

Title	Family Law: Domestic Violence Prevention Act forms (revise Judicial Council forms DV-100, DV-110, DV-120, DV-130, DV-170, DV-210-INFO, DV-510-INFO, and DV-540-INFO; adopt form DV-115, and DV-116-INFO)
Summary	The proposed amendments to the Domestic Violence Prevention Act forms are in response to recently enacted legislation extending protections to specified animals and requiring courts to schedule hearings for all jurisdictionally adequate restraining order requests.
Source	Family and Juvenile Law Advisory Committee, Hon. Jerilyn L. Borack and Hon. Susan D. Hugenor, Cochairs
Staff	Tamara Abrams, Senior Attorney, 415-865-7712, tamara.abrams@jud.ca.gov
Discussion	<p>This proposal is in direct response to two recent legislative bills, Senate Bill 353 and Assembly Bill 2553, that require various amendments to the Judicial Council family law protective order forms. The proposal was initiated by the Protective Order Forms Working Group¹—which is currently undertaking a comprehensive review of <i>all</i> Judicial Council protective order forms for potential revisions—and subsequently referred to the Family and Juvenile Law Advisory Committee.</p> <p>Effective January 1, 2008, Senate Bill 353 ([Kuehl]; Stats. 2007, ch. 205) amends Family Code section 6320 to authorize courts to issue orders protecting animals owned, possessed, leased, kept or held by either the petitioner or the respondent or a minor child residing in the household. Under this amendment, the court can issue orders that (1) grant the petitioner the exclusive care, possession, or control of the animals; (2) require the respondent to stay away from the animals; and (3) forbid the respondent from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animals. (Fam. Code, § 6320(b).)</p> <p>SB 353 requires the Judicial Council to modify its forms consistent with Family Code section 6320 by July 1, 2009. (Fam. Code, § 6320(c).) The proposed amendments would add specific provisions to</p>

¹ 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.

the *Request for Order* (form DV-100), *Temporary Restraining Order and Notice of Hearing* (form DV-110), *Answer to Temporary Restraining Order* (form DV-120), *Restraining Order After Hearing* (form DV-130), *Other Orders* (form DV-170) to incorporate all the additional protections afforded to animals under amended Family Code section 6320.

The proposed text would specify the number of yards that the restrained person is ordered to stay away from the protected animals and would recite the statutory language regarding the restraints, including transferring, encumbering, or harming the animals.

The revisions to item 13 of form DV-110 and item 5 of form DV-170 are intended to clarify that persons who are married or registered domestic partners are required to abide by the property restrictions of Family Code section 6325 if so ordered by the court. Specifically, if the court issues a temporary order restricting parties who are married or registered domestic partners from transferring or otherwise disposing of community, quasi-community or separate property (in item 13 of DV-110 or item 5 of DV-170), the court's temporary grant to the petitioner of sole use, possession, and control of specified animals (in item 14 of DV-110 or item 12 of DV-130) does not alter the community property restrictions; both parties are prohibited from transferring or otherwise disposing of the specified animal.

Technical amendments also would be required to *What Is "Proof of Service"?* (form DV-210-INFO) to reflect changes to numerical references to form DV-110.

Effective January 1, 2009, Assembly Bill 2553 ([Solorio]; Stats. 2008, ch. 263) adds 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, 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 has the option of waiving his or her right to the noticed hearing and retains the right to refile a new petition, without prejudice, at a later time.

New Family Code section 6320.5 requires the Judicial Council to

² Final Report of the Judicial Council Domestic Violence Practice and Procedure Task force, *Recommended Practices and Guidelines for Improving the Administration of Justice in Domestic Violence Cases*, Administrative Office of the Courts (Jan. 2008) at page 15, paragraph 11.

create a new form to implement the statute by January 1, 2010. However, the Family and Juvenile Law Advisory Committee recommends circulating the proposed forms now so that the Judicial Council may consider them earlier.

The proposed *Denial of Request for Temporary Restraining Order* (form DV-115), would (1) allow the court to deny a request for order and hearing if the court lacks subject matter jurisdiction in the case, (2) allow the court to grant a request for a hearing but deny the issuance of temporary orders for specified reasons, and (3) inform the petitioner how to take a scheduled hearing off calendar and submit another request for order in the future, if desired.

The procedure set forth in the proposed forms may create calendaring issues for courts if petitioners who do not want the scheduled hearing fail to ask the court to take the matter off calendar. The advisory committee considered this issue but concluded that legal and policy considerations weighed in favor of automatically scheduling a hearing in applicable cases, rather than requiring the petitioner to affirmatively request a hearing.

The committee considered AB 2553, *Nakamura v. Parker*, 156 Cal.App.4th 327 (2007), and a pertinent guideline of the Judicial Council's Domestic Violence Practice and Procedure Task Force (Task Force) in electing to propose that courts should automatically set a noticed hearing in applicable cases. *Nakamura* establishes a right to a noticed hearing for a jurisdictionally adequate petition, but it does not address the administrative procedure of how the hearing is set. Assembly Bill 2553 codified *Nakamura* and when *Nakamura* is analyzed along with AB 2553 and the pertinent Task Force guideline², the policy considerations of safety and due process lend support to an automatic court hearing rather than requiring the petitioner to affirmatively request such a hearing.

The proposed form does not address (1) denial of temporary child custody or visitation orders, (2) illegibility of documents, (3) insufficiency of notice to the person to be restrained, or (4) insufficiency of facts. None of these issues would allow the court to deny the petitioner a noticed hearing under Family Code section 6320.5. If the court denies a request for temporary child custody or visitation orders or is unable to issue temporary orders due to the illegibility of documents, insufficient notice, or factual inadequacies, the court may so indicate on the proposed *Denial of Request for*

Temporary Order at item 3.

The proposed form does not address local notice requirements. Many courts already have forms specifically addressing local notice requirements so it would be redundant and confusing to address that issue in the proposed form. The proposed form also does not address the potential for lack of personal jurisdiction. After consideration, the advisory committee concluded that the complexity of the issue of personal jurisdiction should be addressed, if in question, at a noticed hearing.

The advisory committee specifically seeks comment on the following questions regarding form DV-115:

1. Should form DV-115 be served with the other moving papers as proposed;
2. Should a new form be proposed specifically to cancel or waive the scheduled hearing date;
3. Should the information found in the box at the bottom of form DV-115 be eliminated, as it is duplicated on form DV-116-INFO?; and
4. Should the form and information sheet be more specific about the procedure to cancel or waive the scheduled hearing date?

Courts must develop procedures to comply with new Family Code section 6320.5 as of January 1, 2009. Courts may want to use form DV-115 as a template for their own procedures during the public comment period and before adoption of the form by the Judicial Council of California. Proposed information sheet *My Request for Temporary Orders Was Denied, What Do I Do?* (form DV-116-INFO), provides information about form DV-115.

Temporary Restraining Order and Notice of Hearing (form DV-110) also is proposed to be amended to add a specific provision to account for the issuance or denial of temporary orders pending a noticed hearing. *I Filled Out the Forms—What Now?* (form DV-510-INFO), and *Information for the Restrained Person* (form DV-540-INFO) also are proposed to be amended to reflect the revised graphic of form DV-110 that is embedded in each of those forms.

Attachments

Clerk stamps date here when form is filed.

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Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number when form is filed.

Case Number:

1 Your name (person asking for protection):

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

City: _____ State: _____ Zip: _____

Your telephone number (optional): _____

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

2 Name of person you want protection from:

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

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

Full Name	Age	Lives with you?	How are they related to you?
_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

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

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

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

Check here if you need more space. Attach Form MC-020 and write "DV-100, Item 4h" by your statement.

This is not a Court Order.



Your name: _____

5 Other Court Cases

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

If yes, where? County: _____ State: _____

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

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

- Registered Domestic Partnership Divorce/Dissolution Parentage/Paternity Legal Separation
 Domestic Violence Criminal Juvenile Child Support Nullity Civil Harassment
 Other (specify): _____

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

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

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

6 Personal Conduct Orders

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

- a. Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, or block movements
 b. Contact (either directly or indirectly), or telephone, or send messages or mail or e-mail

The person in ② will be ordered not to take any action to get the addresses or locations of any protected person, their family members, caretakers, or guardians unless the court finds good cause not to make the order.

7 Stay-Away Order

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

- a. Me
 b. The people listed in ③
 c. My home
 d. My job or workplace
 e. The children's school or child care
 f. My vehicle
 g. Other (specify): _____

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

8 Move-Out Order

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

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

9 Child Custody, Visitation, and Child Support

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

10 Spousal Support

You can make this request only if you are married to, or are a registered domestic partner of, the person in ② and no spousal support order exists. To ask for spousal support, you must fill out, file, and serve Form FL-150 before your hearing.

This is not a Court Order.



Your name: _____

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

11 **Record Unlawful Communications**
I ask for the right to record communications made to me by the person in **(2)** that violate the judge's orders.

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

13 **Animals: Possession and Stay-Away Order**
I ask for the sole possession, care, and control of the animal(s) listed below. I ask the court to order the person in **(2)** to stay at least _____ yards away from and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the following animal(s): _____

14 **Debt Payment**
I ask the court to order the person in **(2)** to make these payments while the order is in effect:
 Check here if you need more space. Attach Form MC-020 and write "DV-100, Item 14—Debt Payment" by your statement.

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

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

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

16 **Attorney Fees and Costs**
I ask that the person in **(2)** pay some or all of my attorney fees and costs.
You must complete and file Form FL-150, Income and Expense Declaration.

17 **Payments for Costs and Services**
I ask that the person in **(2)** pay the following:
*You can ask for lost earnings or your costs for services caused directly by the person in **(2)** (damaged property, medical care, counseling, temporary housing, etc.). You must bring proof of these expenses to your hearing.*

Pay to: _____ For: _____ Amount: \$ _____

Pay to: _____ For: _____ Amount: \$ _____

18 **Batterer Intervention Program**
I ask the court to order the person listed in **(2)** to go to a 52-week batterer intervention program and show proof of completion to the court.

19 **No Fee to Serve (Notify) Restrained Person**
If you want the sheriff or marshal to serve (notify) the restrained person about the orders for free, ask the court clerk what you need to do.

This is not a Court Order.



Your name: _____

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

20 More Time for Notice

I need extra time to notify the person in (2) about these papers. Because of the facts explained on this form, I want the papers served up to _____ days before the date of the hearing. *For help, read Form DV-210-INFO. If necessary, add additional facts:* _____

21 Other Orders

What other orders are you asking for? _____

Check here if you need more space. Attach Form MC-020 and write "DV-100, Item 21—Other Orders" by your statement.

22 Guns or Other Firearms

I believe the person in (2) owns or possesses guns or firearms. Yes No I don't know
If the judge approves the order, the person in (2) will be required to sell to a gun dealer or turn in to police any guns or firearms that he or she owns or possesses.

23 Describe the most recent abuse.

- a. Date of most recent abuse: _____
- b. Who was there? _____
- c. What did the person in (2) do or say that made you afraid?

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

- f. Did the police come? No Yes
If yes, did they give you an Emergency Protective Order? Yes No I don't know
Attach a copy if you have one.

Check here if you need more space. Use Form MC-020 and write "DV-100, Item 23—Recent Abuse" by your statement.

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

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

Date: _____

Type or print your name

Sign your name

This is not a Court Order.

Clerk stamps date here when form is filed.

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Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Name of person asking for protection (protected person):

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

City: State: Zip:

Telephone number:

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

2 Restrained person's name:

Description of that person: Sex: M F Height:

Weight: Race: Hair Color:

Eye Color: Age: Date of Birth:

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

4 Court Hearing Date (Fecha de la Audiencia) Clerk will fill out section below.

Hearing Date box with fields for Date, Time, Dept., Rm., and Name and address of court if different from above.

To the person in 2: At the hearing, the judge can make restraining orders that last for up to 5 years. The judge can also make other orders about your children, child support, spousal support, money, and property.

Para la persona nombrada en 2: En esta audiencia el juez puede hacer que la orden de restricción sea válida hasta un máximo de 5 años. El juez puede también hacer otras órdenes acerca de niños, manutención, dinero y propiedad.

To the person in 1: At the hearing, the judge will consider whether denial of any orders will jeopardize your safety and the safety of children for whom you are requesting custody, visitation, and child support.

5 Temporary Court Orders (Ordenes Temporales)

To the person in 2: The court (check a or b):

- a. Has scheduled the hearing stated in 4. No orders are issued against you at this time (see Form DV-115).
b. Has scheduled the hearing stated in 4 and has issued the temporary orders against you specified on pages 2 and 3.

This is a Court Order.

Your name: _____

6 **Personal Conduct Orders**

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

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

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

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

8 **Move-Out Order**

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

9 **Child Custody and Visitation Order**

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

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

The person in **(2)** cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, firearms, or ammunition.

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

The person in **(2)**:

- Must sell to a licensed gun dealer or turn in to police any guns or firearms that he or she has or controls. This must be done within 24 hours of being served with this order.
- Must bring a receipt to the court within 48 hours of being served with this order, to prove that guns and firearms have been turned in or sold.

12 **Property Control**

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

This is a Court Order.

Your name: _____

13 **Property Restraint**

If the people in ① and ② are married to each other or are registered domestic partners, they must not transfer, borrow against, sell, hide, or get rid of or destroy any property, 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. *(The person in ② cannot contact the person in ① if the court has made a “no contact” order.)*

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

The person in ① is given the sole possession, care, and control of the animal(s) 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 animal(s): _____

15 **Unlawful communications may be recorded.**

The person in ① can record communications made by the person in ② that violate the judge’s orders.

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

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

17 **Other Orders** *(specify):* _____

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

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

19 **Time for Service**

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

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

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

Date: _____

Judge (or Judicial Officer)

Certificate of Compliance With VAWA

This temporary protective order meets all Full Faith and Credit requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in 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: _____

Warnings and Notices to the Restrained Person in 2**20 If you do not obey this order, you can be arrested and charged with a crime.**

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

21 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 gun dealer or turn in to police any guns or firearms that you have or control. The judge will ask you for proof that you did so. If you do not obey this order, you can be charged with a crime. Federal law says you cannot have guns or ammunition if you are subject to a restraining order made after a noticed hearing.

22 After You Have Been Served With a Restraining Order

- Obey all the orders.
- If you want to answer, fill out *Answer to Request for Restraining Order* (Form DV-120). Take it to the court clerk with the forms listed in item 23.
- File DV-120 and have all papers served on the protected person by the date listed in item 19 of this form.
- At the hearing, tell the judge if you agree or disagree with the orders requested.
- Even if you do not attend the hearing, the judge can make the restraining orders last for 5 years.

23 Child Custody, Visitation, and Support

- **Child Custody and Visitation:** If you do not go to the hearing, the judge can make custody and visitation orders for your children without hearing your side.
- **Child Support:** The judge can order child support based on the income of both parents. The judge can also have that support taken directly from your paycheck. Child support can be a lot of money, and usually you have to pay until the child is 18. File and serve a *Financial Statement* (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 your side.
- **Spousal Support:** File and serve a *Financial Statement* (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 your side.

24 Requests for Accommodations

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

This is a Court Order.

Your name: _____

Instructions for Law Enforcement**25 Start Date and End Date of Orders**

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

26 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.

27 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).)

28 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).)

29 Child Custody and Visitation

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

30 Enforcing the Restraining Order in California

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

31 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.

*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.

Denial of Request for Temporary Restraining Order

This form is to be used only when the court denies issuance of temporary restraining orders described in Family Code section 6320. (See Family Code section 6320.5). For more information, see Form DV-116-INFO.

Clerk stamps date here when form is filed.

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1 Names of parties :

2 Temporary Orders Denied—No Subject Matter Jurisdiction—No Hearing Set
The court denied the request because the relationship between the parties is not covered under the Domestic Violence Prevention Act.
You may qualify for a different type of protective order; ask the court clerk or Self-Help center for more information, or ask a lawyer for advice.

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number:

Case Number:

3 Temporary Orders Denied—Hearing Set
The court has set a hearing to consider the request for orders.
The court denied the request for temporary orders until the hearing because:

a. The Request for Order (on Form DV-100) does not give the court enough legally admissible evidence to show there was abuse.

Abuse means to attempt or actually cause bodily injury or sexual assault or to cause reasonable fear of imminent serious bodily injury. It also means to harass, follow or stalk, or destroy personal property. See Family Code sections 6203 and 6320.

The description of abuse should be detailed as to what happened, when it happened, who did what to whom and include a description of any injuries. See Request for Order, Form DV-100 at item 23.

The facts in the description of abuse should be known directly by the person asking for the orders. The court can consider witness statements only if they are signed under penalty of perjury.

b. Other: _____

Hearing Set—Information for Person Asking for Orders (if 3 is checked):

- You have been given a hearing date when the court will consider your request (see Form DV-110, item 4).
There are no temporary orders now, but the court may grant the orders you want at the hearing.
To continue with this process, you must have this Form (DV-115) and Form DV-110, Temporary Restraining Order and Notice of Hearing, and other documents served on the person to be restrained within the time listed in DV-110.
If you do not want the hearing, tell the court clerk so that the hearing date is canceled. Do not have the forms served on the person to be restrained. You may file a new request, on the same or different facts, at a later time.

Date: _____

Judge (or Judicial Officer)

- ① Form DV-115, *Denial of Request for Temporary Restraining Order*, is used when the court denies your request for temporary restraining orders listed in item 6 on Form DV-110, *Temporary Restraining Order and Notice of Hearing*. There are two possible reasons why the court denied your request for temporary orders:
 - Your relationship with the person to be restrained is not close enough, under the law, to qualify for the orders, or
 - Your request for orders did not give enough evidence for the court to find that there was abuse.
- ② If item 2 on Form DV-115 is checked:
 - Your relationship with the person to be restrained is not close enough to qualify for a domestic violence restraining order. To qualify for domestic violence restraining orders, the person to be restrained must be your parent, brother or sister, child, grandchild, or grandparent, or one of those relatives by marriage; or must have been a cohabitant or former cohabitant (Family Code Section 6209, 6211); or involved with you in a past or present dating relationship (Family Code Section 6210, 6211); or be a parent with you of a child under age 18 (Family Code Section 6211(e)).
 - There is no court hearing and there are no temporary orders.
 - You might qualify for a civil harassment or elder abuse restraining order or some other type of order.
 - Ask the court clerk or self-help center for more information or get advice from a lawyer. You may also find more information online at www.courtinfo.ca.gov/selfhelp.
- ③ If item 3 on Form DV-115 is checked:
 - The court set a hearing date to consider your request (see Form DV-110, item 4, for the date and time of the hearing).
 - There are no temporary orders now, but the judge can make the orders you want at the hearing.
 - You can choose to keep the hearing date or cancel your request for orders so there is no hearing.

The rest of this Information Sheet is for when the court checked item 3 on Form DV-115.

- ④ If item 3a is checked, the court read your request on Form DV-100 but did not find there was abuse. What does that mean?
 - Abuse means to attempt or actually cause bodily injury or sexual assault or to cause reasonable fear of imminent serious bodily injury. It also means to harass, follow or stalk, or destroy personal property. See Family Code sections 6203 and 6320.
 - Look carefully at your description of abuse at item 23 on Form DV-100, *Request for Order*. Does it describe incidents when the person to be restrained did any of these things?
- ⑤ The description of abuse should be detailed.
 - The court is looking for what happened, when it happened, who did what to whom and a description of any injuries.
- ⑥ The facts should be known directly by you.
 - Describe things that you know because you were there when they happened.
 - Any statements from other people must be in writing and signed under penalty of perjury. Otherwise the court cannot consider them.

- 7 Some courts will allow you to add to your application before the temporary order is filed.
- If you want to add to your description of abuse, ask the court clerk for the procedures to do so.
 - Some courts use a form to list what is missing from your application and allow you to fix it.
- 8 If you want to keep the hearing date:
- You must have all documents served on the person to be restrained within the time listed on Form DV-110, *Temporary Restraining Order and Notice of Hearing*.
 - You must include form DV-115, *Denial of Request for Temporary Restraining Order* with the other documents for service. For information on “service” read Form DV-210-INFO, *What Is “Proof of Service”?*
 - At the hearing, you will be able to describe what happened and answer questions from the judge.
 - The person to be restrained has a right to come to the hearing.
- 9 If you do not want the hearing:
- Tell the court clerk right away. Ask for the hearing date to be canceled.
 - Do NOT have any documents served on the other person.
You may file a new request for orders, on the same or different facts, at a later time.
-

Clerk stamps date here when form is filed.

DRAFT 4
12/09/08 xyz
Do Not Distribute

- 1 Name of person who asked for the order (protected person):
2 Your name:
Your address (skip this if you have a lawyer): (If you want your address to be private, give a mailing address instead):
City: State: Zip:
Your telephone (optional):
Your lawyer (if you have one): (Name, address, telephone number, and State Bar number):

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number:

Case Number:

Give the judge your answers to DV-100:

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

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

Hearing Date Date: Time: Dept.: Room:

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

- 7 Visitation
a. I do do not agree to the visitation order requested.
b. I ask for the following visitation order (specify):
8 Child Support
a. I do do not agree to the order requested.
b. I agree to pay guideline child support.
You must fill out, serve, and file Form FL-150 or FL-155.
9 Spousal Support
I do do not agree to the order requested.
Whether or not you agree, you must fill out, serve, and file Form FL-150.

Your name: _____

- 10** **Property Control**
 I do do not agree to the order requested.
*If you have other requests, list them in **19** below.*
- 11** **Debt Payment**
 I do do not agree to the order requested.
*If you have other requests, list them in **19** below.*
- 12** **Property Restraint**
 I do do not agree to the order requested.
*If you have other requests, list them in **19** below.*
- 13** **Attorney Fees and Costs**
 I do do not agree to the order requested.
- 14** **Payments for Costs and Services**
 I do do not agree to the order requested.
- 15** **Animals**
 I do do not agree to the order requested.
- 16** **Batterer Intervention Program**
 I do do not agree to the order requested.
- 17** **Other Orders** (see item 21 on Form DV-100)
 I do do not agree to the orders requested.
- 18** **Turn in guns or other firearms.**
 a. I do not own or have any guns or firearms.
 b. I have have not turned in my guns and firearms to the police or a licensed gun dealer.
 c. A copy of the receipt is attached. has already been filed with the court.
You must file a receipt with the court within 48 hours after being served with temporary orders on Form DV-110.
- 19** **I ask the court to order payment of my**
 a. Attorney fees
 b. Out-of-pocket expenses because the temporary restraining order was issued without enough supporting facts. The expenses are:
 Item: _____ Amount: \$ _____ Item: _____ Amount: \$ _____
You must fill out, serve, and file Form FL-150.
- 20** **My Answer to the Statements in DV-100 and Other Requests**
Please attach your statement. Write "DV-120, Item 20—More Information" at the top. Be specific.
- 21** I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

 Type or print your name

 Sign your name

Clerk stamps date here when form is filed.

Draft 7
12/08/08 xyz
Not approved by the
Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Protected person's name: []

(first) (middle) (last)

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

City: State: Zip:

Telephone number (optional):

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

2 List the full names of all 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 3 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**

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

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

8 **Move-Out Order**

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

9 **Child Custody and Visitation**

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

10 **Child Support**

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

11 **Spousal Support**

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

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

The person in **1** is given the sole possession, care, and control of the animal(s) 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 animal(s): _____

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

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, firearms, or ammunition.

This is a Court Order.



Your name: _____

14 Turn in or sell guns and firearms.

The person in ③:

- Must sell to a licensed gun dealer or turn in to police any guns or firearms that he or she has or controls. This must be done within 24 hours of being served with this order.
- Must bring a receipt to the court within 48 hours of being served with this order, to prove that guns and firearms have been turned in or sold.

15 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.

16 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.

17 No Fee to Notify (Serve) Restrained Person

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

18 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*): _____

19 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-110 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-110 was presented to the court. The judge’s orders in this form are different from the orders in Form DV-110. Someone—not the people in ① or ② — must personally “serve” a copy of this order to the person in ③.

20 Attached pages are orders.

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

Date: _____

Judge (or Judicial Officer)

This is a Court Order.

Your name: _____

Instructions for Law Enforcement**21 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 3 years from the hearing date.

22 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.

23 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).)

24 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).)

25 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.**

26 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.

27 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

28 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.

29 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.

DV-170

Other Orders

Case Number:

This form is attached to Form DV-130, Restraining Order After Hearing (Order of Protection).

1 Protected person's name: _____

2 Restrained person's name: _____

3 **Property Control**
Only the person in 1 can use, possess, and control the following property: _____

4 **Debt Payment**

The person in 2 must make these payments until this order ends:

Check here if you need more space. Attach Form MC-020 or a sheet of paper and write "DV-170, Item 4—Debt Payment" at the top.

Pay to: _____ for: _____ Amount: \$ _____ Due date: _____
Pay to: _____ for: _____ Amount: \$ _____ Due date: _____
Pay to: _____ for: _____ Amount: \$ _____ Due date: _____

5 **Property Restraint**

The people in 1 and 2 must not transfer, borrow against, sell, hide, or get rid of any property, including animals, except in the usual course of business or for the necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court. (The person in 2 cannot contact the person in 1 if the court has made a "no contact" order.)

6 **Attorney Fees and Costs**

The person in 2 must pay the following lawyer fees and costs:

Pay to: _____ for: _____ Amount: \$ _____ Due date: _____
Pay to: _____ for: _____ Amount: \$ _____ Due date: _____

7 **Payments for Costs and Services**

The person in 2 must pay the following:

Pay to: _____ for: _____ Amount: \$ _____ Due date: _____
Pay to: _____ for: _____ Amount: \$ _____ Due date: _____
Pay to: _____ for: _____ Amount: \$ _____ Due date: _____

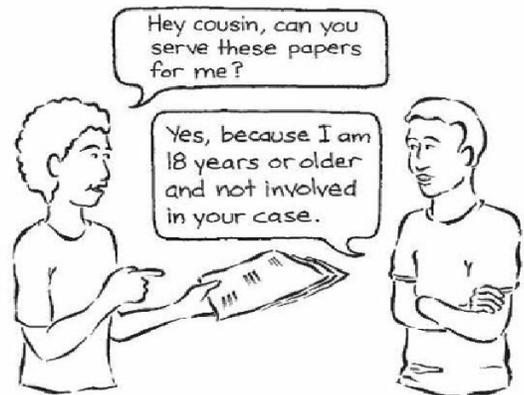
8 **Other Orders**

This is a Court Order.

What is “service”?

There are many kinds of service—in person, by mail, and others. This form is about “in-person service.” The *Temporary Restraining Order* (Form DV-110) and the *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

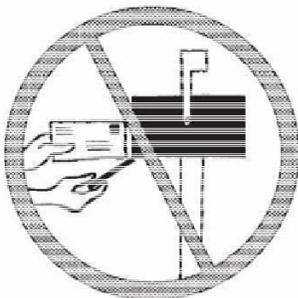


Who can serve?

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

The server must:

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



Don't serve it by mail!

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.)



How to Serve

Ask the server to:

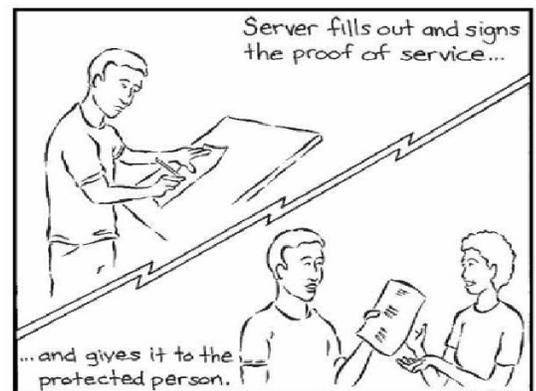
- Walk up to the person to be served.
- Make sure it’s the right person. Say the person’s name: “Are you John Doe?” or “Hi, John Doe.”
- Give copies of all papers checked on Form DV-200.
- Fill out and sign the *Proof of Service* form (DV-200).
- Give the signed *Proof of Service* to you.

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-110:

First, look at the hearing date on page 1 of Form DV-110. Next, look at the number of days written in 19 on page 3.

4 Court Hearing Date (*Fecha de la Audie*)
Clerk will fill out section below.

Hearing Date	Date: _____	Time: _____
	Dept.: _____	Rm.: _____

To the person in 2: At the hearing, the judge can also make other orders about your children. If you want the orders against you, file and serve.

19 Time for Service

A To: Person Asking for Order

Someone 18 or over—**not you or the other protected people**—must personally “serve” a _____ days before the hearing.

For help with Service

Look at a calendar. Subtract the number of days in 19 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 19, 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 orders 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 orders served before the hearing date?

Before your hearing, fill out and file the *Reissue Temporary Restraining Order* (Form DV-125). This form asks the judge for a new hearing date and makes your orders last until then. Ask the clerk for the form.

You **must** attach a copy of Form DV-125 to a copy of your original order. 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 5 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.

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 the order. 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 order.** 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. Check to see if the judge made any changes.
- 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 give you 5 “filed” copies. If you need more, make them yourself.

What to do with your copies:

- Keep 1 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, daycare, 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-110 for the date and time of your hearing.

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

The order you have now only lasts for about 3 weeks.



4 Court Hearing Date (Fecha de la Audie
Clerk will fill out section below.

Hearing Date	Date: _____
	Dept.: _____

To the person in (2): At the hearing, the judge can also make other orders about your children. You can also want the orders against you, file and serve.

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 order. You **cannot** send it by mail.

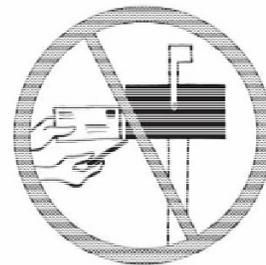
The server must:

- 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 your *Proof of Service* (Form DV-200).

The *Proof of Service* shows the judge and police that the restrained person got a copy of the order. Make 5 copies of the completed *Proof of Service*. Take the original and 5 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 1 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.

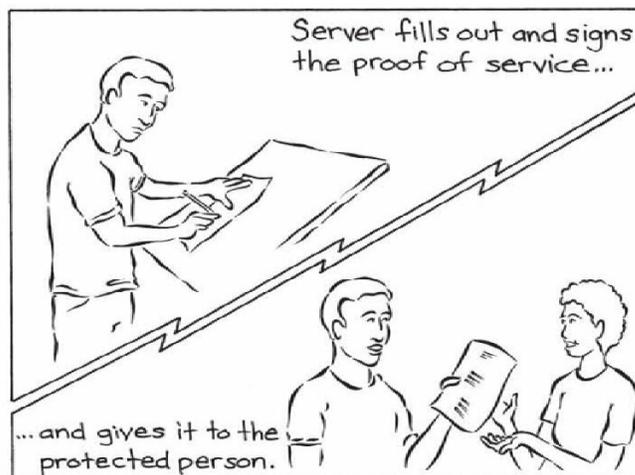
7 If the restrained person wasn't served . . .

The restrained person **must** be served before the hearing. If the restrained person wasn't served, fill out Form DV-125 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 this order, the restraining order 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 get the restrained person 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.



DV-540-INFO

Information for the Restrained Person

What is a restraining order?

It is a court order.

What does the order do?

It can order you to:

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

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

What if I have a gun?

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

Should I go to the hearing?

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

How do I tell my side of the story?

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

Do I have to get a lawyer?

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

What if I also have criminal charges against me?

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

What if I am a victim of domestic violence?

Call the National Domestic Violence Hotline:

1-800-799-7233

TDD: 1-800-787-3224

Ask who can help you file a restraining order.

4 Court Hearing Date (Fecha de la Audie
 Clerk will fill out section below.

Hearing Date	Date: _____
	Dept.: _____

To the person in (2): At the hearing, the judge can also make other orders about your children. If you want the orders against you, file and serve



Can I bring a witness to the court hearing?

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

Will I see the protected person at the court hearing?

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

How long does the order last?

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

What if the protected person contacts me?

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

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

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

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

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

What if I don't have a green card?

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

What if I don't speak English?

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

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

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

Protection of Animals
SB 353 (Kuehl; Stats. 2007, ch. 205)

SEC. 2. Section 6320 of the Family Code is amended to read:

6320. (a) The court may issue an ex parte order enjoining a party from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the other party, and, in the discretion of the court, on a showing of good cause, of other named family or household members.

(b) On a showing of good cause, the court may include in a protective order a grant to the petitioner of the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent. The court may order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

(c) On or before July 1, 2009, the Judicial Council shall modify the criminal and civil court forms consistent with this section.

Set Hearing for Jurisdictionally Adequate Petition
AB 2553 (Solorio; Stats. 2007, ch. 263)

SECTION 1. Section 6320.5 is added to the Family Code, to read:

6320.5. (a) An order denying a petition for an ex parte order pursuant to Section 6320 shall include the reasons for denying the petition.

(b) An order denying a jurisdictionally adequate petition for an ex parte order, pursuant to Section 6320, shall provide the petitioner the right to a noticed hearing on the earliest date that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date of the order. The petitioner shall serve on the respondent, at least 5 days before the hearing, copies of all supporting papers filed with the court, including the application and affidavits.

(c) Notwithstanding subdivision (b), upon the denial of the ex parte order pursuant to Section 6320, the petitioner shall have the option of waiving his or her right to a noticed hearing. However, nothing in this section shall preclude a petitioner who waives his or her right to a noticed hearing from refileing a new petition, without prejudice, at a later time.

(d) The Judicial Council, on or before January 1, 2010, shall develop a form to implement this section.

Item W09-05 Response Form

Title: **Family Law: Domestic Violence Prevention Act forms** (revise Judicial Council forms DV-100, DV-110, DV-120, DV-130, DV-210-INFO, DV-510-INFO, and DV-540-INFO; adopt form DV-115, and DV-116-INFO)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be written on this form, prepared in a letter format, or submitted online. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments.

Internet: www.courtinfo.ca.gov/invitationstocomment

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, January 21, 2009

*Circulation for comment does not imply endorsement by the Judicial Council
or the Rules and Projects Committee.
All comments will become part of the public record of the council's action.*