

**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. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs  
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DATE: October 23, 2009

SUBJECT: Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112) (Action Required)

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Issue Statement

Effective January 1, 2009, Assembly Bill 2553 (Solorio; Stats. 2008, ch. 263) added section 6320.5 to the Family Code to require a court to state its reasons when denying a petition for an ex parte restraining order. In addition, under section 6320.5, if a court denies a jurisdictionally adequate petition for an ex parte order, the petitioner has a right to a noticed hearing within a specified number of days. The petitioner, however, has the option of waiving his or her right to the noticed hearing while retaining his or her right to file a new petition, without prejudice, at a later time. Family Code section 6320.5 requires the Judicial Council to develop a form to implement the statute by January 1, 2010.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2010:

1. Revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO;
2. Adopt form DV-109; and
3. Approve form DV-112.

The proposed forms are attached beginning at page 11.

### Rationale for Recommendation

New mandatory form DV-109, *Notice of Court Hearing*, and revisions to form DV-110, *Temporary Restraining Order*,<sup>1</sup> will (1) indicate whether the court is issuing or denying temporary restraining orders pending the hearing and (2) provide space for the court to state its reasons for denying any requested temporary orders pending the hearing. The forms will also eliminate the need to include a temporary restraining order form if the court does not issue any temporary restraining orders.

New optional form DV-112, *Waiver of Hearing on Denied Request for Temporary Restraining Order*, provides the petitioner with a form to waive his or her right to a noticed hearing, as specified in Family Code section 6320.5.

Revisions to the following eight forms conform cross-references and graphics: DV-125, *Reissue Temporary Restraining Order*; DV-126-INFO, *How to Reissue a Temporary Restraining Order*; DV-130, *Restraining Order After Hearing*; DV-200, *Proof of Service (In Person)*; DV-210-INFO, *What Is "Proof of Service"?*; DV-250, *Proof of Service by Mail*; DV-510-INFO, *I Filled Out the Forms—What Now?*; and DV-540-INFO, *Information for the Restrained Person*. Minor substantive revisions made to these forms to respond to public comments are described below.

### *Prior proposal circulated in winter 2009 cycle*

Forms to implement Family Code section 6320.5 were previously circulated for comment in the winter 2009 public comment cycle from December 10, 2008, to January 21, 2009.<sup>2</sup> The proposal garnered significant comment. Because the committee made significant changes to the proposal and recirculated it for public comment, those earlier comments are briefly discussed in this report only where relevant to this proposal, but they are not discussed in detail.

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<sup>1</sup> The *Notice of Court Hearing* was circulated as form DV-110, and the *Temporary Restraining Order* was circulated as form DV-111. The form numbers were revised based on public comment so that the *Notice of Court Hearing* is now form DV-109 and the *Temporary Restraining Order* is now form DV-110.

<sup>2</sup> That earlier proposal included a new form, *Denial of Request for Temporary Restraining Order* (form DV-115), to be used by the court when denying a request for temporary restraining orders. Form DV-115 would have (1) allowed the court to deny a request for orders and a hearing if the court lacks subject matter jurisdiction in the case, (2) allowed the court to grant a request for a hearing but to deny the issuance of temporary orders for specified reasons, and (3) informed the petitioner to tell the court clerk if the petitioner wanted to take the scheduled hearing off calendar and submit another request for orders in the future. A companion information sheet, form DV-116-INFO, *My Request for Temporary Orders Was Denied—What Do I Do?*, also was included in the proposal.

At that time, specific comment was sought to determine whether (1) there should be a form to allow the petitioner to cancel the noticed hearing (or whether the existing proposal should be more specific about the procedure to cancel the hearing), (2) form DV-115 should be served on the respondent, and (3) the petitioner information on form DV-115 should be eliminated because it is duplicated on the companion information sheet, form DV-116-INFO.

*Form DV-109, Notice of Court Hearing*

In developing this proposal, the committee considered the problems inherent in the current procedure whereby a litigant presents a proposed temporary restraining order to the court and the court crosses off any temporary orders not granted. This procedure results in confusion for law enforcement personnel and the parties because the cross-outs are sometimes unclear.

Therefore, the notice of hearing is separated from the temporary restraining order. The committee believes that this approach will clarify for law enforcement personnel and the parties the existence or absence of temporary orders pending a hearing. Should the court decline to issue temporary orders pending the hearing, the court would so indicate on form DV-109 and include the reasons for denial as required by Family Code section 6320.5. If the court denies all temporary orders pending a hearing, the court would not issue form DV-110, *Temporary Restraining Order*. There were several comments about this approach, which are discussed on page six in the section titled “Form DV-110, *Temporary Restraining Order*.”

Page one of proposed form DV-109 would implement Family Code section 6320.5 and address the problem of confusing cross-outs on form DV-110, *Temporary Restraining Order*, by providing three options for the court. If the court grants all requested temporary orders pending the hearing, the court would check item 4a.(1) and complete and attach form DV-110, *Temporary Restraining Order*. If the court denies all requested orders, the court would check item 4a.(2) and indicate its reasons in 4b. The court would not complete form DV-110 so there would be no temporary restraining order form. If the court grants some requested orders and denies other requested orders, the court would check item 4a.(3) and indicate its reasons for denial in 4b. The court would then complete and attach form DV-110, *Temporary Restraining Order*.

The Spanish translation of the warnings to the restrained person was removed from page one of the form to accommodate the space needs of the revised English text. One commentator expressed concern about this revision. The committee will monitor the use of the form to determine if the removal of the Spanish text should be reconsidered. All of the forms and information sheets will continue to be translated into Spanish.

Item 5 on page two of form DV-109 lists the documents to be served, method of service, and time for service. Public comment was sought on the proper formatting of the list. The current form DV-110 lists them side-by-side, and the proposed form lists them vertically. Most commentators believed that the side-by-side formatting was easier to read but that the vertical alignment allowed for a list of forms to be served so they did not object to the proposal. The form that was circulated for public comment contained an extensive list of forms with check boxes to indicate which ones should be served. One commentator stated that the list was both over- and underinclusive. After consideration, the committee decided to shorten the list of forms by listing a main form, such as the petition, with “applicable attachments” instead of including separate check boxes for each possible

attachment. This approach would ease the burden on the court as well as reduce the likelihood of a check box being overlooked.

Two commentators suggested that the time for service should be highlighted, not placed at the bottom of the list. The committee responded to this suggestion by moving the time for service to the beginning of item 5. Further minor revisions to respond to public comments are indicated in the form and the comment chart.

Reasons for Denial—Concerns About Format, Substance, and Information for Petitioner Commentators expressed concern regarding (1) blank lines instead of check boxes with preprinted text indicating common reasons for denial of requested temporary orders, (2) consolidation of the reasons for denial of temporary orders on the *Notice of Court Hearing* form, and (3) location of information for the petitioner on how to waive a scheduled court hearing.

*Check boxes with preprinted text indicating common reasons for denial of requested temporary orders.* Form DV-109 was circulated with blank lines instead of check boxes with preprinted text for the court to indicate its reasons for denial. Most commentators, including the Trial Court Presiding Judges/Court Executives Advisory Committees Joint Rules Working Group, objected to this approach and favored check boxes with preprinted text listing common reasons for denial of temporary orders pending a hearing.<sup>3</sup> One commentator, the lead attorney in *Nakamura v. Parker* (2007), 156 Cal.App.4th 327, upon which Family Code section 6320.5 was based, favored the use of blank lines instead of check boxes to ensure the maximum level of specificity for reasons of denial. The committee carefully considered the commentators' reasoning.

The committee initially favored blank lines for the judicial officer to indicate his or her reasons for denying requested temporary orders due to concerns that check boxes with preprinted text may not provide litigants with the optimal level of specificity as to why a requested temporary order was denied. However, the Judicial Council's Rules and Projects Committee referred this back to the committee for reconsideration based upon the opinions expressed in the bulk of the comments, and the committee ultimately concluded that it would be better to include three check boxes with preprinted text. These three check boxes include the two most basic and common reasons for denial of a temporary restraining order: (1) a lack of reasonable proof of a past act or acts of abuse (required under Family Code section 6300), and (2) insufficient detail about the respondent's actions. The third check box will allow the court to elaborate on its reasons for denial or provide reasons not listed in the preprinted text. The committee carefully considered and rejected some of the check boxes proposed by commentators due to vagueness, complexity, or lack of clear and unambiguous statutory authority.

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<sup>3</sup> Most winter cycle commentators also favored check boxes with preprinted text.

*Consolidation of the reasons for denial of temporary orders on the Notice of Court Hearing form and required service on respondent.* Form DV-109 includes reasons for denial of requested temporary orders pending the hearing and notice of the court hearing on the same form. One commentator specifically objected to the consolidation of these two items on the same form, primarily because form DV-109 must be served on the respondent. The commentator indicated that a respondent could use the court's reasons for denial of the temporary orders to intimidate the petitioner. The committee carefully considered this concern and concluded that because due process does not allow the court to engage in ex parte communications with either party, including the reasons for denial of the temporary orders on form DV-109 was appropriate. The committee could find no compelling reason for a separate form for the court to indicate its reasons for denial of requested temporary orders.

*Location of information for the petitioner on how to waive the court hearing.* Page three of the proposed form provides information for the petitioner on options to waive or to keep the scheduled court hearing should the court deny some or all requested orders. Two commentators indicated that placement on page three is not ideal because it could be overlooked.

The committee considered two possible locations for instructions to the petitioner regarding how to proceed if requested temporary orders are denied: (1) on a separate instruction sheet or (2) on form DV-109, *Notice of Court Hearing*. The committee concluded that the better approach is to include the information on the *Notice of Court Hearing*. Although placement of the instructions on page three of that form is not ideal, the committee is concerned that a separate information sheet would be overlooked by the petitioner.

**Automatically Set Hearing in All Cases—No Denial of Request for Hearing**  
Form DV-109 automatically sets a hearing in all cases for the following reasons.<sup>4</sup> The basic requirements of the Domestic Violence Prevention Act (DVPA) are clear. Family Code section 6300 states that the court may issue an order under the DVPA to restrain any person for the purpose of preventing a recurrence of domestic violence if an affidavit shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse. Domestic violence is defined in Family Code section 6211 as abuse perpetrated against specified persons. Thus, the petitioner must plead and prove the requisite relationship as well as a past act or acts of abuse for the court to have authority to issue temporary or more long-term orders under the DVPA.

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<sup>4</sup> A minority of winter cycle commentators objected to this approach. After considering comments submitted during the winter cycle, the committee concluded that a form to implement Family Code section 6320.5 should not include a section for the court to specify reasons to deny a petitioner's request for a hearing. No commentators objected to this approach during the spring cycle.

However, there is no specific statute addressing the circumstances under which a court may deny a petitioner's *request for a hearing*. Family Code section 6320.5 indicates that when a court denies a jurisdictionally adequate petition for temporary orders, the court must provide the petitioner the right to a noticed hearing. The statute is silent as to whether the court may deny the petitioner's request for a hearing if the petition is not jurisdictionally adequate.

Should a respondent believe that the petition is inadequate, the respondent has the right to file a motion for judgment on the pleadings or a motion to quash. Demurrers are not allowed in cases filed under the Family Code. (Cal. Rules of Court, rule 5.108.) The committee is unaware of any specific legal authority for the court to act *sua sponte*, before a responsive filing, to deny a petitioner's request for a noticed hearing except perhaps under very limited circumstances such as when the petitioner has been declared a vexatious litigant.

The Trial Court Presiding Judges/Court Executives Advisory Committees Joint Rules Working Group suggested that the petition (form DV-100, *Request for Order*) be revised to alert a petitioner that the court would automatically set a hearing, even if the court denied all requests for temporary orders pending a hearing. The petition form was not circulated for public comment in the spring cycle; therefore the committee will consider the suggestion during the major protective order forms revision contemplated for January 1, 2011.<sup>5</sup>

#### Form DV-110, *Temporary Restraining Order*

This form would be used only on issuance of temporary orders pending a hearing. The proposal would require the court, in all cases, to complete pages two and three of the form, including any text required in items 6, 7, 10, 12, 14, and 16.

The committee sought public comment on the proposal to require the court to complete pages two and three of the form, rather than to accept proposed orders from litigants.

Current court practice is varied; some courts complete the form for the petitioner and others require the petitioner to submit a proposed order. Of the commentators who specifically responded to the committee's request for comment on this new requirement, two did not agree with the proposal for the court to complete the order and two agreed with the proposal. On balance, the committee concluded that requiring the court to

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<sup>5</sup> The Protective Order Forms Working Group is currently undertaking a comprehensive review of *all* Judicial Council protective order forms for potential revisions. The Protective Order Forms Working Group was formed at the request of the Judicial Council's Rules and Projects Committee to bring together members of the council's Family and Juvenile Law, Civil and Small Claims, Criminal Law, and Probate and Mental Health Advisory Committees, as well as the Domestic Violence Practice and Procedure Task Force, to jointly address issues relating to all protective order forms.

complete the order would reduce the confusion inherent in current practice when the court crosses out text on a proposed order.

The committee further revised the form in response to public comments as follows:

1. In item 3, added the sex and relationship of additional protected persons;
2. Added item 4, expiration date;
3. In item 5, kept the proposed new check box to indicate whether the personal conduct orders apply to the protected person, additional protected persons, or both;
4. In items 5–8 and 10–14, kept the proposed check boxes for the court to indicate whether the temporary order was granted, not granted, or not requested;
5. In item 6, reorganized the check boxes;
6. In item 9, consolidated the firearms prohibition and relinquishment information and added a check box for the court to indicate whether or not it received information that the restrained person owns or possesses a firearm;
7. In item 16(b), clarified the new wording regarding the court’s knowledge about the existence of a criminal protective order; and
8. Revised the warnings and notices to the restrained person.<sup>6</sup>

Two commentators specifically opposed the proposal’s addition of check boxes in items 5–8 and 10–14 for the court to indicate whether a particular order was granted, not granted, or not requested. One commentator stated that the check boxes could be overlooked by the court, and the other commentator indicated that the check boxes were confusing. The committee considered these comments and concluded that the check boxes would clarify the court’s orders for law enforcement personnel and the parties.

There was no objection to the new check box in item 9c., which would allow the court to indicate whether or not it received information that the restrained person owns or possesses a firearm.<sup>7</sup>

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<sup>6</sup> Some of the warnings and notices to the restrained person were deleted from page four because they are found elsewhere on the form. The handgun graphic was removed due to a formatting revision that deleted item numbers and centered the headings.

<sup>7</sup> This addition complies with a recommendation of the Judicial Council’s Domestic Violence Practice and Procedure Task Force regarding firearm relinquishment, as specified in its report accepted by the Judicial Council in January 2008. The purpose is to alert law enforcement agencies and the parties as to whether the court has received information that the restrained person owns or possesses a firearm.

Two commentators suggested modifications to the proposed new check box in item 6(b) to more clearly indicate whether the no-contact and stay-away exceptions apply to the protected person or the children. One commentator suggested a new item number to address the exceptions. The committee will consider this meritorious suggestion during the major protective order forms revision contemplated for January 1, 2011. There is currently insufficient space on the form for a new item number.

The page of instructions for law enforcement was eliminated because the committee felt that education for law enforcement personnel on the enforcement of domestic violence restraining orders has been in place for many years and therefore the instructions were no longer necessary. The committee will monitor the use of the form to determine whether the instructions for law enforcement should also be eliminated from form DV-130, *Restraining Order After Hearing*.

Form DV-112, *Waiver of Hearing on Denied Request for Temporary Restraining Order*

This new optional form would provide the petitioner with a way to request a waiver of the noticed hearing in writing. The form could be submitted the same day as the petition, form DV-100, *Request for Order*, or later. The committee considered whether a time limit should be imposed on the petitioner's ability to file the form but concluded that, in the absence of legal authority, the form should not impose additional restrictions on the petitioner.

Form DV-112 includes a notice that, if the moving papers have been served on the respondent, the hearing might proceed despite the petitioner's request to waive the hearing. Two commentators disagreed with this statement. In their view, the instruction should not indicate that the hearing may go forward even if the petitioner waives it by filing form DV-112. However, the committee notes that under Family Code section 6342 the court has authority to hear the respondent's affirmative request for out-of-pocket expenses incurred as a result of an ex parte order that is found by the court to have been issued on facts shown at a noticed hearing to be insufficient to support the order. The committee concluded that the better approach is to alert the petitioner that if the respondent has already filed a response, it is possible that the hearing may proceed.

Forms DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO

These forms are revised primarily to conform cross-references and graphics. Numerous substantive comments were received and are reflected in the comment chart. The committee has taken the majority of the comments under advisement and will consider them during the comprehensive review of all protective order forms. Minor substantive revisions in response to public comment are detailed below.

1. On form DV-130, *Restraining Order After Hearing*, item 7 was revised to match the revisions to item 6 on form DV-110. One commentator suggested a new item number to consolidate the exceptions to the no-contact and stay-away orders for

court-ordered visitation of children. The committee will consider this meritorious suggestion during the major protective order forms revision contemplated for January 1, 2011. There is currently insufficient space on the form for a new item number. Item 18(b)(2) was revised to clarify that personal service is required if form DV-110 was not issued.

2. On form DV-540-INFO, the heading regarding witness statements was renamed and information was added about when to file them.

### Alternative Actions Considered

The proposal is required by statute. The committee considered, but did not prefer, an alternative approach to separating the notice of hearing from the temporary restraining orders. The alternative approach would have amended item 5 of current form DV-110, *Temporary Restraining Order and Notice of Hearing*, to indicate whether temporary orders are granted or denied and would have included a check box and blank lines for the court to indicate its reasons when denying some or all temporary restraining orders pending a noticed hearing. This approach would have required no technical amendments to other forms.

The alternative proposal would have consisted of amendments to current form DV-110 and proposed new form DV-112. Public comment was sought on this alternative approach. Of the commentators who specifically indicated a position on this question, four commentators favored the alternative approach and three did not. Several other commentators appeared to support separating the forms, but they did not specifically reply to the question. On balance, the committee concluded that separating the notice of hearing from the temporary restraining orders would increase clarity and reduce confusion for law enforcement personnel and the parties.

### Comments From Interested Parties

The committee sought comment on the proposal from a wide array of persons, in addition to those on the regular public comment mailing list, including domestic violence prevention legal advocates, legal aid attorneys, law enforcement personnel, court clerks, and members of the public. The invitation to comment was posted on the California Courts Web site from April 20 through July 27, 2009. During this formal comment period, the committee received 23 written comments. Of those comments, 1 agreed with the proposal, 1 did not indicate a position, 17 indicated agreement with some modification, and 4 disagreed with the proposal in its entirety. The committee reviewed and analyzed the comments and, in some cases, revised the proposed forms. A chart summarizing the comments received and the committee's responses is attached at pages 35–88.

### Implementation Requirements and Costs

Implementation of this proposal will require courts to produce the new and revised forms.

The requirement of form DV-109 to set a noticed hearing upon denial of a jurisdictionally adequate request for temporary orders may require additional court resources. However, this requirement is set forth in Family Code section 6320.5, which states that the petitioner shall be provided the right to a noticed hearing. Therefore, any additional hearings are due to the statute.

The requirement for the court to complete part of form DV-109 and most of form DV-110 will require additional court resources. However, as noted above, many courts already complete the temporary restraining order for the protected person. Additional education may be necessary to inform the courts about the requirement to complete forms DV-109 and DV-110.

Optional form DV-112, *Waiver of Hearing on Denied Request for Temporary Restraining Order*, may require additional administrative processing time, which would be offset by the administrative and court time saved by removing the affected hearings from the court's calendar.

Attachments

Clerk stamps date here when form is filed.

**Not Approved by the  
Judicial Council**

Person in ① must complete items ①, ②, and ③ only.

① Name of protected person: \_\_\_\_\_

Address (skip this if the person above has a lawyer) (If you want your home address to be private, give a mailing address instead): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone (optional): \_\_\_\_\_ Fax (optional): \_\_\_\_\_

Your lawyer (if you have one):

Name: \_\_\_\_\_ State Bar no.: \_\_\_\_\_

Firm name: \_\_\_\_\_

Street address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Clerk fills in case number when form is filed.

**Case Number:**

② Name of restrained person: \_\_\_\_\_

Description of restrained person: \_\_\_\_\_

Sex:  M  F Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Age: \_\_\_\_\_ Race: \_\_\_\_\_

Mailing address (if known): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

③  **Additional Protected Persons**

In addition to the person named in ①, the following persons are protected by temporary orders as indicated in items ⑤ and ⑥ (family or household members):

| <u>Full Name</u> | <u>Relationship to Person in ①</u> | <u>Sex</u> | <u>Age</u> |
|------------------|------------------------------------|------------|------------|
| _____            | _____                              | _____      | _____      |
| _____            | _____                              | _____      | _____      |
| _____            | _____                              | _____      | _____      |

Check here if there are additional protected persons. List them on an attached sheet of paper and write, "DV-110, Item 3, Additional Protected Persons" as a title.

*The court will complete the rest of this form.*

④ **Expiration Date**

This order expires at the date and time of the hearing below:

Hearing date: \_\_\_\_\_ Time: \_\_\_\_\_  a.m.  p.m.

**This is a Court Order.**



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

**To the Person in ②**

The court has granted the temporary orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

**5 Personal Conduct Orders**  **Granted**  **Not Granted**  **Not Requested**

You must **not** do the following things to the person in ① and  persons 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 (directly or indirectly), telephone, send messages, mail, or e-mail.
  - Brief and peaceful contact as required for court-ordered visitation of children is allowed unless a criminal protective court order says otherwise.
- c.  Take any action, directly or through others, to obtain the addresses or locations of the persons in ① and ③. (If item c is not checked, the court has found good cause not to make this order.)

Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

**6 Stay-Away Order**  **Granted**  **Not Granted**  **Not Requested**

a. You **must** stay at least (*specify*): \_\_\_\_\_ yards away from the person in ① and:

- (1)  Home  Vehicle  School of person in ①
- (2)  The job or workplace of person in ①
- (3)  The persons in ③
- (4)  The children's school or child care
- (5)  Other (*specify*): \_\_\_\_\_

- b.  Brief and peaceful contact as required for court-ordered visitation of children is allowed unless a criminal protective court order says otherwise.

**7 Move-Out Order**  **Granted**  **Not Granted**  **Not Requested**

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

**8 Child Custody and Visitation Order**  **Granted**  **Not Granted**  **Not Requested**

You must follow the orders listed in attached Form DV-140, *Child Custody and Visitation Order*.

**9 No Guns or Other Firearms or Ammunition**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.
- b. You must:
  - Sell to a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms within your immediate possession or control. This must be done within 24 hours of being served with this order.
  - File a receipt with the court within 48 hours of receiving this order that proves guns have been turned in or sold. (*You may use Form DV-800, Proof of Firearms Turned In or Sold, for the receipt.*)
- c.  The court has received information that you own or possesses a firearm.

**This is a Court Order.**

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

**10 Property Control**  **Granted**  **Not Granted**  **Not Requested**

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

\_\_\_\_\_

**11 Property Restraint**  **Granted**  **Not Granted**  **Not Requested**

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, including animals, 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. (*You cannot contact the person in ① if the court has made a “no contact” order.*)

Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

**12 Animals: Possession and Stay-Away Order**  **Granted**  **Not Granted**  **Not Requested**

The person in ① is given the sole possession, care, and control of the animals listed below. The person in ② must stay at least \_\_\_\_\_ yards away from and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the following animals: \_\_\_\_\_

\_\_\_\_\_

**13 Unlawful Communications May Be Recorded**  **Granted**  **Not Granted**  **Not Requested**

The person in ① can record communications made by you that violate the judge’s orders.

**14 Other Orders**  **Granted**  **Not Granted**  **Not Requested**

\_\_\_\_\_

\_\_\_\_\_

Additional orders are attached at the end of this order as DV-110, Attachment 14.

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

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

**16 Criminal Protective Order**

a.  A criminal protective order or Form CR-160, *Criminal Protective Order—Domestic Violence*, is in effect.

Case Number: \_\_\_\_\_ County: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

b.  No information has been provided to the judge about a criminal protective order.

**17** If the judge makes a restraining order at the hearing, which has the same orders as in this form, you will get a copy of that order by mail at your last known mailing address, which is written in ②. If this address is not correct, or to know if the orders were made permanent, contact the court.

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

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

**This is a Court Order.**



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

**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 each jurisdiction throughout the 50 states of the 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.**

**Warnings and Notices to the Restrained Person in 2****You Cannot Have Guns or Firearms**

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this 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 a law enforcement agency any guns or other firearms that you have or control as stated in item ⑨ above. The court will require you to prove that you did so.

**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.
- 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 jail or prison and/or pay a fine.
- Read Form DV-540-INFO, *Information for the Restrained Person*, to learn how to respond to this order.

**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 age 18. File and serve a *Financial Statement (Simplified)* (Form FL-155) or an *Income and Expense Declaration* (Form FL-150) so the judge will have information about your finances. Otherwise, the court may make support orders without hearing from you.
- **Spousal support:** File and serve an *Income and Expense Declaration* (Form FL-150) so the judge will have information about your finances. Otherwise, the court may make support orders without hearing from you.

**This is a Court Order.**

Case Number:

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

**Instructions for Law Enforcement**

This order is effective when made. It is enforceable anywhere 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 the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

*(Clerk will fill out this part.)*

**—Clerk's Certificate—**

*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 here when form is filed.*

**Not Approved by the  
Judicial Council**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Clerk fills in case number when form is filled.*

**Case Number:**

**1** Name of person asking for protection:

Protected person's address (*skip this if you have a lawyer*) (*If you want your home address to be private, give a mailing address instead*):

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone (*optional*): \_\_\_\_\_

Protected person's lawyer (*if any*) (*Name, address, phone number, and State Bar number*):

**2** Restrained person's name:

Description of that person: Sex:  M  F Ht.: \_\_\_\_\_

Wt.: \_\_\_\_\_ Race: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Eye Color: \_\_\_\_\_ Age: \_\_\_\_\_ Hair Color: \_\_\_\_\_

**3** I ask the judge to reissue the *Notice of Court Hearing* (Form DV-109) and any temporary restraining orders granted on *Temporary Restraining Order* (Form DV-110).

a. The last hearing date was (*date*): \_\_\_\_\_

b. The *Notice of Court Hearing* and any temporary restraining orders have been reissued \_\_\_\_\_ times.

**4** I ask the judge to reissue the *Notice of Court Hearing* and any temporary orders because:

a.  I could not get the papers served before the hearing date.

b.  The date of the hearing was changed because we were sent to a mediator or other family court services.

c.  Other (*specify*): \_\_\_\_\_

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 a Court Order.**

*Clerk will fill out section below.*

The *Notice of Court Hearing* and any orders listed on Form DV-110 are reissued and reset for hearing in this court on the date and time below. Unless the court extends the time, any orders will end on the date and time below.

Name and address of court if different from above:

**Hearing  
Date** →

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

Dept.: \_\_\_\_\_ Rm.: \_\_\_\_\_

Any orders in the temporary restraining order stay in effect unless this order changes them.

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

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



**The judge may need to set your hearing for another day.**

This happens when:

- You were not able to get the *Notice of Court Hearing* and any temporary restraining orders served *or*
- The other person asked for time to get a lawyer or prepare an answer *or*
- You need to meet with a family court mediator about child custody or visitation.

**If your hearing gets changed to another day, follow these steps:**

- Fill out *Reissue Notice of Court Hearing and Temporary Restraining Order* (Form DV-125).
- Ask the judge to sign it and give you a new hearing date. In some courts, you must give your form to the clerk for the judge’s signature. Ask the court clerk for information on the local process.
- File the form with the clerk. The clerk will make up to five file-stamped copies for you.
- Attach one “filed” copy of Form DV-125 to your other court papers (Forms DV-100, DV-109, and DV-110, if issued). Have them served personally on the restrained person. Do this right away. Now the temporary orders, if any, will last until the new hearing date.
- The clerk will send the restraining order to law enforcement or CLETS for you. CLETS is a statewide computer system that lets police know about your order.
- Bring all of your papers to the next court hearing.

**Need help?**

Ask the court clerk about free or low-cost legal help or go to [www.courtinfo.ca.gov/selfhelp/lowcost](http://www.courtinfo.ca.gov/selfhelp/lowcost). 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.

For help in your area, contact:

**DV-125**

**Reissue Notice of Court Hearing and Temporary Restraining Order**

Clerk stamps here when form is filed

1 Name of person asking for protection:

Protected person’s address (skip this if you have a lawyer) (If you want your home address to be private, give a mailing address instead): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone (optional): \_\_\_\_\_

Protected person’s lawyer (if any) (Name, address, phone number, and State Bar number): \_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Clerk fills in case number when form is filed

Case Number: \_\_\_\_\_

2 Restrained person’s name:

Description of that person: Sex:  M  F HT: \_\_\_\_\_

Wt: \_\_\_\_\_ Race: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Eye Color: \_\_\_\_\_ Age: \_\_\_\_\_ Hair Color: \_\_\_\_\_

3 I ask the judge to reissue the *Notice of Court Hearing* (Form DV-109) and any temporary restraining orders granted on *Temporary Restraining Order* (Form DV-110).

a. The last hearing date was (date): \_\_\_\_\_

b. The *Notice of Court Hearing* and any temporary restraining orders have been reissued \_\_\_\_\_ times.

4 I ask the judge to reissue the *Notice of Court Hearing* and any temporary orders because:

a.  I could not get the papers served before the hearing date.

b.  The date of the hearing was changed because we were sent to a mediator or other family court services.

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

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

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

\_\_\_\_\_  
Sign your name

Type or print your name \_\_\_\_\_

**This is a Court Order.**

Clerk will fill out section below.

The *Notice of Court Hearing* and any orders listed on Form DV-110 are reissued and reset for hearing in this court on the date and time below. Unless the court extends the time, any orders will end on the date and time below.

Name and address of court if different from above:

Hearing Date

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

Dept.: \_\_\_\_\_ Rm.: \_\_\_\_\_

Any orders in the temporary restraining order stay in effect unless this order changes them.

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

Judge (or Judicial Officer)

Judicial Council of California, www.courtinfo.ca.gov  
 Revised January 1, 2010, Mandatory Form  
 Code of Civil Procedure, § 527(b), Approved  
 by DOJ

**Reissue Notice of Court Hearing and Temporary Restraining Order (Domestic Violence Prevention)**

DV-125, Page 1 of 1



Clerk stamps date here when form is filed.

Not Approved by the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Clerk fill 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 home 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 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 hearing was on (date): with (name of judicial officer):

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

- If no end date is written, the restraining order ends three years after the date of the hearing. 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 child is 18.

5 [ ] The people in 1 and 3 must return to 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 each jurisdiction 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), 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
- c.  Take any action, directly or through others, to get the addresses or locations of any protected persons or of their family members, caretakers, or guardians. *(If item c is not checked, the court has found good cause not to make this order.)*

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

A criminal protective order on Form CR-160 is in effect. Case Number: \_\_\_\_\_  
 County (if known): \_\_\_\_\_ Expiration Date: \_\_\_\_\_ *(If more orders, list them in item 17.)*

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

a. The person in **3** **must** stay at least *(specify)*: \_\_\_\_\_ yards away from the person in **1** and:

- (1)  Home  Vehicle  School of person in **1** (4)  The children’s school or child care
- (2)  The job or workplace of person in **1** (5)  Other *(specify)*: \_\_\_\_\_
- (3)  The persons in **2**

b.  Brief and peaceful contact as required for court-ordered visitation of children is allowed unless a criminal protective court order says otherwise.

**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**  **Animals: Possession and Stay-Away Order**

The person in **1** is given the sole possession, care, and control of the animals listed below. The person in **3** must stay at least \_\_\_\_\_ yards away from and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the following animals: \_\_\_\_\_

**This is a Court Order.**



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

**13 No Guns or Other Firearms or Ammunition**

- a. The person in ③ cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.
- b. The person in ③ must:
- Sell to a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms within his or her immediate possession or control. This must be done within 24 hours of being served with this order.
  - File a receipt with the court within 48 hours of receiving this order that proves guns have been turned in or sold. (*Form DV-800, Proof of Firearms Turned In or Sold may be used for the receipt.*)
- c.  The court has received information that the person in ③ owns or possesses a firearm.

**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.

**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 (Serve) 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 or agreed in writing to this order. No other proof of service is needed.
- b.  The person in ① was at the hearing. The person in ③ was not.
- (1)  Proof of service of Form DV-109 and Form DV-110 (if issued) was presented to the court. The judge's orders in this form are the same as in Form DV-110 except for the end date. The person in ③ must be served. This order can be served by mail.
- (2)  Proof of service of Form DV-109 and Form DV-110 (if issued) was presented to the court. The judge's orders in this form are different from the orders in Form DV-110, or Form DV-110 was not issued. Someone—not the people in ① or ②— must personally "serve" a copy of this order to the person in ③.

**19 Attached pages are orders.**

- Number of pages attached to this five-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****Start Date and End Date of Orders**

The orders *start* on 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 in item 4 on page 1. If no end date is listed, they end three years from the hearing date.

**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. (Penal Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

**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. (Family 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).)

**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).)

**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.**

**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.

**Conflicting Orders**

A protective order issued in a criminal case on Form CR-160 takes precedence in enforcement over any conflicting civil court order. (Pen. Code, § 136.2(e)(2).) Any nonconflicting terms of the civil restraining order remain in full force. An emergency protective order (Form EPO-001) that is in effect between the same parties and is more restrictive than other restraining orders takes precedence over all other restraining orders. (Pen. Code, § 136.2.)

**This is a Court Order.**

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

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

**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.

**You cannot have guns, firearms, and/or ammunition.**



You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, firearms, and/or ammunition 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—**

*[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.**



Clerk stamps here when form is filed.

**Not Approved by the  
Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Clerk fills in case number when form is filled.

**Case Number:****1** Protected person's name:

\_\_\_\_\_

**2** Restrained person's name:

\_\_\_\_\_

**3 Notice to Server**

You must:

- Be 18 or over.
- Not be listed on the restraining order.
- Give a copy of all documents checked in **4** to the restrained person in **2**.  
(You cannot send them by mail.) Then sign this form and give or mail it to the protected person.

**4** I gave the person in **2** a copy of all documents checked below:

- a.  DV-109 with DV-100 and a blank DV-120  
(*Notice of Court Hearing; Request for Order; blank Answer to Temporary Restraining Order*)
- b.  DV-110 (*Temporary Restraining Order*)
- c.  DV-105 and DV-140 (*Child Custody, Visitation, and Support Request; Child Custody and Visitation Order*)
- d.  FL-150 with a blank FL-150 (*Income and Expense Declaration*)
- e.  FL-155 with a blank FL-155 (*Financial Statement (Simplified)*)
- f.  DV-125 (*Reissue Notice of Court Hearing and Temporary Restraining Order*)
- g.  DV-130 (*Restraining Order After Hearing*)
- h.  Other (*specify*): \_\_\_\_\_

**5** I gave copies of the documents checked above to the person in **2** on:

- a. Date: \_\_\_\_\_
- b. Time: \_\_\_\_\_  a.m.  p.m.
- c. At this address: \_\_\_\_\_

**6 Server's Information**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

*(If you are a process server):*

County of registration: \_\_\_\_\_ Registration number: \_\_\_\_\_

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

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

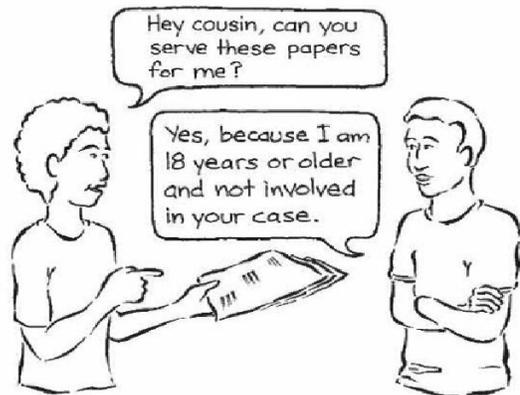
\_\_\_\_\_  
*Type or print server's name*\_\_\_\_\_  
*Server to sign here*



**What is “service”?**

There are many kinds of service—in person, by mail, and others. This form is about “in-person service.” The *Notice of Court Hearing* (Form DV-109), *Temporary Restraining Order* (Form DV-110), and *Request for Order* (Form DV-100) must be served “in person.” That means someone—not you or anyone else protected by the order—must personally “serve” (give) the restrained person a copy of the forms. Service lets the other person know:

- What orders you are asking for
- The hearing date
- How to answer



**Who can serve?**

Ask someone you know, a process server, or law enforcement to personally “serve” (give) a copy of these forms to the restrained person. You **cannot** send them by mail.

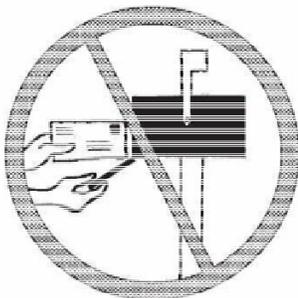
The server must:

- Be 18 or over
- Not be protected by the orders

The sheriff or marshal is authorized to serve the orders for **free**, but you have to ask.

A “process server” is a business you pay to deliver court forms. Look in the Yellow Pages under “Process Serving.”

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



*Don't serve it by mail!*

**How to serve**

Ask the server to:

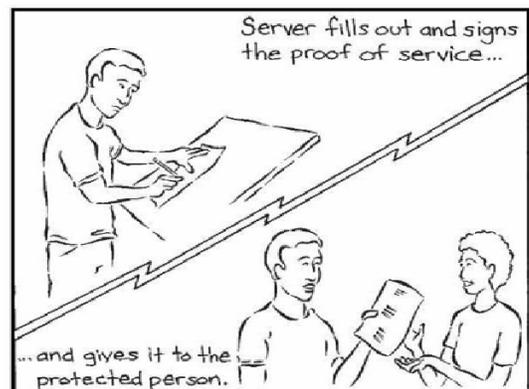
- Walk up to the person to be served.
- Make sure it’s the right person. Say the person’s name: “Are you John Doe?” or “Hi, John Doe.”
- Give copies of all papers checked on Form DV-200.
- Fill out and sign the *Proof of Service* form (DV-200).
- Give the signed *Proof of Service* to you.

**What if the person won’t take the papers or tears them up?**

- If the person won’t take the papers, just leave them near the person.
- It doesn’t matter if the person tears them up.

**Who signs the *Proof of Service*?**

Only the person who serves the orders can sign the *Proof of Service*. You do not sign Form DV-200. The restrained person does not sign this form.



## When do the orders have to be served?

It depends. To know the exact date, you have to look at two things on Form DV-109:

First, look at the hearing date on page 1 of Form DV-109. Next, look at the number of days written in ⑤ on page 2.

③ **Notice of Court Hearing**  
A court hearing is scheduled on the

|                 |              |             |
|-----------------|--------------|-------------|
| Hearing<br>Date | Date: _____  | Time: _____ |
|                 | Dept.: _____ | Room: _____ |

If you want to respond to the request for orders in Order. Whether or not you respond in writing

⑤ **Service of Documents and Time for**  
**To the Person in ①**

At least \_\_ days before the hearing, someone personally give (serve) a court's file-stamped in ② along with a copy of all the forms

Look at a calendar. Subtract the number of days in ⑤ from the hearing date. That's the final date to have the orders served. It's always OK to serve earlier than that date.

If nothing is written in ⑤, follow these rules:

- If the restrained person was notified that you asked for temporary orders, you have 15 days before the hearing.
- If the restrained person was not notified that you asked for temporary orders, you have 5 days before the hearing.

## Why do I have to get the papers served?

- The **police cannot arrest** anyone for violating an order **unless** the restrained person knows about the order.
- The **judge cannot make the orders permanent** unless the restrained person was served.

## What happens if I can't get the papers served before the hearing date?

Before your hearing, fill out and file the *Reissue Notice of Court Hearing and Temporary Restraining Order* (Form DV-125). This form asks the judge for a new hearing date and makes any temporary orders last until then. Ask the clerk for the form or go to [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

You **must** attach a copy of Form DV-125 to a copy of your original papers. That way, the police will know your orders are still in effect. And the restrained person will be served with notice of the new hearing date. For more information on getting a new hearing date, read Form DV-126-INFO.

## What do I do with the completed *Proof of Service*?

If someone other than the sheriff serves the orders, you should:

- Make at least five copies.
- File the original *Proof of Service* (Form DV-200) with the court at least 2 days before your hearing.
- The clerk will send it to CLETS, a statewide computer system that lets police know about your order.
- Bring a copy of the *Proof of Service* to your hearing.
- Always keep an extra copy with you for your safety.

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

*Clerk stamps below when form is filed.*

**Not Approved by the  
Judicial Council**

*Court name and street address:*

**Superior Court of California, County of**

*Clerk fills in case number when form is filled.*

**Case Number:**

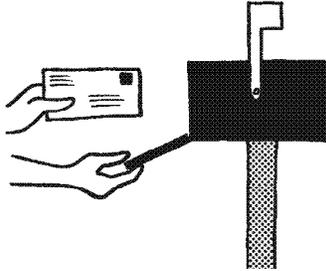
① Protected person's name: \_\_\_\_\_

② Restrained person's name: \_\_\_\_\_

**③ Notice to Server**

You must:

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



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

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

**Note: You cannot serve forms DV-100, DV-105, DV-109, or DV-110 by mail.**

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

- a. Date: \_\_\_\_\_ b. Mailed from (*city*): \_\_\_\_\_ (*state*): \_\_\_\_\_
- c. Mailed to (*name*): \_\_\_\_\_
- d. At this address: \_\_\_\_\_

**⑥ Server's Information**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

*(If you are a process server):*

County of registration: \_\_\_\_\_ Registration number: \_\_\_\_\_

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

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

\_\_\_\_\_  
*Type or print server's name*

\_\_\_\_\_  
*Server to sign here*



**DV-510-INFO** I Filled Out the Forms—What Now?

- 1 **Take your forms to the court clerk.** The clerk will give your forms to the judge. The judge will look at them and decide whether to make (“grant”) the temporary orders. Sometimes the judge will want to talk to you. If so, the clerk will tell you.
- 2 **Find out if the judge made the temporary restraining orders.** Ask the clerk when to come back to see if the judge signed the order (Form DV-110). The judge must decide by the next business day. If the judge grants a temporary restraining order, check it carefully to see what the orders are. The judge might not order everything you requested.
- 3 **“File” the judge’s order.** If the judge signs the order, the clerk will “file” it. The clerk will keep the original for the court and will file-stamp up to five copies for you. If you need more, make them yourself.

**What to do with your copies:**

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

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

- 4 **Know your hearing date.** Look at Form DV-109 for the date and time of your hearing.

You **must** go to your hearing to get a permanent order.

Any orders you have now only last for about three weeks. The orders end on the hearing date.



## 5 “Serve” the restrained person.

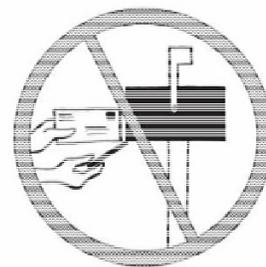
Ask someone you know, a process server, or law enforcement to personally “serve” (give) the restrained person a copy of the orders and other papers. You **cannot** serve the papers yourself. They **cannot** be sent by mail. The server must:

- Be 18 or over
- Not be protected by the orders

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

A “process server” is a business you pay to deliver court forms. Look in the Yellow Pages under “Process Serving.”\*

\*If law enforcement or the process server uses a different *Proof of Service* form, make sure the form lists all the forms served.



*Don't serve by mail!*

## 6 File the Proof of Service (Form DV-200).

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

Keep one copy with you and another in a safe place in case you need to show it to the police. Give the other copies out as you did in 3. The court will send your completed Proof of Service to law enforcement or CLETS for you. CLETS is a statewide computer system that lets police know about your order.

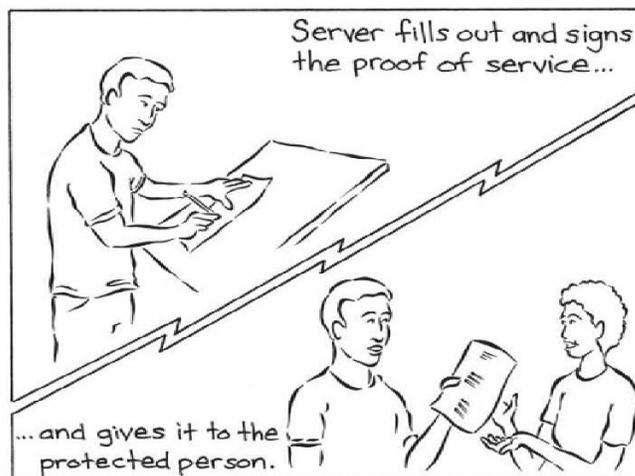
- If the sheriff serves your order, he or she will send the Proof of Service to the court and to CLETS for you.

## 7 If the restrained person wasn't served . . .

The restrained person **must** be served before the hearing. If the restrained person wasn't served, fill out Form DV-125 (*Reissue Notice of Court Hearing and Temporary Restraining Order*) to ask the judge for a new hearing date. Do this **before** or **at** your hearing. (If you wait until after the hearing, you have to start from the beginning.)

If the judge signs Form DV-125, any restraining orders will last until the new hearing date.

- File the signed order (Form DV-125) with the clerk. The clerk will send it to law enforcement or CLETS for you.
- Attach it to your other court papers and have the restrained person personally served.
- If you didn't file the original *Proof of Service*, bring it to your hearing.
- Bring a copy of Form DV-125 to your hearing.



After serving the orders, the server fills out and signs the *Proof of Service* and gives it to you.

**What does a restraining 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 be sent to jail, fined, or both.**

**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 one of Form DV-109. 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, *Answer to Temporary Restraining Order*, before the hearing date. Also, have someone mail it to the person who asked for the order or to the person's lawyer. This is "service." The person who mails it must fill out and sign a *Proof of Service by Mail* (Form DV-250). File the *Proof of Service* with the court clerk. Keep a copy. Bring copies of all documents to the hearing.

**What if I have a witness?**

You may file a witness statement (also known as a declaration), signed under penalty of perjury, by anyone who has personal knowledge of the facts. You must file and mail witness statements or other documents that support your case at least two days before the hearing or when you mail your *Answer* (Form DV-120) to the protected person. A witness must go to the hearing for the judge to consider the witness statement.

**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 or go to [www.courtinfo.ca.gov/selfhelp/lowcost](http://www.courtinfo.ca.gov/selfhelp/lowcost).



**What if I also have criminal charges against me?**

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

**What if I am a victim of domestic violence?**

Call the National Domestic Violence Hotline:

**1-800-799-7233**

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

Ask who can help you file a restraining order request.

**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 the expiration date. At that time, the judge will decide whether to grant or deny a longer-term order. That order can last for up to five years. Spousal support orders can last longer than five years. Custody, visitation, and child support orders can last until the child turns 18.

**What if the protected person contacts me?**

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

**Can the protected person and I make an agreement 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, pay a fine, or both.

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

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

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

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

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

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

Clerk stamps date here when form is filed.

**Not Approved by the  
Judicial Council**

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** Name of person asking for protection:

Address (skip this if the person above has a lawyer) (If you want your home address to be private, give a mailing address instead):

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone (optional): \_\_\_\_\_ Fax (optional): \_\_\_\_\_

Your lawyer (if you have one):

Name: \_\_\_\_\_ State Bar no.: \_\_\_\_\_

Firm name: \_\_\_\_\_

Street address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

**2** Name of person to be restrained:

The court will fill out the rest of this form.

**To the Person in 2**

**3** **Notice of Court Hearing**

**A court hearing is scheduled on the request for orders against you to stop domestic violence.**

Name and address of court if different from above:

**Hearing  
Date**

→ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

If you want to respond to the request for orders in writing, file Form DV-120, *Answer to Temporary Restraining Order*. Whether or not you respond in writing, go to the hearing. You may tell the court why you agree or disagree with the orders requested. You may bring witnesses and other evidence. **At the hearing, the court may make restraining orders against you that could last up to five years. The judge may also make other orders about your children, child support, spousal support, money, and property and may order you to turn in or sell any firearms that you own or possess.**

**4** **Temporary Restraining Orders** (any orders granted are attached on Form DV-110)

a. Temporary restraining orders for personal conduct, stay away, and protection of animals, as requested in Form DV-100, *Request for Order*, are:

- (1)  All **granted** until the court hearing
- (2)  All **denied** until the court hearing (specify reasons for denial in (b))
- (3)  Partly **granted** and partly **denied** until the court hearing (specify reasons for denial in (b))

b. Requested temporary restraining orders for personal conduct, stay away, and protection of animals are denied because:

- (1)  The facts as stated in form DV-100 do not show reasonable proof of a past act or acts of abuse. (Family Code, §§ 6320 and 6320.5)

**This is a Court Order.**



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

- (2)  The facts do not describe in sufficient detail the most recent incidents of abuse, such as what happened, the dates, who did what to whom, or any injuries or history of abuse.
- (3)  Further explanation of reason for denial, or reason not listed above:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**5 Service of Documents and Time for Service—for Both Parties**

**To the Person in 1**

At least \_\_\_ days before the hearing, someone age 18 or older—not you or anyone else to be protected—must personally give (serve) a court’s file-stamped copy of this form (DV-109, *Notice of Court Hearing*) to the person in 2 along with a copy of all the forms indicated below:

- a. Form DV-100, *Request for Order*, with applicable attachments (file-stamped)
- b.  Form DV-110, *Temporary Restraining Order*, with applicable attachments (file-stamped) **if granted by judge**
- c. Form DV-120, *Answer to Temporary Restraining Order* (blank form)
- d. Form DV-250, *Proof of Service by Mail* (blank form)
- e.  Other (*specify*): \_\_\_\_\_

- The court cannot make the restraining orders after the court hearing unless the person in 2 has been personally given (served) a copy of your request and any temporary orders. To show that the person in 2 has been served, the person who served the forms must fill out a proof of service form. Form DV-200, *Proof of Service (In Person)* may be used.
- For information about service, read Form DV-210-INFO, *What Is “Proof of Service”?*
- If you are unable to serve the person in 2 in time, you may ask for more time to serve the documents. Read Form DV-126-INFO, *How to Reissue a Temporary Restraining Order*.

**To the Person in 2**

- If you want to respond in writing, mail a copy of your completed Form DV-120, *Answer to Temporary Restraining Order*, to the person in 1 at least \_\_\_ days before the hearing. You cannot mail Form DV-120 yourself. Someone age 18 or older—not you—must do it.
- To show that the person in 1 has been served by mail, the person who mailed the forms must fill out a proof of service form. Form DV-250, *Proof of Service by Mail*, may be used. File the completed form with the court before the hearing and bring it with you to the hearing.
- For information about responding to a restraining order and filing your answer, read Form DV-540-INFO, *Information for the Restrained Person*.

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

\_\_\_\_\_  
*Judicial Officer*

**This is a Court Order.**



Case Number:

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

(Clerk will fill out this part.)

**—Clerk's Certificate—**

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

*Clerk's Certificate*

[seal]



**Request for Accommodations**

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

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

Clerk, by \_\_\_\_\_, Deputy

**Right to Cancel Hearing: Information for the Person in ①**

- If item ④(a)(2) or (a)(3) on page 1 is checked, the judge has denied some or all of the temporary orders you requested until the court hearing. The judge may make the orders you want after the court hearing. You can keep the hearing date, or you can cancel your request for orders so there is no court hearing.
- If you want to cancel the hearing, use Form DV-112, *Waiver of Hearing on Denied Request for Temporary Restraining Order*. Fill it out and file it with the court as soon as possible. You may file a new request for orders, on the same or different facts, at a later time.
- If you cancel the hearing, do not serve the documents listed in item ⑤ on the other person.
- If you want to keep the hearing date, you must have all of the documents listed in item ⑤ served on the other person within the time listed in item ⑤.



**Waiver of Hearing on  
Denied Request for Temporary  
Restraining Order**

*This form may be used when the court denies some or all requested temporary orders (see item ④ on Form DV-109, Notice of Court Hearing).*

① Name of person asking for protection:  
\_\_\_\_\_

② Name of person to be restrained:  
\_\_\_\_\_

**To the Person in ①**

- Some or all of your requested temporary restraining orders were denied for the reasons listed on Form DV-109, *Notice of Court Hearing*.
- The court has set a hearing and might issue the orders you want after the hearing.
- Use this form only if you want to cancel the hearing date as listed on Form DV-109, item ③. If you want to cancel the hearing, sign this form (DV-112) and file it with the court clerk. Do not serve Form DV-109 and other papers on the person in ②.
- If you already served Form DV-109 and other papers on the person in ②, you must notify that person that you have canceled the hearing. If the person in ② files a response before you file this form, the court may hear the case.
- If the hearing is canceled, you may file a new request for temporary restraining orders on the same or different facts at a later date.

I have read this form and I understand that I have a right to a court hearing. By signing below, I am asking the court to cancel the hearing listed on Form DV-109, *Notice of Court Hearing*.

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

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

\_\_\_\_\_  
*Person in ①: Type or print your name*



\_\_\_\_\_  
*Sign your name*

*Clerk stamps date here when form is filed.*

**Not Approved by the  
Judicial Council**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Clerk fills in case number when form is filed.*

**Case Number:**

**This is not a Court Order.**



**SP09-05**

Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

All comments are verbatim unless indicated by an asterisk (\*) or brackets.

|    | <b>Commentator</b>  | <b>Position</b> | <b>Comment</b>  | <b>Committee Response</b>   |
|----|---|-----------------|---|---|
| 1. | Esperanza Sanchez Armijo<br>Family Violence and<br>Elder Abuse Case Manager<br>Superior Court of Alameda County | AM              | <p>Overall, I agree with the modified forms. I do have a couple of comments.</p> <p>I do think it would simplify the process of denying orders to list options of why the order was denied. One of the options could be a fill in space for reasons other than those listed. Given a reason must be included, the forms should help facilitate compliance with the law. It is much easier for a bench officer to check a box rather than detail the reason.</p> <p>[DV-110]<sup>1</sup> is very clear and I believe will be easy to enforce. As such, the [Restraining Order After Hearing] ROAH should closely resemble the TRO. Specifically, the addition of the Restrained party’s home and work address as well the additional protected parties’ information should be included in the ROAH. It is valuable information that is useful at both the TRO &amp; ROAH stages.</p> <p>Finally, regarding reissuances whether or not the TRO is granted in our courts the clerks complete a reissuance to notify the parties of the new hearing date. I understand the purpose of</p> | <p>DV-109<sup>2</sup><br/>Based on comments from the majority of commentators, form DV-109 has been revised to include two check boxes with common reasons for denial of temporary orders and an additional box with blank lines to allow the court to elaborate on its reasons for denial or provide reasons not listed in the preprinted text.</p> <p>[DV-110]<br/>This form is expected to be significantly revised for January 1, 2011. The suggestion to add home and work address and detailed information about additional protected parties will be included with other comments for consideration when the form is next revised.</p> <p>DV-125<br/>No response required.</p> |

<sup>1</sup> Form numbers referenced in this comment chart have been changed to reflect the form numbers in the proposal. The form numbers were changed after they were posted for comment.

<sup>2</sup> Please see footnote 1.

**SP09-05**

Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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|    | <b>Commentator</b>  | <b>Position</b> | <b>Comment</b>   | <b>Committee Response</b>  |
|----|---|-----------------|--|--|
|    |   |                 | the reissuance is to continue the TRO until the next hearing date but we also use it to inform the parties of the next hearing date. I wonder what other courts do in this situation. It also seems that with the separation of the Notice of Hearing and TRO, we now could simply complete the Notice of Hearing form in lieu of the reissuance. In this regard, it would be very helpful to us.  |  |
| 2. | <p>Bay Area Legal Aid</p> <p>Tulin Acikalin<br/>Managing Attorney<br/>San Mateo County Regional Office</p> <p>Minouche Kandel<br/>Staff Attorney<br/>San Francisco County Regional Office</p> | AM              | <p><b><u>[DV-109]</u></b></p> <p>We agree with the separation of the Notice of Court Hearing from the Temporary Restraining Order form. We also agree that a specific check-box on the Notice of Court Hearing indicating that all temporary orders are denied would be helpful in clarifying for parties and law enforcement when all temporary orders have been denied. Having a separate Notice of Court Hearing form is preferable to the alternative of amending item 5 of the current DV-110 [as revised July 1, 2009] to include a check box and blank lines for the court to indicate its reasons when denying all temporary restraining orders. The court could provide the person seeking the order with only the Notice of Court Hearing, without any temporary orders as part of the form, so there would be no confusion that any temporary orders existed.</p> <p>We agree with the current form of item 4 in [DV-109]. We believe that having check boxes for the reason of the denial of the temporary</p> | <p>DV-109<br/>No response is required.</p> <p>Based on comments from the majority of commentators, form DV-109 has been revised to include two check boxes with common reasons</p> |

36 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**SP09-05**

Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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|  | Commentator | Position | Comment  | Committee Response   |
|--|-------------|----------|--|--|
|  |             |          | <p>restraining may lead to “rubber stamp” denials of temporary restraining orders, and that it is important for judicial officers to articulate in each case the specific reasons for which they are denying a temporary restraining order.</p> <p>We agree with the elimination of lines under the attorney reference in item 1, to allow the maximum amount of room for attorney information.</p> <p>We agree that in item 5, it is easier for the person asking for the order to understand their next steps when the list of <b>documents to be served is listed above the time by which service must be completed.</b></p> <p>[DV-110]</p> <p><b>We feel very strongly that the proposed temporary restraining order should be filled out by the person seeking the order</b>, and not left to the judicial officer to complete. Our experience with processing large volumes of applications and orders demonstrates that this concern is valid. We observed a high error rate checking the boxes in application and orders when only one person reviewed the forms. We have instituted multiple levels of review before applications and orders are submitted, thus reducing the error rate. We are concerned that if the court fills out the order, it may leave out important relief that the person requesting</p> | <p>for denial of temporary orders and an additional box with blank lines to allow the court to elaborate on its reasons for denial or provide reasons not listed in the preprinted text.</p> <p>DV-110</p> <p>On balance, it is clearer for law enforcement and the parties for the court to complete the order. Cross-outs can be confusing for law enforcement and the parties because they cannot be sure who initiated the cross-out.</p> <p>In current practice, while many litigants have the benefit of legal assistance with their petitions and proposed orders, many do not. In those cases, the court is already in the position of preparing the temporary order. Therefore, many courts employ a level of internal review to avoid the possibility of oversight or administrative errors.</p> |

**SP09-05**

Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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|  | Commentator | Position | Comment  | Committee Response  |
|--|-------------|----------|--|---|
|  |             |          | <p>orders is seeking. This is particularly true for “other orders” that may not have a pre-printed box to check (like a specific civil standby order or order returning keys, specific documents, or personal property). We believe that requiring the court to fill out the temporary order will greatly increase the opportunity for error. This is particularly true given the large numbers of temporary restraining order requests that are made in some courts, the limited amount of time that courts have to review them, and the legal requirements to rule on temporary restraining order requests within one court day. It is much easier for a court to cross out an order they wish to deny, than to write in an order they wish to grant. We appreciate that law enforcement and litigants may be confused by cross-outs, but we believe the risk of incomplete orders (if left to the court to complete) outweighs the risk of confusing orders.</p> <p>For similar reasons, we disagree with the addition of check boxes in items 4-7 and 10-14, to indicate whether the temporary order was granted, not granted or not requested. These additional boxes create unnecessary opportunities for error if a court mistakenly neglected to check the proper box. It also creates a high likelihood of confusing orders, particularly if the Judicial Council decides to allow the person seeking the temporary restraining order to complete a proposed order. The form as proposed might create a situation</p> | <p>The inclusion of check boxes for Granted, Not Granted, and Not Requested will prompt the judicial officer to refer back to the application to determine whether the relief was sought before making a decision whether to grant the relief. It is possible that the judicial time required to cross out a proposed order is equal to the time required to check a box.</p> |

**SP09-05**

Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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|  | Commentator | Position | Comment   | Committee Response   |
|--|-------------|----------|---|--|
|  |             |          | <p>where the boxes next to particular orders are checked, but then the “not granted” box is also checked. It is much clearer to simply cross out an order that is not granted than to have “granted” and “not granted” boxes which might conflict with what is filled out below.</p> <p>We agree with the proposal in item 2 to add the home and work addresses of the restrained party (if known). We agree with the proposal to add the sex of additional protected parties in item 3.</p> <p>We do not agree with the proposal to add additional, separate check boxes to determine whether the orders apply to the person seeking the order and any additional protected persons. Again, we believe it would leave to more opportunities for error if the court or the litigant mistakenly skipped over the second box. If the court does not believe that the additional protected parties can be included at all in the temporary restraining order, they can cross out their names in item 3.</p> <p>If the additional persons are children of the parties, we believe that rather than having separate check boxes in item 4 and item 5 permitting brief and peaceful contact for any court ordered visitation, there should be a separate item (between current items 5 and 6) that clarifies:</p> <p><input type="checkbox"/> Brief and peaceful contact with the</p> | <p>No response is required.</p> <p>The check boxes highlight whether the orders apply to the person seeking the order and/or other protected persons.</p> <p>This form is expected to undergo major revisions for January 1, 2011. This suggestion will be included with other substantive comments for consideration when the form is revised but there is currently insufficient space on the form to add a new item number.</p> |

**SP09-05**

Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

All comments are verbatim unless indicated by an asterisk (\*) or brackets.

|  | Commentator | Position | Comment   | Committee Response  |
|--|-------------|----------|---|---|
|  |             |          | <p>person in 1 as required for court-ordered visitation of children is allowed unless a criminal protective order says otherwise.</p> <p>[ ] Contact with person(s) in number 3 is permitted as required for court-ordered visitation of children unless a criminal protective order says otherwise.</p> <p>We have had experience with judicial officers who believe that including the children as protected parties prohibits all visitation with the children, since visitation of any significant amount of time is more than “brief” contact. Clarifying that children can be protected parties included in personal conduct and stay-away orders, but there is an exception for these orders as regards the children for all of the visitation (and not just “brief and peaceful contact”) would be helpful.</p> <p>We agree that there is no need to include the petitioner’s address and attorney information in item 1 of this form, as it will not be a “stand-alone” form, but will always be attached to the [DV-109], which contains this information.</p> <p>We were not entirely clear about the need for item 16. Would the court checking 16.b. indicate that the court had checked the CLETS system (or other criminal justice records) about the existence of a criminal protective order and</p> | <p>No response required.</p> <p>Agree to revise item 16 to clarify that the court does not have knowledge of a temporary restraining order.</p> |

**SP09-05**

Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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|  | Commentator | Position | Comment  | Committee Response  |
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|  |             |          | <p>discovered that none existed, or simply that the court had no information about the existence of a criminal protective order (but had not necessarily checked to see if one existed)? We are concerned that if 16.b. is checked even when the court has <u>not</u> actually investigated whether a criminal protective order exists, this may lead law enforcement or other judicial officers presiding at the restraining order hearing to believe that no criminal protective order exists. Perhaps this could be clarified with the following options:</p> <p>b. <input type="checkbox"/> the court has checked the CLETS system and has no information about the existence of a criminal protective order.</p> <p>c. <input type="checkbox"/> the court has not checked the CLETS system and has no information about the existence of a criminal protective order.</p> <p><u>DV-112</u></p> <p>We agreed that there should be a separate form which could be used to request to waive a hearing on a request for restraining orders. We thought that the form should also take into account that some persons may wish to waive their hearing when even some of the temporary orders are denied. For example, if a move-out order is denied, and the person seeking the orders has no alternate place to live, they may wish to postpone their request for a restraining</p> | <p>DV-112</p> <p>Agree to modify form to allow its use when some or all of the requested orders are denied.</p> |

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Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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|    | Commentator                  | Position | Comment   | Committee Response  |
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|    |                              |          | <p>order. We suggest that the form be modified as follows:</p> <p><i>This form is to be used <del>only</del> when the court denies all <u>or some of the</u> temporary orders...</i></p> <p><del>There are no temporary restraining orders now in effect.</del> <u>Some of the orders you requested have been denied.</u></p> <p><u>DV-125</u></p> <p>It would be extremely helpful if an additional check box were added in the Court Order section of this form, similar to the language in the DV-130, which reads “The person in 2 was present in court. No other proof of service is needed.” Many times temporary restraining orders are reissued when the restrained party is present in court, often at the request of the restrained party. Yet law enforcement officers have a difficult time enforcing violations of these orders, as the current DV-125 does not include an easy way to indicate that the restrained party was present and had knowledge of the reissuance.</p> | <p>DV-125</p> <p>This form is expected to undergo major revisions for January 1, 2011. This suggestion will be included with other substantive comments for consideration when the form is revised.</p> |
| 3. | Chris Carrisale<br>Riverside | AM       | I support Gilbert Rodriguez’s proposal. Confirmation of self advised.   | Please see response to Gilbert Rodriguez’ comment.  |
| 4. | Jon Cunningham<br>San Diego  | N        | The entire TRO process in the state of California is of dubious constitutionality and needs to be overhauled in its entirety.   | Forms to implement Family Code section 6320.5 are statutorily mandated.   |

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Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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|    |   |    | <p>In matters of family law specifically, the TRO process often strips the accused of property, children and liberty without ANY due process, with no opportunity to confront accusers or present countervailing arguments. While advocates of this system may argue that these impacts are temporary that is an irrelevant point.</p> <p>Equally damaging, there are no sanctions in practice for those bringing false allegations, exaggerations or other perjury to bear in obtaining a TRO.</p> <p>Shame on California and the Judicial Council for fostering this ugly assault on a fundamental premise of our constitutional republic:<br/>INNOCENT UNTIL PROVEN GUILTY.</p> |   |
| 5. | Fathers-4-Justice Los Angeles<br>Carson<br>Fred Sottile<br>President    | AM | “I support Gilbert Rodriguez’ proposed CONFIRMATION OF SELF ADVISED amendment it is signed and sent on July 6, 2009.”  | Please see the response to Mr. Gilbert Rodriguez.   |
| 6. | Theresa Gary<br>Family Law Facilitator<br>Superior Court of Kern County | AM | <b>[DV-109]</b><br>Item #1: Make space smaller for Lawyer<br>Item #3<br>Line one should read “...If you want to respond to the request for orders Form [DV-109], file...”; Page 3, line one should read “...the judge has denied some or all of the temporary orders requested until the court hearing...”; Page 3, 5th bullet, line one should read “...you   | <b>[DV-109]</b><br>Agree to resize attorney information area.<br>Agree to add “request for orders.”<br>Agree to add a reference to forms checked in item 5. |

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Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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|    |  |    | <p>must have all documents selected in 5 served on the person...”</p> <p><b>DV-126 INFO</b><br/>7th bullet, paragraph beginning with “Attach one”, line 2 should read “...Get them served on the restrained person. Do this before the current hearing date. Now your temporary orders, if granted, will last...”</p> <p><b>DV-130</b><br/>Page 4, Item 19.b.(1) should read “Proof of service of Forms DV-110 and DV-111...”; Page 3, Item 19.b(2) should read “Proof of service of Forms DV-100, DV-110 and DV-111...”</p>   | <p>DV-126-INFO<br/>This form is expected to be significantly revised for January, 2011. This comment will be considered with other substantive comments when the form is next revised.</p> <p>DV-130<br/>The purpose of these provisions is to clarify what type of service of process is required pursuant to Family Code section 6384, not to list in detail which forms were served. That information is on the initial Proof of Service.</p> |
| 7. | Laura R. Handler<br>Staff Attorney<br>San Diego Volunteer Lawyer Program | NI | <p>After careful review of the proposed changes to form [DV-109], specifically that [DV-109] will become the Notice of Court Hearing and that proposed [DV-110] will become the Temporary Restraining Order, I wish to voice my concerns over the confusion I believe this will create for self represented litigants and law enforcement.</p> <p>As the staff attorney who runs the Domestic Violence Temporary Restraining Order (DVTRO) Clinic at the Vista Courthouse in San Diego County, I work with hundreds of self represented litigants who, as victims of violence, are often confused with the paperwork</p> | <p>The committee carefully considered the concerns as discussed below.</p>   |

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|  |  | <p>and process that go along with obtaining DV TROs. I have several concerns over how the proposed changes would negatively affect self represented victims of violence in need of protection:</p> <p>My first concern is over the problems this change will create for self represented protected parties. I fear the protected parties will go right to [proposed] [DV-110] to see if the restraining order was granted after seeing the judge, and then fail to read the attached notice. This will inevitably lead to them missing their hearings and not getting their long term orders, and potentially suffering further abuse. Or, in the reverse, I fear the protected parties will see that a hearing date was granted on [DV-109], see that the box was checked saying the order was granted, and mistakenly believe that the [DV-109] is the order, when no order exists on that form. This will create problems with enforcement of the orders when a violation takes place and could inevitably jeopardize the safety of the protected party. As [current form] DV-110 stands now, in order to read what orders were granted, the protected party sees the notice date right on the cover of the order and is made aware of their need to return along with the date of expiration of the TRO. All of that is visible before they even flip the page of the</p> | <p>The first concern is ameliorated by several changes to the proposed forms: (1) the <i>Notice of Court Hearing</i> has been renumbered to Form DV-109 so that the temporary restraining order will remain form DV-110; (2) the expiration date was added to DV-110, <i>Temporary Restraining Order</i>; and (3) text was added to item 4 on form DV-109, <i>Notice of Court Hearing</i> to refer to attached form DV-110 for any temporary restraining orders.</p> |
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Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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|  |  | <p>order to see what protections the judge ordered under both the Stay Away and Personal Conduct Order.</p> <p>My second concern is over difficulties this will create for law enforcement. Should protected parties mistakenly grab the notice form [DV-109], rather than the order, and should they need law enforcement to help, law enforcement will have not order in front of them to enforce, rather they will have the proposed [DV-109] which just states that something was granted and another hearing is in the future. Law enforcement will not be able to arrest without these orders, which could result in further incidents of abuse, or an inability to arrest where violations of orders have taken place. Additionally, unless all law enforcement agents are going to be notified of the changes, they too will be confused when [DV-110], which has always been the actual temporary order, is now just a hearing notification. If law enforcement cannot decipher an order, they will not enforce it, and this will not deter perpetrators from committing further acts of violence, as intended.</p> <p>Self represented litigants, and specifically victims of domestic violence, are often feeling overburdened and beat down by the system. For them to complete all of the necessary steps to</p> | <p>The second concern is ameliorated by keeping the temporary restraining order as form DV-110. Furthermore, the orders are entered into California’s statewide restraining order registry so that law enforcement does not need to rely on papers presented by parties. Form DV-109, <i>Notice of Court Hearing</i>, will be stapled to the <i>Temporary Restraining Order</i> (if granted). Therefore the danger of document misplacement should not be any greater than with other stapled documents.</p> <p>The benefit of the proposed two-form system is that the potential for confusion when the court denies some or all temporary orders pending the hearing is expected to be reduced. When the court denies all requests for temporary orders pending a hearing, no temporary restraining order will be attached. Furthermore, if the court grants some or all requested orders, the court will complete form DV-110, therefore reducing or eliminating the confusion of cross-outs on the form.</p> |
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Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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|    |   |    | obtain their protective orders is often difficult enough. Any steps we can take to make this process as easy on them as possible, will encourage future protection, enforcement of orders, and in the end, hopefully prevent further incidents of abuse. Any additional forms that could confuse protected parties will have the opposite effect that the orders exist for. The proposed changes are all important for both parties in TRO cases, however, keeping DV-110 as both the order and the notice will reduce the burden to self represented litigants and prevent unneeded confusion.   |                       |
| 8. | Carla Khal<br>Family Law Facilitator<br>Superior Court of Tulare County | AM | <p>The proposed use of [DV-109 and DV-110] is a good idea. This should eliminate the confusion that often exists as to whether or not temporary orders have been issued. Requiring courts to complete Items 4 through 17 on [DV-110] will be very unpopular with Bench Officers and clerks. However, it is the best way to eliminate further confusion over which orders are in effect.</p> <p>I'm not sure how often DV-112 will actually be used. Petitioners will probably do what is common now if they don't want to proceed with a hearing—just don't show up. Overall, I think these changes will be effective in reducing confusion in the DV application and hearing process—most importantly making certain all</p> | No response required. |

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|     |  |    | applicants get an opportunity to be heard.  |   |
| 9.  | Hon. Roger L. Lund<br>Commissioner<br>Superior Court of Ventura County | N  | I like the existing forms a lot. I do, however, agree with the “alternative approach” to amend item 5 of current DV-110 (TRO) (Form DV-110 as revised July 1, 2009) to include a check box and blank lines for reasons of denial. In practice, I would probably just type/write “See Exhibit A”, to which I would attach a form with pre-printed reasons for denial boxes due to time constraints in my high volume calendar.   | DV-110<br>On balance, it is preferable to have a separate <i>Notice of Court Hearing</i> , particularly for those circumstances in which the court denies all of the requested orders. In that case, the court will not issue the <i>Temporary Restraining Order</i> at all, therefore eliminating the confusion of cross-outs throughout the form. |
| 10. | Michel & Associates, PC<br>Joseph A. Silvosio, III<br>Long Beach       | AM | [DV-109] “ <i>Notice of Court Hearing</i> ,” Items 3 and 4 of that form. We agree to the proposed changes if modified as specified below.<br><br>Our firm represents the California Rifle and Pistol Association and the National Rifle Association of America, Inc.<br><br>Our office receives dozens of calls a year from individuals who have been served with temporary restraining orders, or whom are subject to restraining orders after hearings. Naturally, these individuals are concerned about their ability to own and possess firearms following the issuance of these orders, and have questions on how to dispose of their firearms, even after being provided with paperwork on the restriction and relinquishment process. In some instances, these individuals have hundreds | [DV-109]<br><br>The form reflects California law. The commentator appears to be directed to the firearm relinquishment legislation, not the forms.  |

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|  |  | <p>of firearms which state law requires them to turn in to law enforcement or sell within 24 hours after notice of the protective order. In a few incidents individuals have suffered loss or denial of employment (typically in law enforcement and security fields) as result of the firearm restriction.</p> <p><b>PROPOSED CHANGES</b></p> <p>Our proposed changed to DV-110 will inform the respondent of the immediate or possible restrictions from owning and possessing firearms depending on whether the TRO has been issued or a hearing for a denied TRO is pending.</p> <p><b>Item 3</b><br/>Current Item 3 should be amended to read as follows (proposed changes are <u>underlined</u>):</p> <p>To the person in 2: If you want to respond to the request, file Form DV-120, <i>Answer to Temporary Restraining Order</i>. Then go to the hearing and tell the court why you agree or disagree with the orders requested. You may bring witnesses and other evidence. <b>If you do not go to this hearing, the court may make restraining orders against you that could last up to 5 years. The judge may also make</b></p> | <p>Item 3: Agree to include warning about possibility of court order for relinquishment or sale of firearms.</p> |
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|  |  | <p><b>other orders about your children, child support, spousal support, money, and property.</b><br/><b><u>NOTICE: The issuance of a Protective Order (either a Temporary or Permanent Restraining Order) will prohibit you from owning and possessing firearms under state and possibly federal law.</u></b></p> <p><b>Item 4</b></p> <p>Item 4b may cause confusion because the subsection is not entirely clear why a hearing is required when the temporary restraining order was “denied.” Perhaps a clearer statement would be as follows (proposed changes are <u>underlined</u>):</p> <p>b. Temporary restraining orders are <b>DENIED</b> for the reasons stated below. <u>A hearing has been requested by the person in 1 for the court to reconsider the denial of the temporary restraining order.</u></p> <p>We, on behalf of our clients, and those who possess firearms for protection, sporting, and employment purposes, request that the loss of firearm rights be given obvious notice on the forms informing a respondent of his or her loss, or threatened loss of firearm rights.</p> | <p>Item 4: The petition on form DV-100 includes: (1) a petition for temporary orders pending a court hearing, and (2) a request for orders after a hearing. The court’s denial of temporary orders pending a hearing is separate from the court’s consideration of the requests at the noticed hearing. Therefore, the proposed language is not necessary.</p> |
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Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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| 11. | <p>Neighborhood Legal Services<br/>Diane Trunk<br/>Staff Attorney<br/>Pacoima</p> | AM | <p><b><u>Form [DV-109] Notice of Court Hearing</u></b></p> <p><b>Responses to Specific Committee Questions re [DV-109] Notice of Court Hearing</b></p> <p><u>1. Elimination of blank lines:</u> Please add the blank lines back. The large blank space is confusing and places unnecessary emphasis on the attorney’s name. An attorney can insert their name, number, firm and address in 3 or 4 single-spaced lines, especially since an attorney’s forms are most often type-written. The text at the bottom of the form – giving important information to the litigant – seems too dense. Better to use that extra space formatting the information at the bottom of the page to make it more easily read by litigants.</p> <p><u>2. Alignment of text re “Service of Documents and Time for Service”:</u> The previous side-by-side alignment was clear. Litigants who were looking for those dates could find them relatively easily. However, with all the new information added to this section of the form, it appears that the horizontal alignment of these paragraphs would no longer work. Therefore, we approve of the new horizontal alignment.</p> <p><u>3. Location of “Service must be completed . . .” text:</u> In the proposed form, this text is very hard to locate. It does not clearly stand out after the list of check boxes. We suggest stating this information at the beginning of the information to each party. Our proposed draft of Item 5 is</p> | <p><b>[DV-109]</b></p> <p>1. Agree to include preprinted lines for attorney information</p> <p>2. No response is required.</p> <p>3. Agree to move the “Service must be completed by...” to the beginning of the paragraph. Agree to revise the second sentence of the text under item 3 to state: “Whether or not you file a written response, go to the hearing and tell the court...”</p> |
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|  |  | <p>below.</p> <p><b>Other Comments:</b></p> <p>4. We wrote another draft of the proposed [DV-109] Item 3 Notice of Court Hearing as the proposed form did not inform respondents that they have the right <u>not</u> to prepare a written response [See, <i>Ross v Figueroa</i> (2006) 139 Cal.App.4<sup>th</sup> 856, 865, “Nothing in the notice or in the procedural sections of the code suggests the responding party in one of these protective order cases is not free to challenge the issuance of a permanent order entirely through oral testimony at the hearing itself.”]. Like the Court in <i>Ross</i>, we think the “if you want to” language to be uncertain:</p> <p>Here is our proposed language:</p> <p><b>To the person in 2:</b> You are not required to file a written response. However if you choose to respond in writing, use form DV-120 Answer to Temporary Restraining Order. Whether you make written response or not, go to the hearing and tell the court why you disagree with the request. You may bring witnesses and other evidence. <b>If you do not go to the hearing, the court may make restraining orders against you that could last up to 5 years. The court may also make other orders about your children, child support, spousal support,</b></p> | <p>4. Agree to revise the notice to respondent to include: “Whether or not you file a written response...”</p> |
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Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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|  |  | <p><b>money and property.</b></p> <p>5. We wrote another draft of the proposed [DV-109] Item 4 to address the following problems with this portion of the Committee’s proposed form.</p> <p>(a) this section refers to restraining orders – plural – however the other DV forms refer to the order – singular;</p> <p>(b) the “(check a or b, but not both)” language is directed toward the court. We believe that instructions for the court are not necessary on judicial council forms;</p> <p>(c) the information about serving the [DV-110 and DV-109], when information regarding required forms to serve is already stated in Item 5 of this form; and</p> <p>(d) if the court were to deny a TRO, the court should use a denial of restraining order form, similar to the form proposed in Winter 2009 (but, see our comments to the Winter forms regarding checkboxes and reasons for denial of a hearing). Just as in a non-DV request for ex parte relief and OSC, if an ex parte request for a temporary restraining order is denied, the respondent is not required to receive notice of the reasons for the denial. We strongly believe that the Committee’s proposed form would create a dangerous situation for a petitioner.</p> | <p>5. (a) Agree to review the use of singular and plural. In some cases, the word order should be singular and in some cases it should be plural.</p> <p>(b) Agree to delete.</p> <p>(c) Agree to delete.</p> <p>(d) In fairness, judicial communication with one party should be provided to the other party. Family Code section 6320.5 states that “[a]n order denying a petition for an ex parte order...shall include the reasons for denying the petition.” This is specific to the Domestic Violence Prevention Act.</p> |
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|  |  | <p>Even though denial of the TRO does not necessarily reflect the merits of a petitioner’s ultimate request, we can easily envision a batterer/respondent using the reasons for the judge’s denial as a means to intimidate the petitioner. Moreover, we believe that a domestic violence victim would opt out of serving the respondent with the forms (and therefore, going through with their hearing) if the notice of hearing had the reasons for denial of the TRO. If the committee wishes to have the Notice of Hearing form make clear to the respondent that no temporary orders are in effect, we propose the more “neutral” language set forth below. We also believe this language is consistent with non-domestic violence family law practice, where a court order denying ex parte relief and setting an OSC hearing does not state the reasons for denial.</p> <p>Here is our proposed language:</p> <p><b>Temporary Restraining Order</b></p> <p><input type="checkbox"/> The temporary restraining order has been made on Form [DV-110] Temporary Restraining Order.</p> <p><input type="checkbox"/> The court did not make a temporary restraining order.</p> <p>6. We created another draft of the proposed</p> | <p>6. The court is required to complete this section;</p> |
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|  |  | <p>[DV-109] Item 5 Service of Documents and Time for Service – for Both Parties to address the following problems with this portion of the Committee’s proposed form: (a) the checklist of documents to be served required service of certain documents which is not required by law, like DV-250 and DV-540 INFO; (b) the checklist was incomplete in that it did not include documents that are often part of a restraining order application, like DV-101 and DV-108; (c) in order to prevent against a long and confusing list of checkboxes, we consolidated related forms on the same line; (d) the information given did not include important information about a petitioner’s rights, such as, five free copies of the court order and the right to request a re-issuance if service cannot be timely completed; and (e) the format of information given to the person in 2 was not in the same format as the information given to the person in 1.</p> <p>Here is our proposed language:</p> <p style="text-align: center;"><b><u>To the Person in: 1</u></b></p> <ul style="list-style-type: none"><li>● The court clerk will make you 5 free copies of the court order [Fam. Code §6387].</li><li>● <b>At least _____ days before the hearing, someone 18 or older – not you or anyone else to be protected – must personally give (“serve”) a clerk’s copy of the court orders [Forms DV-109 and DV-110] to the person in 2 along with a copy of all the forms checked</b></li></ul> | <p>therefore the suggestion for a detailed list of potential forms that might or might not be included would be cumbersome for the court. Instead, the text is revised to indicate that service of the petition and applicable attachments (which are referenced in the petition itself) is required. Similarly, service of the temporary restraining order and applicable attachments (which are referenced in the order itself) is an option, to be checked if the court issues a temporary order.</p> <p>Agree to move the date of service of process up to the beginning of the first paragraph. Information about the 5 copies is already provided on information sheets.</p> <p>The suggested text for the reissuance is already provided on form DV-126-INFO.</p> |
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|  |  | <p><b>below:</b></p> <ul style="list-style-type: none"><li><input type="checkbox"/> Your Form DV-100 Request for Order and <input type="checkbox"/> Form DV-101 Description of Abuse</li><li><input type="checkbox"/> Your Form DV-105 Child Custody, Visitation and Support Request <u>and</u> <input type="checkbox"/> Form DV-108 Request for No Travel Order</li><li><input type="checkbox"/> Your Form FL-150 <u>or</u> <input type="checkbox"/> Form FL-155</li><li><input type="checkbox"/> Form DV-120 Answer to Temporary Restraining Order (blank) [this box to have a pre-printed checkmark]</li><li><input type="checkbox"/> Form FL-155 (blank) <u>or</u> <input type="checkbox"/> blank Form FL-150 (blank)</li></ul> <p>● The court cannot make the restraining orders after hearing unless the person in 2 has been given (“served”) a copy of your requests and any temporary orders. To show that the person in 2 has been served, the person who served the forms must fill out a proof of service form. They may use Form DV-200 Proof of Service (in Person).</p> <p>● <b>If you are unable to serve the person in 2 in time</b>, you may come to your hearing and ask for more time to serve. The court can extend the time of your temporary orders (“reissue”) and give you more time to serve. If you do not go to your hearing, the court cannot give you more time.</p> <p>● For information about service, read form DV-210 INFO, What is “Proof of Service”?</p> <p style="text-align: center;"><b><u>To the Person in: 2</u></b></p> |  |
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Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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|  |  | <ul style="list-style-type: none"><li>● If you want to respond in writing, someone 18 or older – not you – can mail a copy of your DV-120 to the person in 1 at least _____ days before the hearing.</li><li>● To show that the person in 1 has been served by mail, the person who mailed the forms must fill out a proof of service form. They may use Form DV-250 Proof of Service (by Mail). Bring this form with you to the court hearing.</li><li>● For information about responding to a restraining order, read Form DV-540 INFO Information for the Restrained Person.</li></ul> <p>7. Regarding DV-110 Page 3: We encourage the Committee to use a denial of TRO form rather than combine forms with two different purposes. While we appreciate the value of fewer forms, we believe that clarity of information and simplified procedure for the litigant is a more important goal. A denial of TRO form has these benefits: it gives notice to the petitioner that there was no protection in place</p> <p>Moreover, a denial of hearing form does not result in more forms for the <u>litigant</u> to prepare. It would be a form for the court to prepare – instead or in addition to a minute order. The court already expects to prepare a form (e.g., a minute order) when it makes an order. A denial of hearing form provides the court with a simple form on which to state the reasons for denial of the TRO, while at the same</p> | <p>7. A separate denial form might be overlooked. The form informs the parties and law enforcement whether or not the orders have been granted.</p> |
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|  |  | <p>time clearly proving the petitioner with information about the petitioner's options. Finally, the important information stated on the Committee's proposed form would likely be overlooked by a petitioner, as it is pushed back to the third page of the form. The petitioner would be more likely to see this information when it is on a form which specifically addresses the issue of denial.</p> <p>Therefore, we request that the Committee create a new denial of hearing form and use the information on DV-110 Page 3 on that form.</p> <p><b><u>Form [DV-110] Temporary Restraining Order (CLETS)</u></b></p> <p><u>Issues on which the Committee specifically seeks comment:</u></p> <p>8. Re: the Court filling out pages 2 and 3 of the form: One of the benefits to the litigant preparing their own proposed order is that the litigant is able to ensure that no box gets missed. This is more clearly a benefit when the litigant has trained assistance with the DV forms. Many litigants prepare their forms with no legal assistance, and often fail to prepare their proposed forms properly, if at all. With the current proposed forms, we believe that the court will have more paperwork to prepare. But we believe that the proposed granted/not granted checkboxes will make it easier for the court to analyze each request without missing boxes, and without crossing out a proposed</p> | <p><b>[DV-110]</b></p> <p>8. On balance, it is clearer for law enforcement and the parties for the court to complete the order. Cross-outs can be confusing for law enforcement and the parties because they cannot be sure who initiated the cross-out.</p> |
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|  |  | <p>order when it denies part of a petitioner’s request. Therefore, we approve of the court preparing this form.</p> <p>9. Re: Whether Petitioner’s address and attorney information should be eliminated from the form as it is on the [DV-109] Notice of Hearing. The petitioner’s address and attorney information is on every form required for a DVRO application. We see no advantage to taking this information off the proposed [DV-110]. Therefore, we suggest that the Committee leave the petitioner’s information on the [DV-110].</p> <p><u>Comments on Additional Changes:</u></p> <p>10. Home and work addresses: We do not feel this information is necessary on this form. Often, this information is not known, at least at the time of the request. Moreover, this information is already requested in the DV-260 CLETS information form. Therefore, we recommend that the Committee remove these provisions from the form.</p> <p>11. Sex of protected persons: This information is also requested on the DV-260. Therefore, we feel this information is not necessary on the [DV-110].</p> <p>12. The Committee’s addition of the delineation between primary and additional</p> | <p>9. No response is required.</p> <p>10. This information had to be removed to provide space for the expiration date.</p> <p>11. This information is helpful for law enforcement in those cases where the petitioner did not complete form DV-260. In addition, it will expedite the court’s review and ensure that if they court denies an order to protect an additional person by crossing off a name, the court’s order is clear.</p> <p>12. Agree to clarify the text to more closely match the text on the form currently in use.</p> |
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|  |  | <p>protected persons would be helpful to clarify a portion of the order that was unclear in the previous forms. We suggest that the same type of option be applied to Item 5, clarifying whether the court intends to restrain the person in 2 from the home, and any job, school or vehicle of any additional protected persons. Below are two suggested formats which incorporate this suggestion:</p> <p style="padding-left: 40px;">Home of the person(s) in: <input type="checkbox"/>1 and <input type="checkbox"/>3<br/>         Job of the person(s) in: <input type="checkbox"/>1 and <input type="checkbox"/>3<br/>         -or-<br/>         Home of: <input type="checkbox"/>the person in 1 and <input type="checkbox"/>the person(s) in 3<br/>         Vehicle of: <input type="checkbox"/> the person in 1 and <input type="checkbox"/>the person(s) in 3</p> <p>13. Addition of check boxes indicating whether the TRO was granted, not granted, or not requested: We believe that this addition could result in the order being clearer, as it would minimize the need for cross-outs on a litigant-prepared proposed order. Therefore, we approve of the use of these check boxes.</p> <p><u>Other Suggestions:</u></p> <p><u>14. Page 1</u></p> <p>- Item 2: "Description of that person:" is unclear. Based on what we see of self-represented litigants using the DV court forms, we feel litigants may not be sure who "that person" is. Confused litigants may insert their own information. Use of the phrase,</p> | <p>Should the court want to include a car, home, or other place of additional protected person, the court may so indicate in the "other" section.</p> <p>13. No response is required.</p> <p>14. Item 2: Agree to revise directive as suggested.</p> |
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|  |  | <p>“Description of the Restrained Person” would be clearer.</p> <ul style="list-style-type: none"><li>- Item 3: (a) “temporary orders” should be “temporary order” to be consistent. (b) Regarding additional protected persons, we think the following language would be clearer, “List the other protected persons on a separate page. Write “DV-100, Item 3 – Additional Protected Persons” on the top of that page.”</li><li>- The Committee has removed the information in Spanish from this form. We believe that any bi-lingual information that could be included on the form is helpful to the parties to the restraining order. Therefore, we recommend including the information in Spanish.</li></ul> <p><u>15. Page 2</u></p> <ul style="list-style-type: none"><li>- Instead of “Court will complete the rest of this form,” add an article. It should be: “The Court will complete . . .”</li><li>- The new language in the top portion of Page 2 is directed toward the restrained person, e.g., “If you do not obey these orders . . .” If that is the intention of the Committee, then the heading to that paragraph should be “To the Person in 2.”</li><li>- Instead of, “The court has made the temporary orders granted below,” it is clearer to say, “The court has made the orders checked below.” Also, drafting the next sentences as follows, “If you do not obey these orders, you can be</li></ul> | <p>Item 3: The title of the form is singular because it is a court order, but the court may make many specific orders on the document. Therefore, it is accurate to use the plural in this instance.</p> <p>Agree to revise the directive at the bottom of item 3 as suggested.</p> <p>Unfortunately, there is no longer room on the form for detailed translation into Spanish. The form will be translated into Spanish as an information sheet.</p> <p>15. Agree to add the word “the” as suggested.<br/>Agree to other revisions as suggested.</p> |
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|  |  | <p>arrested and charged with a crime. You may also have to go to jail . . .” eliminates beginning a sentence with “And.”</p> <p>- Item 4.b. Contact: We suggest adding “text messages” to the list of examples. Some of the judges in the courts where we operate have requested that we type in text messages next to that section.</p> <p>- Item 5: The Committee has added a new box regarding “brief and peaceful contact” which is confusing. “Contact” is addressed in Item 4.b. First, the current placement of this provision looks as if it is a subsection of Item 5.e. “vehicle.” Second, if the Committee intends this box to be used when the court wishes to create an exception to the stay away order when it conflicts with a custody and visitation order, we feel the current provision does not reflect that intention. Therefore, we recommend removing this provision.</p> <p>16. Page 4</p> <p>- Much of the information here is duplicative of information given by the DV-540-INFO Information for Restrained Person. Moreover, this section does not inform the Respondent that they have a right to appear and present their case without preparing a DV-120. Therefore, we recommend removing or modifying this section.</p> <p>- There is a typo in the 4<sup>th</sup> paragraph of “After</p> | <p>Item 4b: The existing text ordering the restrained person not to “send messages” is sufficient to encompass text messaging.</p> <p>Item 5: Agree to add a letter before the exception to the stay away order. The addition of the exception is intended to alleviate confusion about whether a restrained person is allowed, for example, to park outside the protected person’s home if specified in the court’s order for exchange of children.</p> <p>16. Agree to eliminate the text that is duplicated on form DV-540-INFO, <i>Information for the Restrained Person</i>.</p> <p>Agree to correct typographical error.</p> |
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|  |  | <p>You Have Been Served . . .” line 3: “Proof” should be “Proof.”</p> <p>17. Page 5</p> <p>- The instructions re spousal support state that a petitioner can file a FL-155 in support of a spousal support request. According to the instructions on the FL-155, an FL-155 cannot be used in a request for spousal support. Therefore, we recommend removing the erroneous portion of this instruction.</p> <p><b><u>Form DV-112 Waiver of Hearing on Denied Request for Temporary Restraining Order</u></b></p> <p><b>18. Response Proposal re DV-112 Waiver of Hearing on Denied Request for Temporary Restraining Order</b></p> <p>We ask that the Committee not use this form. This “optional” form would be confusing to self-represented litigants. This form does not result in a clearer process for the litigants or the court, and in fact could place domestic violence victims in danger. However, if the Committee chooses to use this form, these are our concerns:</p> <p>Submission of the form to the court: The proposal states that the petitioner can request to waive their hearing in writing and that they have the option of submitting the form the same day of the petition, or later. Giving the petitioner the option of filing the Waiver of Hearing at a later time could place the petitioner in danger. For</p> | <p>17. Agree to correct error.</p> <p><b>DV-112</b></p> <p>18. Allowing the form to be used either on the day the petitioner’s request for orders is denied or on a later date will allow the petitioner to seek legal advice and counseling before making a decision. Furthermore, the commentator presents no legal authority for requiring a litigant to waive a hearing within specified period of time before the hearing.</p> |
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|  |  | <p>example, if the Respondent is informed that the Petitioner can request that their hearing to be waived, the Respondent may continue to harass and/or threaten the Petitioner until the Petitioner files the Waiver of Hearing, placing the petitioner in danger. This in turn may make the petitioner afraid of requesting another petition in the future.</p> <p>We prefer the option of waiving the noticed hearing and initialing a denial of TRO form on the same day as the petition is requested only and NOT at a later time. If the petitioner decides to waive their hearing the day they request the petition then they can sign the form so that it can be placed in their file. If the petitioner chooses to waive their hearing later, the petitioner can waive as they do currently – by not attending the hearing.</p> <p><u>19. Text, “If the moving papers have been served on respondent...”</u> This text is confusing. The text mentions that, if the respondent filed a response, the court may hear the case even if the petitioner files the request to waive their hearing. As an example, the Committee mentions that the court has authority to hear the respondent’s request for orders under Family Code §6305.</p> <p>§ 6305 allows the court to issue mutual protective orders <u>only</u> if both parties are present at the hearing. If the petitioner is not at the hearing, the court has no authority to issue a restraining order against the petitioner or conduct a hearing on petitioner’s case. (However, if respondent filed their own DVRO</p> | <p>19. The respondent could request restitution for out-of-pocket expenses pursuant to Family Code section 6342(a)(2), if the request is timeline filed and served. Family Code section 6320.5 does not define what is meant by the term “waive.” Without legislative guidance, it is not clear whether or not the waiver has the effect of a dismissal.</p> <p>Furthermore, the form is optional. A litigant may choose to waive the hearing by simply failing to attend it, as is often done now.</p> <p>It is not advisable to have a form that is issued by the court and then subject to modification by a litigant. Forms should either be</p> |
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|  |  | <p>request and that hearing was set for the same time and petitioner did not attend to answer respondent's petition, then petitioner would be in default on respondent's petition and the court could make orders independent of §6305). We suggest the removal of this text as it is confusing and gives the impression that the respondent can request orders against the petitioner without filing a restraining order and going through the process of serving the request and TRO on the petitioner.</p> <p>Moreover, we prefer that the petitioner not be required to file a waiver of hearing if they decide at a later time that they are not going to attend. It may be that the petitioner realizes that a restraining order is not in their safety plan at that time. The petitioner may be placed in danger if they are required to go to the court and file a waiver of hearing. Petitioners often waive their hearing by not attending. The court simply takes the matter off calendar. This process does not create any new forms and it does not create a confusing "optional" process that does not have any benefit for the litigant or the court. If the respondent felt that the petitioner was abusing the process through noticing repeated hearings without following through, respondent has pre-existing remedies for sanctions available through the Family Code and/or Code of Civil Procedure.</p> <p>We recognize that it may be beneficial to waive a hearing if the court denies a TRO. We suggest that the Committee use a denial of hearing form, similar to what was proposed in the Winter and include a waiver provision in</p> | <p>submitted by a litigant or issued by the court.</p> |
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|  |  | <p>that form. The waiver form would then be kept in the file as a record of the court’s reasons for denying a TRO and that the court offered a hearing but the petitioner waived.</p> <p><b><u>20. DV-125-Reissue Temporary Restraining Order</u></b></p> <p>We propose adding another check box to form DV-125 item 4-“I ask the Judge to reissue the order because...” so that it also states, “The other person asked for time to get a lawyer or prepare an answer or,” This statement is mentioned in the proposed DV-126 and so it would be easier for the litigant to check off this box as opposed to having to write the statement down in the “other.”</p> <p><b>Proposed Change for DV-125 item 4:</b></p> <p>I ask the court to reissue the order because:</p> <p>a. <input type="checkbox"/> I could not get the order served before the hearing date/<br/>b. <input type="checkbox"/> The date of the hearing was changed because we were sent to mediator or other court services.<br/>c. <input type="checkbox"/> The other person asked for time to get a lawyer or prepare an answer<br/>d. <input type="checkbox"/> Other (<i>specify</i>):</p> <hr/> <p><b><u>DV-126-INFO</u></b></p> <p>21. We propose eliminating form DV-126 INFO</p> | <p>20. DV-125</p> <p>This form is expected to undergo significant revision for January 1, 2011. The comment will be included for consideration when the form is next revised.</p> <p><b>DV-126-INFO</b></p> <p>21. This suggestion would need to be circulated</p> |
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|  |  | <p>and simply adding a second page (back side) to the DV-125 with a bold title stating “Information Sheet for Reissuing a Temporary Restraining Order”<br/>We created another draft of the first 2 paragraphs of this form in order to simplify the language for self-represented litigants. We also propose adding the information that the clerk is required to make 5 copies of the order for the litigant. Also, we propose removing the “ask the clerk to stamp ‘Filed’ on your copies.” As it is the clerk’s duty to file the court’s order without the litigant’s request.</p> <p>22. We modeled our proposed draft (and proposed elimination of the Form DV-126 INFO) on Page 2 of the Proof of Personal Service Form FL-330. In addition to simplifying the language in the forms, we added information on how the litigant should fill out the form DV-125. Adding a page two is a simpler method of giving the information to the self-represented litigant. We believe typically the clerk hands a DV-125 to a litigant without much explanation. With the information on the reverse side, the clerk can simply inform the litigant to look at the back, rather than have to hand the litigant an extra “information” form.</p> <p><b>Proposed draft:</b></p> <p><b><u>INFORMATION SHEET FOR REISSUING A TEMPORARY RESTRAINING ORDER</u></b></p> <p>It is likely that the court may need to set your</p> | <p>for public comment. Form DV-125 is expected to undergo significant revision for January 1, 2011. The comment will be included for consideration when the form is next revised.</p> <p>Agree to remove text requiring the litigant to ask the clerk to file stamp the copies.</p> <p>22. This form is expected to undergo significant revision for January 1, 2011. The comment will be included for consideration when the form is next revised.</p> |
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|  |  | <p>hearing for another day. If that happens then you need to complete the <i>Reissue Temporary Restraining Order</i> (Form DV-125).</p> <p><b>The court may need to set your hearing for another day when:</b></p> <ul style="list-style-type: none"><li>● You did not serve the other person in time; or</li><li>● The other person asked for more time to get a lawyer or prepare an answer; or</li><li>● You need to meet with a family court mediator about child custody and/or visitation or other family court services; or</li><li>● The court has another reason to set the hearing for a different day.</li></ul> <p><b>If the court gives you new hearing date, follow these steps:</b></p> <ul style="list-style-type: none"><li>● Fill out Form DV-125 Reissue Temporary Restraining Order<ol style="list-style-type: none"><li>1. Print your name and address here. You can add a mailing address. If you are keeping your address a secret then write “confidential.”</li><li>2. Write the Restrained Person’s information here.</li><li>3 a. Write the day of the last hearing.</li><li>b. Write how many times the order has been reissued before.</li><li>4. Check the box with the reason why your order is being reissued.</li><li>5. Print your name, fill in the date and sign the form.</li></ol></li><li>● Give Form DV-125 to the court to sign and</li></ul> |  |
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|  |  | <p>make a new hearing date. In some courts, you must give your form to the clerk for the judge to sign. Ask the court clerk for information.</p> <ul style="list-style-type: none"><li>• Your temporary restraining order will last until the new hearing date.</li><li>• The clerk will file the Form DV-125 and make 5 copies for you.</li><li>• Attach one of the clerk’s copies of the DV-125 to your other restraining order papers (for example, Forms DV-100, [DV-109 and [DV-110]0.</li><li>• Before the new hearing date, someone 18 or older – not you or anyone else to be protected – must personally give (“serve”) these forms to the person in 2.</li><li>• The clerk will send your temporary restraining order to law enforcement or CLETS for you. CLETS is a statewide computer system that lets law enforcement know about your order.</li><li>• Bring all your papers to the next court hearing</li></ul> <p><i>If you need additional assistance with this form, ask the court clerk or contact the National Domestic Violence Hotline.</i></p> <p><b><u>23. Form DV-510 INFO I Filled Out the Forms – What Now?</u></b></p> <p>Item 2: The sentence, “Check to see if the judge made any changes” is unclear. We prefer, “If the judge made a temporary restraining order, check it carefully to see what orders the judge made. The judge might not order everything you requested.”</p> | <p>23. DV-510-INFO<br/>Agree to revise the text as suggested.</p> |
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| 12. | Orange County Bar Association<br>Michael F. Yoder<br>President | A  | * The commentator agrees with the proposed form.  | No response required.   |
| 13. | Gilbert Rodriguez<br>Fresno                                    | AM | Proposal submitted to the Judicial Council of California: request to amend the Domestic Violence Prevention Act Forms by adding the text that is contained in the square commas immediately beneath:<br><br>[CONFIRMATION OF SELF ADVISED: WITH REGARD TO PROSECUTORIAL RAMIFICATIONS Adopted January 1, 2010, Initials required_____: Be advised that the Judicial Council of California is aware of the consequences occurring from the chronic widespread fraudulent misuse and abuse of the Domestic Violence Prevention Act & Forms. Your signed initials confirm that you have been advised of the California Courts’ policy, practice and procedure consistent with the California Statute P.C. 134: the Court zealously pursues and prosecutes every person guilty of preparing any false or ante-dated book, paper, record, instrument in writing, or other matter or thing, with intent to produce it, or allow it to be produced for any fraudulent or deceitful purpose, as genuine or true, upon any trial, proceeding, or inquiry whatever, authorized by law, is guilty of a felony:____--Initials | The commentator does not indicate which form(s) are at issue. Further, the comment suggests that the court would be responsible for independently pursuing a criminal action. However, the district attorney or city attorney would typically be the entity responsible for pursuing criminal charges against a person. |

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Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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| 14. | <p>Julie Saffren<br/>Attorney<br/>Schlepphorst &amp; Emede</p> <p>Paula Cohen<br/>Attorney<br/>Legal Aid Foundation of Los Angeles</p> | AM | <p>The following comments are joint comments from myself and from Ms. Paula Cohen, senior attorney from Legal Aid Foundation of Los Angeles. Paula and I are both members of FLEXCOM (Family Law Executive Committee of the State Bar) but these comments are submitted in our individual capacities as DV practitioners.</p> <p>The new forms are extremely clear and we support the revisions, but with the following comments and concerns in addition:</p> <ul style="list-style-type: none"> <li>• The new form [DV-110] TRO uses a different heading than the existing form DV-130 OAH. [DV-110]’s heading is Temporary Restraining Order (CLETS) whereas DV-130’s heading is Order After Hearing (Order of Protection). Both orders are CLETS orders and both say CLETS at the bottom of their first page. We believe the headings should all be consistent and do not believe the new [DV-110] form should have this inconsistency;</li> <li>• [DV-110] (page 4) contains a typo (“proof”) in the fourth bullet of the new language;</li> <li>• [DV-109] contains typos on page 2. It states <i>Form FL-155, Financial Statement (simplified), with a blank Form Fl-155.</i> Simplified is spelled incorrectly and the “L” in FL should be capitalized.</li> </ul> | <ul style="list-style-type: none"> <li>• It could be confusing to have two forms with the same title.</li> <li>• Agree to correct typographical errors as noted.</li> </ul> |

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|  |  | <p>Finally, we are concerned the new forms no longer appear to provide litigants the information sheet DV-116-INFO <i>My Request for Temporary Orders was Denied—What do I do?</i> Proposed form DV-116-INFO was a component of the Winter revision and appears to have been deleted from the Spring version without explanation. This was a really good information sheet and in our opinion was critical to the issue that the new forms are designed to address, for the following reasons:</p> <ul style="list-style-type: none"><li>• A DV victim whose request for a TRO was denied but who obtains a hearing date and wishes to obtain temporary orders at the hearing will need a lot of information in order to present their case to potentially obtain orders at the hearing stage.</li><li>• <u>Nakamura</u> ensures access to a hearing in the face of denial of temporary orders. But access must be meaningful, and that means the litigant needs adequate information about the process ahead of them. The process of conducting a hearing on a denied TRO is challenging for an attorney, let alone an unrepresented litigant who may or may not speak or write in English;</li><li>• Courts routinely offer people an information sheet on how to prepare for the hearing on a granted TRO, such as DV-520-INFO for protected persons and DV-550-INFO for restrained persons. As a matter of fairness, an appropriate information sheet should be</li></ul> | <ul style="list-style-type: none"><li>• A separate information sheet might be overlooked by the petitioner. The most important information that was provided on form DV-116-INFO (which was circulated in the winter 2009 forms cycle) was incorporated into the <i>Notice of Court Hearing</i>, (form DV-109) Additional information is provided on form DV-112, <i>Waiver of Hearing on Denied Request for Temporary Restraining Order</i>. Much of the information that was on form DV-116-INFO is no longer applicable because that information sheet was drafted to accompany form DV-115, <i>Denial of Request for Temporary Restraining Order</i>. That form was also circulated in winter 2009 but was not recirculated in the special cycle of 2009 because it was incorporated into the <i>Notice of Court Hearing</i>, form DV-109 (numbered DV-110 in the Invitation to Comment, SP05-09).</li><li>• There are a variety of reasons that the court may deny a requested order. DV-500-INFO, <i>How Can a Domestic Violence Restraining Order Help Me?</i> provides information about the definition of abuse and the ability to submit additional witness statements, among other things. Form DV-500-INFO was not included in the Invitation to Comment. It is expected to be revised for January 1, 2011. The suggestions</li></ul> |
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|  |  |  | <p>provided for the litigant who is preparing for a hearing on a denied TRO. DV-116-INFO had a great deal of good information about the definition of abuse, the requirement for specificity and the potential for a supplemental declaration, for example;</p> <ul style="list-style-type: none"><li>• The information provided on page 3 of new form [DV-109] is very comprehensive about how to waive or cancel the hearing but is not equally comprehensive about how to go forward with the hearing as an opportunity to obtain orders. Also, the information about waiving the hearing is somewhat confusing. It would be better to clarify that language, perhaps as follows: <i>Some people believe that they would be unsafe if they were required to serve papers on the other party that contain no temporary orders. If you believe you would be unsafe without temporary orders, you may cancel the hearing date and you are not required to serve the papers on the other party. You may re-file your request for orders at a later time if you wish. But if you want the opportunity to obtain temporary orders at the hearing, you must serve the papers and you must appear at the hearing and give the judge reasons in person why your request for orders should be granted. Form DV-116-INFO My Restraining Order Was Denied—Now What</i></li></ul> | <p>regarding a more specific definition of abuse and the possibility of submitting additional declarations will be considered when the form is next revised.</p> <ul style="list-style-type: none"><li>• Agree to clarify language that if the petitioner waives the hearing, he or she should not serve the papers on the respondent.</li></ul> |
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|     |   |    | <p><i>Do I DO can provide you additional information.</i></p> <p>DV-126 (Information on DV Reissuance) states the clerk will make five copies of the reissuance. That is the practice in my county (Santa Clara) but not the practice in Paula’s county (Los Angeles). If making five copies is a statutory requirement, not all counties may follow it.</p>  | <p>DV-126-INFO</p> <p>Family Code section 6387 states that the court shall “...provide to a petitioner, without cost, five certified, stamped, and endorsed copies...” of any order issued under Part 4 of the Domestic Violence Prevention Act (emphasis added). The statement in the information sheet cannot be revised unless the statute is revised.</p>      |
| 15. | Hon. Julia L. Scrogin<br>Judge<br>Superior Court of Yuba County                           | N  | <p>I do not want to see a change in the DV restraining order forms, as they used to be one or two pages and now are a huge amount of paperwork.</p> <p>I reviewed the proposed forms, and they will impose a huge burden on the staff. As it is, I go through the temporary orders and clearly specify what is being ordered. It is not necessary to add the three options for each type of order that is possible. Our litigants have enough difficulty filling out these forms and expressing what they are requesting in the first place. Our staff has done a great job in making certain that the orders issued in DV cases are very clear. These forms are working, so please do not change them.</p> | <p>Forms to implement Family Code section 6320.5 are statutorily mandated.</p> <p>On balance, the inclusion of check boxes for Granted, Not Granted, and Not Requested will reduce the confusion caused by cross-outs. In addition, it is possible that the judicial time required to cross out a proposed order is equal to the time required to check a box.</p> |
| 16. | Superior Court of Kern County<br>Marisol C. Alcantar<br>Court Supervisor—Family Law Metro | AM | <p>Form [DV-109] Move/change the wording, "The Court will fill out the rest of this form." from its proposed location to "The Court will</p>  | <p>[DV-109]</p> <p>The advisement is intended to apply to items 3, 4, and 5, not just item 4. Agree to center the text so</p>  |

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|  |  | <p>fill out item 4." and locate next to heading of item 4. This will at least try to avoid submission without anything else that could possibly be filled out in advance by the party that would save the Court time.</p> <p>Form [DV-110]<br/>Additional Protected people: Relation would be helpful to list.<br/>Page Two: Delete the verbiage: "Court will complete the rest of this form" as parties tend to have this form completed in a proposed state which saves the Court time. Any change to the proposed order can be easily made. Item 5 (b-e): We may have some problems with the verbiage "That Person's. ." if not with litigants understanding, law enforcement may experience some problems as well especially if litigants write next to the verbiage itself. Within the same section, you may want to letter the "Brief and Peaceful Contact" clause for easy reference.</p> <p>Item 10: An additional line for writing would be helpful.</p> <p>Form DV-112: Agree with the proposed form. However, given the nature of these actions and the fact that anyone can potentially file this form, perhaps some type of requirement to confirm the identity of the protected party should be considered.</p> <p>Form DV-125: Agree with proposed changes.</p> | <p>it does not appear directly below one of the item numbers.</p> <p>[DV-110]</p> <ul style="list-style-type: none"> <li>● Agree to include relationship in the item.</li> <li>● Page two: On balance, it is clearer for law enforcement and the parties for the court to complete the order. Cross-outs can be confusing for law enforcement and the parties because they cannot be sure who initiated the cross-out.</li> <li>● Agree to revise item 5 to replace the confusing wording.</li> <li>● Agree to separately letter the peaceful contact exemption.</li> </ul> <ul style="list-style-type: none"> <li>● Agree to add another line in item 10.</li> </ul> <p>DV-112<br/>Courts currently have procedures in place to confirm identity when a litigant files a motion to terminate an existing restraining order. The form is optional; courts may continue to use their existing procedures.</p> <p>DV-125<br/>No response is required.</p> |
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|     |                                      |   | <p>Form DV-126-Info: Under the section indicating the clerk will make "five copies" perhaps changing to "the necessary copies." The code does state five copies, however, parties can be confused and expect five copies themselves while the Court uses others for transmission to law enforcement.</p> <p>Form DV-130: Agree with proposed changes.</p> <p>Form DV-140: Agree with proposed changes.</p> <p>Form DV-200: Agree with proposed changes.</p> <p>Form DV-210-Info: Agree with proposed changes.</p> <p>Form DV-250: Information about not serving DV 110-125 by mail should be larger and in bold as this is a recurring issue with self-represented litigants.</p> <p>Form DV-510-Info: Agree with proposed changes.</p> <p>Form DV-540-Info: Agree with proposed changes.</p> | <p>DV-126-INFO<br/>Family Code section 6387 states that the court shall "...provide to a petitioner, without cost, five certified, stamped, and endorsed copies..." of any order issued under Part 4 of the Domestic Violence Prevention Act (emphasis added).</p> <p>DV-130, DV-140, DV-200, DV-210<br/>No response is required.</p> <p>DV-250<br/>Agree to increase size of the text and to change font to bold.</p> <p>DV-510, DV-540-INFO<br/>No response is required.</p> |
| 17. | Superior Court of Los Angeles County | N | <p><b><u>Form [DV-110]</u></b></p> <p>The proposed form is very confusing. – How does one mark whether each request is granted in whole or in part or denied in whole or in part?</p>   | <p>Form [DV-110]</p> <ul style="list-style-type: none"> <li>• If the judicial officer grants any part of a requested order, he or she will check the "Granted" box and check the appropriate sub-</li> </ul>   |

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|  |  |  | <p>Why is this proposal any clearer than crossing out or indicating that the court will consider granting it after a full hearing?</p> <p>#3 “Additional Protected Persons” - This should include what the relationship is between those persons and the Petitioner and the Respondent.</p> <p>#16 – Information re: C.P.O. – Why are 2 boxes necessary? If there is information, mark the box. If it is blank, then there is no information.</p> <p>Re: Pg. 4 of 5 “After you have been served with Restraining Order”</p> <p>Specifically, it states: “In addition to the response, you may file and serve declarations signed under oath by you and other persons who have personal knowledge of the facts.”</p> <p>It should also be made clear that the declarants must be present at the OSC so as to be cross-examined. In many courts, if the declarant is not present at the OSC, their declaration will not be admitted since it is not subject to cross-examination.</p> <p><b><u>Form DV-112</u></b><br/>Why is there a need for additional forms? Also, do not believe that the court could still hear the case, even if a Response was filed if the</p> | <p>boxes.</p> <ul style="list-style-type: none"><li>• On balance, it is clearer for litigants and law enforcement to see which orders are granted or not granted, rather than attempt to decipher cross-outs.</li><li>• Item 3: Agree to add relationship between the additional protected persons and the petitioner</li><li>• Item 16: Agree to clarify text in second box to indicate that the court has no knowledge of a criminal protective order.</li><li>• Page 4: Eliminate this information from the form because it is duplicated on the information sheet, form DV-540-INFO.</li><li>• Agree to add information to form DV-540-INFO as suggested.</li></ul> <p>DV-112<br/>The form is optional. It is possible that the court could hear a request by the respondent, if timely</p> |
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|     |   |    | <p>Petitioner waives a hearing.</p> <p><b>Form DV-540</b> – Info (pg. 2 of 3)</p> <p>It states that Respondent must file and mail witness statements at least 10 days before the hearing.</p> <p>In the vast majority of cases, this is impossible. The code only requires that the Respondent be served at least 5 days before the hearing, and that is the usual procedure.</p>  | <p>submitted, for attorney fees as restitution under Family Code section 6342(a)(2).</p> <p>DV-540-INFO</p> <p>Agree to revise provision to reflect Family Code section 243(g), which states that if witness affidavits are served on the petitioner at least two days before the hearing, the petitioner is not entitled to a continuance on account of the affidavits.</p> |
| 18. | Superior Court of Orange County<br>Linda Daeley<br>Family Law Manager | AM | <p>[DV-109]:</p> <p>Item 1:<br/>Providing lines for attorney information is consistent with all judicial council forms and keeps information neat when handwritten as the DV forms often are.</p> <p>Item 5:<br/>The vertical alignment is good. Suggest “Service must be completed at least...” be in a larger font.</p> <p>To Person Served With This Order section: wording should include instructions when there is too little time to mail, such as “if you miss the mailing date, bring your written response to court with you. The court will decide whether to consider it.”</p> | <p>[DV-109]</p> <p>Item 1: Agree to include preprinted lines for attorney contact information.</p> <p>Item 5:<br/>Agree to move “Service must be complete at least ___ days before the hearing” to the beginning of the sentence and change font to bold.<br/>Agree to add text to alert respondent to bring the written response to the court hearing.</p>                  |

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|  |  | <p>[DV-110]<br/>The petitioner’s address and attorney information should be included in item 1 as this is the form that is forwarded to law enforcement.</p> <p>Item 3: Suggest that the relationship of the additional protected persons also be required, including an indicator of children shared with the restrained person.</p> <p>Reviewing the proposals from a court operations perspective, the Alternative approach is preferred. The number of DV forms adds complexity to a process that should be as simple as possible. Persons seeking protection are overwhelmed by the process, an additional form only compounds their frustration.</p> <p>The proposal would have temporary orders reflected on form DV-111 instead of DV-110 (as they are currently) which could skew court statistics and cause confusion.</p> <p>The boxes indicating whether an order is granted, not granted, or not requested will be very helpful to law enforcement and the public.</p> <p>DV-112<br/>To the person in 1 section: Bullets are off</p> | <p>[DV-110]<br/>It is unclear why law enforcement would need the petitioner’s address or attorney information. That information is for the respondent and the court.</p> <p>Agree to add relationship of additional protected persons.</p> <p>The litigant will be required to complete fewer forms because the court will complete the temporary restraining order form.</p> <p>Agree to renumber the <i>Notice of Court Hearing</i> to be form DV-109, leaving the temporary restraining order as form DV-110.</p> <p>No response required.</p> <p>DV-112<br/>Agree to correct alignment.</p> |
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|  |  | <p>alignment.</p> <p>Fourth bullet:<br/>Should include some suggestions/ information as to how the other person should be notified of a canceled hearing. Is a phone call sufficient, or should it be in writing?</p> <p>DV-125<br/>Item 1:<br/>Lines are provided for attorney information, if lines are deleted on other forms [DV-109 and [DV-110] these should also be deleted. The forms should be consistent.</p> <p>DV-126 INFO<br/>If your hearing gets changed to another day, follow these steps section:</p> <p>Fourth bullet:<br/>The restrained person does not need to be served with all court papers if they were present</p> | <p>Family Code section 6320.5 did not provide guidance on the method for notification. The committee considered whether a time limit should be imposed on the petitioner’s ability to file the form but concluded that, in the absence of legal authority, the form should not impose additional restrictions on the petitioner. Clarification of new Family Code section 6320.5 by rule of court or statute would be helpful to address the specifics of petitioner’s right to waive the hearing.</p> <p>The committee will consider proposing a rule of court to address this concern.</p> <p>DV-125<br/>Lines for attorney information are now included on all forms.</p> <p>DV-126-INFO<br/>This form is expected to be significantly revised for January, 2011. This comment will be considered with other substantive comments when the form is next revised.</p> <p>Court practices vary widely; it’s possible that the</p> |
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|     |   |    | <p>in court. It might also include a suggestion that the protected person ask that the restrained person be served before leaving court.</p> <p>DV-140<br/>Item 4:<br/>Suggest that “a” be a section on its own. This line is often missed by judicial officers when completing an order and is the cause of many returns from the unit inputting orders into the CLETS system.</p>  | <p>reissuance is not completed before the respondent leaves court.</p> <p>DV-140<br/>Revisions to this form to conform with new form numbers are no longer necessary. Form DV-140 is expected to be significantly revised for January, 2011. This comment will be considered with other substantive comments when the form is next revised.</p>  |
| 19. | <p>Superior Court of Riverside County<br/>Family Law Forms Committee</p> <p>Coordinators<br/>Carrie Snuggs,<br/>Court Operations Director<br/>Ann Toria,<br/>Court Diversion Manager<br/>Naomi Gaines,<br/>Court Division Manager</p> | AM | <p>I do not favor splitting [DV-109] into different forms.</p> <p>Necessary information which the litigants need should be provided in a separate (not filed) “Information Packet.” This information should be provided to all parties, but not filed. The court files, electronic and paper, are filled with repetitive information which does not specifically relate to any case. This repetitive information costs money to duplicate, process, and file and it provides no useful information to the parties, judicial officers, or anyone else.</p> <p>I would favor including in [DV-109] the rejected reasons for denial.</p> <p>I agree with the proposed changes to [DV-109] #1, #2, and #3.</p> <p>I accept the proposed changes to [DV-109] (#1,</p> | <p>[DV-109]<br/>On balance, it is preferable to have a separate <i>Notice of Court Hearing</i>, particularly for those circumstances in which the court denies all of the requested orders. In that case, the court will not issue the <i>Temporary Restraining Order</i> at all, therefore eliminating the confusion of cross-outs throughout the form.</p> <p>There are limited situations that call for information on the form itself, not just on the information sheet. For example, service of process is a common area of confusion for parties; errors are common and cause confusion and delay. Another area that warrants information on the form is the procedure for a petitioner to follow</p> |

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|     |                                     |    | <p>#2, #3, #4 and #5).</p> <p>Repetitive information such as petitioner and attorney address should be eliminated.</p> <p>Item #1–DV-130 Line 7<br/>Item c refers to only the person listed in item 1. Since the stay away order includes persons listed in item 1 and 2, the stay away from home, job or vehicle should also include persons listed in items 1 and 2.</p> <p>Item #2–DV-130 Line 14<br/>The ammunition should be added in item #13 and include in item #29.</p> <p>Item #3–[DV-110] Page 2, Line 5<br/>The format and language on Line 5 of the [DV-110] and Line 7 of the DV-130 form should be consistent.</p> <p>[DV-110] refers to stay away orders for the petitioner and additional persons. However, Items b,c,d,e is not specific as to the protected party as indicated on form DV-130. Item 7 DV-130 says stay away from home, job and vehicle of person in Item 1. The DV-111 form should read the same. However, should include stay away from home, job, school, vehicle of additional protected persons as well.</p> | <p>when his or her requests for temporary orders are denied. Otherwise, it is agreed that most information is should be provided on information sheets, not the forms themselves.</p> <p>This information is included only where necessary for the parties, the courts, or law enforcement.</p> <p>DV-130</p> <ul style="list-style-type: none"> <li>• Item 7: Agree to conform item 7 on DV-130 with item 5 on DV-110. The court can include specific stay-away provisions for other protected people in the “other” box.</li> <li>• Family Code section 6389(c) requires relinquishment of firearms, not ammunition.</li> </ul> <p>[DV-110]<br/>Agree to conform item 7 on DV-130 with item 5 on DV-110.</p> <p>The court can include specific stay-away provisions for other protected people in the “other” box.</p> |
| 20. | Superior Court of Sacramento County | AM | <p>1. Page 2 of 3 on the notice of court hearing there is a typo – What Is “Proof</p>   | <p>1. Thank you. Typographical errors have been corrected.</p>   |

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|     | <p>Robert Turner<br/>Research and Evaluation Division</p> |    | <p>of Service?"</p> <ol style="list-style-type: none"> <li>2. Page 3 of 5 on the restraining order after hearing under Service (2) there are two typos/errors–Someone – not the people in named in (1) or (2) – must personally “serve” a copy of this order on the person in (3).</li> <li>3. On page 1 of 5 of the temporary restraining order suggest that the last checkbox use the word print instead of write.</li> <li>4. On page 2 of 5 of the temporary restraining order there is a typo in the first paragraph where a sentence starts with “and”– you can be arrested and charged with a crime. And you may have to go to jail.</li> <li>5. On page 4 of 5 on the temporary restraining order, last bullet on the page – even if you do not go to the hearing, the judge can make the restraining orders last for up to five years – this implies an order has been made. Where there are no temporary orders in effect, the judge may still issue a five-year restraining order at the hearing.</li> <li>6. On page 1 of 1 on the waiver of hearing on denied request for temporary restraining order – it is recommended that the form also clearly state that they will not receive a restraining order if they cancel the hearing.</li> </ol> | <ol style="list-style-type: none"> <li>2. Thank you. Typographical errors have been corrected.</li> <li>3. Agree.</li> <li>4. Thank you. Typographical errors have been corrected.</li> <li>5. The information for the respondent is eliminated as it is duplicated on the information sheet.</li> <li>6. Agree.</li> </ol> |
| 21. | Superior Court of San Diego County                        | AM | Form [DV-109] Notice of Court Hearing, item   | [DV-109]  |

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| <p>Michael M. Roddy<br/>Executive Officer</p> |  | <p>number 4</p> <p>Our court disagrees with eliminating the listing of checkboxes for common reasons that the court might give to deny temporary orders pending the hearing. Without checkboxes the judicial officer may inadvertently omit the reason for denial or the judicial officer's handwriting may not be legible. Use of the checkboxes will be more time efficient and ensure that the reasons are uniformly applied in accordance with the Family code. The last box would always be an "other" checkbox if the judicial officer chooses a different reason for denial. We suggest the following list from our already existing local form SDSC D-082 Order Denying Ex Parte Request for Domestic Violence TRO:</p> <p><b><u>REASONS                      TEMPORARY</u></b><br/><b><u>RESTRAINING                      ORDERS</u></b><br/><b><u>("TRO") WERE DENIED:</u></b></p> <p><input type="checkbox"/> Your request for temporary restraining orders does not reasonably prove, by legally admissible evidence, that the party to be restrained either:</p> <p>A. Intentionally or recklessly caused an injury or attempted to commit or committed a sexual assault; or</p> <p>B. Committed an act of abuse that created a reasonable apprehension of imminent serious bodily injury to the person(s) to be protected; or</p> <p>C. Engaged in behavior that has been or could be prohibited pursuant to Fam.</p> | <p>Based on comments from the majority of commentators, form DV-109 has been revised to include two check boxes with common reasons for denial of temporary orders and an additional box with blank lines to allow the court to elaborate on its reasons for denial or provide reasons not listed in the preprinted text.</p> |
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**SP09-05**

Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

All comments are verbatim unless indicated by an asterisk (\*).

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|  |  | <p>Code §6320, such as harassment (Code Civ. Proc. §527.6), stalking (Pen. Code §646.9), destruction of property or other abusive acts (Fam. Code §§6300, 6203).</p> <ul style="list-style-type: none"><li><input type="checkbox"/> Your Request for Order does not describe in sufficient detail the most recent incidents of abuse — such as what happened, when it happened, who did what to whom and a description of any injuries inflicted on you or the other persons to be protected, and any earlier acts of abuse. (Refer to paragraph 22 on the Request for Order)</li><li><input type="checkbox"/> Your request for child custody orders cannot be made on an ex parte basis because there has not been a showing of actual harm, a significant risk of harm to the child or an immediate risk that the child will be removed from this state. (Fam. Code §3064)</li><li><input type="checkbox"/> You and the person to be restrained do not have a relationship that qualifies you for domestic violence restraining orders. (Fam. Code §6211)</li><li><input type="checkbox"/> The Request for Order does not give reasonable notice to the person to be restrained of the facts upon which your request is made or otherwise afford sufficient due process as required by law.</li><li><input type="checkbox"/> Other:<br/>_____<br/>_____</li></ul> <p>2) Our court favors automatically setting a hearing when the temporary orders are denied and the use of the DV-112 Wavier of Hearing</p> | <ul style="list-style-type: none"><li>• No response is required.</li></ul> |
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**SP09-05**

Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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|     |                                       |    | <p>on Denied Request for Temporary Restraining Order to cancel the hearing.</p> <p>3) Our court endorses the additional revisions on [DV-110] TRO (CLETS) because they are particularly useful and make the order much clearer to the parties. However, there should be a place on this form, preferably on the first page, for the expiration date of the TRO. At the top of page 2, it says, “These orders will expire on the date of the hearing listed in item (3) of Form [DV-109].....” This seems unworkable and unenforceable for law enforcement. The [DV-110] would be form that is entered into CLETS, not the [DV-109]. It would be difficult, if not impossible/illegal, to attempt to enforce the TRO without a clear expiration date being listed on order itself.</p> <p>4) Like the committee, our court does not prefer the “alternative approach”.</p> <p>5) Our court proposes that the new DV-110 be renumbered DV-111 and the old DV-110 (TRO portion) remain DV-110. The renumbering of the TRO may be confusing to litigants. If a completely new form is being introduced, then it should have a completely new number. The old DV-110 is first and foremost the DVTRO and then it is the Notice of Hearing, etc.</p> <p>6) DV-250. POS by mail. Our court believes the “Remember” message halfway down the page is a good addition.</p> | <ul style="list-style-type: none"> <li>• Agree to add expiration date to the first page of the temporary restraining order.</li> <li>• No response is required.</li> <li>• Agree to renumber the new <i>Notice of Court Hearing</i> as form DV-109 and number the <i>Temporary Restraining Order</i> as form DV-110.</li> <li>• No response is required.</li> </ul> |
| 22. | Trial Court Presiding Judges Advisory | AM | 1. The petitioner should be given the option to   | DV-100  |

**SP09-05**

Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112)

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| <p>Committee/<br/>Court Executives Advisory Committee (TCPJAC/CEAC)<br/>Joint Rules Working Group</p> |  | <p>indicate to the court at the time they file the petition whether or not they want the matter set for hearing if the temporary orders are not issued. Scheduling the hearing absent their request could be confusing to self-represented litigants and requires the filing of additional forms if they do not want a hearing. To address this issue, the working group proposes the following:</p> <p>Amend existing Form DV-100 (Request for Order) to add an item 24 that reads:</p> <p><b>SETTING FOR HEARING</b><br/><i>This matter will be set for hearing even if the court does not issue the temporary restraining orders. If you do not want the court to set a hearing date if the temporary orders are not issued, please indicate by checking the box below.</i></p> <p><input type="checkbox"/> I do not want the matter set for hearing if the court does not issue the temporary restraining orders.</p> <p><b>2. Form [DV-109]: Agree with proposed changes if modified</b><br/>The inclusion of check boxes on the Notice of Hearing [DV-109] with the most common reasons for denial of request for temporary orders pending hearing will help streamline the process and allow for more expedient processing of the orders. The form should also be modified to provide blank space for the judicial officer to write other applicable reasons</p> | <p>Form DV-100 was not included in the Invitation to Comment. The committee will consider this comment when Form DV-100 is next revised.</p> <p>[DV-109]<br/>Based on comments from the majority of commentators, form DV-109 has been revised to include two check boxes with common reasons for denial of temporary orders and an additional box with blank lines to allow the court to elaborate on its reasons for denial or provide reasons not listed in the preprinted text.</p> |
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|     |                             |    | not listed.<br><br><b>3. Form [DV-110]: Agree with proposed changes</b><br>The working group agrees with the change that requires the court to fill out pages two and three of the form instead of the litigants.<br><br><b>4. Form DV-112: Agree with proposed changes</b><br>The working group recommends that having a separate form to take the hearing off calendar if no TRO's are granted better emphasizes the fact that a hearing is going forward even though the requested temporary orders were not granted. | [DV-110]<br>No response is required.<br><br>DV-112<br>No response is required. |
| 23. | John van Doorn<br>Encinitas | AM | I support Gilbert Rodriguez' proposed CONFIRMATION OF SELF ADVISED amendment it is signed and sent on July 6, 2009.  | Please see the response to Mr. Gilbert Rodriguez.                              |