

Title	Family Law: Domestic Violence Prevention Act forms (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-140, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-111; and approve form DV-112)
Summary	The proposed amendments to the Domestic Violence Prevention Act (DVPA) forms are in response to recently enacted legislation requiring courts to indicate reasons for denying a petition for an ex parte order and to provide the petitioner the right to a noticed hearing on a jurisdictionally adequate restraining order request.
Source	Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack and Hon. Susan D. Hugenor, Cochairs
Staff	Tamara Abrams, Senior Attorney, 415-865-7712, tamara.abrams@jud.ca.gov
Discussion	<p>Effective January 1, 2009, Assembly Bill 2553 (Solorio; Stats. 2008, Ch. 263) added section 6320.5 to the Family Code to require a court to state its reasons when denying a petition for an ex parte restraining order (see text on page 37). In addition, under section 6320.5, if a court denies a jurisdictionally adequate petition for an ex parte order, the petitioner has a right to a noticed hearing within a specified number of days. However, the petitioner has the option of waiving his or her right to the noticed hearing and retains his or her right to refile a new petition, without prejudice, at a later time. Family Code section 6320.5 requires the Judicial Council to develop a form to implement the statute by January 1, 2010.<sup>1</sup></p> <p>The proposed revision to form DV-110, which includes changing the title to <i>Notice of Court Hearing</i>, and the adoption of new form DV-111, <i>Temporary Restraining Order</i>, would (1) clarify whether the court is issuing or denying temporary restraining orders pending the hearing and (2) provide the court with space on the form to indicate its reasons for denying a request for temporary orders pending the hearing.</p> <p>New optional form DV-112, <i>Waiver of Hearing on Denied Request for</i></p>

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<sup>1</sup> Forms to implement Family Code section 6320.5 were previously circulated for comment in the Winter 2009 public comment cycle from December 2008 to January 2009. The committee revised the proposal to respond to the public comments.

*Temporary Restraining Order*, would provide the petitioner with a form to waive his or her right to a noticed hearing, as specified in Family Code section 6320.5.

Revisions to the following nine forms would be required to conform cross-references and graphics: DV-125, *Reissue Temporary Restraining Order*; DV-126-INFO, *How to Reissue a Temporary Restraining Order*; DV-130, *Restraining Order After Hearing*; DV-140, *Child Custody and Visitation Order*; DV-200, *Proof of Service (In Person)*; DV-210-INFO, *What Is "Proof of Service"?*; DV-250, *Proof of Service by Mail*; DV-510-INFO, *I Filled Out the Forms — What Now?*; and DV-540-INFO, *Information for the Restrained Person*.

*Background on prior proposal circulated in winter 2009 cycle*  
Forms to implement Family Code section 6320.5 were previously circulated for comment in the winter 2009 public comment cycle from December 10, 2008, to January 21, 2009. That earlier proposal included a new form, *Denial of Request for Temporary Restraining Order* (form DV-115), to be used by the court when denying a request for temporary restraining orders. Form DV-115 would have (1) allowed the court to deny a request for order and hearing if the court lacks subject matter jurisdiction in the case, (2) allowed the court to grant a request for a hearing but to deny the issuance of temporary orders for specified reasons, and (3) informed the petitioner to tell the court clerk if the petitioner wanted to take the scheduled hearing off calendar and submit another request for order in the future. A companion information sheet, DV-116-INFO, *My Request for Temporary Orders Was Denied — What Do I Do?*, also was included in the proposal.

At that time, specific comment was sought to determine whether (1) there should be a form to allow the petitioner to cancel the noticed hearing (or whether the existing proposal should be more specific about the procedure to cancel the hearing), (2) form DV-115 should be served on the respondent, and (3) the petitioner information on DV-115 should be eliminated because it is duplicated on the companion information sheet, DV-116-INFO. The proposal garnered significant comment.

#### Automatically Schedule Court Hearing

The proposal would have automatically set a court hearing in all cases, even those in which temporary orders were denied, rather than

requiring the petitioner to take additional action to affirmatively seek a hearing date. That proposal did not meet with any opposition, though one commentator indicated that the existing procedure at the commentator's court would require the petitioner to elect to waive the court hearing on the same day that he or she submits the application. Currently proposed new form DV-112, *Waiver of Hearing on Denied Request for Temporary Restraining Order* (described below) is optional and could be submitted by the petitioner the same day as the petition or at some later date.

#### Denial of Request for Hearing

One issue considered by commentators and the committee was whether Family Code section 6320.5 provided the court with authority to deny a petitioner's request for a hearing. Form DV-115 would have allowed the court to deny a petitioner's request for a hearing for lack of subject matter jurisdiction. The committee believed that personal jurisdiction was a question of fact that should be considered by the court at a noticed hearing but that a lack of subject matter jurisdiction could be assessed on the petition.

One commentator stated that subject matter jurisdiction, personal jurisdiction, and the question of whether the petitioner has made a showing of abuse as defined in the code are all questions of fact that should be considered by the court at a noticed hearing. Under this analysis, the court should grant a request for hearing in all cases (unless the petitioner has been declared a vexatious litigant or the court may otherwise deny the petitioner's request for a hearing).

Two commentators stated that a jurisdictionally adequate petition must include allegations of abuse as well as the specified relationship. Those commentators stated that a court should exercise its discretion to deny a request for a hearing if the petition does not make a prima facie showing of the specified relationship as well as abuse.

The committee considered these comments and, for the reasons stated below, concluded that a form to implement Family Code section 6320.5 should not specify reasons to deny a petitioner's request for a hearing.

The basic requirements of the Domestic Violence Prevention Act are clear. Family Code section 6300 states that the court may issue an order under the DVPA to restrain any person for the purpose of

preventing a recurrence of domestic violence if an affidavit shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse. Domestic violence is defined in Family Code section 6211 as abuse perpetrated against specified persons. Thus, the petitioner must plead and prove the requisite relationship as well as a past act or acts of abuse for the court to have authority to issue temporary or more long-term orders under the DVPA.

However, there is no specific statute addressing the circumstances under which a court may deny a petitioner's *request for a hearing*. Family Code section 6320.5 indicates that when a court denies a jurisdictionally adequate petition for temporary orders, the court must provide the petitioner the right to a noticed hearing. The statute is silent as to whether the court may deny the petitioner's request for a hearing if the petition is not jurisdictionally adequate.

Should a respondent believe that the petition is inadequate, the respondent has the right to file a motion for judgment on the pleadings or a motion to quash. Demurrers are not allowed in cases filed under the Family Code. (Cal. Rules of Court, rule 5.108.) The committee is unaware of any specific legal authority for the court to act sua sponte, prior to a responsive filing, to deny a petitioner's request for a noticed hearing except perhaps under very limited circumstances such as when the petitioner has been declared a vexatious litigant.

The committee considered the various comments and concluded that the better approach would be to revise the current form DV-110, *Temporary Restraining Order and Notice of Hearing*, rather than pursue a separate form to implement Family Code section 6320.5. The proposal is set forth in detail below, in the section titled "Current Proposal."

Reasons for Denial of Request for Temporary Orders Pending Hearing Proposed form DV-115 included check boxes for common reasons that the court might give to deny orders pending the hearing. Three commentators stated that the reasons for denying temporary orders pending the hearing should more closely match Family Code section 6203. Two of those commentators suggested adding more reasons that are commonly given by courts to deny temporary orders pending the hearing. All three commentators appeared to favor the inclusion of preprinted text with check boxes.

On the other hand, one commentator stated that the court should be required to clearly articulate its reasons for denying a request for temporary orders pending a hearing, not merely checking a box next to preprinted text. The committee agreed, and the check boxes with preprinted text have been eliminated.

#### Form to Cancel Hearing

The question of whether a form should be developed to waive the scheduled hearing met with mixed opinions. Five commentators stated that a form should be developed. Several of those commentators expressed concern that there could be confusion or error without some written documentation of the petitioner's request. Six commentators stated that no new form was necessary. However, two of those commentators indicated that some written statement by the petitioner would be helpful, perhaps on the notice of hearing form. Several of the commentators stated that no new form is necessary because a litigant who does not want the court hearing could simply not have the documents served on the respondent and fail to appear at the hearing. One of those commentators indicated that the new legislation codified existing law; petitioners always had the right to waive a scheduled court hearing. That commentator stated that specifics about waiving a scheduled hearing date are, therefore, not necessary.

One commentator suggested that the form be revised to use the term "take the matter off calendar" in the information for the petitioner, rather than "waive" or "cancel." That commentator was concerned that the terms "waive" and "cancel" could be interpreted by the clerk to mean "dismissal." Two of the commentators' responses were unclear.

The committee considered the comments and concluded that an optional form should be proposed for the petitioner to affirmatively seek a waiver of the court hearing. Family Code section 6320.5(c) states that the petitioner "shall have the option of waiving his or her right to a noticed hearing." Therefore, the form uses "waive." The phrase "take the matter off calendar" is a term of art not readily understood by the public at large. The form uses the terms "waive" and "cancel" to refer to the petitioner's waiver of his or her right to a hearing.

The committee also considered the comments suggesting a check box and signature on an existing form, such as the notice of hearing, in lieu of a new form. The committee believes that such an approach would

be confusing. Forms should either be submitted by the party or issued by the court. It would be confusing to have one form that is signed by the court and delivered to the petitioner, then later signed by the petitioner and submitted to the court. It is unclear which version of the form would be retained in the court file as the original. Proposed optional form DV-112, *Waiver of Hearing on Denied Request for Temporary Restraining Order*, which would be used by the petitioner, is described below.

#### Service of Denial Form on Respondent

The specific question of whether proposed form DV-115, *Denial of Request for Temporary Restraining Order*, should be served on the respondent also met with mixed opinions. The forms proposed in this current proposal do not include DV-115, but they do incorporate the purpose of that form into proposed form DV-110, *Notice of Court Hearing* (as described below). Some commentators indicated that the denial form should be served on the respondent to ensure that the respondent is informed of all court communication with the petitioner. Other commentators disagreed. One commentator indicated that the reasons for denial of temporary orders do not affect the evidence to be produced at the noticed hearing. Others stated that service of the denial form on the respondent could increase the danger for the petitioner.

For the reasons outlined in this proposal, the committee concluded that the better approach would involve amending the existing notice of hearing, which would be served on the respondent should the petitioner elect to proceed with the action. This approach would involve full disclosure of the court's reasons for denial of temporary orders to both parties.

#### Information for Petitioner

Most commentators suggested that the information sheet be incorporated into proposed form DV-115 to reduce the number of forms. The committee agreed to consolidate the information for the petitioner into the notice of hearing. Please see the discussion of proposed revised form DV-110, *Notice of Court Hearing*, below.

**Separate the Notice of Hearing From the Temporary Restraining Order**  
Three commentators suggested that the current form DV-110, *Temporary Restraining Order and Notice of Hearing*, be separated into a notice of hearing form and a temporary restraining order form. The committee agreed. Please see the discussion below regarding

proposed forms DV-110, *Notice of Court Hearing*, and DV-111, *Temporary Restraining Order*, for a full analysis of this issue.

*Current proposal*

The current revised proposal is described below.

Form DV-110, *Notice of Court Hearing*

As indicated above, three commentators suggested that the committee consider separating the notice of hearing from the temporary restraining orders. This proposal would respond to that suggestion. The committee believes that this approach would clarify for law enforcement and the parties the existence or absence of temporary orders pending a hearing. Should the court decline to issue temporary orders pending the hearing, the court would so indicate on form DV-110, *Notice of Court Hearing*, and include the reasons for denial as required by Family Code section 6320.5.

Proposed form DV-110 would implement Family Code section 6320.5 by providing two options for the court. If the court grants any temporary orders pending the hearing, the court would check item 4a and complete form DV-111, *Temporary Restraining Order*. If the court denies all requested orders, the court would check item 4b and indicate its reasons. All petitioners who seek a noticed hearing would be granted one. The court, however, could deny temporary orders pending the noticed hearing. As indicated above in the background section entitled “*Reasons for Denial of Request for Temporary Orders Pending Hearing*,” the committee concluded that the form should not include check boxes with preprinted text for the court to indicate its reasons for denial. Instead, blank lines would be provided to allow the court to state its reasons with specificity. The committee seeks comment on this approach.

Page three of the proposed form would provide information for the person seeking temporary orders on how to proceed should the court deny his or her request.

The proposal includes several changes relating to formatting, on which the committee seeks comment, including:

1. In item 1, elimination of blank lines under the attorney reference in favor of a blank space to allow sufficient room for attorney information;

2. In item 5, changing the alignment of the text, “Service of Documents and Time for Service” from side-by-side to vertical; and
3. Also in item 5, changing the location of the text addressed to the person asking for the order, “Service must be completed at least \_\_\_\_ days before the hearing,” from the beginning of the paragraph to the end.

Form DV-111, *Temporary Restraining Order*

This proposed new form contains essentially the same elements as on the combined form currently in use (form DV-110, *Temporary Restraining Order and Notice of Hearing*). The form would be used only when the court issued temporary orders pending a hearing. The committee seeks public comment specifically on the proposal to require the court to complete pages two and three of the form.

Current court practice is varied; some courts complete the form for the petitioner and others require the petitioner to submit a proposed order. The proposal would require the court, in all cases, to complete pages two and three of the form, including any text required in items 5, 6, 10, 12, 14, or 16. In developing this proposal, the committee considered the confusion inherent in current practice when the court crosses out text on a proposed order. This practice is confusing for litigants and law enforcement because it is often unclear which orders remain or are changed.

The proposal includes additional changes to the temporary restraining orders currently in form DV-110:

1. In item 2, addition of the home and work addresses of the restrained person;
2. In item 3, addition of the sex of additional protected persons;
3. In item 4, delineation about whether the personal conduct orders apply to the protected person, additional protected persons, or both;
4. In items 4–7 and 10–14, addition of check boxes for the court to indicate whether the temporary order was granted, not granted, or not requested; and



5. Relocation of the warnings and notices to the restrained person.

In addition, the committee seeks comment on whether the petitioner's address and attorney information in item 1 of the form should be eliminated, as that information is already included in the *Notice of Court Hearing*, form DV-110.

Additional substantive revisions include:

1. In item 16, addition of a check box for the court to indicate if it has no information about the existence of a criminal protective order;
2. In item 17, addition of a check box and text for the court to indicate whether the court has received information that the restrained person owns or possesses a firearm;<sup>2</sup>
3. In item 5, addition of a check box to allow an exception to the stay-away order for brief and peaceful contact as required for court-ordered visitation of children, unless otherwise prohibited by a criminal protective order.

Form DV-112, *Waiver of Hearing on Denied Request for Temporary Restraining Order*

This proposed optional form would provide the petitioner with a way to request a waiver of the noticed hearing in writing. The form could be submitted the same day as the petition, or later. The committee considered whether a time limit should be imposed on the petitioner's ability to file the form but concluded that, in the absence of legal authority, the form should not impose additional restrictions on the petitioner. Proposed form DV-112 includes a notice that, if the moving papers have been served on the respondent, the hearing might proceed despite the petitioner's request to waive the hearing. For example, the court has authority to hear the respondent's request for orders under Family Code section 6305. That code section allows the court to issue mutual protective orders if both parties are present at the hearing and present written evidence of abuse and the court makes detailed findings of fact that both parties acted primarily as aggressors and

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<sup>2</sup> This addition is proposed to comply with a recommendation of the Judicial Council's Domestic Violence Practice and Procedure Task Force regarding firearm relinquishment, as specified in its report accepted by the Judicial Council in January 2008. The purpose is to alert law enforcement agencies and the parties as to whether the court has received information that the restrained person owns or possesses a firearm.

neither party acted primarily in self-defense.

*Alternative approach*

An alternative approach to the proposal described above that the committee considered, but did not prefer, would be to amend item 5 of current form DV-110, *Temporary Restraining Order and Notice of Hearing* to include a checkbox and blank lines for the court to indicate its reasons when denying all temporary restraining orders pending a noticed hearing. Text could be added to clarify whether or not temporary orders are granted. This approach would require no technical amendments to other forms and would be similar to item 4 on current form CH-120, *Notice of Hearing and Temporary Restraining Order (Civil Harassment)*.

The alternative proposal would consist of two forms: amendments to current form DV-110 and proposed new form DV-112. The committee specifically seeks comment on the proposal articulated in this Invitation to Comment as well as this alternative.

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Attachments

Clerk stamps date here when form is filed.

**DRAFT 11 Group A  
06/10/09 xyz**

**Not Approved by the  
Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number:

**Case Number:**

1 Name of person asking for protection: \_\_\_\_\_

Address (skip this if the person above has a lawyer) (If you want your home address to be private, give a mailing address instead.): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone (optional): \_\_\_\_\_ Fax (optional): \_\_\_\_\_

Lawyer (if any) (name, State Bar number, firm name, address, telephone, fax (optional), and e-mail (optional)): \_\_\_\_\_

2 Name of person to be restrained: \_\_\_\_\_

(The court will fill out the rest of this form.)

**To the Person in: 2**

3 **Notice of Court Hearing**

**A court hearing is scheduled on the request for orders against you to stop domestic violence:**

<b>Hearing Date</b>	Date: _____	Time: _____	_____	Name and address of court if different from above: _____ _____ _____
	Dept.: _____	Room: _____	_____	

To the person in 2: If you want to respond to the request, file Form DV-120, *Answer to Temporary Restraining Order*. Then go to the hearing and tell the court why you agree or disagree with the orders requested. You may bring witnesses and other evidence. **If you do not go to this hearing, the court may make restraining orders against you that could last up to 5 years. The judge may also make other orders about your children, child support, spousal support, money, and property.**

4 **Temporary Restraining Orders** (check a or b, but not both)

a.  The attached temporary restraining orders are **GRANTED** as stated in Form DV-111, *Temporary Restraining Order*, which must be served together with this *Notice of Court Hearing*.

b.  Temporary restraining orders are **DENIED** for the reasons stated below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**This is a Court Order.**



Your name: \_\_\_\_\_

**5 Service of Documents and Time for Service — for Both Parties**

**To Person Asking for This Order**

Someone age 18 or older—**not you or anyone else to be protected**— must personally deliver (serve) a completed and file-stamped copy of this form (DV-110, *Notice of Court Hearing*) to the person in (2) along with a copy of all the forms indicated below:

- a.  Form DV-111, *Temporary Restraining Order (CLETS)* (completed and file-stamped) **IF GRANTED BY JUDGE**
- b. Form DV-100, *Request for Order* (completed and filed-stamped)
- c.  Form DV-105, *Child Custody, Visitation, and Support Request*; and Form DV-140, *Child Custody and*
- d.  Form FL-150, *Income and Expense Declaration*, with a blank Form FL-150
- e.  Form FL-155, *Financial Statement* (simplified), with a blank Form FL-155
- f. Form DV-120, *Answer to Temporary Restraining Order* (blank form)
- g. Form DV-250, *Proof of Service by Mail* (blank form)
- h. DV-540-INFO, *Information for the Restrained Person*
- i.  DV-800, *Proof of Firearms Turned In or Sold* (blank form) (If temporary restraining order is granted)
- j.  Other (specify): \_\_\_\_\_

**Service must be completed at least \_\_\_\_\_ days before the hearing.**

The court will not be able to make the orders you are requesting unless the papers are served on the person in (2). File a proof of service of these documents with the court on or before the hearing or bring the proof of service with you to the hearing. For help with service, read Form DV-210-INFO, What Is “Proof of Service”? You may use Form DV-200 for proof of personal service.

**To Person Served With This Order**

If you want to respond in writing, someone age 18 or older—**not you**—must serve by mail a copy of Form DV-120, *Answer to Temporary Restraining Order* on the person in (1) at least \_\_\_\_\_ days before the hearing.

(For help with responding, read Form DV-540-INFO, Information for the Restrained Person. You may use Form DV-250 for proof of service by mail of your response.)

Date: \_\_\_\_\_

\_\_\_\_\_  
Judicial Officer

(Clerk will fill out this part.)

**—Clerk's Certificate—**

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Clerk's Certificate

[seal]



**Requests 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 hearing. Contact the clerk's office or go to [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms) for *Request for Accommodations by Persons With Disabilities and Response* (Form MC-410). (Civil Code, § 54.8.)

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**



Your name: \_\_\_\_\_

**If No Temporary Restraining Orders Granted  
Information for Person in ①**

- If item ④b on page 1 is checked, the judge has denied all of the requested orders until the court hearing date. There are no temporary orders now, but the judge may make the orders you want after the hearing. You can choose to keep the hearing date or cancel your request for orders so there is no hearing.
- If you choose to keep the hearing date, you must have all of the documents listed in item ⑤ served on the other person within the time listed in item ⑤.
- Some people believe that they would be unsafe if there are no temporary orders until the court hearing. If you believe you would be unsafe without temporary orders, you may cancel the hearing date. This means you are not required to serve the documents listed in item ⑤ on the other person.
- If you want to cancel the hearing, use Form DV-112, *Waiver of Hearing on Denied Request for Temporary Restraining Order*. Fill it out and file it with the court as soon as possible. You may file a new request for orders, on the same or different facts, at a later time.
- If you want to keep the hearing date, you must have all documents served on the person to be restrained within the time listed in ⑤.

*Clerk stamps below when form is filed.*

① Name of person asking for protection (protected person):  
 \_\_\_\_\_  
 Protected person's address (*skip this if you have a lawyer*): (*If you want your address to be private, give a mailing address instead*):  
 \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone # (*optional*): \_\_\_\_\_  
 Protected person's lawyer (*if any*): (*Name, address, phone #, and State Bar #*):  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Draft 4 Group A**  
**06/08/09 xyz**  
**Not approved by the**  
**Judicial Council**

*Court name and street address:*  
**Superior Court of California, County of**

**Case Number:**

② Restrained person's name:  
 \_\_\_\_\_  
 Description of that person: Sex:  M  F Ht.: \_\_\_\_\_  
 Wt.: \_\_\_\_\_ Race: \_\_\_\_\_ Hair Color: \_\_\_\_\_  
 Eye Color: \_\_\_\_\_ Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

③ I ask the judge to reissue the *temporary restraining order*, Form DV-111

- a. The last hearing date was (*date*): \_\_\_\_\_
- b. The order has been reissued \_\_\_\_\_ times.

④ I ask the judge to reissue the order because:

- a.  I could not get the order served before the hearing date.
- b.  The date of the hearing was changed because we were sent to mediators or other family court services.
- c.  Other (*specify*): \_\_\_\_\_

⑤ 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*

**This is a Court Order.**

*Clerk will fill out section below.*

The order listed in ③ is reissued and reset for hearing in this court on the date and time below. Unless a judge extends the time, the order will end on the date and time below.

 Date: \_\_\_\_\_ Time: \_\_\_\_\_  
 Dept.: \_\_\_\_\_ Rm.: \_\_\_\_\_

Name and address of court if different from above:  
 \_\_\_\_\_  
 \_\_\_\_\_

All other orders in the temporary restraining order stay in effect unless this order changes them.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
*Judge (or Judicial Officer)*

**DV-126-INFO**

**How to Reissue a Temporary Restraining Order**

**The judge may need to set your hearing for another day.**

This happens when:

- You were not able to get your temporary restraining order served *or*
- The other person asked for time to get a lawyer or prepare an answer *or*
- You need to meet with a Family Court mediator about child custody or visitation

**If your hearing gets changed to another day, follow these steps:**

- Fill out Form DV-125.
- Ask the judge to sign it and give you a new hearing date. In some courts, you must give your form to the clerk for the judge’s signature. Ask your court clerk for information on the local process.
- File the form with the clerk. The clerk will make five copies for you. Ask the clerk to stamp “Filed” on your copies.
- Attach one “filed” copy of Form DV-125 to your other court papers (Forms DV-100, DV-110, and DV-111, if issued). Get them served on the restrained person. Do this right away. Now your orders will last until the new hearing date.
- The clerk will send your restraining order to law enforcement or CLETS for you. CLETS is a statewide computer system that lets police know about your order.
- Bring all your papers back to the next court hearing.

**Need help?**

Ask the court clerk about free or low-cost legal help.

Or call the National Domestic Violence Hotline:

**1-800-799-7233**

**TDD: 1-800-787-3224**

It’s free and private.

They can help you in more than 100 languages.

For help in your area, contact:

**REVISED DV-125 WILL BE INSERTED HERE**

**DV-125 Reissue Temporary Restraining Order**

*Clerk stamps below when form is filed*

1 Name of person asking for protection (protected person):  
 Protected person's address (skip this if you have a lawyer): (If you want your address to be private, give a mailing address instead):  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone # (optional): \_\_\_\_\_  
 Protected person's lawyer (if any): (Name, address, phone #, and State Bar #: \_\_\_\_\_)

2 Restrained person's name:  
 Description of that person: Sex:  M  F HL: \_\_\_\_\_  
 Wt: \_\_\_\_\_ Race: \_\_\_\_\_ Hair Color: \_\_\_\_\_  
 Eye Color: \_\_\_\_\_ Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

3 I ask the judge to reissue the Temporary Restraining Order.  
 a. The last hearing date was (date): \_\_\_\_\_  
 b. The order has been reissued \_\_\_\_\_ times.

4 I ask the judge to reissue the order because:  
 a.  I could not get the order served before the hearing date.  
 b.  The date of the hearing was changed because we were sent to mediators or other family court services.  
 c.  Other (specify): \_\_\_\_\_

5 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 \_\_\_\_\_

**This is a Court Order.**  
*Clerk will fill out section below*

The order listed in (3) is reissued and reset for hearing in this court on the date and time below. Unless a judge extends the time, the order will end on the date and time below.  
 Hearing Date: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_ Name & address of court if different from above:  
 Dept.: \_\_\_\_\_ Hon.: \_\_\_\_\_  
 All other orders in the Temporary Restraining Order stay in effect unless this order changes them.  
 Date: \_\_\_\_\_ Judge for Judicial Officers \_\_\_\_\_

Judicial Council of California, www.courtinfo.ca.gov  
 Rev. January 1, 2010, Mandatory Form  
 Code of Civil Procedure, § 12350, Approved by LSC **Reissue Temporary Restraining Order** DV-125, Page 1 of 1  
 (Domestic Violence Prevention)

Clerk stamps date here when form is filed.

Draft 3 Group A
06/04/09 mc
Not approved by the
Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Protected person's name:

[Empty box for name]

(first) (middle) (last)

Protected person's address (skip this if you have a lawyer): (If you want your address to be private, give a mailing address instead):

City: State: Zip:

Telephone number (optional):

Lawyer (if any): (Name, address, telephone number, and State Bar number):

2 List the full names of all family or household members protected by this order:

[Empty lines for names]

3 Restrained person's name:

[Empty box for name]

(first) (middle) (last)

Description of that person: Sex: [ ] M [ ] F Height: Weight: Race:
Hair Color: Eye Color: Age: Date of Birth:
Relationship to protected person:

4 The court orders are on pages 2 and 3 and attachment pages (if any).

The hearing was on (date): with (name of judicial officer):

The orders end on (date): at (time):

- If no end date is written, the restraining order ends 3 years after the date of the hearing.
If no time is written, the restraining order ends at midnight on the end date.
Note: Custody, visitation, child support, and spousal support orders have different end dates. Custody, visitation, and child support orders usually end when the child is 18.

5 [ ] The people in 1 and 3 must return to court/department on (date):
at (time): [ ] a.m. [ ] p.m. to review (specify issues):

Certificate of Compliance With VAWA

This protective order meets all Full Faith and Credit requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA). This court has jurisdiction over the parties and the subject matter; the restrained person has been afforded reasonable notice and an opportunity to be heard as provided by the laws of this jurisdiction. This order is valid and entitled to enforcement in each jurisdiction throughout the 50 United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.

This is a Court Order.



Your name: \_\_\_\_\_

**6**  **Personal Conduct Orders**

The person in **3** must **not** do the following things to the protected people listed in **1** and **2** :

- a.  Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, or block movements
- b.  Contact (either directly or indirectly), telephone, or send messages or mail or e-mail
  - Except for brief and peaceful contact as required for court-ordered visitation of children unless a criminal protective order says otherwise
- c.  Take any action, directly or through others, to get the addresses or locations of any protected persons or of their family members, caretakers, or guardians. *(If item c is not checked, the court has found good cause not to make this order.)*

Peaceful written contact through a lawyer or through a process server or another person in order to serve legal papers is allowed and does not violate this order.

A criminal protective order on Form CR-160 is in effect. Case Number: \_\_\_\_\_  
 County (if known): \_\_\_\_\_ Expiration Date: \_\_\_\_\_ *(If more orders, list them in item 18.)*

**7**  **Stay-Away Order**

The person in **3** must stay at least \_\_\_\_\_ yards away from:

- a.  The person listed in **1**
- b.  The people listed in **2**
- c.  Home  Job  Vehicle of person in **1**
- d.  The children’s school or child care
- e.  Other (specify): \_\_\_\_\_

**8**  **Move-Out Order**

The person in **3** must move out immediately from (address): \_\_\_\_\_

**9**  **Child Custody and Visitation**

Child custody and visitation are ordered on the attached Form DV-140 or (specify other form): \_\_\_\_\_

**10**  **Child Support**

Child support is ordered on the attached Form DV-160 or (specify other form): \_\_\_\_\_

**11**  **Spousal Support**

Spousal support is ordered on the attached Form FL-343 or (specify other form): \_\_\_\_\_

**12**  **Animals: Possession and Stay-Away Order**

The person in **1** is given the sole possession, care, and control of the animals listed below. The person in **3** must stay at least \_\_\_\_\_ yards away from and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the following animals: \_\_\_\_\_

**13**  **No Guns or Other Firearms or Ammunition**

The person in **3** cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, firearms, or ammunition.

**This is a Court Order.**



Your name: \_\_\_\_\_

**14 Turn in or sell guns and firearms.**

The person in ③:

- Must sell to a licensed gun dealer or turn in to police any guns or firearms that he or she has or controls. This must be done within 24 hours of being served with this order.
- Must bring a receipt to the court within 48 hours of being served with this order, to prove that guns and firearms have been turned in or sold.

**15  Record Unlawful Communications**

The person in ① has the right to record communications made by the person in ③ that violate the judge’s orders.

**16  Batterer Intervention Program**

The person in ③ must go to and pay for a 52-week batterer intervention program and show written proof of completion to the court. This program must be approved by the probation department.

**17 No Fee to Notify (Serve) Restrained Person**

If the sheriff or marshal serves this order, he or she will do it for free.

**18  Other Orders**

Other orders relating to property control, debt payment, attorney fees, restitution, and/or other issues are in attached Form DV-170 or (*specify other form*): \_\_\_\_\_

**19 Service**

a.  The people in ① and ③ were at the hearing or agreed in writing to this order. No other proof of service is needed.

b.  The person in ① was at the hearing. The person in ③ was not.

(1)  Proof of service of Form DV-110 and Form DV-111 (if issued) were presented to the court. The judge’s orders in this form are the same as in Form DV-110 and Form DV-111 except for the end date. The person in ③ must be served. This order can be served by mail.

(2)  Proof of service of Form DV-110 and Form DV-111 (if issued) were presented to the court. The judge’s orders in this form are different from the orders in Form DV-111. Someone—not the people in named in ① or ② — must personally “serve” a copy of thi③rder to the person in .

**20 Attached pages are orders.**

• Number of pages attached to this 5-page form: \_\_\_\_\_

• All of the attached pages are part of this order.

• Attachments include (*check all that apply*):

DV-140  DV-145  DV-150  DV-160  DV-170  FL-343

Other (*specify*): \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
*Judge (or Judicial Officer)*

**This is a Court Order.**

Your name: \_\_\_\_\_

**Instructions for Law Enforcement****21 Start Date and End Date of Orders**

The orders *start* on the earlier of the following dates:

- The hearing date on page 1 *or*
- The date next to the judge’s signature on page 3.

The orders *end* on the end date in item 4 on page 1. If no end date is listed, they end 3 years from the hearing date.

**22 Arrest Required If Order Is Violated**

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

**23 Notice/Proof of Service**

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Family Code, § 6383.)

Consider the restrained person “served” (noticed) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; *or*
- The restrained person was at the restraining order hearing or was informed of the order by an officer. (Fam. Code, § 6383; Pen. Code, § 836(c)(2).) An officer can obtain information about the contents of the order in the Domestic Violence Restraining Orders System (DVROS). (Fam. Code, § 6381(b)(c).)

**24 If the Protected Person Contacts the Restrained Person**

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

**25 Child Custody and Visitation**

- The custody and visitation orders are on Form DV-140, items ③ and ④. They are sometimes also written on additional pages or referenced in DV-140 or other orders that are not part of the restraining order.
- **Forms DV-100 and DV-105 are not orders. Do not enforce them.**

**26 Enforcing the Restraining Order in California**

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

**27 Conflicting Orders**

A protective order issued in a criminal case on Form CR-160 takes precedence in enforcement over any conflicting civil court order. (Pen. Code, § 136.2(e)(2).) Any nonconflicting terms of the civil restraining order remain in full force. An emergency protective order (Form EPO-001) that is in effect between the same parties and is more restrictive than other restraining orders takes precedence over all other restraining orders. (Pen. Code, § 136.2.)

**This is a Court Order.**

Your name: \_\_\_\_\_

**Warnings and Notices to the Restrained Person in ③**

**28 If you do not obey this order, you can be arrested and charged with a crime.**

- It is a felony to take or hide a child against this order. You can go to prison and/or pay a fine.
- If you travel to another state or to tribal lands or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime.
- If you do not obey this order, you can go to prison and/or pay a fine.

**29 You cannot have guns, firearms, and/or ammunition.**



You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, firearms, and/or ammunition while the order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to a licensed gun dealer or turn in to police any guns or firearms that you have or control. The judge will ask you for proof that you did so. If you do not obey this order, you can be charged with a crime. Federal law says you cannot have guns or ammunition while the order is in effect.

*(Clerk will fill out this part)*

**—Clerk's Certificate—**

*[seal]*

I certify that this *Restraining Order After Hearing (Order of Protection)* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

**DV-140**

**Child Custody and Visitation Order**

Case Number: \_\_\_\_\_

This form is attached to (check one):  DV-111  DV-130

- ① Protected person's name: \_\_\_\_\_  Mom  Dad  Other
- ② Other parent's name: \_\_\_\_\_  Mom  Dad  Other

**The Court Orders:**

- ③  **Child Custody** is ordered as follows: **Legal Custody to:** (Person who makes decisions about health education, etc. Check at least one.) **Physical Custody to:** (Person the child lives with. Check at least one.)

Child's Name	Date of Birth	Mom	Dad	Other*	Mom	Dad	Other*
a. _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

if more children, check here. Attach a sheet of paper and write "DV-140, Item 3 — Child Custody" at the top.

\* If Other, specify relationship to child and name of person: \_\_\_\_\_

- ④  **Child Visitation** is ordered as follows:
- a.  No visitation to  Mom  Dad  Other (name): \_\_\_\_\_
- b.  See the attached \_\_\_\_\_ - page document, dated: \_\_\_\_\_
- c.  The parties must go to mediation at: \_\_\_\_\_
- d.  Until the next court order, visitation for  Mom  Dad  Other \_\_\_\_\_ will be:
- (1)  **Weekends** (starting): \_\_\_\_\_ (The 1st weekend of the month is the 1st weekend with a Saturday.)  
 1st  2nd  3rd  4th  5th weekend of month  
 from \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m. to \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m.  
(day of week) (time) (day of week) (time)
- (2)  **Weekdays** (starting): \_\_\_\_\_  
 from \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m. to \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m.  
(day of week) (time) (day of week) (time)
- (3)  **Other Visitation**  
 Check here and attach a sheet of paper if there are other visitation days and times, like holidays, birthdays, sports events. List dates and times. Write "DV- 140, Item 4 —Visitation" at the top.

- ⑤  **Supervised Visitation** — Follow orders on attached Form DV-150.

- ⑥  **Responsibility for Transportation for Visitation**  
 "Responsibility for transportation" means the parent will take or pick up the child or make arrangements for someone else to do so.
- a.  Mom  Dad  Other (name): \_\_\_\_\_ to the visits.
- b.  Mom  Dad  Other (name): \_\_\_\_\_ from the visits.
- c.  Drop-off / pick-up of children will be at (address): \_\_\_\_\_

**This is a Court Order.**



Protected person's name: \_\_\_\_\_

**7**  **Travel With Children**

Mom  Dad  Other (name): \_\_\_\_\_ *must* have written permission from the other parent, or a court order, to take the children outside of:

a.  The State of California

b.  Other place(s) (list): \_\_\_\_\_

**8**  **Child Abduction**

There is a risk that one of the parents will take the children out of California without the other parent's permission. The orders in Form DV-145 are attached and must be obeyed. (Fill out and attach DV-145 to this form.)

**9**  **Other Orders**

Check here and attach any other orders to this form. Write "DV-140, Item 9 — Other Orders" on the orders.

**10** **Jurisdiction**

This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (part 3 of the California Family Code starting with section 3400).

**11** **Notice and Opportunity to Be Heard**

The responding party was given notice and an opportunity to be heard as provided by the laws of the State of California.

**12** **Country of Habitual Residence**

The country of habitual residence of the child or children in this case is  the United States of America or  other (specify): \_\_\_\_\_.

**13** **Penalties for Violating This Order**

If you violate this order, you may be subject to civil or criminal penalties, or both.

**This is a Court Order.**

Clerk stamps below when form is filed

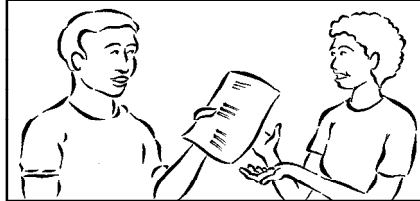
1 Protected person's name: \_\_\_\_\_

2 Restrained person's name: \_\_\_\_\_

3 **Notice to Server**

You must:

- Be 18 or over.
- Not be listed on the restraining order.
- Give a copy of all documents checked in 4 to the restrained person in 2 (You cannot send them by mail.) Then sign this form and give or mail it to the protected person.



4 I gave the person in 2 a copy of all documents checked below:

- a.  DV-110 With DV-100 and a blank DV-120  
(Notice of Court Hearing; Request for Order; blank Answer to Temporary Restraining Order)
- b.  DV-111 (Temporary Restraining Order)
- c.  DV-105 and DV-140 (Child Custody, Visitation, and Support Request; Child Custody and Visitation Order)
- d.  FL-150 with a blank FL-150 (Income and Expense Declaration)
- e.  FL-155 with a blank FL-155 (Financial Statement Simplified)
- f.  DV-125 (Reissue Temporary Restraining Order)
- g.  DV-130 (Restraining Order After Hearing)
- h.  Other (specify): \_\_\_\_\_

5 I gave copies of the documents checked above to the person in 2 on:

- a. Date: \_\_\_\_\_ b. Time: \_\_\_\_\_  a.m  p.m
- c. At this address: \_\_\_\_\_

6 **Server's Information**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

(If you are a process server): \_\_\_\_\_

County of registration: \_\_\_\_\_ Registration number: \_\_\_\_\_

7 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

**Draft 2 Group A**  
**06/04/09 mc**  
**Not approved by the Judicial Council**

Court name and street address:

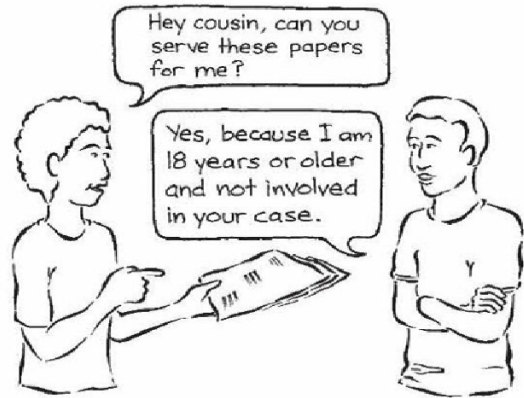
**Superior Court of California, County of**

**Case Number:**

**What is “service”?**

There are many kinds of service—in person, by mail, and others. This form is about “in-person service.” The *Notice of Court Hearing* (Form DV-110), *Temporary Restraining Order* (Form DV-111), and *Request for Order* (Form DV-100) must be served “in person.” That means someone—not you or anyone else protected by the order—must personally “serve” (give) the restrained person a copy of the forms. Service lets the other person know:

- What orders you are asking for
- The hearing date
- How to answer



**Who can serve?**

Ask someone you know, a process server, or law enforcement to personally “serve” (give) a copy of the order to the restrained person. You **cannot** send it by mail.

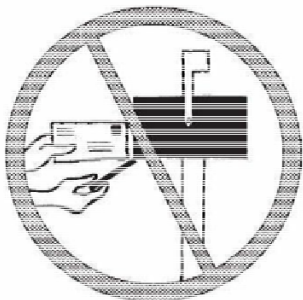
The server must:

- Be 18 or over
- Not be protected by the orders

The sheriff or marshal is authorized to serve the orders for **free**, but you have to ask.

A “process server” is a business you pay to deliver court forms. Look in the Yellow Pages under “Process Serving.”

(If law enforcement or the process server uses a different proof of service form, make sure it lists the forms served.)



*Don't serve it by mail!*

**How to serve**

Ask the server to:

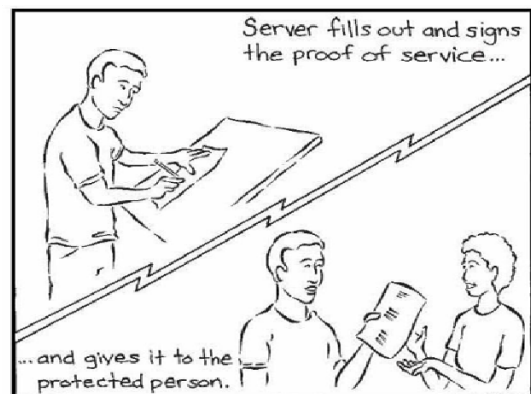
- Walk up to the person to be served.
- Make sure it’s the right person. Say the person’s name: “Are you John Doe?” or “Hi, John Doe.”
- Give copies of all papers checked on Form DV-200.
- Fill out and sign the *Proof of Service* form (DV-200).
- Give the signed *Proof of Service* to you.

**What if the person won’t take the papers or tears them up?**

- If the person won’t take the papers, just leave them near the person.
- It doesn’t matter if the person tears them up.

**Who signs the *Proof of Service*?**

Only the person who serves the orders can sign the *Proof of Service*. You do not sign Form DV-200. The restrained person does not sign this form.





## When do the orders have to be served?

It depends. To know the exact date, you have to look at two things on Form DV-110:

First, look at the hearing date on page 1 of Form DV-110. Next, look at the number of days written in ⑤ on page 2.

③ **Notice of Court Hearing**  
A court hearing is scheduled on the

Hearing Date	Date: _____	Time: _____
	Dept.: _____	Room: _____

If you want to respond to the request, file form hearing and tell the court why you agree or

⑤ **Service of Documents and Time for**  
**To: Person Asking for This Order**

Someone 18 or over—**not you or anyone else** and file-stamped copy of this form (DV-110 all the forms indicated below:

a.  DV-111, *Temporary Restraining*

Look at a calendar. Subtract the number of days in ⑤ from the hearing date. That's the final date to have the orders served. It's always OK to serve earlier than that date.

If nothing is written in ⑤, follow these rules:

- If the restrained person was notified that you asked for temporary orders, you have 15 days before the hearing.
- If the restrained person was not notified that you asked for temporary orders, you have 5 days before the hearing.

## Why do I have to get the orders served?

- The **police cannot arrest** anyone for violating an order **unless** the restrained person knows about the order.
- The **judge cannot make the orders permanent** unless the restrained person was served.

## What happens if I can't get the orders served before the hearing date?

Before your hearing, fill out and file the *Reissue Temporary Restraining Order* (Form DV-125). This form asks the judge for a new hearing date and makes your orders last until then. Ask the clerk for the form.

You **must** attach a copy of Form DV-125 to a copy of your original order. That way, the police will know your orders are still in effect. And the restrained person will be served with notice of the new hearing date. For more information on getting a new hearing date, read Form DV-126-INFO.

## What do I do with the completed *Proof of Service*?

If someone other than the sheriff serves the orders, you should:

- Make at least 5 copies.
- File the original *Proof of Service* (Form DV-200) with the court at least 2 days before your hearing.
- The clerk will send it to CLETS, a statewide computer system that lets police know about your order.
- Bring a copy of the *Proof of Service* to your hearing.
- Always keep an extra copy with you for your safety.

If the sheriff serves the orders, he or she will send the *Proof of Service* to the court and CLETS for you.

Clerk stamps below when form is filed.

**Draft 2 Group A  
06/03/09 mc  
Not approved by the  
Judicial Council**

Court name and street address:

**Superior Court of California, County of**

**Case Number:**

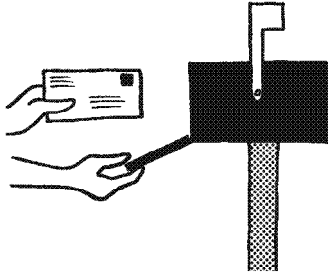
1 Protected person's name: \_\_\_\_\_

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.



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): \_\_\_\_\_

Remember: You cannot serve DV-100, DV-105, DV-110, DV-111, or DV-125 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 (write name): \_\_\_\_\_

d. At this address: \_\_\_\_\_

6 **Server's Information**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

(If you are a process server):

County of registration: \_\_\_\_\_ Registration number: \_\_\_\_\_

7 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

**DV-510-INFO** I Filled Out the Forms—What Now?

- 1 **Take your forms to the court clerk.** The clerk will give your forms to the judge. The judge will look at them and decide whether to make the order. Sometimes the judge will want to talk to you. If so, the clerk will tell you.
- 2 **Find out if the judge made the temporary restraining order.** Ask the clerk when to come back to see if the judge signed the order (Form DV-111). The judge must decide by the next business day. Check to see if the judge made any changes.
- 3 **“File” the judge’s order.** If the judge signs the order, the clerk will “file” it. The clerk will keep the original for the court and give you 5 “filed” copies. If you need more, make them yourself.

**What to do with your copies:**

- Keep 1 copy with you, always. You may need to show it to the police.
- Keep another copy in a safe place.
- Give a copy to anyone else protected by the order.
- Take copies to places where the restrained person is ordered not to go (school, work, daycare, etc.)
- Give a copy to the security officers in your apartment building and workplace.

Restraining orders get entered into CLETS, a statewide computer system that lets police know about your order. The court will send the order to law enforcement or CLETS for you.

4 **Know your hearing date.**

Look at Form DV-110 for the date and time of your hearing.

You **must** go to your hearing to get a permanent order.

The order you have now only lasts for about 3 weeks.

**REVISED DV-110 WILL BE INSERTED HERE**

## 5 “Serve” the restrained person.

Ask someone you know, a process server, or law enforcement to personally “serve” (give) the restrained person a copy of the order. You **cannot** send it by mail.

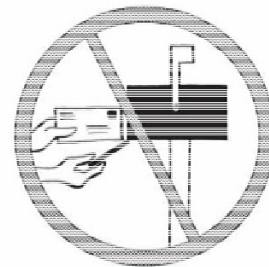
The server must:

- Be 18 or over
- Not be protected by the orders

Law enforcement will serve the orders for **free**, but you have to ask.\*

A “process server” is a business you pay to deliver court forms. Look in the Yellow Pages under “Process Serving.”\*

\*If law enforcement or the process server uses a different *Proof of Service* form, make sure the form lists all the forms served.



*Don't serve by mail!*

## 6 File your *Proof of Service* (Form DV-200).

The *Proof of Service* shows the judge and police that the restrained person got a copy of the order. Make 5 copies of the completed *Proof of Service*. Take the original and 5 copies to the court clerk as soon as possible **before your hearing**. The clerk will keep the original and give you back the copies stamped “Filed.” Bring a copy to your hearing.

Keep 1 copy with you and another in a safe place in case you need to show it to the police. Give the other copies out as you did in 3. The court will send your completed *Proof of Service* to law enforcement or CLETS for you. CLETS is a statewide computer system that lets police know about your order.

- If the sheriff serves your order, he or she will send the *Proof of Service* to the court and to CLETS for you.

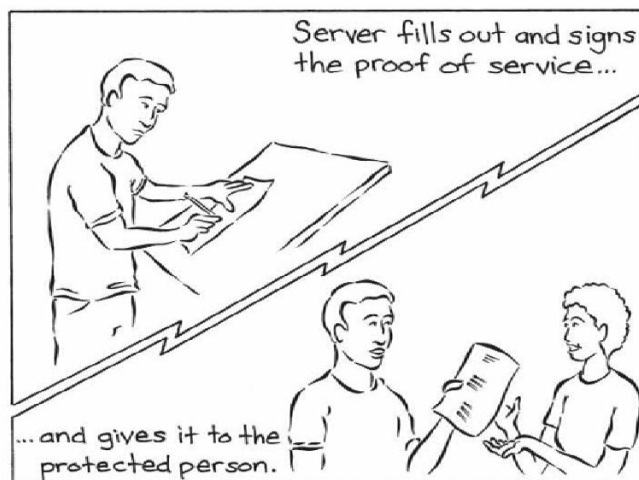
## 7 If the restrained person wasn't served . . .

The restrained person **must** be served before the hearing. If the restrained person wasn't served, fill out Form DV-125, *Reissue Temporary Restraining Order*, to ask the judge for a new hearing date. Do this **before** or **at** your hearing. (If you wait until after the hearing, you have to start from the beginning.)

If the judge signs this order, the restraining order will last until the new hearing date.

- File the signed order (Form DV-125) with the clerk. The clerk will send it to law enforcement or CLETS for you.
- Attach it to your other court papers and get the restrained person served.
- If you didn't file the original *Proof of Service*, bring it to your hearing.
- Bring a copy of Form DV-125 to your hearing.

After serving the orders, the server fills out and signs the *Proof of Service* and gives it to you.



**What is a restraining order?**

It is a court order.

**What does the 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 go to jail or be fined.**

**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 1 of Form DV-110. 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.

**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.

**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.

Draft 2 Group A 05/04/09 mc

Not approved by the Judicial Council

**REVISED DV-110 WILL BE INSERTED HERE**



**Can I bring a witness to the court hearing?**

You can bring witnesses or documents that support your case, but the judge may not have enough time to talk to the witnesses. So bring their written statements of what they saw or heard. *You must file and mail witness statements at least 10 days before the hearing or when you mail your Answer (Form DV-120) to the protected person.*

**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 your next court date. At that time, the judge will decide to grant or deny a longer-term order. That order can last for up to 5 years. Spousal support orders can last longer than 5 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. Tell the protected person you cannot have contact.

**Can I agree with the protected person 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 and pay a fine.

**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 the 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?****Requests 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](http://www.courtinfo.ca.gov/forms) for *Request for Accommodations by Persons With Disabilities and Response* (Form MC-410). (Civil Code, § 54.8.)

*Clerk stamps date here when form is filed.*

**DRAFT 12  
Group A  
06/04/09 xyz**

**Not Approved by the  
Judicial Council**

Person in ① must complete this page only.

① Name of protected person: \_\_\_\_\_

Address (skip this if the person above has a lawyer) (If you want your home address to be private, give a mailing address instead):  
\_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone (optional): \_\_\_\_\_ Fax (optional): \_\_\_\_\_

Lawyer (if any) (name, State Bar number, firm name, address, telephone, fax (optional), and e-mail (optional)):

Fill in court name and street address:

**Superior Court of California, County of**

② Name of restrained person: \_\_\_\_\_

Description of that person:

Sex:  M  F Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Race: \_\_\_\_\_

Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Home address (if known): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Work address (if known): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Court fills in case number when form is filed.

**Case Number:**

③  **Additional Protected Persons**

In addition to the person named in ①, the following persons are protected by temporary orders as indicated in items ④ and ⑤ (family or household members):

<u>Full Name</u>	<u>Sex</u>	<u>Age</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check here if there are additional protected persons. Attach a sheet of paper and write, "DV-111, Item 3, - Additional Protected Persons" as a title.

**This is a Court Order.**



Your name: \_\_\_\_\_

Court will complete the rest of this form.

**Temporary Restraining Orders Against the Person in ②**

The court has made the temporary orders granted below. If you do not obey these orders, you can be arrested and charged with a crime. And you may have to go to jail for up to one year, pay a fine of up to \$1,000, or both. These orders will expire on the date of the hearing listed in item ③ of Form DV-110, *Notice of Court Hearing*, unless they are extended by the court.

**4 Personal Conduct Orders  Granted  Not Granted**You must **not** do the following things to the  person in ① and  persons in ③:

- Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, or block movements.
- Contact (directly or indirectly), telephone, send messages, mail, or e-mail.
  - Brief and peaceful contact as required for court-ordered visitation of children is allowed unless a criminal protective court order says otherwise.
- Take any action, directly or through others, to obtain the addresses or locations of the persons in ① and ③. (If item c is not checked, the court has found good cause not to make this order.)

Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

**5 Stay-Away Order  Granted  Not Granted  Not Requested**You **must** stay at least (*specify*): \_\_\_\_\_ yards away from:

- The person named in ①
- That person's home
- That person's job or workplace
- That person's school
- That person's vehicle
- The persons listed in ③
- The children's school or child care
- Other (*specify*): \_\_\_\_\_

Brief and peaceful contact as required for court-ordered visitation of children is allowed unless a criminal protective court order says otherwise.

**6 Move-Out Order  Granted  Not Granted  Not Requested**You must take only personal clothing and belongings needed until the hearing and move out immediately from (*address*): \_\_\_\_\_**7 Child Custody and Visitation Order  Granted  Not Granted  Not Requested**You must follow the orders listed in attached Form DV-140, *Child Custody and Visitation Order*.**8 No Guns or Other Firearms**

You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.

**9 Turn In or Sell Guns or Firearms**

You must:

- Sell to a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms within your immediate possession or control. This must be done within 24 hours of being served with this order.
- File a receipt with the court within 48 hours of receiving this order that proves guns have been turned in or sold. (You may use Form DV-800, Proof of Firearms Turned in or Sold, for the receipt.)

**This is a Court Order.**



Your name: \_\_\_\_\_

**10 Property Control**  **Granted**  **Not Granted**  **Not Requested**

Until the hearing, *only* the person in **(1)** can use, control, and possess the following property and things:

\_\_\_\_\_

**11 Property Restraint**  **Granted**  **Not Granted**  **Not Requested**

If the people in **(1)** and **(2)** are married to each other or are registered domestic partners, they must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court. (*The person in (2) cannot contact the person in (1) if the court has made a “no contact” order.*)

Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

**12 Animals: Possession and Stay-Away Order**  **Granted**  **Not Granted**  **Not Requested**

The person in **(1)** is given the sole possession, care, and control of the animals listed below. The person in **(2)** must stay at least \_\_\_\_\_ yards away from and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the following animals:

\_\_\_\_\_

**13 Unlawful communications may be recorded.**  **Granted**  **Not Granted**  **Not Requested**

The person in **(1)** can record communications made by the person in **(2)** that violate the judge’s orders.

**14 Other Orders**  **Granted**  **Not Granted**  **Not Requested**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Additional orders are attached at the end of this order as DV-111, Attachment 14.

**15 No Fee to Notify (Serve) Restrained Person**

If the sheriff serves this order, he or she will do it for free.

**16 Criminal Protective Order** (*check a or b*)

a.  A criminal protective order or Form CR-160, Criminal Protective Order — Domestic Violence, is in effect.  
Case Number: \_\_\_\_\_ County: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

b.  The court has no information about the existence of a criminal protective order.

**17**  The court received information that the person in **(2)** owns or possesses a firearm.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Judge (or Judicial Officer)*

**This is a Court Order.**



Your name: \_\_\_\_\_

**Certificate of Compliance With VAWA**

This temporary protective order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

**Warnings and Notices to the Restrained Person in 2****You Cannot Have Guns or Firearms.**

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms that you have or control as stated in item 9 above. The court will require you to prove that you did so.

**If You Do Not Obey This Order, You Can Be Arrested and Charged With a Crime.**

- It is a felony to take or hide a child in violation of this order.
- If you travel to another state or to tribal lands or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime.
- If you do not obey this order, you can go to prison and/or pay a fine.

**After You Have Been Served With a Restraining Order**

- Obey all the orders.
- Read Form DV-540-INFO, *Information for the Restrained Person*, to learn how to respond to this order.
- If you want to respond, fill out Form DV-120, *Answer to Temporary Restraining Order*, and file it with the court clerk. You do not have to pay any fee to file your response.
- Serve Form DV-120 on the person in 1 or that person’s attorney. You cannot do this yourself. Serve it by mail or personal delivery within the time given in item 5 of Form DV-110, *Notice of Court Hearing*. The person who does the service should complete and sign a proof of service. Form DV-210, *Proof of Service by Mail* or Form DV-200, *Proof of Service (In Person)*, may be used. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and serve declarations signed under oath by you and other persons who have personal knowledge of the facts. You may use Form MC-030 for the declaration.
- In addition to filing a response, you should go to the hearing. If you have any witnesses, they should also go to the hearing.
- At the hearing, tell the judge if you agree or disagree with the orders requested.
- Even if you do not go to the hearing, the judge can make the restraining orders last for up to five years.

**This is a Court Order.**

Your name: \_\_\_\_\_

**Child Custody, Visitation, and Support**

- **Child custody and visitation:** If you do not go to the hearing, the judge can make custody and visitation orders for your children without hearing your side.
- **Child support:** The judge can order child support based on the income of both parents. The judge can also have that support taken directly from your paycheck. Child support can be a lot of money, and usually you have to pay until the child is age 18. File and serve a *Financial Statement (simplified)*(Form FL-155) or an *Income and Expense Declaration* (Form FL-150) so the judge will have information about your finances. Otherwise, the court may make support orders without hearing your side.
- **Spousal support:** File and serve a *Financial Statement (simplified)* (Form FL-155) or an *Income and Expense Declaration* (Form FL-150) so the judge will have information about your finances. Otherwise, the court may make support orders without hearing your side.

**Instructions for Law Enforcement**

This order is effective when made. It is enforceable anywhere in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories and shall be enforced as if it were an order of that jurisdiction by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

*(Clerk will fill out this part.)*

**—Clerk's Certificate—**

*Clerk's Certificate*  
[seal]

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

**Waiver of Hearing on  
Denied Request for Temporary  
Restraining Order**

*This form is to be used only when the court denies all temporary orders  
(see ④ b on Form DV-110, Notice of Court Hearing).*

*Clerk stamps date here when form is filed.*

**Draft 9 Group A  
06/04/09 xyz  
Do not distribute**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Clerk fills in case number when form is filed.*

**Case Number:**

- ① Name of person asking for protection:  
\_\_\_\_\_
- ② Name of person to be restrained:  
\_\_\_\_\_

**To the person in ①**


- There are **no temporary restraining orders** now in effect. Your request for temporary restraining orders was denied for the reasons listed on Form DV-110, *Notice of Court Hearing*.
- The court has set a hearing on your request for orders and might issue the orders after the hearing.
- Use this form only if you want to cancel the hearing date as listed on Form DV-110, item ③. If you want to cancel the hearing, sign this form (DV-112) and file it with the court clerk.
- If you already served Form DV-110 and other papers on the person in ②, you must notify that person that you have canceled the hearing. If the person in ② has filed a response in this case, the court may hear the case even if you file this request to waive the hearing.
- You may file a new request for temporary restraining orders on the same or different facts at a later date.

I have read this form and I understand that I have a right to a court hearing. By signing below, I am asking the court to cancel the hearing listed on Form DV-110, *Notice of Court Hearing*.

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

Date: \_\_\_\_\_

\_\_\_\_\_  
*Person in ①: Type or print your name*

  
\_\_\_\_\_  
*Sign your name*

**This is not a Court Order.**

SECTION 1. Section 6320.5 is added to the Family Code, to read:

6320.5. (a) An order denying a petition for an ex parte order pursuant to Section 6320 shall include the reasons for denying the petition.

(b) An order denying a jurisdictionally adequate petition for an ex parte order, pursuant to Section 6320, shall provide the petitioner the right to a noticed hearing on the earliest date that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date of the order. The petitioner shall serve on the respondent, at least 5 days before the hearing, copies of all supporting papers filed with the court, including the application and affidavits.

(c) Notwithstanding subdivision (b), upon the denial of the ex parte order pursuant to Section 6320, the petitioner shall have the option of waiving his or her right to a noticed hearing. However, nothing in this section shall preclude a petitioner who waives his or her right to a noticed hearing from refiling a new petition, without prejudice, at a later time.

(d) The Judicial Council, on or before January 1, 2010, shall develop a form to implement this section.

## Item SP09-05 Response Form

**Title:** Family Law: Domestic Violence Prevention Act forms (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-140, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-111; and approve form DV-112)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

- Commenting on behalf of an organization**

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

### **To Submit Comments**

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

**Internet:** <http://www.courtinfo.ca.gov/invitationstocomment/>

**Email:** [invitations@jud.ca.gov](mailto:invitations@jud.ca.gov)

**Mail:** Ms. Camilla Kieliger  
Judicial Council, 455 Golden Gate Avenue  
San Francisco, CA 94102

**Fax:** (415) 865-7664, Attn: Camilla Kieliger

<b>DEADLINE FOR COMMENT: 5:00 p.m., Monday, July 27, 2009</b>
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***Circulation for comment does not imply endorsement by the Judicial Council.  
All comments will become part of the public record of the proposal.***