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(Petition for Dissolution)

A Guide **for Persons** **Responding to** **Domestic Violence** **Protection Orders**

A message for you:

“The State of California is taking strong measures to oppose all forms of domestic violence. Our courts can, and do, issue orders to deal with this matter. If you have been named as the person to be restrained in an action seeking a restraining order, you will be able to go to court and tell your side of the story soon. This brochure and the video that goes with it describe how restraining orders work. In the meantime, you are fully responsible for obeying whatever order the court has already issued in this action. I urge you to use the information in this brochure to make whatever decisions you feel are in your best interests.”

Ronald M. George
Chief Justice of California

This brochure gives general information about restraining orders and six steps for you to follow to respond to a restraining order if a request for one has been filed against you.

The court process can be complicated, so it is important that you read this brochure carefully before you get started. There is also a video that goes with this brochure. It is called *A Respondent’s Guide to Domestic Violence Restraining Orders*. In addition, you should also get a copy of the *Domestic Violence Restraining Order Instruction Booklet*, Form DV-150 from the court clerk for detailed information about how to fill out each of your court forms. You can also find out how to fill out and file the forms you need from lawyers, books, or legal aid clinics.

WHAT IS DOMESTIC VIOLENCE?

This brochure discusses domestic violence that is prohibited under the Domestic Violence Prevention Act, also called the DVPA. The DVPA defines domestic violence as threatened or actual abuse between people in the same family or home or who have a close relationship. This includes a:

- Spouse or former spouse;

- Current or past dating relationship (it does not have to be an intimate or sexual relationship);
- Mother or father of you or child;
- Person related to you by blood, marriage, or adoption (such as a mother, father, child, brother, sister, grandparent, or in-law); or
- Person who regularly lives or used to live in your home.

The DVPA is designed to protect adults and children under the age of 18 who live with those adults from actual or threatened violence such as:

- Physical injuries;
- Sexual assault;
- Attacking, striking, or battering;
- Molesting;
- Harassing;
- Stalking;
- Harassing or threatening telephone calls;
- Destroying personal property;
- Disturbing his or her peace; and
- Threatening to do any of the above.

Under the DVPA, abuse can be physical, sexual, or verbal. It can include spoken or written abuse.

In this brochure, we refer to a legal matter as a *Domestic Violence Prevention Act (DVPA)* case. We will refer to the person seeking protection as the “protected person”.

WHAT IS A RESTRAINING ORDER AND WHAT CAN IT DO?

A *restraining order* is a court order. It lists the things that someone cannot do or places they cannot go. Restraining orders can tell a person to stop hurting or saying that they will hurt a partner, his or her children, or other people that they live with. Restraining orders can also tell that person to stop telephoning, move out, stay away from where another lives or works, give up a gun, limit the time spent with his or her children, pay child support, pay certain bills, or release or return certain property.

These orders can last for as little as a week and can be extended first for up to three years, and then more if needed. A police officer or sheriff’s deputy can make that person do what the order says.

WHO WILL DECIDE MY CASE?

Decisions about whether to issue a restraining order under the Domestic Violence Prevention Act can be made by several different kinds of judicial officers. A judge, such as a superior court judge or a county court judge, can make all types of decisions for the court. Other judicial officers such as commissioners, referees, hearing officers, or magistrates are appointed to handle particular types of cases or decisions. To make things simpler in this brochure, we will refer to all of these different types of judicial officers as the “judge.”

DO I NEED LEGAL ADVICE?

There are a lot of legal issues in a domestic violence case, and the law regarding these types of cases changes often. It is particularly important for you, as a person responding to a domestic violence order, to get legal advice. The consequences of having a restraining order against you can be very severe. You will not be able to go to certain places or to do certain things. You might have to move out of your home. It may affect your ability to see your children. You will generally not be able to own a gun. If you violate the orders, you may go to jail, or pay a fine, or both.

YOUR NOTES:

In this brochure, you will find special information in boxes like the one below:

➡ **ALERT!** To get help with legal questions, you may contact:

1. a private attorney (many county bar associations have a lawyer referral service that lists attorneys who can meet with you for a small fee or just help you with parts of your case);
2. an attorney from your local bar association’s “pro bono” (free) legal representation panel;
3. the public defender;
4. the Family Law Facilitator (if child or spousal support is also involved).

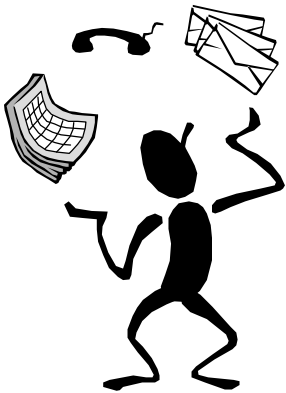
HOW DOES A RESTRAINING ORDER WORK?

A restraining order is a court order that limits the behavior of a person who is alleged to be abusive. It is intended to protect someone from future acts or threats of abuse. Copies of the court order are registered with, or provided to, law enforcement agencies so they will be



6 SUCCESS STEPS:

This brochure outlines six steps for responding to a filed Domestic Violence Prevention Act (DVPA) case. These are:



1. **Review court forms, get legal advice, and obey all court orders.**
2. **Fill out and file response forms, and have them served.**
3. **Prepare for your court hearing.**
4. **Attend the court hearing.**
5. **Read, understand, and obey all court orders.**
6. **Plan for a future without violence.**



STEP 1: REVIEW COURT FORMS, GET LEGAL ADVICE, AND OBEY ALL COURT ORDERS

You should have received the following forms at the start of your DVPA case. First, there is the *Order to Show Cause and Temporary Restraining Order (CLETS) (Domestic Violence)*, Form DV-110 that is prepared by the person seeking the orders (or that person's attorney). This *Order to Show Cause* form may also have *temporary orders* included that are already in effect until the date listed on the order for the next court hearing. Second, with this order, you should also receive the *Application and Declaration for Order, (Domestic Violence)*, Form DV-100, and any other papers that the person seeking protection filed with the court.

Carefully look over all of the forms you have received.

These forms list any orders the protected person is requesting and show whether these orders are in effect at the time they are served on you. When you read the form titled *Application and Declaration for Order (Domestic Violence)*, Form DV-100, you will see what the protected

person has said about what happened, and about any threats or physical or emotional abuse.

If the judge has made any *temporary orders* based on what the protected person has said, these orders will be included in the *Order to Show Cause and Temporary Restraining Order (CLETS)*, Form DV 110 in a part that starts out: “*Until the time of hearing, it is ordered.*” If any of the boxes following those words have been checked or the sections are filled in, there are court orders that affect you now. *You must obey all of these orders to the letter and do everything exactly as the order says.* When you go to the hearing, you can ask for changes in the orders.

➡ **ALERT!** If you do not file a *Responsive Declaration to Order to Show Cause*, Form DV-120 within the time

limit and do not go to the court hearing, then the court will probably issue all of the orders that the protected person has asked for—without hearing your side of the story.

WHAT KINDS OF RESTRAINING ORDERS ARE THERE?

DVPA restraining orders can be ordered by the judge when there is both (1) a close relationship between you and the protected person and (2) actual or threatened abuse. These orders can include:

1. *Personal conduct orders.* These are orders to stop specific acts against the protected person and anyone else included in the restraining order. This order can stop the restrained person from:
 - Contacting;
 - Sending any message (including email);
 - Molesting;
 - Attacking;
 - Striking;
 - Stalking;
 - Threatening;
 - Sexually assaulting;
 - Battering;

- Harassing;
- Telephoning;
- Destroying personal property;
- Disturbing the protected person's peace.

1. *Stay-away orders.* These are orders to keep the restrained person away from:
 - The protected person;
 - Where the protected person lives;
 - The protected person's place of work;
 - A protected child's school or place of child care;
 - The protected person's vehicle;
 - Other important places where the protected person goes.

1. *Residence exclusion (kick-out) orders.* These are orders telling the person to be restrained to move out from where the protected person lives and take only clothing and personal belongings until the court hearing.

➡ **ALERT!** If there are other special hardships for you in the order (such as it keeps you away from your

workplace), you should consult with a private attorney or legal aid clinic immediately. If you believe that having any custody or visitation orders go into effect on the date they are served on you would harm a child, then you should consult with a private attorney or legal aid clinic immediately.

WHAT ADDITIONAL DVPA ORDERS CAN A JUDGE INCLUDE?

The judge may also grant *additional orders*:

- **Child custody and visitation orders:** If the protected and restrained parties have one or more children together, the judge can decide where the children will live, which parent will make decisions affecting the children, and how the children will spend time (where, when, and whether supervised) with the restrained parent.

- **Removal of child:** The judge may restrict either or both parents from traveling or moving outside of the city, county, area, or state with the children.

- **Child support:** The judge may order the restrained parent to pay child support according to California's guideline.

- **Property control:** The judge may give each person

“exclusive temporary use, possession, and control” of certain things that you own together (such as a car, truck, boat, computer, tools, electronic equipment, bank accounts, or household appliances), or make certain loan payments until a more permanent decision is made at the court hearing.

- **Give up guns (firearms relinquishment):** The judge can order the restrained person to sell any guns they own or to leave any guns they have with a law enforcement agency during the time the restraining order is in effect, and can order him or her not to buy a gun while the restraining order is in effect.
- **Restitution:** The judge may order the restrained person to pay back the protected person’s lost earnings or expenses (such as ambulance, medical, dental, shelter, and counseling bills) that are a result of the domestic violence.
- **Counseling:** The judge may order the restrained person to attend a “certified batterers treatment program” or other counseling service.
- **Attorney fees and costs:** The judge may order the restrained person to pay part or all of the protected

person’s attorney fees and costs, if he or she hired an attorney to get the restraining order.

- **Other:** The judge may make other orders necessary for the protection of the parties.

OTHER TYPES OF RESTRAINING ORDERS

If a police officer responds to a domestic violence call, the police officer can call a judge (any time, day or night) and ask for an *Emergency Protective Order*. These orders only last for five to seven days to give the protected person time to go to court to request a DVPA restraining order. These orders can make the restrained person leave the home, stay away from the protected person, and not see his or her children, at least on a temporary basis. There are also restraining orders that can be issued by the criminal, civil, juvenile, and probate courts.

OBEY ALL COURT ORDERS

You must follow all of the judge’s orders regarding what you can and cannot do, and where you can or cannot go. With the understanding that these restrictions can mean a big inconvenience to you, a court hearing will be scheduled within three weeks of the date the order was signed. A copy of the temporary restraining order will

have been given to local law enforcement agencies. If you violate the order, you could be charged with a crime and spend time in jail, pay a fine, or both.

- If *restraint on personal conduct orders* were granted, and if you have no children with the protected person, you will need to STOP all contact with the protected person and his or her household. This generally includes stopping all telephone calls, e-mails, regular mail correspondence, faxes, and any in-person contact.
- If *stay-away orders* were granted, you must remain a certain distance away (listed in the order) from the protected person while in public or in other places (also listed in the order).
- If orders were granted requiring you to give sole possession of the residence, a car, or other items of property to the protected person until the hearing date, then you must do so.
- If a firearms relinquishment order to give up guns was made, then you will need to deliver all of the guns or other firearms that you have to a law enforcement agency and give a copy of that agency's receipt for these guns to the court clerk.

While these temporary orders may seem harsh, they are intended to provide the protected person and his or her household with a sense of security until the judge has the chance to hear both sides at a court hearing.

DECIDE IF YOU WILL RESPOND TO THE ORDERS THE PROTECTED PERSON REQUESTED

You need to decide whether you will file a response to the requested restraining orders. If you do not oppose or disagree with the orders that the protected person has asked for, then you may choose to let the protected person get the requested orders at the hearing without filing any opposing forms or attending the court hearing. If any of the requested orders presents a particular problem for you, make sure you file a response within the required time period. For example, the requested orders might prevent you from: operating a home business (if you are ordered to move out of the home you share with the protected person); going to work (if you and the protected person work at the same place); or attending church (if you and the protected person go to the same church).

If you do not participate in the court hearing, but you and the protected person have a child, the judge will probably grant whatever custody and visitation orders the protected person requested. Child support will also be set based on the California guideline and the amount of income the protected person listed for each of you and the time you each spend with the child.

If you choose to file a response, you must use a *Responsive Declaration to Order to Show Cause*, Form DV-120. You should already have received a blank *Responsive Declaration* form. You can also get a copy of this form from the court clerk, a private attorney, the public defender, a legal aid clinic, a law library, or on the Internet at <http://www.LawCA.com>.

ADDITIONAL FORMS FOR CHILD CUSTODY, VISITATION, OR SUPPORT ORDERS

If the protected person has requested child custody and visitation orders, you may have received a blank *Declaration Under Uniform Child Custody Jurisdiction Act*, Form MC-150. If you disagree with the information that the protected person filled in on his or her form, you will need to fill in and file your own *Declaration Under Uniform Child Custody Jurisdiction Act*, Form MC-150

with the information that you believe is accurate. If the protected person has requested child support orders, you must fill out and return the blank *Income and Expense Declaration*, Form 1285.50 (a,b,c) OR the *Financial Statement (Simplified)*, Form 1285.52. The court will use this information to set an amount for any child support payments that it orders.

GET INFORMATION, SUPPORT, AND THE RESOURCES YOU NEED

Most people need more than just legal help in domestic violence cases. For example, the different feelings that you, your partner, or your children have can make you feel afraid or make it hard to move on with your life. You may also be worried about where you will live or how you will spend time with your children. There are people in your county who can help or can tell you where else to go for help.

Some of the resources or options to consider include:

- **Legal information:** Private attorney, legal aid program, Family Law Facilitator, public defender, self-help books or videos;

- **Domestic violence information:** Batterers treatment or anger management groups;
- **Mental health information:** Counselor, crisis hotline, social worker, or other health professional specializing in domestic violence; books, videos, and other materials;
- **Spiritual support:** Minister, priest, rabbi, or other religious leader informed about domestic violence;
- **Employment information:** Local unemployment agency or other department;
- **Help with child care:** School districts, local job training programs, and area preschools; and
- **Information about and support for children affected by domestic violence:** Schoolteacher, children’s counselor, youth leader, pediatrician, books, videos, and other self-help materials.

<u>YOUR NOTES:</u>

✓ STEP 2: FILL OUT AND FILE RESPONSE FORMS, AND HAVE THEM SERVED

All California courts use the same basic set of forms, although some courts add other local forms. You should have been served a blank copy of all the forms you would need to complete to respond to the protected person’s request for orders.

If you did not receive any of the forms described in this pamphlet, you may get all of the forms you need from the court clerk’s office. Some court clerks will have one

packet with a copy of each of the forms that you might need for a domestic violence restraining order. In other clerks' offices, you must ask for the specific forms you want. You can also get copies of the court forms you will need from a private attorney, the public defender, a legal aid clinic, a law library, or the Family Law Facilitator, or on the Internet at -

<http://www.LawCA.com>.

☛ ***ALERT!*** Please get and refer to the *Domestic Violence Restraining Orders Instruction Booklet, Form DV-150*, which is available at no charge from your court clerk for line-by-line instructions on filling out each of the forms covered in this brochure.

Throughout this booklet, we will give the full name and form number for each of the forms discussed. You can compare the forms mentioned here to the ones you receive from the court clerk by reading the form name printed at the center of the bottom of each form. You should note that each form is revised and updated from time to time. You will find the form number and the date that the form was last revised in the bottom left corner of each form.

☛ ***ALERT!*** Court forms may change on January 1 or July 1 of each year. Out-of-date forms will be returned to you without being filed. It is important that you check with a private attorney, the court's Family Law Facilitator, the court clerk, or on the Internet at *www.LawCA.com* to make sure that the forms you use are current. You can check the date the form was released by looking on the bottom left-hand portion of the form.

TIPS FOR FILLING OUT COURT FORMS

1. **You need to get the Domestic Violence Prevention Act (DVPA) forms listed in this brochure.** These forms are available free in the clerk's office. You can also print out these forms from the LawCA site (at *<http://www.LawCA.com>*).
2. **Use the instruction booklet labeled DV-150 for line-by-line instructions in filling out and filing Domestic Violence Prevention Act (DVPA) forms listed in this brochure.** These instructions are available free in the clerk's office (Family Code, §6222). You can also print out these instructions from the LawCA site (at *<http://www.LawCA.com>*).
3. **Use a typewriter if possible, or someone with neat handwriting to fill out court forms.** There are also

computer programs you can use that have these DVPA forms. In some counties, you may turn in a handwritten form if your handwriting is easy to read. Only fill out the form by hand if you cannot find a typewriter or computer to use, and if you have confirmed that your county will accept a handwritten form.

4. **Keep your court papers safe in a separate folder.** Be sure you keep a clean copy of all of your court papers.
5. **Bring your complete court file with you** every time you go to the clerk's office or to a court hearing.
6. **Check whether your court has any special local rules** about the forms you need or how the forms must be filled out (i.e., paper color, ink color).

GENERAL INFORMATION ON COMPLETING COURT FORMS

Most people find it easier to fill out court forms by going through each form one section at a time. If you have questions about one of the sections on a form, leave that section blank until you can get your questions answered. You may ask a private attorney, the Family Law

Facilitator (when child or spousal support are also involved), or a legal aid center for help in understanding and filling out your court forms.

Many court forms are printed on both sides. If you decide to copy a two-sided form, you may use a separate page for each side of the form. If you decide to copy both sides of the form onto the front and back of one

piece of paper, be sure the back page is facing the same direction as the back page of the original.

FILING AND SERVING YOUR FORMS

Once you have completed all of your forms to respond to your DVPA case, it is a good idea to have them reviewed by an attorney. The Family Law Facilitator may be able to help review your papers if there are child or spousal support issues in your DVPA case. After you have made any changes or corrections to your forms, make at least two copies of each form.

Although you can file your forms either by mail or in person, if your court hearing is scheduled one week or less from the time you were served, you should file in person at the court. Your forms must be filed five court days before the hearing. Using the mail takes a few days

longer, and you must enclose an extra copy and an envelope with your name and address and first class postage on it so your stamped copy of the forms you filed can be mailed back to you. When the clerk receives your forms, he or she will file, stamp, and keep the original set of court forms and stamp and return the extra copy.

“Service” of the forms means providing the protected person with a copy of the forms you filed with the court either by personal service (hand delivery) or by

mail. You can have your forms served by anyone 18 years of age or older who is not a party to your case or you may use a “process server”. You cannot serve these forms on the protected person yourself either by mail or by hand delivery.

Your *Responsive Declaration to Order to Show Cause, Form DV-120* and accompanying papers may be served on the protected person by mail. This is generally easier than hand delivery. **If the protected person has an attorney, you must have that attorney served;** otherwise, you can have the protected person served at the address that appears in the top box of all the protected person’s forms. (This may be different from the protected person’s home address.)

<u>YOUR NOTES:</u>

THE DVPA FORMS YOU MAY NEED:

3. ***Responsive Declaration to Order to Show Cause, Form DV-120.*** This form allows you to agree or disagree with the requested restraining orders, and to ask for additional orders.

☛ **NOTE:** *If you do not have any children under the age of 18 with the person to be protected, skip to number 3. If you have children with the person to be protected, you will need to complete the following forms listed in number 2 below.*

3. Attach to form DV-120:
 - a. ***Declaration Under Uniform Child Custody Jurisdiction Act (UCCJA), Form MC-150.*** This form tells the court whom the children

have been living with and if there are any other custody orders.

- b. ***Income and Expense Declaration, Form 1285.50 (a, b, c) or Financial Statement (Simplified), Form 1285.52.*** You can get these forms from the clerk, but will need only one of them—the court clerk can help you decide which one. You use the form to tell the judge about your financial situation. You will need this form if you or the other parent are asking the judge to order child support, attorney fees, or service costs.

3. ***Proof of Service, Form DV-140.*** This form is used to show that the person to be protected has been served with completed forms as required by law. It must be used with **all the forms** that you file with the court. It must be filled out and signed by the person who served the forms before you file it with the court.

3. ***Fee Waiver.*** There is no charge for *filing* all your restraining order papers. You only need to fill out the fee waiver forms below if you want the sheriff or marshal to *serve* your papers at no charge.

- a. ***Information Sheet on Waiver of Court Fees and Costs, Form 982(a)(17)(A).***
- b. ***Application for Waiver of Court Fees and Costs, Form 982(a)(17).***
- c. ***Order on Application for Waiver of Court Fees and Costs, Form 982(a)(18).***

You cannot serve these forms on the protected person. Your forms can be served by anyone 18 years or older who is not a party to your case. If you do not wish to have a friend or relative serve the forms, you may hire a “process server.” If you hire a process server, try to find one who is located close to where the protected person lives or works, since the fee is often based on how far he or she has to travel to serve the forms. In some counties, the sheriff or marshal will serve these forms for a small fee or at no charge.

If you decide to fill out the court forms that let you respond to what the protected person has said, you must make sure that both the court and the protected person have time to review them before the hearing date. If you are late in filing your forms with the court and serving the protected person, the judge may decide not to accept your *Responsive Declaration* and may issue the orders requested by the protected person or may delay the



You should take time before your court hearing to plan for how you will present your case to the judge. To prepare, you can:

- Talk with an attorney, or, if there are child support issues in this case, with the Family Law Facilitator, about the court process;
- Go to court to watch other DVPA restraining order hearings (especially ones conducted by the judge who may hear your case); and
- Read all of the court forms for your case.

Attorneys and legal aid counselors can answer questions and give you information that will help you understand some of the legal issues in a DVPA case. To see how the judge you may have handles these cases, ask the court clerk about times you could watch the judge handle other DVPA cases. It is important that you know what all of the court forms say. If there are witnesses who saw what happened, you can bring them to the hearing and the judge may allow them to tell what they heard or saw.

You and the protected person will have to go to mediation if you have children and can't agree about custody and visitation. Because domestic violence has been raised as

an issue in the case, either you or the protected person can ask that your mediation sessions be held separately.

Mediation gives parents a chance to work out how they will share time with their children and how decisions that affect the children will be made. The court has child custody mediators available to you at no cost. If you and the other parent reach an agreement, the mediator may write it up so that you can sign it and give it to the judge, and it will become a court order. If you can't agree, the court might do one or more of the following things:

- Ask the mediator to tell what parenting plan he or she thinks would be in your child's best interests;
- Appoint an investigator or evaluator to tell what parenting plan he or she thinks would be in your child's best interests; or
- Conduct a trial where you and the other parent will have the chance to tell what each of you thinks would be best for your children, and then decide the case.

 **STEP 4: ATTEND THE COURT**

HEARING

It's always a good idea to arrive at the court a little earlier than the time your hearing has been set to start. You should bring the following items to the hearing:

- Your stamped copy of all forms filed with the court, including the *Proof of Service*, Form DV-140;
- Photos, police reports, or any other documents that are important to your case.

For any document you intend to have the judge consider, bring the original and two copies. Give the court clerk or bailiff one copy to give to the protected person after you have checked in.

If child support is being requested, meet with the Family Law Facilitator if possible to find out what the appropriate amount of child support should be and take these documents to court as well:

- Your last three pay stubs;
- Your most recent federal and state tax returns; and
- Proof of child care or uninsured health care expenses

for the child.

If at all possible, arrange for someone to watch your child while you go to court. Some courthouses have children's waiting rooms. Call your court clerk to ask, before you go to court.

If your child has important information about the violence or threats, ask an attorney, victim witness counselor, domestic violence counselor, or legal aid clinic about how to have the judge hear from your child.

CHECK IN WITH COURT PERSONNEL

When you first arrive at the court, you need to check in to let the clerk or bailiff know you are present. Usually, the clerk or bailiff will have a list with all the cases to be heard in court for that day. The clerk or bailiff will find your case name on that list and make a notation that you are present. If you are the first to check in, the clerk or bailiff may ask you if the protected person is present. You should tell the clerk or bailiff if and when the protected person is present. After you have checked in, take a seat and wait until your case is called. **Do not talk to, confront, or argue with the protected person if you see her or him.**

HEARING IF THE PROTECTED PERSON IS NOT PRESENT

If the protected person does not attend but has called the court and has a good excuse for not being present, the judge will probably postpone the hearing and give the protected person one more chance to show up and make a request for permanent orders. You will be ordered to return on that new date if you wish to oppose the requests and you will be told that any *temporary restraining orders* obtained by the protected person will continue to be in effect until the new court hearing date.

If the protected person does not attend by the time your case is called, and has not called with a good excuse, the judge will probably have the case “dropped from calendar.” This means that all the *temporary orders* will end, and the protected person’s request for permanent orders will not be heard. If the protected person wants court orders in the future, she or he will need to prepare a new set of forms and serve you again. If you want the court to make any orders, then you will need to file your own action and schedule a new hearing date.

HEARING IF THE PROTECTED PERSON IS PRESENT


If the protected person is present and your case is called, you will both be asked to come up to the tables in front of the judge. If you do not agree with what the protected person says happened or with the orders that he or she has asked for, you should already have filled out, filed, and served a copy of your *Responsive Declaration*. If you try to file a *Responsive Declaration* on the day of your hearing, the protected person can ask the judge for extra time to read the form and gather extra information, witnesses, or statements from witnesses. If the judge sets a new hearing, the judge will probably extend any *temporary restraining orders* that are in effect.

Once both of you are standing or sitting in the appropriate place, the judge will ask each of you to give your name for the court “record.” Most judges have a short time available to handle DVPA court hearings. **Do not interrupt either the judge or the protected person when they are speaking during the court hearing.** While some judges will want you to tell your entire story, many may ask only a few questions. If you have not already filed a *Responsive Declaration* that disputes what the protected person asked for, the judge may consider

that you do not disagree with the requested orders, and save some court time by not having either of you address those “uncontested” parts of the order.

Since this hearing is the result of the protected person’s request to the court for orders, the protected person will be asked to testify first. When the protected person’s presentation is finished, you will have the opportunity to ask questions of the protected person and any of the protected person’s witnesses. Then it is your turn to present facts on each of the contested issues, have witnesses testify, and introduce documents. If you have statements from witnesses (“declarations”) or documents to show, be sure to give them to the bailiff to give to the judge at the time during the hearing when the information will make the most sense. The protected person will have an opportunity to ask you or your witnesses questions. The judge will either inform you of his or her decision while you are both present in court or tell you that he or she will decide the case later (perhaps after reviewing the evidence in more detail).

<u>YOUR NOTES:</u>

 **STEP 5: READ, UNDERSTAND, AND OBEY ALL COURT ORDERS**

If the judge grants any of the orders the protected person requested in the *Application*, the judge will sign a form called *Restraining Order After Hearing*, Form DV-130, and any attachments including *the Child Custody and Visitation Order Attachment*, Form 1296.31A; *Domestic Violence Miscellaneous Order Attachment*, Form 1296.31E; or any others, and the orders will go into effect immediately. Once the *Restraining Order After Hearing* has been signed by the judge and filed with the court, you should receive a copy of the court order. However, if you were in court at the time that the order was issued, you have to follow the order even if you don’t receive a copy. If you don’t attend the hearing, the judge will normally make whatever orders the protected person asks for. Those orders can just be mailed to you and you must follow those court orders as soon as you receive them.

Sometimes, the judge will issue *temporary restraining orders* to cover only a short period of time while the

parties try to work out a parenting plan in mediation or come up with child support amounts by working with the Family Law Facilitator. Otherwise, the restraining order will last for a set period, usually three years from the date it is issued, which can then be extended after another court hearing. You will know how long the order will last by reading the form and checking for the date the order “expires” (ends). Obey the restraining orders until you are sure they are no longer in effect. If you violate the restraining orders you may go to jail, pay a fine, or both.

☛ **ALERT!** Read your copy of the court order carefully to make sure that it correctly lists all of the judge’s orders for your case. If there are mistakes in the way anything is listed on the court order, talk to an attorney about what to do next.

IF YOU HAVE COURT ORDERS FOR PAYING CHILD OR SPOUSAL SUPPORT

If you are required to pay child support and you are employed, a wage assignment will most likely be issued, which means that the support will be deducted from your paycheck and paid directly to the other parent by your employer. You will be responsible for paying any child

support owed from the date that you were ordered to start paying it until the date that the wage assignment takes effect. If you will be making the support payments yourself, send the payments on time. Interest can be added on until the full amounts are paid, and if the support is more than one month overdue, you might lose your driver’s license, professional license, or income tax refund.

WHO ELSE GETS A COPY OF RESTRAINING ORDERS?

Just as with the *temporary restraining orders*, law enforcement agencies will be given a copy of the *Restraining Order After Hearing* form. DVPA orders are also sent by the court to a statewide agency where a registry of all restraining orders is kept. This is called the CLETS system (California Law Enforcement Telecommunications System). Domestic violence protective orders are enforceable throughout the state and country. Depending on the kinds of orders that the judge made, other parties may be given a copy of the order, including:

- The landlord if the protected person rents and the order includes a *residence exclusion*;
- Law enforcement agencies;

- Security officers at the protected person’s residence or workplace;
- Visitation supervisor if the order provides for supervised visitation;
- A protected child’s school and/or child care provider;
- The protected person’s employer if the order includes a stay-away-from-work order;
- Financial institutions if one of you has an order to have use and control of an account at that financial institution;
- Counseling agency if either the person to be protected or the person to be restrained are ordered to attend counseling;
- Health care providers or insurance companies if the order requires the person to be restrained to pay restitution directly to the protected person’s health care provider or health or car insurance company; and
- Others that are listed on, or are affected by, the court order.

ALERT! A *restraining order* can have a significant impact on you. As long as the *restraining order* is in effect, you will not be able to purchase, own, or possess firearms. You may also be required to turn in any firearms that you already own to a law enforcement agency while the restraining order is in effect. You may be ordered to participate in counseling at a batterers program. If counseling was ordered, the court will tell you whom to contact for that counseling. The counseling program will report to the court whether you attended and completed the program.

MODIFICATION OF ORDERS

Unless the judge approves the protected person’s request to change or end the restraining order, the restraining order will stay in effect until the expiration (ending) date. This means that you risk legal action or criminal prosecution if you violate the DVPA orders in any way. You can ask the court to change child custody, child visitation, and child support orders if there has been a “substantial change of circumstances” since the last order was made.

<u>YOUR NOTES:</u>

EXTENSION OF ORDERS

If the protected person does want the restraining orders to continue past the expiration date, he or she will need to file a request with the court. If the protected person makes this request, you will be served with a copy of that request and have the chance to go to the hearing and say why you believe there is no longer any need for the restraining orders. No new acts or threats of violence are required in order for the judge to grant the extension beyond the first three-year period.

EXPIRATION OF ORDERS

If the protected person does not ask the court to issue new orders before the existing DVPA orders expire, then these orders will all end, except for any orders that address child custody, visitation, or child support. Generally, child support orders remain in effect until the child reaches age 18, unless the child is still living with a parent and attending high school as a full-time student. In this case, child support continues until the child graduates from high school or reaches age 19, whichever event occurs first.

YOUR NOTES:

✓ STEP 6: PLAN FOR A FUTURE WITHOUT VIOLENCE

Restraining orders are meant to help everyone involved deal with violent or threatening situations. Restraining orders work best when you:

- Clearly understand what the court order says about what you can and cannot do;
- Have the right kind of order, or combination of orders, to provide the kind of protection that everyone needs;
- Take the time to fill your court forms out completely and give the judge all of the information he or she will need to make a decision that meets everyone's needs;
- Attend all court hearings;
- Obey the court order, exactly as written, until that order is changed (by a later court order), is dropped (following a court hearing), or expires (runs out at the end of the stated time period, such as three years after the date the order was first granted);
- Get the order changed as needed; and

**INSERT LOCAL INFORMATION AND
RESOURCES HERE**

A complete do-it-yourself Divorce Kit containing all the forms for an uncontested divorce and/or response and/or restraining order using Microsoft Word-processor fill-in-the-blanks format may be obtained from:

Fresno LaserGraphics, Inc.
2017 North Gateway Blvd Suite 103
Fresno, CA 93727

Price: \$25.00

Phone: 1 559 456-3343

Fax: 1 775 665-7825

e-mail: Laser@LawCA.com

Visit the on line site at:

<http://www.LawCA.com>

download a sample form at

<http://wwwlawca.com/forms/1281.DOC>

(Petition for Dissolution)