



## **SAN MATEO COUNTY LAW LIBRARY**

### **RESEARCH GUIDE #5**

## **CIVIL HARASSMENT RESTRAINING ORDER**

This resource guide only provides guidance, and does not constitute legal advice. If you need legal advice you need to speak with an attorney. To find an attorney to assist you, you may contact the San Mateo County Lawyer Referral Service at (650) 369-4149.

### **WHAT IS A CIVIL HARASSMENT RESTRAINING ORDER?**

It is a court order that helps protect people from harassment from another person or persons. If this is a domestic violence issue (current dating relationship, former dating relationship, family that lives with you, or roommates), please see the Domestic Violence Research Guide #7 for assistance.

### **CAN I OBTAIN A CIVIL HARASSMENT RESTRAINING ORDER?**

You can ask for a restraining order if you are worried about your safety because someone is:

- Harassing you;
- Stalking you;
- Has committed act(s) of violence against you; and/or
- Has threatened you with violence.

### **HOW WILL THE ORDER HELP ME?**

The court can order the person not to:

- Harass or threaten you;
- Contact you, or go near you; and
- Possess a firearm.

### **WILL THE ORDER PROTECT MY FAMILY AS WELL?**

Yes. You can also ask the court for orders of protection for the people who live with you and family members.

## HOW MUCH DOES IT COST?

It depends on the level of harassment. If the restrained person has used or threatened to use violence against you or has stalked you, you **DO NOT** pay a filing fee. Otherwise, you must pay a filing fee or you can request a fee waiver if you are unable to pay the filing fee.

## WHAT FORMS DO I NEED TO REQUEST THE ORDER?

You **MUST** fill out Judicial Council Form CH-100: *Request for a Civil Harassment Restraining Order* and CLETS Form-001. They are available on the Judicial Council Website at [www.courts.ca.gov](http://www.courts.ca.gov)

## WHAT DO I NEED TO DO TO OBTAIN THE ORDER?

You **MUST** file the forms at the Clerk's Office of the Superior Courthouse in the county where the harassment took place or the person to be restrained lives.

Give your forms to the Clerk. The Clerk will give you a hearing date on the *Notice of Court Hearing* Form. If your request is immediately granted, a copy of the *Temporary Order* is signed by a judicial officer.

## HOW SOON CAN I OBTAIN AN ORDER?

Bring your forms to the Court's Ex Parte Judgement, the Judge is available Monday – Friday from 2:00 PM – 3:30 PM. The Ex Parte Judge will review your documents and will grant or deny your request for a temporary restraining order at that time. You will also be given a date to return to make the restraining order permanent (permanent orders last up to five years).

## DO I NEED TO GO TO COURT?

Yes. You must go to court on the date of the hearing that the Clerk gave to you.

## DO I NEED TO BRING WITNESSES?

Witnesses are not required, but it helps to have more evidence of harassment than just your words alone. The court may or may not allow your witnesses to testify at the hearing, thus, you should bring their written statements under oath to the hearing. For written witness statements use Judicial Council Form MC-030: *Declaration* form. It is available on the Judicial Council Website at [www.courts.ca.gov](http://www.courts.ca.gov)

In addition to witnesses, you may also bring:

- Witness statements (use form MC-030: *Declaration* for this purpose);
- Photographs;
- Medical reports;
- Police reports;

- Damaged property; and/or
- Threatening letters, emails, or telephone (text) messages.

#### **HOW LONG WILL THE ORDER LAST?**

If the court grants the temporary order, it will last until the hearing date. At the time of the hearing, the court will decide whether to cancel or continue the order. The court order could last for up to five years.

#### **HOW WILL THE RESTRAINED PERSON KNOW ABOUT THE ORDER?**

Someone over the age of 18 (not you, or anyone who is a party to the case) must “serve” (give) the person to be restrained a copy of the order. The server must then fill out Judicial Council Form CH-200: *Proof of Personal Service* form, and you must file this with the court at the Clerk’s Office. It is available on the Judicial Council Website at [www.courts.ca.gov](http://www.courts.ca.gov)

#### **WHAT HAPPENS IF THE RESTRAINED PERSON STILL BOTHERS ME?**

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

#### **WHAT IF I CHANGE MY MIND AND WANT TO CANCEL THE ORDER?**

Once the order is issued, only the judge can change or cancel it. You or the restrained person would have to file a request with the court to cancel the order.