

## Court Clergy Conference 2019 Domestic Violence – Frequently Asked Questions

**Q:** I want to file a restraining order but the other person does not know my address and I do not want him/her to know. What can I do?

**A:** You can use a program called [Safe at Home](#)<sup>1</sup>. It is run by the California Secretary of State. If you are a victim of domestic violence, sexual assault, or stalking, the program gives you a secure address to use for your court papers (or for banking and other things) so that you can keep your address confidential.

**Q:** Do I need a lawyer for my restraining order case?

**A:** No. But it is a good idea, especially if you have children. Assistance is available to [find a lawyer](#)<sup>2</sup>.

Ask the court clerk about legal services and domestic violence help centers in your county. Find your [local court](#)<sup>3</sup>. The clerk can also send you to the [family law facilitator](#)<sup>4</sup> for help with child support and spousal/partner support. And the facilitator may also be able to help you with the restraining order.

**Q:** Will I see the restrained person at the court hearing?

**A:** If the restrained person comes to the hearing, yes. But that person does not have the right to speak to you directly (they can cross-examine you at the hearing). If you are afraid, tell the court officer when you arrive at court. The court officer will make sure you are safe. Read *Get Ready for the Court Hearing* ([Form DV-520-INFO](#)).

**Q:** Can I bring someone with me to court?

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

**Q:** Can I use the restraining order to get divorced?

**A:** No. These forms will not end your marriage or your registered domestic partnership. You must file other forms to end your marriage or domestic partnership. Read the [Divorce or Separation](#)<sup>5</sup> section to find out more about divorce.

**Q:** Can the restraining order stop the other person from taking our children away?

**A:** Yes. The judge can order the person named in the orders not to take the children out of California, or the county you live in, without your written agreement or another court order.

**Q:** My spouse is abusive but I am trying to get my immigration papers. Is there anything I can do to leave without hurting my chances to get legal papers?

**A:** There are laws that may protect you if your immigration status depends on your spouse and he or she is abusive toward you. If your immigration status is dependent on your spouse and you are a victim of domestic violence, you may be able to “self-petition” for legal status under the federal Violence Against Women Act (VAWA). You can get more information at:

- [U.S. Dept. of Justice: Office on Violence Against Women](#)<sup>6</sup>
- [Women's Commission for Refugee Women & Children](#)<sup>7</sup>

If this is your situation, make sure you talk to an immigration lawyer. Assistance is available to [find a lawyer](#)<sup>8</sup>.

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<sup>1</sup> <http://www.sos.ca.gov/safeathome>

<sup>2</sup> <http://www.courts.ca.gov/selfhelp-findlawyer.htm>

<sup>3</sup> <http://www.courts.ca.gov/62.htm>

<sup>4</sup> <http://www.courts.ca.gov/selfhelp-facilitators.htm>

<sup>5</sup> <http://www.courts.ca.gov/selfhelp-divorce.htm>

<sup>6</sup> <http://www.ovw.usdoj.gov/regulations.htm>

<sup>7</sup> <http://womensrefugeecommission.org>

<sup>8</sup> <http://www.courts.ca.gov/selfhelp-findlawyer.htm>


**Q:** Can I get a restraining order if I do not have a green card?

**A:** You can still get a restraining order. If you are worried about deportation, talk to an immigration lawyer. Assistance is available to [find a lawyer](#)<sup>9</sup>.

**Q:** Someone is asking for a restraining order against me. I do not have a green card. What can I do?

**A:** You do not need a green card to go to court. They will not report you to immigration. BUT having a restraining order against you may affect your immigration status if you are trying to get legal papers. It is VERY important that you talk to an immigration lawyer. Assistance is available to [find a lawyer](#)<sup>10</sup>.

**Q:** Can the restraining order give me custody of the pets or protect the pets?

**A:** Yes. In your *Request for Domestic Violence Restraining Order* ([Form DV-100](#) | [video instructions](#)<sup>11</sup> ), you can ask the judge to give you the custody, care, and control of the pets. You can also ask the judge to order the restrained person to stay away from the pets and not take, sell, hide, threaten, or harm them in any way.

**Q:** If I move out of California, what happens to the restraining order?

**A:** Your restraining order works anywhere in the U.S. If you move out of California, contact your new local police so they will know about your orders. If you want to move with your minor children, you need the other parent's permission or a court order. (There are some exceptions. Talk to a lawyer. Assistance is available to [find a lawyer](#)<sup>12</sup>.)

**Q:** I have a restraining order from another state and I have moved to California. Is my restraining order good here?

**A:** Yes. But, if you want, you can register your order with the superior court in the California county where you now live. Fill out and take an *Order to Register Out-of-State or Tribal Court Protective/Restraining Order (CLETS)* ([Form DV-600](#)) to the court. Bring a certified copy of your order with you. **Note:** You are NOT required to register your out-of-state restraining order. A valid order is enforceable whether or not it has been registered.

Restraining orders get entered into a special computer system at the California Department of Justice. That way, police officers across the state can find out about your order. In some counties, the court sends your order to the state computer for you. Ask the clerk if your court will do this. If not, take a copy of the order to your local police. They can enter your order into the computer. Click for help [finding a law enforcement agency](#)<sup>13</sup>.

**Q:** What if I have to go to court and I do not speak English?

**A:** When you file your papers, tell the clerk you will need an interpreter. If a court interpreter is not available, bring someone to interpret for you. Do not ask a child, a protected person, or a witness to interpret for you. Get [tips to help you work with a court interpreter](#)<sup>14</sup>.

**Q:** What if I have to go to court and I need accommodations because I have a disability?

**A:** If you are deaf or hard-of-hearing, contact the clerk at least 1 week before the hearing. Click to find your [local court](#)<sup>15</sup>. Ask for a sign language interpreter or other accommodation. For more help, read [For Persons With Disabilities Requesting Accommodations: Questions and Answers About Rule of Court 1.100 for Court Users](#)<sup>16</sup>.

Your court's [ADA coordinator](#)<sup>17</sup> can also give you more information and help you request accommodations.

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<sup>9</sup> <http://www.courts.ca.gov/selfhelp-findlawyer.htm>

<sup>10</sup> <http://www.courts.ca.gov/selfhelp-findlawyer.htm>

<sup>11</sup> <http://pd.global.playstream.com/court/vsh/progressive/flash/DV-100.html>

<sup>12</sup> <http://www.courts.ca.gov/selfhelp-findlawyer.htm>

<sup>13</sup> <http://www.post.ca.gov/le-agencies.aspx>

<sup>14</sup> <http://www.courts.ca.gov/documents/Tri-CutUseInterpreter.pdf>

<sup>15</sup> <http://www.courts.ca.gov/62.htm>

<sup>16</sup> <http://www.courts.ca.gov/documents/accfair.pdf>

<sup>17</sup> [http://www.courts.ca.gov/1077.htm#ADA\\_Americans\\_with\\_Disabilities\\_Act\\_Coordinators](http://www.courts.ca.gov/1077.htm#ADA_Americans_with_Disabilities_Act_Coordinators)

**Q: What if the restrained person does not obey the order?**

**A:** Call the police. The restrained person can be arrested and charged with a crime. Find out more by reading [Enforce a Restraining Order](#)<sup>18</sup>.

**Q: What if there is a restraining order against me but the protected person contacts me?**

**A:** No matter what, you have to follow the court order. The order does not affect the protected person. It only affects what you can do.

**Q: My restraining order is about to expire but I still want protection. Is there anything I can do?**

**A:** Yes. You can ask the court to “renew” your restraining order. You must file during the 3 months before the existing order is set to expire. You will have to go to a court hearing and explain to the judge why you still want a restraining order in place. The other side has the right to be there too. The judge will make the decision. Read the section on [Renew a Restraining Order](#)<sup>19</sup> for instructions on how to ask the judge to renew your order.

**Q: Can I agree with the restrained person to cancel the order?**

**A:** No. Only the judge can change or cancel the order.

**Q: I filed for a restraining order and now I want to drop it. Can I?**

**A:** It depends on where you are at in the process. If you have a temporary restraining order and you do not show up for the court hearing, the court will dismiss the restraining order. You can also file an “ex parte” request (Form SDSC D-001) to ask the court to dismiss the temporary order before the scheduled hearing.

If you already have a “permanent” restraining order and you want to dismiss (drop) the case or change the restraining order, you must file papers and go to court to ask the judge to either dismiss or change the order.

**IMPORTANT!** Before you try to drop or undo a restraining order, talk to a domestic violence counselor or a lawyer. Depending on the reasons why you want to drop your restraining order, there may be other options that can address your concerns while leaving the protection of the restraining order in place.

For example, if the reason you want to drop it is that you feel like the order gets in the way of you co-parenting with your children’s other parent, there may be changes you can make to the order (especially to the custody and visitation portion) to allow more flexibility when it comes to your children, while continuing the protection that the restraining order can give you.

If you are feeling pressure by the restrained person to drop the restraining order, it is very important you think very seriously about whether dropping the restraining order will be best for you. If you end up having to refile, you will have to start the process all over again. And there may be other ways for you to deal with these pressures. Talk to a domestic violence counselor or a lawyer for help in deciding what to do.

**Q: What are the signs that someone is in an abusive relationship?**

**A:** You may be in an *emotionally* abusive relationship if your spouse/partner:

- Calls you names, insults you, or criticizes you constantly.
- Does not trust you and is jealous or possessive.
- Tries to keep you isolated from family or friends.
- Monitors and tries to control where you go, who you call, and who you spend time with.
- Controls the household finances or withholds money from you
- Punishes you by withholding affection.
- Threatens to hurt you, the children, your family, or your pets.
- Humiliates you in any way.

**A:** You may be in a *physically* abusive relationship if your spouse/partner has ever:

- Damaged property, like thrown objects, punched walls, kicked doors, and other things.
- Pushed, slapped, bitten, kicked, or choked you.
- Used a weapon to threaten or hurt you.
- Forced you to leave your home.
- Trapped you in your home or kept you from leaving.
- Prevented you from calling the police or seeking medical attention.
- Hurt your children.
- Used physical force in sexual situations.

<sup>18</sup> <http://www.courts.ca.gov/1266.htm>

<sup>19</sup> <http://www.courts.ca.gov/1267.htm>