title <i>Restraining Order After Hearing</i> with <i>Order of Protection</i> in parentheses.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Order After Hearing</p> <p>Adding OAH after CLETS will assist the agency entering the information into DVROS. Each order type has a unique code for entry. The DV-130 is OAH. By adding the code after CLETS, agencies will be less likely to enter the information incorrectly.</p> <p>Items numbered 1 and 2: Add date of birth, race, and sex for parties to be protected. This information is known to parties involved in domestic violence and advocates should have no objections to including this vital information. Additionally, this information will aid law enforcement in clearly identifying the person(s) to be protected. This could result in ensuring both the safety of the parties' names in the court order and officers who have responded to a dispute. Without a date of birth, protected person information cannot be sent to the national system (NCIC's Protection Order File).</p> <p>Item number 3: Box all information to be provided on the restrained party in one box, not two, as the previous DV-130 was formatted (rev. January 1, 2004). Relationship to protected person, change to person(s). This added information could aid law enforcement. Thank you.</p> <p>Item number 4a: Remove the box. This should be a mandatory order. The statement should read, "That</p>	<p>Agree to modify text for clarification purposes.</p> <p>The date of birth is not always common knowledge. The committee does not want to include the protected person's identifying information on a public document. Confidential information can be captured on DV-260.</p> <p>Reformatting to a recognizable first page required some changes, such as splitting the box. Space is not sufficient to list relationship to all protected persons.</p> <p>Item 4a has been removed.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>the restrained person in 3 not commit further acts of abuse or threats of abuse against the protected person(s).”</p> <p>Item number 4b: This may pose conflicts and/or confusion with the order depending on how items 5 and 6 are completed. This possibility could render (this aspect of) the order unenforceable (by law enforcement) if conflicting terms exist. We recommend removing Item 4b. If this item is included, it should read something like “That the restrained person in 3 not have any contact with the protected person(s) in 1 and/or 2.” The court would have to ensure that this item (whether checked or not) is in agreement with items 5 and 6.</p> <p>Item number 4c: Remove the box. This should be a mandatory order. Pages 2 and 3 contain mandatory orders and the judge’s signature.</p> <p>Modified orders: This section of the order must be designed to stand out. We suggest using bold and capitalization of the statement, and reword the question to: DOES THIS ORDER MODIFY A PRIOR DV-130? This would help distinguish this very important question. This question must be clearly answered on all orders as either Yes or No. If yes is marked, the court must ensure the end date of the order is completed; otherwise, the order will be good for 3 years. This is the court’s responsibility.</p>	<p>Agree to remove item 4b.</p> <p>Agree to remove box.</p> <p>This section has been removed.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>If yes is marked, the date of the prior order must be filled in and we are also requesting the addition of the court case number. We recommend the note of reference be changed to something like: (Note: This order must be completely filled out to include all orders, including any modifications to the previous order, referenced above.).</p> <p>Item number 22: Add a fourth bullet that reads, “The served information is obtained through DVROS (Family Code 6381).”</p> <p><b>DV-500</b> Under “How will the restraining order help me?”, the second bullet should read “Not (Instead of Nor)” have a gun.</p> <p><b>DV-520</b></p> <p>Page 2, What happens after the hearing? Bullets 4, 5, and 6 all have to do with serving the order. It would seem logical to add a seventh bullet and move “The sheriff or marshal can serve the orders for free. Ask the court clerk if you need to file more forms. You may need Form CH-101/DV-290 and Form 982(a)(17). Otherwise, take your Proof of Service (DV-200 or DV-250) to the clerk and file it. Keep a copy. Read DV-210 for help.” Then, finish the page with “Remember, you and other protected people cannot serve the orders.”</p>	<p>Agree to modify text for clarification purposes.</p> <p>Agree to make correction.</p> <p>The committee feels the current layout works well.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250;  
adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p><b>DV-540</b> Page 2: Can I bring a witness to the court hearing? The last sentence should read, “You must file and mail witness statements at least 10 days before the hearing or when you mail your (not you) Answer (DV-120) to the protected person.</p> <p><b>DV-300</b> Item number 4: First bullet, add court case number and a space for the person to provide this information (next to the date the order was made).</p> <p><b>DV-310</b> We are concerned that the party petitioning the court for change, or to end the orders, will provide law enforcement with a copy of the “Court Order,” which law enforcement does not need. At the bottom of the form, the black box, “This is a Court Order” please change this to something like: “This is a Notice of a Court Hearing.”</p> <p><b>DV-370</b> Item number 5, the first sentence, add “(Form DV-130,)” it should read: “The Restraining Order After Hearing (Form DV-130) is dissolved and ended, effective (date and time):_____”</p> <p>Item number 5, the third bullet: Does this mean that any attachments to the DV-130 (for example, a DV-140, DV-145, DV-150, DV-160, DV-170, or any other piece of paper attached) are no longer valid orders of the court? Please keep in mind, if a DV-370 ending a DV-130 is granted by the court, the entire restraining order</p>	<p>Agree to make correction.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>(which may include attachments such as a DV-140, etc.) is required to be removed from the DVROS.</p> <p><b>DV-320</b> Is there a cost to change or end a restraining order? This needs to be addressed on the form.</p> <p>What about free service? Will the sheriff or marshal serve the orders for free? This needs to be addressed on the form.</p> <p>Item number 11: In the second bullet, change the second and third sentences to read, “Ask police or sheriff to enter the changes to the order into California’s statewide registry. That way, police all over California and the nation will know about the changes to the order.”</p> <p><b>DV-390</b> Item number 5: In bullets 1, 2, and 3 remove the parentheses (see DV-320). Item number 5: Format bullet 4 the same as 1, 2, and 3 above. DV-380 Answer to Request for Court Hearing to Change or End Restraining Order.</p> <p>Item number 5: Bullet 5 says to bring a copy of the Proof of Service to the hearing. Shouldn’t this be filed with the court prior to the hearing?</p> <p>Item number 8: In the third bullet, remove the last sentence, “That way, police across the state and the nation will know that the order has ended.” Proof of</p>	<p>The committee has withdrawn the DV-300 series from this approval cycle.</p> <p>The committee has withdrawn the DV-300 series from this approval cycle.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>service will not let them know the order has ended. They need a copy of the actual DV-370.</p> <p>Therefore, add:</p> <p>Item number 10: “Get the restraining order removed from California’s statewide Registry of Restraining Orders.</p> <ul style="list-style-type: none"> <li>• Ask the court clerk if he or she will do this for you.</li> <li>• If not, take a copy of the DV-370 to your local law enforcement agency. Ask the police or sheriff to remove the order from California’s statewide registry. That way, police all over California and the nation will know the order has ended.”</li> </ul> <p><b>JV-250</b> Item number 1e: Is the person to be restrained always present in court? If not, we suggest adding a check box next to this item.</p> <p>Item number 3: Add date of birth, race, and sex for parties to be protected. This information will aid law enforcement in clearly identifying the person(s) to be protected. This could result in ensuring both the safety of the parties named in the court order and the officers who have responded to a dispute.</p> <p>To the bottom of the form (on all 3 pages), add JUV in the parenthesis with CLETS-i.e., (CLETS-JUV).</p>	<p>Agree to modify text for clarification purposes.</p> <p>The date of birth is not always common knowledge. The committee does not want to include the protected person’s identifying information on a public document.</p> <p>Agree to modify text for clarification purposes.</p>

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250; adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				Adding JUV and CLETS will assist the agency entering the information into DVROS. Each order type has a unique code for entry. The JV-250 is JUV. By adding the code after CLETS, agencies will be less likely to enter the information incorrectly.	
19.	Lesa Van Meter Legal Advocate Lassen Family Services Inc. Susanville	A	N	<i>No specific comment.</i>	No response required.
20.	Jeanine Werner Director, Legal Projects Casa de Esperanza Yuba City	AM	N	<b>DV-300:</b> I have a concern regarding DV-300. It appears this would allow perpetrators to drag the victim back into court request after request—another form of harassment. Is there anything in place that would prevent this?	The committee has withdrawn the DV-300 series from this approval cycle.
21.	Dean J. Zipser President Orange County Bar Association Irvine	A	Y	<i>No specific comment</i>	No response required.
22.	Ann Kobdish Department of Human Services Bakersfield	AM	N	Following are suggestions on how some of the information could be of use in the prevention of child abuse and neglect.  <b>DV-100:</b> Number 3 on page 1 should have option of “other.” Also, if a child needs to be protected a cross report to child protective services may be in order. On page 3, #11, individuals listed on page one	This is not a reporting document but a request for protective orders.

W05-04

Domestic Violence

(revise forms DV-100, DV-110, DV-120, DV-130, DV-500, DV-505, DV-520, DV-540, JV-245, and JV-250;  
adopt forms DV-300, DV-310, DV-370; approve forms DV-320, DV-380, and DV-390)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				should have the right to record unlawful communications as does the requestor.	Penal Code section 633.6(a) only allows a victim of domestic violence, seeking a domestic violence restraining order, to make the request to record unlawful communications.

BILL NUMBER: SB 1391 CHAPTERED  
BILL TEXT

CHAPTER 250

FILED WITH SECRETARY OF STATE AUGUST 23, 2004

APPROVED BY GOVERNOR AUGUST 23, 2004

PASSED THE ASSEMBLY AUGUST 4, 2004

PASSED THE SENATE MAY 19, 2004

AMENDED IN SENATE MAY 13, 2004

AMENDED IN SENATE APRIL 27, 2004

AMENDED IN SENATE APRIL 12, 2004

AMENDED IN SENATE MARCH 22, 2004

INTRODUCED BY Senator Romero  
(Coauthors: Assembly Members Chan, Koretz, Lieber, and Liu)

FEBRUARY 18, 2004

An act to amend Sections 6240 and 6389 of the Family Code, and to amend Section 13700 of the Penal Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

SB 1391, Romero. Domestic violence.

Existing law provides that a judicial officer may issue an ex parte emergency protective order if a law enforcement officer asserts reasonable grounds to believe that a person, child, or elder or dependant adult is in immediate and present danger of domestic violence or abuse. Existing law excludes from the definition of law enforcement officer, for the purpose of these provisions, a peace officer of the Department of General Services of the City of Los Angeles.

This bill would include a peace officer of the Department of General Services of the City of Los Angeles in the definition of law enforcement officer for the purpose of these provisions.

Existing law requires every law enforcement agency in this state to develop, adopt, and implement written policies and standards for officers' responses to domestic violence calls requiring the arrest of an offender, absent exigent circumstances, if there is probable cause that a protective order, as specified, has been violated. Existing law excludes from the definition of law enforcement officer, for the purpose of these provisions, a peace officer of the Department of General Services of the City of Los Angeles.

This bill would include a peace officer of the Department of General Services of the City of Los Angeles in the definition of law enforcement officer for the purpose of these provisions.

Because this bill would require local agencies to provide a higher level of service, this bill would impose a state-mandated local program.

Existing law provides that a person subject to a protective order, shall not own, possess, purchase, or receive a firearm while that protective order is in effect. Existing law provides that the Judicial Council shall provide a notice on all forms requesting a protective order that the respondent shall be required to relinquish possession or control of any firearms at the hearing for a protective

order. Existing law provides that if the respondent is present in court at a duly noticed hearing, the court shall order the respondent to relinquish any firearm in that person's immediate possession or control, as specified, and if the respondent is not present at the hearing, the respondent shall relinquish the firearm within 48 hours after being served with the order.

This bill would instead require the respondent to relinquish any firearm in his or her possession or control within 24 hours of being served with the order, and further clarify these provisions by providing that the Judicial Council shall include a notice on all forms providing notice that a protective order has been requested or granted that the respondent shall be required to relinquish possession or control of any firearms upon service of the protective order.

Because this bill would change the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6240 of the Family Code is amended to read:  
6240. As used in this part:

(a) "Judicial officer" means a judge, commissioner, or referee designated under Section 6241.

(b) "Law enforcement officer" means one of the following officers who requests or enforces an emergency protective order under this part:

(1) A police officer.

(2) A sheriff's officer.

(3) A peace officer of the Department of the California Highway Patrol.

(4) A peace officer of the University of California Police Department.

(5) A peace officer of the California State University and College Police Departments.

(6) A peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2 of the Penal Code.

(7) A peace officer of the Department of General Services of the City of Los Angeles, as defined in subdivision (c) of Section 830.31 of the Penal Code.

(8) A housing authority patrol officer, as defined in subdivision (d) of Section 830.31 of the Penal Code.

(9) A peace officer for a district attorney, as defined in Section 830.1 or 830.35 of the Penal Code.

(10) A parole officer, probation officer, or deputy probation officer, as defined in Section 830.5 of the Penal Code.

(11) A peace officer of a California Community College police department, as defined in subdivision (a) of Section 830.32.

(12) A peace officer employed by a police department of a school district, as defined in subdivision (b) of Section 830.32.

(c) "Abduct" means take, entice away, keep, withhold, or conceal.

SEC. 2. Section 6389 of the Family Code is amended to read:

6389. (a) A person subject to a protective order, as defined in Section 6218, shall not own, possess, purchase, or receive a firearm while that protective order is in effect. Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm while the protective order is in effect is punishable pursuant to subdivision (g) of Section 12021 of the Penal Code.

(b) On all forms providing notice that a protective order has been requested or granted, the Judicial Council, shall include a notice that, upon service of the order, the respondent shall be ordered to relinquish possession or control of any firearms and not to purchase or receive or attempt to purchase or receive any firearms for a period not to exceed the duration of the restraining order.

(c) Upon issuance of a protective order, as defined in Section 6218, the court shall order the respondent to relinquish any firearm in that person's immediate possession or control, or subject to that person's immediate possession or control, within 24 hours of being served with the order, by either surrendering the firearm to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer, as specified in Section 12071 of the Penal Code. A person ordered to relinquish any firearm pursuant to this subdivision shall file with the court a receipt showing the firearm was surrendered to the local law enforcement agency or sold to a licensed gun dealer within 72 hours after receiving the order.

(d) If the respondent declines to relinquish possession of any firearm based upon the assertion of the right against self-incrimination, as provided by the Fifth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, the court may grant use immunity for the act of relinquishing the firearm required under this section.

(e) A local law enforcement agency may charge the respondent a fee for the storage of any firearm pursuant to this section. This fee shall not exceed the actual cost incurred by the local law enforcement agency for the storage of the firearm. For purposes of this subdivision, "actual cost" means expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed dealer as defined in Section 12071 of the Penal Code or to the respondent.

(f) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall state on its face that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed with the court within a specified period of receipt of the order. The order shall also state on its face the expiration date for relinquishment. Nothing in this section shall limit a respondent's right under existing law to petition the court at a later date for modification of the order.

(g) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall prohibit the person from possessing or controlling any firearm for the duration of the order. At the expiration of the order, the local law enforcement agency shall return possession of any surrendered firearm to the respondent, within five days after the expiration of the relinquishment order,

unless the local law enforcement agency determines that (1) the firearm has been stolen, (2) the respondent is prohibited from possessing a firearm because the respondent is in any prohibited class for the possession of firearms, as defined in Sections 12021 and 12021.1 of the Penal Code and Sections 8100 and 8103 of the Welfare and Institutions Code, or (3) another successive restraining order is used against the respondent under this section. If the local law enforcement agency determines that the respondent is the legal owner of any firearm deposited with the local law enforcement agency and is prohibited from possessing any firearm, the respondent shall be entitled to sell or transfer the firearm to a licensed dealer as defined in Section 12071 of the Penal Code. If the firearm has been stolen, the firearm shall be restored to the lawful owner upon his or her identification of the firearm and proof of ownership.

(h) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm if the respondent can show that a particular firearm is necessary as a condition of continued employment and that the current employer is unable to reassign the respondent to another position where a firearm is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from his or her place of employment. In any case involving a peace officer who as a condition of employment and whose personal safety depends on the ability to carry a firearm, a court may allow the peace officer to continue to carry a firearm, either on duty or off duty, if the court finds by a preponderance of the evidence that the officer does not pose a threat of harm. Prior to making this finding, the court shall require a mandatory psychological evaluation of the peace officer and may require the peace officer to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.

(i) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms owned by the respondent that are in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms, at the location where a respondent's firearms are stored, within five days of presenting the local law enforcement agency with a bill of sale.

(j) The disposition of any unclaimed property under this section shall be made pursuant to Section 1413 of the Penal Code.

(k) The return of a firearm to any person pursuant to subdivision (g) shall not be subject to the requirements of subdivision (d) of Section 12072 of the Penal Code.

(l) If the respondent notifies the court that he or she owns a firearm that is not in his or her immediate possession, the court may limit the order to exclude that firearm if the judge is satisfied the respondent is unable to gain access to that firearm while the protective order is in effect.

(m) Any respondent to a protective order who violates any order issued pursuant to this section shall be punished under the provisions of subdivision (g) of Section 12021 of the Penal Code.

SEC. 3. Section 13700 of the Penal Code is amended to read:

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

(b) "Domestic violence" means abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

(c) "Officer" means any officer or employee of a local police department or sheriff's office, and any peace officer of the Department of the California Highway Patrol, the Department of Parks and Recreation, the University of California Police Department, or the California State University and College Police Departments, as defined in Section 830.2, a peace officer of the Department of General Services of the City of Los Angeles, as defined in subdivision (c) of Section 830.31, a housing authority patrol officer, as defined in subdivision (d) of Section 830.31, or a peace officer as defined in subdivisions (a) and (b) of Section 830.32.

(d) "Victim" means a person who is a victim of domestic violence.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

For other costs imposed by this act, no reimbursement is required pursuant to Section 6 of Article XIII B of the California Constitution because the costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

BILL NUMBER: AB 1710          CHAPTERED  
BILL TEXT

CHAPTER 365  
FILED WITH SECRETARY OF STATE SEPTEMBER 12, 2003  
APPROVED BY GOVERNOR SEPTEMBER 11, 2003  
PASSED THE ASSEMBLY AUGUST 25, 2003  
PASSED THE SENATE JULY 21, 2003  
AMENDED IN SENATE JULY 15, 2003  
AMENDED IN SENATE JUNE 25, 2003

INTRODUCED BY Committee on Judiciary (Corbett (Chair), Harman (Vice  
Chair), Dutra, Hancock, Jackson, Laird, Longville, Montanez,  
Steinberg, and Vargas)  
(Coauthor: Assembly Member Parra)

FEBRUARY 26, 2003

An act to amend Section 7121 of the Family Code, to amend Sections  
68087 and 77209 of the Government Code, to amend Section 1465.7 of,  
and to add Section 11105.04 to, the Penal Code, and to amend Sections  
213.5 and 355 of, and to add Section 213.6 to, the Welfare and  
Institutions Code, relating to courts.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1710, Committee on Judiciary. Courts.

(1) Existing law authorizes a minor to petition the superior court  
of the county in which he or she resides or is temporarily domiciled  
for a declaration of emancipation. Existing law requires the clerk  
of the court to notify the district attorney of the county where the  
matter is to be heard of the proceeding. If the minor is a ward or  
dependent child of the court, existing law requires that the notice  
be given to the probation department.

This bill would require the clerk of the court to notify the local  
child support agency, rather than the district attorney, and, if the  
minor is a dependent child of the court, to notify the county  
welfare department, rather than the probation department.

(2) Existing law establishes the Trial Court Trust Fund.

Existing law also provides, until July 1, 2007, for the imposition  
of a 10% state surcharge on specified court fees. Existing law  
requires the clerk to transmit the amount collected to the Trial  
Court Trust Fund.

This bill would exempt jury fees and fees for court reporter  
services, as specified, from that surcharge.

(3) Existing law establishes the Trial Court Improvement Fund in  
the State Treasury, to be administered by the Judicial Council.

This bill would provide that royalties received from the  
publication of uniform jury instructions be deposited in the Trial  
Court Improvement Fund.

(4) Existing law imposes, until July 1, 2007, a state surcharge of 20% on a base fine imposed and collected by a court for a criminal offense, as specified.

Existing law also requires the clerk of the court to collect a fee from persons ordered or permitted to attend traffic violator schools or other court-supervised programs of traffic safety instruction, in an amount equal to the total bail, as defined, set forth for the eligible offense.

This bill would revise the provision imposing a 20% state surcharge to provide that the term "total bail" as used in the latter provision does not include that surcharge.

(5) Existing law specifies the persons who may receive summary criminal history information.

This bill would enact a provision operative July 1, 2004, authorizing Court Appointed Special Advocate programs to submit fingerprint images and related information of employment and volunteer candidates to the Department of Justice in order to obtain information regarding convictions and arrests, as specified.

(6) Existing law authorizes the juvenile court to issue ex parte orders, after a petition has been filed to declare a child to be a ward of the juvenile court, enjoining any person from molesting, attacking, threatening, sexually assaulting, stalking, or battering the child.

This bill would additionally authorize the juvenile court to issue an ex parte order enjoining any person from engaging in those acts against any other child in the household.

The bill would provide that if a person who was named in a temporary restraining order or emergency protective order is personally served with the order and a notice of hearing with respect to a subsequent restraining order or protective order based thereon, but that person fails to appear at the hearing either in person or represented by counsel, and if the terms and conditions of the subsequent order are the same as the prior order, except for the duration of the order, the subsequent order may be served on the person by first-class mail. The bill would require that judicial forms for these orders include a specified statement.

The bill would also make various technical changes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7121 of the Family Code is amended to read:

7121. (a) Before the petition for a declaration of emancipation is heard, notice the court determines is reasonable shall be given to the minor's parents, guardian, or other person entitled to the custody of the minor, or proof shall be made to the court that their addresses are unknown or that for other reasons the notice cannot be given.

(b) The clerk of the court shall also notify the local child support agency of the county in which the matter is to be heard of the proceeding. If the minor is a ward of the court, notice shall be given to the probation department. If the child is a dependent

child of the court, notice shall be given to the county welfare department.

(c) The notice shall include a form whereby the minor's parents, guardian, or other person entitled to the custody of the minor may give their written consent to the petitioner's emancipation. The notice shall include a warning that a court may void or rescind the declaration of emancipation and the parents may become liable for support and medical insurance coverage pursuant to Chapter 2 (commencing with Section 4000) of Part 2 of Division 9 and Sections 17400, 17402, 17404, and 17422.

SEC. 2. Section 68087 of the Government Code is amended to read:

68087. (a) A state surcharge of 10 percent shall be levied on any fee specified in paragraph (1) of subdivision (c) of Section 68085, except those fees established pursuant to Section 631.3 of the Code of Civil Procedure, and Section 68086. This surcharge shall be in addition to any other court-related fee.

(b) The clerk of the court shall cause the amount collected to be transmitted to the Trial Court Trust Fund.

(c) It is the intent of the Legislature that nothing in this section shall change the existing distribution or amounts of the fees specified in paragraph (1) of subdivision (c) of Section 68085 provided to local jurisdictions and the state.

(d) This section shall become inoperative on July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends that date.

SEC. 3. Section 77209 of the Government Code is amended to read:

77209. (a) There is in the State Treasury the Trial Court Improvement Fund.

(b) The Judicial Council shall reserve funds for the following projects by allocating 1 percent of the annual appropriation for the trial courts to the Trial Court Improvement Fund as follows:

(1) At least one-half of 1 percent of the total appropriation for trial court operations shall be set aside as a reserve which shall not be allocated prior to March 15 of each year unless allocated to a court or courts for urgent needs.

(2) Up to one-quarter of 1 percent of the total appropriation for trial court operations may be allocated from the fund to courts which have fully unified to the extent permitted by law and which meet additional criteria as may be established by the Judicial Council.

(3) Up to one-quarter of 1 percent of the total appropriation for trial court operations may be allocated from the fund for statewide projects or programs for the benefit of the trial courts.

(c) Any funds in the Trial Court Improvement Fund that are unencumbered at the end of the fiscal year shall be reappropriated to the Trial Court Improvement Fund for the following fiscal year.

(d) Moneys deposited in the Trial Court Improvement Fund shall be placed in an interest bearing account. Any interest earned shall accrue to the fund and shall be disbursed pursuant to subdivision (e).

(e) Moneys deposited in the Trial Court Improvement Fund may be disbursed for purposes of this section.

(f) Moneys deposited in the Trial Court Improvement Fund pursuant

to Section 68090.8 shall be allocated by the Judicial Council for automated recordkeeping system improvements pursuant to that section and in furtherance of Rule 991 of the California Rules of Court, as it read on July 1, 1996.

(g) Moneys deposited in the Trial Court Improvement Fund shall be administered by the Judicial Council. The Judicial Council may, with appropriate guidelines, delegate to the Administrative Director of the Courts the administration of the fund. Moneys in the fund may be expended to implement trial court projects approved by the Judicial Council. Expenditures may be made to vendors or individual trial courts that have the responsibility to implement approved projects.

(h) Notwithstanding other provisions of this section, the 2 percent automation fund moneys deposited in the Trial Court Improvement Fund pursuant to Section 68090.8 shall be allocated by the Judicial Council to individual courts of the counties for deposit in the Trial Court Operations Fund of the county from which the money was collected in an amount not less than the revenues collected in the local 2 percent automation funds in fiscal year 1994-95. The Judicial Council shall allocate the remainder of the moneys deposited in the Trial Court Improvement Fund as specified in this section.

For the purposes of this subdivision, the term "2 percent automation fund" means the fund established pursuant to Section 68090.8 as it read on June 30, 1996.

(i) Royalties received from the publication of uniform jury instructions shall be deposited in the Trial Court Improvement Fund and used for the improvement of the jury system.

(j) The Judicial Council shall present an annual report to the Legislature on the use of the Trial Court Improvement Fund. The report shall include appropriate recommendations.

SEC. 4. Section 1465.7 of the Penal Code is amended to read:

1465.7. (a) A state surcharge of 20 percent shall be levied on the base fine used to calculate the state penalty assessment as specified in subdivision (a) of Section 1464.

(b) This surcharge shall be in addition to the state penalty assessed pursuant to Section 1464 of the Penal Code and may not be included in the base fine used to calculate the state penalty assessment as specified in subdivision (a) of Section 1464.

(c) After a determination by the court of the amount due, the clerk of the court shall cause the amount of the state surcharge collected to be transmitted to the General Fund.

(d) Notwithstanding Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code and subdivision (b) of Section 68090.8 of the Government Code, the full amount of the surcharge shall be transmitted to the State Treasury to be deposited in the General Fund. Of the amount collected from the total amount of the fines, penalties, and surcharges imposed, the amount of the surcharge established by this section shall be transmitted to the State Treasury to be deposited in the General Fund.

(e) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the surcharge prescribed by this section.

(f) When amounts owed by an offender as a result of a conviction are paid in installment payments, payments shall be credited pursuant to Section 1203.1d. The amount of the surcharge established by this section shall be transmitted to the State Treasury prior to the county retaining or disbursing the remaining amount of the fines, penalties, and forfeitures imposed.

(g) Notwithstanding Sections 40512.6 and 42007 of the Vehicle Code, the term "total bail" as used in subdivision (a) of Section 42007 of the Vehicle Code does not include the surcharge set forth in this section. The surcharge set forth in this section shall be levied on what would have been the base fine had the provisions of Section 42007 not been invoked and the proceeds from the imposition of the surcharge shall be treated as otherwise set forth in this section.

(h) This section shall become inoperative on July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends that date.

SEC. 5. Section 11105.04 is added to the Penal Code, to read:

11105.04. (a) A designated Court Appointed Special Advocate (CASA) program may submit to the Department of Justice fingerprint images and related information of employment and volunteer candidates for the purpose of obtaining information as to the existence and nature of any record of state or federal level convictions or state or federal level arrests for which the department establishes that the applicant was released on bail or on his or her own recognizance pending trial. Requests for federal level criminal offender record information received by the department pursuant to this section shall be forwarded to the Federal Bureau of Investigation by the department.

(b) When requesting state level criminal offender record information pursuant to this section, the designated CASA program shall request subsequent arrest notification, pursuant to Section 11105.2 of the Penal Code, for all employment and volunteer candidates.

(c) The department shall respond to the designated CASA program with information as delineated in subdivision (p) of Section 11105 of the Penal Code.

(d) The department shall charge a fee sufficient to cover the cost of processing the requests for state and federal level criminal offender record information.

(e) For purposes of this section, a designated CASA program is a local court-appointed special advocate program that has adopted and adheres to the guidelines established by the Judicial Council and which has been designated by the local presiding juvenile court judge to recruit, screen, select, train, supervise, and support lay volunteers to be appointed by the court to help define the best interests of children in juvenile court dependency and wardship proceedings. For purposes of this section, there shall be only one designated CASA program in each California county.

(f) This section shall become operative on July 1, 2004.

SEC. 6. Section 213.5 of the Welfare and Institutions Code is amended to read:

213.5. (a) After a petition has been filed pursuant to Section 311 to declare a child a dependent child of the juvenile court, and until the time that the petition is dismissed or dependency is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any person from molesting, attacking, striking, sexually assaulting, stalking, or battering the child or any other child in the household; (2) excluding any person from the dwelling of the person who has care, custody, and control of the child; and (3) enjoining any person from behavior, including contacting, threatening, or disturbing the peace of the child, that the court determines is necessary to effectuate orders under paragraph (1) or (2). A court issuing an ex parte order pursuant to this subdivision may simultaneously issue an ex parte order enjoining any person from contacting, threatening, molesting, attacking, striking, sexually assaulting, stalking, battering, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure.

(b) After a petition has been filed pursuant to Section 601 or 602 to declare a child a ward of the juvenile court, and until the time that the petition is dismissed or wardship is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any person from molesting, attacking, threatening, sexually assaulting, stalking, or battering the child or any other child in the household; (2) excluding any person from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, threatening, stalking, or disturbing the peace of any person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child.

(c) In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted. The court may, on the motion of the person seeking the restraining order, or on its own motion, shorten the time for service on the person to be restrained of the order to show cause. The court may, upon its own motion or the filing of an affidavit by the person seeking the restraining order, find that the person to be restrained could not be served within the time required by law and to reissue an order previously issued and dissolved by the court for failure to serve the person to be restrained. The reissued order shall state on its face the date of expiration of the order. Any hearing pursuant to this section may be held simultaneously with any regularly scheduled hearings held in proceedings to declare a child a dependent child or ward of the juvenile court pursuant to Section 300, 601, or 602, or subsequent hearings regarding the dependent child or ward.

(d) The juvenile court may issue, upon notice and a hearing, any

of the orders set forth in subdivisions (a), (b), and (c). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, not to exceed three years, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of any party to the restraining order.

(e) (1) The juvenile court may issue an order made pursuant to subdivision (a), (c), or (d) excluding a person from a residence or dwelling. This order may be issued for the time and on the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling.

(2) The court may issue an order under paragraph (1) only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party.

(C) That physical or emotional harm would otherwise result to the other party, to any person under the care, custody, and control of the other party, or to any minor child of the parties or of the other party.

(f) Any order issued pursuant to subdivision (a), (b), (c), or (d) shall state on its face the date of expiration of the order.

(g) The juvenile court shall order any designated person or attorney to mail a copy of any order, or extension, modification, or termination thereof, granted pursuant to subdivision (a), (b), (c), or (d), by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the person seeking the restraining order or his or her attorney having jurisdiction over the residence of the person who has care, custody, and control of the child and other locations where the court determines that acts of domestic violence or abuse against the child or children are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms, and current status of any order issued pursuant to subdivision (a), (b), (c), or (d) to any law enforcement officer responding to the scene of reported domestic violence or abuse.

(h) Any willful and knowing violation of any order granted pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor punishable under Section 273.65 of the Penal Code.

(i) A juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on

forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(j) Information on any juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

(k) (1) Prior to a hearing on the issuance or denial of an order under this part, a search shall be conducted as described in subdivision (a) of Section 6306 of the Family Code.

(2) Prior to deciding whether to issue an order under this part, the court shall consider the following information obtained pursuant to a search conducted under paragraph (1): any conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; any misdemeanor conviction involving domestic violence, weapons, or other violence; any outstanding warrant; parole or probation status; any prior restraining order; and any violation of a prior restraining order.

(3) (A) If the results of the search conducted pursuant to paragraph (1) indicate that an outstanding warrant exists against the subject of the search, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of any information obtained through the search that the court determines is appropriate. The law enforcement officials so notified shall take all actions necessary to execute any outstanding warrants or any other actions, as appropriate and as soon as practicable.

(B) If the results of the search conducted pursuant to paragraph (1) indicate that the subject of the search is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of any information obtained through the search that the court determines is appropriate. The parole or probation officer so notified shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the subject person, as appropriate and as soon as practicable.

(l) Upon making any order for custody or visitation pursuant to this section, the court shall follow the procedures specified in subdivisions (c) and (d) of Section 6323 of the Family Code.

SEC. 7. Section 213.6 is added to the Welfare and Institutions Code, to read:

213.6. (a) If a person named in a temporary restraining order or emergency protective order issued under this part is personally served with the order and notice of hearing with respect to a subsequent restraining order or protective order based thereon, but the person does not appear at the hearing either in person or by counsel, and the terms and conditions of the restraining order or protective order are identical to those of the prior temporary restraining order, except for the duration of the order, the subsequent restraining order or protective order may be served on the person by first-class mail sent to that person at the most current

address for the person available to the court.

(b) The judicial forms for temporary restraining orders or emergency protective orders issued under this part shall contain a statement in substantially the following form:

"If you have been personally served with a temporary restraining order or emergency protective order and notice of hearing, but you do not appear at the hearing either in person or by counsel, and a restraining order or protective order is issued at the hearing that does not differ from the prior temporary restraining order or protective order except with respect to the duration of the order, a copy of the order will be served upon you by mail at the following address: \_\_\_\_\_. If that address is not correct or if you wish to verify that the temporary order was made permanent without substantive change, call the clerk of the court at \_\_\_\_\_."

SEC. 8. Section 355 of the Welfare and Institutions Code is amended to read:

355. (a) At the jurisdictional hearing, the court shall first consider only the question whether the minor is a person described by Section 300. Any legally admissible evidence that is relevant to the circumstances or acts that are alleged to bring the minor within the jurisdiction of the juvenile court is admissible and may be received in evidence. Proof by a preponderance of evidence must be adduced to support a finding that the minor is a person described by Section 300. Objections that could have been made to evidence introduced shall be deemed to have been made by any parent or guardian who is present at the hearing and unrepresented by counsel, unless the court finds that the parent or guardian has made a knowing and intelligent waiver of the right to counsel. Objections that could have been made to evidence introduced shall be deemed to have been made by any unrepresented child.

(b) A social study prepared by the petitioning agency, and hearsay evidence contained in it, is admissible and constitutes competent evidence upon which a finding of jurisdiction pursuant to Section 300 may be based, to the extent allowed by subdivisions (c) and (d).

(1) For the purposes of this section, "social study" means any written report furnished to the juvenile court and to all parties or their counsel by the county probation or welfare department in any matter involving the custody, status, or welfare of a minor in a dependency proceeding pursuant to Articles 6 (commencing with Section 300) to 12 (commencing with Section 385), inclusive, of Chapter 2 of Division 2.

(2) The preparer of the social study shall be made available for cross-examination upon a timely request by any party. The court may deem the preparer available for cross-examination if it determines that the preparer is on telephone standby and can be present in court within a reasonable time of the request.

(3) The court may grant a reasonable continuance not to exceed 10 days upon request by any party if the social study is not provided to the parties or their counsel within a reasonable time before the hearing.

(c) (1) If any party to the jurisdictional hearing raises a timely objection to the admission of specific hearsay evidence contained in a social study, the specific hearsay evidence shall not be

sufficient by itself to support a jurisdictional finding or any ultimate fact upon which a jurisdictional finding is based, unless the petitioner establishes one or more of the following exceptions:

(A) The hearsay evidence would be admissible in any civil or criminal proceeding under any statutory or decisional exception to the prohibition against hearsay.

(B) The hearsay declarant is a minor under the age of 12 years who is the subject of the jurisdictional hearing. However, the hearsay statement of a minor under the age of 12 years shall not be admissible if the objecting party establishes that the statement is unreliable because it was the product of fraud, deceit, or undue influence.

(C) The hearsay declarant is a peace officer as defined by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, a health practitioner described in paragraphs (21) to (28), inclusive, of subdivision (a) of Section 11165.7 of the Penal Code, a social worker licensed pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code, or a teacher who holds a credential pursuant to Chapter 2 (commencing with Section 44200) of Part 24 of Division 3 of Title 2 of the Education Code. For the purpose of this subdivision, evidence in a declaration is admissible only to the extent that it would otherwise be admissible under this section or if the declarant were present and testifying in court.

(D) The hearsay declarant is available for cross-examination. For purposes of this section, the court may deem a witness available for cross-examination if it determines that the witness is on telephone standby and can be present in court within a reasonable time of a request to examine the witness.

(2) For purposes of this subdivision, an objection is timely if it identifies with reasonable specificity the disputed hearsay evidence and it gives the petitioner a reasonable period of time to meet the objection prior to a contested hearing.

(d) This section shall not be construed to limit the right of any party to the jurisdictional hearing to subpoena a witness whose statement is contained in the social study or to introduce admissible evidence relevant to the weight of the hearsay evidence or the credibility of the hearsay declarant.