



## SAN MATEO COUNTY LAW LIBRARY

### RESEARCH GUIDE # 7A

## CHANGING OR ENDING A 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.

### **WHO CAN REQUEST TO CHANGE OR END THE RESTRAINING ORDER AFTER HEARING ([DV-130](#)) FROM THE COURT?**

Either the Protected Party or the Restrained Party can ask to modify (change) or terminate (end) the restraining orders issued in the *Restraining Order After Hearing Form* ([DV-130](#)).

### **WHAT TYPE OF ORDERS CAN BE CHANGED OR ENDED BY THE REQUEST?**

The requesting party may ask the court to modify or terminate any of the orders made on the Restraining Order After Hearing Form ([DV-130](#)), including:

- The restraining orders that protect persons from violence or threat of violence by others (for example: the no contact, stay away, move out, recording of unlawful communication orders).
- The list of persons protected by the orders.
- Child custody, child visitation (parenting time), or child support orders.
- Spousal and domestic partner support orders.

## WHAT FORM DO I FILL OUT TO REQUEST A CHANGE OR END TO THE RESTRAINING ORDER AFTER HEARING ([DV-130](#))?

Before the *Restraining Order After Hearing* ([DV-130](#)) expires, you must fill out and file with the court:

- A *Request to Renew Restraining Order Form* ([DV-700](#));  
or
- A *Request for Order Form* ([FL-300](#)) to modify or end the *Restraining Order After Hearing* ([DV-130](#)). See *How Do I Ask to Change or End a Domestic Violence Restraining Order* ([DV-400-INFO](#)) for more information.

To ask to change the child custody or visitation (parenting time) orders, you may need some of these forms:

- [FL-105/GC-120](#), *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act*
- [FL-311](#), *Child Custody and Visitation (Parenting Time) Application Attachment*
- [FL-312](#), *Request for Child Abduction Prevention Orders*
- [FL-341\(C\)](#), *Children's Holiday Schedule Attachment*
- [FL-341\(D\)](#), *Additional Provisions—Physical Custody Attachment*
- [FL-341\(E\)](#), *Joint Legal Custody Attachment*

## CAN I KEEP CHILD CUSTODY, VISITATION, OR SUPPORT ORDERS IF I ASK THE COURT TO END THE RESTRAINING ORDER?

If the restraining order ends, any child custody, visitation (parenting time), support, or spousal and domestic partnership orders will remain in effect unless the court also modifies or terminates those orders.

## WHAT IF THE RESTRAINED PARTY WANTS TO CHANGE OR END THE RESTRAINING ORDER?

If a restrained party wants to modify or terminate the order, they must not violate the restraining order to contact the protected party. However, Section 6345(d) specifies strict service requirements:

1. Serving the protected party by personal service method or serving the Secretary of State if the protected party has been provided a confidential address for victims of domestic violence under Government Code section 6205 et seq.
2. Unless otherwise ordered or specifically provided by law, all moving and supporting papers shall be served and filed at least 16 court days before the hearing.

## WHAT IF I WANT TO RESPOND TO A REQUEST TO CHANGE OR END THE RESTRAINING ORDER?

If you received a *Request for Order Form* ([FL-300](#)):

1. Carefully read all the papers you received and make sure that you fully understand what orders are being requested.
2. Be sure to note the date, time, and location of the court hearing.
3. Use a *Responsive Declaration to Request for Order Form* ([FL-320](#)) to let the court and other party know that you agree or disagree with each of the requests made.
4. Check if the court ordered a specific date for filing and serving your *Responsive Declaration to Request for Order Form* ([FL-320](#)).

### Note:

- ❖ If you do not file and serve this form, the court can still make orders without your input.
- ❖ Do not use a *Responsive Declaration to Request for Order Form* ([FL-320](#)) to ask for court orders that were not requested in the form that you received.
- ❖ Do not use a *Responsive Declaration to Request for Order Form* ([FL-320](#)) to respond to a *Request for Domestic Violence Restraining Order Form* ([DV-100](#)).

## WHAT TYPE OF ORDERS CAN BE CHANGED OR ENDED BY THE REQUEST?

The requesting party may ask the court to modify or terminate any of the orders made on the *Restraining Order After Hearing Form* ([DV-130](#)), including:

- The restraining orders that protect persons from violence or threat of violence by others (for example: the no contact, stay away, move out, recording of unlawful communication orders).
- The list of persons protected by the orders.
- Child custody, child visitation (parenting time), or child support orders.
- Spousal and domestic partner support orders.

## IS THERE A FEE TO FILE A REQUEST TO CHANGE OR END THE ORDERS IN A RESTRAINING ORDER AFTER HEARING ([DV-130](#))?

Generally, there is no fee. However, after a restraining order has ended, the court may charge a fee if a party files a request to change the child custody, visitation, or support orders.

## FILING THE REQUEST:

Make 3 copies of all the forms you are submitting with the clerk. Take them to the clerk's office in person, mail them, or e-file them (if available in your county). The clerk will keep the original and give you back the copies stamped with a court date and time. Serve the other party with one set of copies.

## SERVING THE OTHER PARTY

The other party must be “served” with:

- A Copy of the Request for Order and all the other forms and attachments filed with the court clerk.
- A Copy of any temporary emergency orders granted.
- A Blank form [FL-320](#), *Responsive Declaration to A Request for Order*.
- A Blank form [FL-150](#), *Income and Expense Declaration* (if you served a [FL-150](#) or [FL-155](#)).

Personal service with *Proof of Service Form* [FL-330](#) is mandatory when:

- the restrained party is the one requesting to modify or terminate the order;  
or
- when the court granted temporary emergency ex parte orders that start before the hearing date.

Service by mail with *Proof of Service Form* [FL-335](#) is permitted when:

- the protected party is the one requesting to modify or terminate the order;  
or
- either party requests ONLY the change of child custody or visitation, support, financial, or other orders OTHER THAN THE PROTECTIVE ORDER. In the case of permanent or final orders, include Address Verification ([FL-334](#)).

Make 3 copies of the *Proof of Service* and FILE them with the clerk as soon as possible BEFORE your hearing. The clerk will keep the original and give you back the copies stamped “Filed”. Bring a stamped copy with you to the hearing.

## WHO CAN “SERVE” THE DOCUMENTS

The server must be 18 years of age or older and not be anyone protected or restrained by the orders.

You cannot serve the papers. The server can be a friend, a relative who is not involved in your case, a sheriff, or a professional process server. If serving by mail, the server must live or work in the county where the mailing took place.