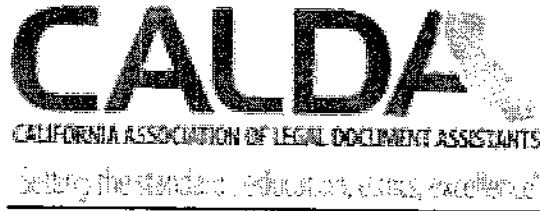


# RESTRAINING ORDER



## RESTRAINING ORDERS FOR DOMESTIC VIOLENCE



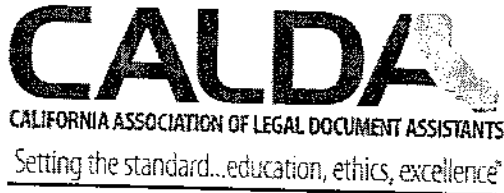
**Legal Assistants of San Diego County**

(619) 447-3188

560 Broadway

El Cajon, CA 92021

[www.legal-assistants-san-diego.com](http://www.legal-assistants-san-diego.com)



*This guide will help you understand domestic violence including a brief discussion of the steps required regarding the court process. We have tried to answer many of the most frequently asked questions about domestic violence, briefly address the forms and provide the steps that are involved in the domestic violence process in California.*

A Domestic Violence Restraining Order is when a person is asking the court for protection.

### **THE COURT CAN MAKE THE FOLLOWING ORDERS**

The court may make several orders based on your REQUEST FOR ORDER (Domestic Violence Prevention). Such as, a Personal Conduct Order which prohibits the perpetrator from harassing, attacking, striking, threatening, assaulting, hitting, following, stalking, molesting, destroying personal property, disturbing the peace, keeping you under surveillance or blocking your movements. The perpetrator can be ordered to have neither direct nor indirect contact with you, by telephone, messages, mail or e-mail and the court may prohibit third party contacts.

The court can make Stay-Away Orders in that the perpetrator must stay as much as 100 yards from you, your family, home, job, children's school or daycare, your car and other Stay-Away Orders deemed necessary. The court can order a person to move out of the residence and not return.

The protected person may ask the court for the right to record communications, have temporary use of property, property restraint, attorney fees and costs, 52- week batterers program and to have the perpetrator turn in all guns or firearms to police or a gun dealer. The court can make orders regarding child custody, visitation, child support and spousal support.

### **TYPES OF ABUSE IN RELATIONSHIPS**

The three main types of abuse found in relationships are physical, emotional and sexual abuse. These are examples of the kinds of behavior that accompany the various types of abuse.

You are being **PHYSICALLY ABUSED** if someone:

- Pushes or shoves you
- Slaps or hits you
- Pulls your hair
- Kicks or punches you
- Restrains you with force
- Throws objects at you
- Abandons you in a dangerous place
- Chokes you

You are being **EMOTIONALLY ABUSED** if someone:

- Ignores your feelings
- Makes all decisions for you
- Withholds approval, appreciation or affection as punishment
- Continually criticizes you, calls you names and shouts at you
- Wants to control all your actions
- Humiliates you in public or private
- Ridicules your most valued beliefs, your religion, race or heritage
- Manipulates you with lies and contradictions
- Subjects you to reckless driving

You are being **SEXUALLY ABUSED** if someone:

- Makes demeaning remarks about your gender
- Calls you sexual names
- Forces you to take off your clothing
- Touches you in ways that make you feel uncomfortable
- Forces you to have sex against your will
- Treats you and members of your gender as objects
- Insists you dress in a more sexual way than you want to dress
- Insists you dress less sexually
- Minimizes the importance of your feelings about sex
- Accuses you of sexual activity with others

**FORMS NEEDED TO FILE FOR DOMESTIC VIOLENCE**

(If there are no children do not fill out documents with asterisks \*).

**Application process:**

Request For Order .....	DV-100
Confidential CLETS information.....	CLETS 001
Description of Abuse .....	DV-101
Request for Child Custody, and Visitation Orders.....	*DV-105
Notice of Court Hearing.....	DV-109
Financial form .....	DV-570
Income and Expense Declaration .....	FL-150
Temporary Restraining Order.....	DV-110
Child Custody and Visitation Order .....	*DV-140
Supervised Visitation and Exchange Order .....	*DV-150

Restraining Order After Hearing .....DV-130

**Defendants Answer Forms:**

Answer to Temporary Restraining Order ..... DV-120  
Proof of Service ..... DV-200

**Fees:**

There is no fee for filing an Application and Declaration for Order Prohibiting Domestic Violence.

To request Child Custody and/or Visitation with the Restraining Order a Request for Order form (DV105) must be filled out together with the Request (DV 100) and Description of Abuse (DV 101) and filed with the Clerk.

**1. Request for Domestic Violence Restraining Order (DV-100)**

You have to tell the court the dates, times, places and details of the most recent incident(s) of abuse. If you do not remember the exact dates and times, give your best estimate. Include any injuries you suffered and whether or not law enforcement was called. Make sure you sign and date your application.

**2. Temporary Restraining Order**

This is the form the judge will sign if your request for a TRO is granted. You will be assigned a court hearing date which is normally within three weeks. It is important that you complete all of the information next to item #4, especially Name, Sex, Race and Date of Birth or Age. If you do not know the date of birth of the person to be restrained give your best estimate of their age. This information is necessary to ensure entry into the CLETS System. (California Law Enforcement Telecommunications System). If a Temporary or Permanent Restraining Order is granted, the information contained on the Restraining Order will be entered into CLETS within one business day.

**3. Restraining Orders After Hearing (CLETS) (FL-130)**

It is essential that you complete this form and present it to the clerk with the rest of your paperwork. It will be placed in your file and stamped at the court hearing. This is the form which the judge will sign at the hearing and copies will be provided to you to give to those who need to be informed of the Restraining Order; e.g. child's school, job, vehicle, home, etc.

**4. Serving the Temporary Restraining Order**

If the other party was at the hearing they can be served by mail (DV-250). You may not do this yourself, however, any person over the age of 18 who is not a party to the action may mail the paperwork. If they were NOT at the hearing they will have to be served personally (DV-200).

If you choose to have the Sheriff's Department serve the TRO you will be charged a fee of \$30.00 (may vary in your county) by the Sheriff's Department. You may qualify to have the fee waived. Please read the Information Sheet on Waiver of Court Fees and Costs (FW 001 INFO). If you qualify for a fee waiver please complete the following forms and give them to the clerk with the rest of your paperwork at the time you first submit your forms:

**FEE WAIVER FORMS:**

Request to Waive Court Fees ..... FW 001  
Order on Court Fee Waiver ..... FW 003

**Temporary Restraining Order (TRO) Process**

The following are step by step guidelines to help you with the process of obtaining a Temporary Restraining Order (TRO).

A Temporary Restraining Order is good until your court hearing date. At the court hearing the judge may issue a permanent (up to three or five years) order. The judge is the only person who can grant a Temporary Restraining Order. However, if you contact the police they are allowed to call the judge 24 hours per day and, in an emergency, the judge can issue an Emergency (ex parte) Protective Order (EPO). The EPO is good for five court (business) days.

**Step #1**

Fill out the forms. A Legal Document Assistant can help you.

**Step #2**

Take the completed forms to the court clerk, Family Law Division at your court house or have a Legal Document Assistant file them for you. You may leave your forms in the clerk's office during regular business hours for the following court day review. This will vary by county, as in some counties the judges have a certain day and time they hear these types of cases.

**Step #3**

Most judges review the forms before their court sessions. This again will vary by county (some clerks do this). The judge (or clerk) will sign the TRO, if appropriate, and assign a court date, mediation date and pre-mediation orientation date if child custody and/or visitation orders are sought.

**Step #4**

Pick up the copies of the signed TRO from the Family Law Division mid- afternoon on the same day of the review (varies with each county). If you are not able to pick up your forms during that time you may do so during normal business hours Monday through Friday. Check with your court clerk as to the times for filing and picking up of the documents.

**Step #5**

The TRO information provided will be entered into the CLETS system. Make sure you have filled in the information about the person to be restrained with their Name, Sex, Race, Date of Birth and Age.

**Step #6**

Make arrangements to have a copy of the signed TRO served on (given to) the party to be restrained. Take a copy to each of the law enforcement agencies you have named. Make sure everyone who needs to know has a copy of this order. The Sheriff can serve the party to be restrained, or anyone who is over the age of 18 and not named on the TRO forms can serve

them. The person serving the TRO must complete a Proof of Service (DV 200) and return it to you. You must file it with the clerk's office. Keep copies of the Proof of Service with the TRO. If you have the Sheriff's Department serve the TRO, they will forward a copy of the Proof of Service to the court.

**COURT HEARING - VERY IMPORTANT-  
READ DV 520 INFO**

Come to court on the day and at the time the judge indicates on the signed TRO for a hearing before the judge. You may ask for a three to five year order at this hearing. Keep a copy of the signed Restraining Order After Hearing with you at all times for your protection. Give a copy to anyone else protected by the order. Also provide the local Police Department and the Sheriff's Department with copies of the Order After Hearing.

---

**THIS INFORMATION IS PROVIDED AS A PUBLIC SERVICE OF THE CALIFORNIA ASSOCIATION OF LEGAL DOCUMENT ASSISTANTS. IT IS NOT A SUBSTITUTE FOR LEGAL ADVICE. IF YOU HAVE ANY LEGAL QUESTIONS YOU SHOULD SEEK THE ADVICE OF AN ATTORNEY.**

**FOR FURTHER INFORMATION REGARDING OUR ORGANIZATION PLEASE WRITE OR CONTACT US THROUGH OUR WEB SITE: [www.calda.org](http://www.calda.org)**

**A Legal Document Assistant (LDA) is not a lawyer. LDAs provide professional self-help services at your specific direction. Although LDAs cannot select your forms or offer legal advice they can offer self-help reference materials written or approved by attorneys, such as this brochure. LDAs can also assist you procedurally. Many LDAs have self-help manuals in their personal libraries available for purchase or reference. Informational books are also available to you in your local Law Library and book stores. Be sure to seek legal counsel from a licensed attorney if you have any legal questions or require legal advice not addressed by this brochure or other publications.**