

What is a "Domestic Violence Restraining Order"?

It is a court order that can help protect people who have been abused or threatened with abuse.

Can I get a Domestic Violence Restraining Order?

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

- A person has abused you *and*
- You have the following relationship with that person (married, divorced, separated, registered domestic partnership, dating or used to date, live together or used to live together*), or you are closely related (parent, child, brother, sister, grandmother, grandfather, grandchild, in-law. (See Family Code § 6211).

* You have to be more than just roommates.

What if I don't have the relationship necessary to qualify for a domestic violence restraining order?

There are other kinds of orders you can ask for:

- Civil harassment order (can be used for neighbors, roommates, cousins, uncles, and aunts)
- Dependent adult or elder abuse restraining order
- Workplace violence order

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

What is abuse?

Abuse means to hit, kick, hurt, scare, throw things, attack, pull hair, push, follow, harass, sexually assault, destroy your personal property, disturb your peace, telephone, contact you, or threaten to do any of these things. Abuse can be spoken, written, or physical. (See Family Code §§ 6203, 6320).

OR..Version 2: Abuse is physical violence, sexual violence, threats of violence, or harassing behavior. Abuse can be spoken, written, or physical. (See Family Code §§ 6203, 6320).

How will the restraining order help me?

The court can order the restrained person to:

- Not contact or go near you, your children, other relatives, or others who live with you
- Not have a gun
- Move out of your house

Other orders are available.

The restraining order can also provide for:

- Child custody and visitation orders
- Child support
- Spousal support

Where can I get these forms?

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

What do I need to do to get the order?

You must go to the superior court and ask where you should file your request for a domestic violence restraining order. You may get assistance in completing and filing your request from a self-help center or legal aid association.

After completing your forms, give them to the clerk of the court. The clerk will give you a hearing date on the *Notice of Court Hearing* 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 the clerk if you should wait or come back later to get copies of the *Notice of Court Hearing* and *Temporary Restraining Order*.

How long does the order last?

If the court makes a temporary order, it will last until your next hearing date. At that time, the judge will decide to continue or cancel the order. The restraining order can last up to 5 years. Child custody, visitation, child support, and spousal support orders can last longer than 5 years.

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

Someone who is at least 18—**not you** or anyone else to be protected by the order—must “serve” (give) the person to be restrained with a copy of the order. The sheriff or marshal will do it for free, but you have to ask. For help with service, ask the court clerk for form DV-200-INFO, *What is "Proof of Personal Service"?*

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

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

How much does it cost?

Nothing.

Do I have to go to court?

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

What about a lawyer?

Having a lawyer is always a good idea especially if you have children, but it not required. You are not entitled to a free court-appointed counsel. Ask the court clerk about free and low cost legal services and domestic violence help centers in your county. The clerk can also send you to the Family Law Facilitator for help with child support.

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

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

- A written statement from a witness, 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 a witness speak at the hearing. So if possible, you should bring their written statement under oath to the hearing. (*You can use form MC-030, Declaration, for this purpose.*)

Will I see the restrained person at the court hearing?

If the restrained person comes to the hearing, yes. But that person does not have the right to speak to you. If you are afraid, tell the court officer. Read *Get Ready for Your Hearing (For Protected Person)* (Form DV-520-INFO).

Can I bring someone with me to the court?

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

What if I don't speak English?

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

How will this affect my immigration status?

You can still get a restraining order. If you are worried about deportation, talk to an immigration lawyer.

What if I am deaf or hard of hearing?

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

What if I leave the county or state?

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

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.

Can I use the restraining order to get divorced or terminate a registered domestic partnership?

No. These forms will not end your marriage or registered domestic partnership. You must file other forms to end your marriage or registered domestic partnership. The court clerk can tell you where to get legal help.

What if I have minor children with the other person?

If you get a temporary restraining order, you may not leave the state of California before the date of the hearing. The judge may also order the other person not to leave the state with the children. Even if there is a restraining order, the other parent may still get visitation with the children.

Need more information?

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

Or call the National Domestic Violence Hotline:

1-800-799-7233

TDD: 1-800-787-3224

They can help you in more than 100 languages.

It's free and private.

For help in your area, contact: