



## SAN MATEO COUNTY LAW LIBRARY

### RESEARCH GUIDE #7

## DOMESTIC VIOLENCE 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.

IF YOU NEED ASSISTANCE WITH THE FILING OF A DOMESTIC VIOLENCE RESTRAINING ORDER, THERE ARE AGENCIES TO ASSIST YOU. **If you are in immediate danger and cannot file an application for a restraining order right away, you can ask the police for an Emergency Protective Order. This is an order that the police can request from a judge by telephone, 24 hours a day, 365 days a year. It is effective immediately. An Emergency Protective Order lasts for five court days or seven calendar days.**

### WHERE CAN I FIND HELP?

#### Attend a Domestic Violence Clinic:

##### Redwood City

- Bay Area Legal Aid's Clinic: Mon., Wed., Fri. at 9:00am & Wednesday at 1:30pm
  - 1048 El Camino Real, Suite A, Redwood City, (650) 358-0745
  - Se Habla Español

##### Daly City:

- API Legal Outreach's Clinic : Tuesdays at 1:00 pm
  - Daly City Community Service Center 350 90<sup>th</sup> St., (415) 567-6255
  - Offered in English, Spanish, Tagalog, Chinese, Korean

##### South San Francisco

- API Legal Outreach's Clinic: Wednesdays at 8:30pm
  - 1050 Old Mission Road, South San Francisco California 94103, (415) 567-6255
  - Offered in English, Spanish, Tagalog, Chinese, Korean

### WHAT IS A DOMESTIC VIOLENCE RESTRAINING ORDER ("DVRO")?

A Domestic Violence Restraining Order (DVRO) is a family court order. It protects people who have been abused or have been threatened with abuse. These types of orders can:

- Require the abuser to stay away from you, your child(ren), and any other family or household member(s);
- Require the abuser not to contact you by mail, e-mail, telephone, or in any other manner;
- Require the abuser to move out of the house;
- Require the abuser to pay child and/or spousal support;
- Require the abuser to pay for any damages that incurred because of the abuse; and
- Set a temporary child visitation schedule.

### **HOW MUCH DOES IT COST?**

There are no costs to request or file a DVRO.

### **WHO CAN GET A DVRO?**

To be able to receive assistance at the DVRO clinic, a person must have one of the following current or former relationships with the individual who they are trying to restrain (the “abuser”):

- Fiancé, husband, wife, registered domestic partner, boyfriend, girlfriend, or opposite sex partner, dating or used to date;
- Other parent of a child that you have together;
- Live together or used to live together\*;
- Related within the second degree of affinity or consanguinity. Meaning – mother or mother-in-law, father or father-in-law, child(ren) or stepchild(ren), legally adopted child(ren), grandparent(s) or grandparent(s)-in-law, sister or sister-in-law, brother or brother-in-law, daughter-in-law or son-in-law. The in-law relationship MUST be through a CURRENT marriage ([Family Code Section 6211](#))
- You must also live regularly in the household

If none of the above listed relationships apply, please see the Civil Harassment Order Resource Guide #5 for additional information. These types of orders apply to: roommates, co-workers, neighbors, uncles/aunts/cousins, etc.

### **HOW DO I ASK FOR A DVRO?**

All the forms below are available at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). For a restraining order, you need:

- [DV-100](#): *Request for Domestic Violence Restraining Order*
- [CLETS-001](#): *Confidential CLETS Information*
- [DV-109](#): *Notice of Court Hearing*
- [DV-110](#): *Temporary Restraining Order*

If you have children with the person that you want protection from, you also need to fill out:

- [DV-105](#): *Request for Child Custody and Visitation Orders*
- [DV-140](#): *Child Custody and Visitation Order*

If you are requesting child support or spousal support, you also need to fill out:

- [FL-150](#): *Income and Expense Declaration OR*
- [FL-155](#): *Financial Statement*

To determine which form between [FL-150](#) and [FL-155](#) is right for you, read form [FL-570](#): *Which Financial Form — [FL-150](#) or [FL-155](#)?*

There are other forms that will be needed at a later time:

- [DV-120](#): *Response to Request for a Domestic Violence Restraining Order*
- [DV-130](#): *Restraining Order After Hearing (Order of Protection)*
- [DV-200](#): *Proof of Personal Service*

#### **WHAT HAPPENS AFTER I FILE THE PAPERWORK?**

You need to take the forms to the Clerk's Office. The Court will either grant, deny, or grant in part your request for an order of protection. The judge will decide within one business day whether or not to make any temporary orders. Sometimes the judge decides sooner. Ask the Clerk if you should wait or come back later to get copies of your [DV-109](#): *Notice of Court Hearing* and [DV-110](#): *Temporary Restraining Order*.

If your order is **GRANTED**:

- You will have the protection that you requested
- You will have a hearing date to appear in court in approximately three weeks' time at the Hall of Justice in Redwood City. At the hearing, the judge will determine whether to give you a "permanent" DVRO, which can last up to five (5) years.
- You need to FILE the Judge's order. The Clerk will keep the original forms for the court, and will file stamp up to three copies for you. If you need more, you can make copies yourself.
- You need to keep a copy of the order with you at all times. You may need to show it to the police.
- Keep another copy in a safe place.
- Give a copy to anyone else who is protected by the order.
- Take copies to any place where the restrained person is prevented from going (school, work, childcare, etc.)
- Give a copy to any security personnel at your workplace or apartment complex.

Restraining orders go into a statewide system called “CLETS”. This system lets law enforcement know about your order. The court will enter the order into the CLETS system for you.

If your order is **PARTIALLY GRANTED** or **DENIED**:

- You will only have a portion of the protection that you requested if partially granted or no protection if denied;
- You will have a hearing date scheduled to appear in court in approximately three weeks at the Hall of Justice in Redwood City;
- At this hearing, the judge will determine whether to give you a “permanent” DVRO which can last up to five years; and/or
- You can write a more detailed statement and re-file the order, but it cannot be guaranteed that the judge will approve another order.

### **WHAT HAPPENS AT THE HEARING?**

You will represent yourself at the hearing. You will request a DVRO to be issued. These orders can last up to five years. If you do not show up to the hearing, you will no longer have a DVRO in effect. If the abuser does not show up, you may still request for the DVRO to be extended. It is possible that the court will order everything that you requested in your application for DVRO. It is also possible that your requests may not be granted, or granted in part.

### **WHAT DO I NEED TO BRING WITH ME?**

You may bring anything that helps to show proof of the abuse.

- A written statement from a witness, made under oath
- Witnesses
- Photos
- Medical or Police reports
- Damaged property
- Threatening letters, emails, or text messages

### **WILL I SEE THE RESTRAINED PERSON AT THE HEARING?**

If the restrained person comes to court, you will see them in the courtroom. The restrained person does not have the right to speak with you. If you are frightened, tell the deputy sheriff that is in the courtroom.

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

The party that you are requesting protection from needs to be served. Someone who is over the age of 18, NOT YOU OR ANY PERSON THAT IS SUBJECT TO PROTECTION BY THE ORDER, must serve the person to be restrained a copy of the order in person. The Sheriff will do it for free,

but you have to ask. Form [DV-200-INFO](#): *What is Proof of Personal Service* can help answer your questions about Service of Process formalities.

#### **WHAT IF THE RESTRAINED PERSON DOES NOT OBEY THE ORDER?**

**CALL THE POLICE.** The restrained person can be arrested and charged with a crime.

#### **CAN THE RESTRAINED PERSON AND I CANCEL THE ORDER?**

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

#### **WHERE ELSE CAN I FIND HELP?**

This can be an emotional and confusing time. Below is a list of additional local agencies who may be able to assist you:

- **IF IT IS AN EMERGENCY DIAL 911** — An emergency protective order may be able to be issued.
- **CORA-Community Overcoming Relationship Abuse** – (800) 300-1080 or locally at (650) 259-1855. Provides assistance 24 Hours a day through their crisis line, including housing
- **Keller Center for Family Violence Intervention** — (650)573-2623
  - Provides medical, psychological and legal assistance.