

Domestic Violence Restraining Orders

A domestic violence restraining order is a court order that helps protect people from abuse or threats of abuse from someone they have a close relationship with. You can ask for a domestic violence restraining order if:

A person has abused (or threatened to abuse) you **AND** You have a close relationship with that person.

You are:

- Married or registered domestic partners,
- Divorced or separated,
- Dating or used to date,
- Living together or used to live together (more than roommates),
- Parents together of a child, OR
- Closely related (parent, child, brother, sister, grandmother, grandfather, in-law).

If you are a parent and your child is being abused, you can also file a restraining order on behalf of your child to protect your child (and you and other family members). If your child is 12 or older, he or she can file the restraining order on his or her own.

If you do not qualify for a domestic violence restraining order, there are other kinds of orders you can ask for:

- Civil harassment restraining order (can be used for neighbors, roommates, coworkers, or more distant family members like cousins, uncle or aunt, etc.).
- Elder or dependent adult abuse restraining order (if the person being abused is 65 or older; or between 18 and 64 and a dependent adult).
- Workplace violence restraining order (filed by an employer to protect an employee from violence, stalking, or harassment by another person).

What a restraining order CAN do

A restraining order is a court order. It can order the restrained person to:

- Not contact or go near you, your children, other relatives, or others who live with you;
- Stay away from your home, work, or your children's schools;
- Move out of your house (even if you live together);
- Not have a gun;
- Follow child custody and visitation orders;
- Pay child support;
- Pay spousal or partner support (if you are married or domestic partners);
- Stay away from any of your pets;
- Transfer the rights to a cell phone number and account to the protected person ([read more](#));
- Pay certain bills;
- Not make any changes to insurance policies;
- Not incur large expenses or do anything significant to affect your or the other person's property if you are married or domestic partners;
- Release or return certain property; and
- Complete a 52-week batterer intervention program.

Once the court issues (makes) a restraining order, the order is entered into a statewide computer system (called CLETS) that all law enforcement officers have access to. And your restraining order works anywhere in the United States. If you move out of California, contact your new local police so they will know about your orders.

Effect of a restraining order on the restrained person

For the person to be restrained, the consequences of having a court order against him or her can be very severe.

- He or she will not be able to go to certain places or to do certain things.
- He or she might have to move out of his or her home.
- It may affect his or her ability to see his or her children.

- He or she will generally not be able to own a gun. (He or she will have to turn in, sell or store any firearms he or she has, and will not be able to buy a gun while the restraining order is in effect.)
- The restraining order may affect his or her immigration status. If you are worried about this, talk to an immigration lawyer to find out if you will be affected.

If the person to be restrained violates the restraining order, he or she may go to jail, or pay a fine, or both.

The Restraining Order Process

When someone asks for a domestic violence restraining order in court, they have to file court forms telling the judge what orders they want and why. What happens after that varies a little from court to court, but the general steps in the court case are:

1. The person wanting protection files court forms asking for the domestic violence restraining order. There is NO fee to file.
2. The judge will decide whether or not to make the order by the next business day. Sometimes the judge decides sooner.
3. If the judge grants (gives) the orders requested, he or she will first make “temporary” orders that only last until your court date. The court date will be on the paperwork. These temporary orders can include issues like:
 - Ordering the restrained person to stay away and have no contact with the protected person (and other protected people and family pets);
 - Child custody;
 - Who can use the family home; or
 - Who can use other property, like a car.
4. The person asking for protection will have to “serve” the other person with a copy of all the restraining order papers before the court date. This means that someone 18 or older (NOT involved in the case) must hand-deliver a copy of all the papers to the restrained person.
5. The restrained person has the right to file an answer to the restraining order request, explaining his or her side of the story.
6. Both sides go to the court hearing.
 - If the protected person does not go to the hearing, the temporary restraining order will usually end that day and there will not be a restraining order.
 - If the restrained person does not go to the hearing, he or she will have no input in the case and his or her side of the story will not be taken into account.
7. At the hearing, the judge will decide to continue or cancel the temporary restraining order. If the judge decides to extend the temporary order, the “permanent” order may last for up to 5 years.
8. If the judge also makes other orders in the restraining order, like child custody or child support orders, these orders will have different end dates and usually will last until the child turns 18 or a judge changes them.

Getting Help

You do not need a lawyer to ask for (or respond to) a restraining order. BUT it is a good idea to have a lawyer, especially if you have children.

The court process can be confusing and intimidating. Both people will have to see each other in court, and both will have to tell the judge details of what happened in a public courtroom. Having a lawyer or (for the protected person) support from domestic violence experts can help make the process easier to handle.

For the person asking for protection

Most cities and counties have domestic violence help centers, shelters, or legal aid agencies that help people ask for a restraining order. These services are usually free or very low cost. If you are the person asking for a restraining order, look for help in your area before you try to do it on your own.

For the person responding to a restraining order

It is more difficult to find free or low-cost legal help if you are responding to a request for a domestic violence restraining order. But you should still try since legal aid agencies have different guidelines, and your local bar association may have a volunteer lawyer program that can help you.