

CH-100-INFO

Can a Civil Harassment Restraining Order Help Me?

These instructions cannot cover all of the problems and questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

What is a Civil Harassment Restraining Order?

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

Can I get a Civil Harassment Restraining Order?

You can ask for one if you are worried about your safety because someone:

- Is harassing you
- Is stalking you
- Has committed acts of violence against you, *or*
- Has threatened you with violence

How will the order help me?

The court can order a person to:

- Not harass or threaten you
- Not contact or go near you, *and*
- Not have a gun

You can also ask for protection for family members and other people who live with you.

In a Civil Harassment case, the court cannot:

- Order a person to move out of your residence
- Order a person to pay child support to you
- Make orders for custody and visitation

If you need these orders, you should proceed under the Domestic Violence Protection Act. File Form DV-100.

The court also cannot:

- Order a person to pay money that he or she owes you
- Order someone to move out of rental property that you own
- Order someone to stop creating a nuisance that doesn't involve harassment

If you need these remedies, you must file a civil action.

What forms do I need to get the order?

You must fill out all of Form CH-100, *Request for Orders to Stop Harassment*, and Form CH-102, *Confidential CLETS Information*. If you need attachments, you may use Form MC-025. You must also fill out items 1 and 2 on Form CH-109, *Notice of Court Hearing*, and items 1, 2, and 3 on Form CH-110, *Temporary Restraining Order (CLETS)*.

Where can I get these forms?

You can get the forms at any courthouse or county law library or at www.courts.ca.gov/forms.

What do I need to do to get the order?

You must go to the superior court in the county where the harassment took place or the person to be restrained lives. At the court, ask where you should file your request for a civil harassment restraining order. (You may get assistance in filing your request from a self-help center or legal aid association.) At the court, give your forms to the clerk of the court. The clerk will give you a hearing date on the *Notice of Court Hearing* form, and if your request for immediate orders is granted, a copy of the *Temporary Restraining Order* signed by a judicial officer.

How soon can I get the order?

If you ask for a temporary restraining order, the court will decide within 24 hours whether or not to make the order. Sometimes the court decides sooner. Ask if the *Notice of Court Hearing* and *Temporary Restraining Order* will be mailed to you, or whether you should wait or come back later.

How long does the order last?

If the court makes a temporary order, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. The order could last for up to three years.

How will the person to be restrained know about the order?

Someone over 18 years of age—**not you** or anyone else to be protected by the order— must “serve” (give) the person to be restrained a copy of the order. The server must then fill out Form CH-200, *Proof of Personal Service*, and give it to you to file with the court. For help with service, ask the court clerk for Form CH-200-INFO, *What is "Proof of Personal Service?"*



What if the restrained person does not obey the order?

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

How much does it cost?

That depends on the type of harassment. If the restrained person has used or threatened to use violence against you or has stalked you, you do not have to pay a filing fee; otherwise, you must pay the fee.

If you cannot afford to pay the filing fee, ask the clerk how to apply for a fee waiver. Form FW-001 is available for this purpose.

If the order is based on prior acts of violence, a credible threat of violence, or stalking, you are entitled to free service of the order by a sheriff or marshal. Also, if you are eligible for a fee waiver, you can ask the sheriff or marshal to serve the order for free. If you are not eligible for free service, you may pay the sheriff or marshal to serve the order.

Do I have to go to court?

Yes. Go to court on the date the clerk gives you.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required and you are not entitled to a free court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

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

Witnesses are not required, but it helps to have more proof of the harassment than just your word. You can bring:

- A written statement from witnesses made under oath
- Witnesses
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, e-mails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use Form MC-030 for this.)

Will I see the restrained person at the court hearing?

If the person comes to the hearing, yes. But that person does not have the right to speak to you. If you are afraid, tell the court officer.

Can I bring someone with me to court?

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

What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You may have to pay a fee for the interpreter. If the interpreter is not available for your court date, bring someone to interpret for you. You cannot ask a child under 18 or anyone else to be protected by the order to interpret for you.

CH-109 Notice of Court Hearing

1 Person Seeking Protection
Full Name: _____

2 Person You Want Protection From
Full Name: _____

The court will fill out the rest of this form.

To The Person in 2

3 Notice of Hearing
A court hearing is scheduled on the request for orders against you to stop harassment:

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

Name and address of court if different from above:

Clerk stamps date here when form is filed.

Fill in court name and street address:
Superior Court of California, County of _____

Fill in case number:
Case Number: _____

If you want to respond to the request for orders in writing, file Form CH-120, *Response to Request for Order to Stop Harassment*. Whether or not you respond in writing, go to the hearing. You may tell the court why you agree or disagree with the order requested. You may bring witnesses and other evidence. At the hearing, the court may make restraining orders against you that could last up to three years and may order you to sell or turn in any firearms that you own or possess.

4 Temporary Restraining Orders (Any orders granted are on Form CH-110, served with this notice.)

a. Temporary Restraining Orders as requested in Form CH-100, *Request for Orders to Stop Harassment*, are (check only one box below):

(1) All GRANTED until the court hearing.
(2) All DENIED until the court hearing. (Specify reasons for denial in b, below.)
(3) Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)

b. Reasons for denial of all or some Temporary Restraining Orders as requested in Form CH-100, *Request for Orders to Stop Harassment*, are:

(1) The facts as stated in form CH-100 do not show or describe acts of harassment in sufficient detail.
(2) Other (specify) _____ As stated on Attachment 4b.

This is a Court Order.

Notice of Court Hearing
(Civil Harassment Prevention)

Judicial Council of California, www.courts.ca.gov
New January 1, 2012, Mandatory Form
Code Civ. Proc., § 527.8 Approved by DOJ

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What if I am deaf or hard of hearing?

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

What if I move?

Your restraining order works anywhere in the United States. If you move out of California, contact your new local police so that they will know about your order.

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

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

For help in your area, contact:

[Local information may be inserted.]