

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO**

**DOMESTIC VIOLENCE –
RESTRAINING ORDER
RESPONDENT PACKET**



FORMS INCLUDED IN THIS PACKET

Information for the Restrained Person (Domestic Violence Prevention)	Judicial Council Form #DV-540-INFO
Get Ready for Your Hearing (For Restrained Person) (Domestic Violence Prevention)	Judicial Council Form #DV-550-INFO
What Do I Do With My Gun or Firearm? (Domestic Violence Prevention)	Judicial Council Form #DV-810
Answer to Temporary Restraining Order (Domestic Violence Prevention)	Judicial Council Form #DV-120
Additional Page Attach to Judicial Council Form or Other Court Paper	Judicial Council Form #MC-020
Proof of Firearms Turned In or Sold (Domestic Violence Prevention)	Judicial Council Form #DV-800/JV-252
Proof of Service by Mail (CLETS) (Domestic Violence Prevention)	Judicial Council Form #DV-250

What does a restraining order do?

It can order you to:

- Not contact or go near the protected person
- Not have a gun while the order is in effect
- Move out of the house
- Follow child custody and visitation orders
- Pay child support and
- Pay spousal support

Read the order carefully. If you disobey the order, you can be sent to jail, fined, or both.

What if I have a gun?

You cannot own, possess, or have a gun or firearm while the order is in effect. If you have a gun now, you must sell it to a licensed gun dealer or turn it in to police. Read Form DV-810.

Should I go to the hearing?

Yes. Go to court on the hearing date listed on page one of Form DV-109. If you do not go to court, the judge can make the orders without hearing from you.

How do I tell my side of the story?

File Form DV-120, *Answer to Temporary Restraining Order*, before the hearing date. Also, have someone mail it to the person who asked for the order or to the person's lawyer. This is "service." The person who mails it must fill out and sign a *Proof of Service by Mail* (Form DV-250). File the *Proof of Service* with the court clerk. Keep a copy. Bring copies of all documents to the hearing.

What if I have a witness?

You may file a witness statement (also known as a declaration), signed under penalty of perjury, by anyone who has personal knowledge of the facts. You must file and mail witness statements or other documents that support your case at least two days before the hearing or when you mail your *Answer* (Form DV-120) to the protected person. A witness must go to the hearing for the judge to consider the witness statement.

Do I have to get a lawyer?

No. But it is a good idea, especially if you have children. Ask the clerk how to find free or low-cost legal services or go to www.courtinfo.ca.gov/selfhelp/lowcost.

What if I also have criminal charges against me?

See a lawyer. Anything you say or write can be used against you in your criminal case.

What if I am a victim of domestic violence?

Call the National Domestic Violence Hotline:

1-800-799-7233

TDD: 1-800-787-3224

Ask who can help you file a restraining order request.

Will I see the protected person at the court hearing?

If the protected person comes to the hearing, you will see him or her. Do not talk to the protected person unless the judge says you can.

How long does the order last?

The first (temporary) order lasts until the expiration date. At that time, the judge will decide whether to grant or deny a longer-term order. That order can last for up to five years. Spousal support orders can last longer than five years. Custody, visitation, and child support orders can last until the child turns 18.

What if the protected person contacts me?

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.

Can the protected person and I make an agreement to cancel the order?

No. Only the judge can change or cancel the order.

What happens if I don't obey the court order?

The police can arrest you. You can go to jail, pay a fine, or both.

What if I don't have a green card?

The order is valid whether you have a green card or not. If you are worried about being deported, talk to an immigration lawyer.

What if I don't speak English?

Ask someone who speaks English to call the court clerk before your hearing and ask for a court interpreter. If an interpreter is not available, bring someone to interpret for you. Do not ask a child, a witness, or a protected person to interpret for you.

What if I am deaf or hard of hearing?**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to www.courtinfo.ca.gov/forms for *Request for Accommodations by Persons With Disabilities and Response* (Form MC-410). (Civil Code, § 54.8.)

Be prepared.

- Bring documents that support your case (police or medical reports, rental agreements or receipts, pictures, bills, etc.).
- You can bring a witness to help support your case. Witnesses may or may not be permitted to testify. But you can bring a written statement of what the witness saw or heard. (You must file and serve witness statements by mail or in person, along with your *Answer* (Form DV-120). Bring filed copies of your *Answer* and *Proof of Service* [Form DV-250] to your hearing.)
- Most courtrooms do not allow children. Ask the court clerk if there is a children's waiting room in the courthouse.
- **Don't miss the hearing! If you miss it, the judge can make the orders without hearing from you.**

Get there 30 minutes early.

- Find the courtroom.
- When the courtroom opens, go in and tell the clerk or officer that you are present.
- If the person who asked for the order is present, do not sit near or talk to him or her.
- Watch the other cases so you will know what to do.
- When your name is called, go to the front of the courtroom.
- Your hearing may last just a few minutes or up to an hour or more. However, you may be at court several hours, depending on the number of other cases.

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Requests for Accommodations

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Practice telling what you disagree with.

Make a list of the orders you disagree with. Practice saying why you disagree. Do not take more than 3 minutes to say which orders you disagree with.

If you get nervous at the hearing, just read from your list. Use your list to make sure you have told the judge about each order you disagree with.



The judge may ask questions.

- Tell the truth. Speak slowly. You can read from your list.
- The other person or a lawyer may also ask you questions.
- Give complete answers.
- If you don't understand, say "I don't understand the question."
- If the other person lies in court, wait until he or she finishes talking. Then tell the judge.
- Speak only to the judge. Do not talk to the other person unless it is your turn to ask questions.
- When people are talking to the judge, wait for them to finish. Then you can ask them questions about what they said.
- Do not sit near or talk to the other person.

The judge will decide.

- At the end of the hearing, the judge will say what the orders are.
- You will be served with the *Restraining Order After Hearing* (Form DV-130) within a few days, by mail or in person.
- If anything on the Form DV-130 is different from what the judge ordered, talk to a lawyer right away. Or ask the court clerk how to find free or low-cost legal services.

The judge may "continue" your case.

This means you have to come back another day. The judge can do this if:

- You need more time to get a lawyer or prepare an answer
- The judge wants more information
- Your hearing is taking longer than planned

If your case is continued . . .

- The judge may make the orders last until the new hearing date.
- Bring all your papers back to court at the next hearing.

What about child custody or visitation?

- If you need child custody or visitation orders, the judge will send you to mediation. Mediation helps parents agree on a plan for custody and visitation that is best for the children.
- If you are sent to mediation, the judge may make your temporary custody and visitation orders last until the next hearing or until another court order.
- Either parent can ask to meet with the mediator separately.

What happens after the hearing?

- If the judge makes the orders, you must obey them. If you don't, you can be arrested.
- If you do not receive a copy of the orders, ask the clerk for a copy, or talk to a lawyer.

1 What is a firearm?

A firearm is a:

- Handgun
- Shotgun
- Rifle
- Assault weapon



2 If you own or have a firearm you must:

- sell it to a licensed gun dealer *or*
- turn it in to local law enforcement

3 How do I sell my firearm?

Look for a Licensed Gun Dealer in your area. Look under “Firearms Dealers” in your local Yellow Pages. Make sure the dealer is licensed.

4 How do I take my firearm to law enforcement?

Call your local agency to ask about their procedures. Take a copy of the restraining order with you. Go directly to the law enforcement agency. Do not go anywhere else with firearms in your vehicle!

5 If I turn my firearm in to law enforcement, how long will they keep it?

They will keep your firearm until the court order ends.

6 After I give my firearm to law enforcement, can I change my mind?

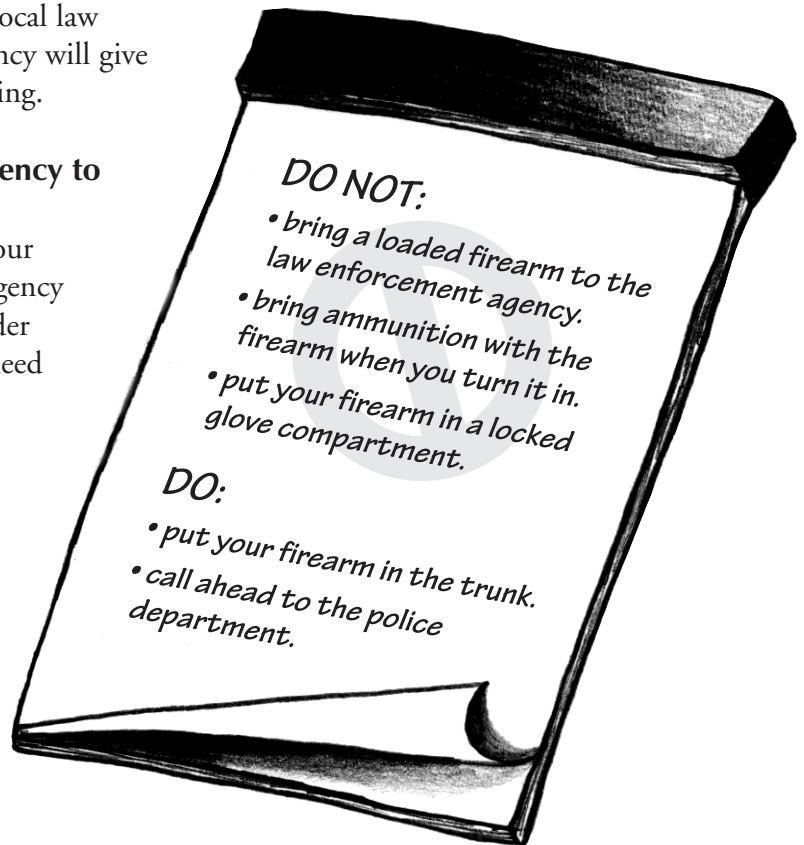
Yes. You are allowed to make one sale. To do this, a licensed gun dealer must present a Bill of Sale to your local law enforcement agency. The law enforcement agency will give the licensed gun dealer the firearm you are selling.

7 Do I have to pay the law enforcement agency to keep my firearm?

You may have to pay the agency for keeping your firearm. Contact your local law enforcement agency and ask if a fee is charged. After your court order ends, the agency will tell you how much you need to pay.

8 Questions?

Call your local law enforcement agency:
[insert local information here]



Clerk stamps date here when form is filed.

- 1 Name of person who asked for the order (protected person):
2 Your name:
Your address (skip this if you have a lawyer): (If you want your address to be private, give a mailing address instead):
City: State: Zip:
Your telephone (optional):
Your lawyer (if you have one): (Name, address, telephone number, and State Bar number):

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number:

Case Number:

Give the judge your answers to DV-100:

- 3 Personal Conduct Orders
I do do not agree to the order requested.
4 Stay-Away Order
I do do not agree to the order requested.
5 Move-Out Order
I do do not agree to the order requested.
6 Child Custody
a. I do do not agree to the custody order requested.
b. I am not the parent of the child listed in DV-105.
c. I ask for the following custody order (specify):
d. I do do not agree to the orders requested to prevent child abduction.

The judge can consider your Answer at the hearing. Write your hearing date and time here:

Hearing Date
Date: Time:
Dept.: Room:

You must obey the orders until the hearing. If you do not come to this hearing, the judge can make the orders last for 3 years or longer.

- 7 Visitation
a. I do do not agree to the visitation order requested.
b. I ask for the following visitation order (specify):
8 Child Support
a. I do do not agree to the order requested.
b. I agree to pay guideline child support.
You must fill out, serve, and file Form FL-150 or FL-155.
9 Spousal Support
I do do not agree to the order requested.
Whether or not you agree, you must fill out, serve, and file Form FL-150.

Your name: _____

- 10** **Property Control**
 I do do not agree to the order requested.
If you have other requests, list them in 20 below.
- 11** **Debt Payment**
 I do do not agree to the order requested.
If you have other requests, list them in 20 below.
- 12** **Property Restraint**
 I do do not agree to the order requested.
If you have other requests, list them in 20 below.
- 13** **Attorney Fees and Costs**
 I do do not agree to the order requested.
- 14** **Payments for Costs and Services**
 I do do not agree to the order requested.
- 15** **Animals**
 I do do not agree to the order requested.
- 16** **Batterer Intervention Program**
 I do do not agree to the order requested.
- 17** **Other Orders** (see item 21 on Form DV-100)
 I do do not agree to the orders requested.
- 18** **Turn in guns or other firearms.**
 a. I do not own or have any guns or firearms.
 b. I have have not turned in my guns and firearms to the police or a licensed gun dealer.
 c. A copy of the receipt is attached. has already been filed with the court.
You must file a receipt with the court within 48 hours after being served with temporary orders.
- 19** **I ask the court to order payment of my**
 a. Attorney fees
 b. Out-of-pocket expenses because the temporary restraining order was issued without enough supporting facts. The expenses are:
 Item: _____ Amount: \$ _____ Item: _____ Amount: \$ _____
You must fill out, serve, and file Form FL-150.
- 20** **My Answer to the Statements in DV-100 and Other Requests**
Please attach your statement. Write "DV-120, Item 20—More Information" at the top. Be specific.
- 21** I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

▶ _____
Sign your name

SHORT TITLE: _____	CASE NUMBER:
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- 1
- 2
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(Required for verified pleading) The items on this page stated on information and belief are *(specify item numbers, **not** line numbers)*:

This page may be used with any Judicial Council form or any other paper filed with the court.

Page _____

Clerk stamps below when form is filed.

Court name and street address:

Superior Court of California, County of

Case Numbers:

1 Protected person's name:

2 Your name (restrained person):

Your address (*skip this if you have a lawyer*): (*If you want your address to be private, give a mailing address instead*):

City: _____ State: _____ Zip: _____

Your phone # (*optional*): (_____) _____

Your lawyer (*if you have one*): (*Name, address, phone #, and State Bar #*):

3 To the person selling or turning in firearms:

When you sell or turn in your firearms, ask law enforcement or the gun dealer to complete item **4** or **5** and item **6**. After the form is signed, take it to the court clerk. Keep a copy. For help, read Form DV-810.

4 To: Law Enforcement

Fill out parts **4** and **6** of this form. Keep a copy and give the original to the person who turned in the firearms.

The firearms listed below were turned in on:

Date: _____ at: _____ a.m. p.m.

To: _____
Name and title of law enforcement agent

Name of law enforcement agency

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

➤ _____
Signature of law enforcement agent

5 To: Licensed Gun Dealer

Fill out parts **5** and **6** of this form. Keep a copy and give the original to the person who sold the firearms to you.

The firearms listed below were sold on:

Date: _____ at: _____ a.m. p.m.

To: _____
Name of licensed gun dealer

License number (_____) _____
Telephone

Address

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

➤ _____
Signature of licensed gun dealer

6 Firearm Make

- 1. _____
- 2. _____
- 3. _____

Model

- _____
- _____
- _____

Serial #

- _____
- _____
- _____

Check here if more firearms. Attach a sheet of paper and write "DV-800, Item 6 — Firearms Turned In or Sold" at the top. Include make, model and serial # for all other firearms.

Clerk stamps below when form is filed.

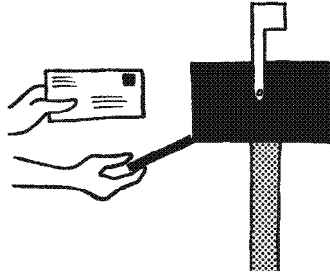
1 Protected person's name: _____

2 Restrained person's name: _____

3 **Notice to Server**

You must:

- Be 18 or over.
- Not be listed on the restraining order.
- Mail a copy of all documents checked in 4 to the person in 5.



Court name and street address:

Superior Court of California, County of

Clerk fills in case number when form is filed.

Case Number:

4 I mailed to the person in 5 a copy of all documents checked below:

- a. DV-112 (*Waiver of Hearing on Denied Request for Temporary Restraining Order*)
- b. DV-120 (*Answer to Temporary Restraining Order*)
- c. FL-150 (*Income and Expense Declaration*)
- d. FL-155 (*Financial Statement (Simplified)*)
- e. DV-130 (*Restraining Order After Hearing*)
- f. Other (*specify*): _____

Note: You cannot serve forms DV-100, DV-105, DV-109, or DV-110 by mail.

5 I placed copies of the documents checked above in a sealed envelope and mailed them as listed below:

- a. Date: _____ b. Mailed from (*city*): _____ (*state*): _____
- c. Mailed to (*name*): _____
- d. At this address: _____

6 **Server's Information**

Name: _____

Address: _____

Telephone: _____

(If you are a process server):

County of registration: _____ Registration number: _____

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print server's name

Server to sign here