

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SPR15-17

Title	Action Requested
Domestic Violence: Preparing for Restraining Order Court Hearing	Review and submit comments by June 17, 2015
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise form DV-520-INFO	January 1, 2016
Proposed by	Contact
Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack, Cochair Hon. Mark A. Juhas, Cochair	Julia F. Weber, 415-865-7693 julia.weber@jud.ca.gov

Executive Summary and Origin

Form DV-520-INFO, *Get Ready for the Court Hearing*, is available for optional use by courts to provide information to litigants about preparing for a domestic violence restraining order hearing, hundreds of which are held each day in courts throughout the state. Courts report finding the form helpful; however, the current version includes information that can be confusing and, as a result, may cause unnecessary difficulties and delays at hearings. Rather than continuing to provide legally inaccurate information, some courts have chosen not to use the form and do not have a substitute readily available. Additionally, this form remains on the public website, so litigants may be relying on it to their detriment. The Family and Juvenile Law Advisory Committee seeks to revise the form in this cycle so that it is clearer, is legally accurate, and as a result, accomplishes the original goal in adopting the form: to inform litigants and assist in making these complex and important hearings run more smoothly.

The Proposal

The Family and Juvenile Law Advisory Committee recommends making the following changes to form DV-520-INFO, effective January 1, 2016:

- Changing the name of the form to clarify that it provides information about restraining order hearings;
- Providing examples of documents that can assist the court in making decisions about support and at the same time explaining that the judge will make decisions about what

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

documents may be considered so that litigants are less likely to assume that everything brought to court will be admissible;

- Clarifying that witnesses may come to court and write statements but may be required to testify if objections to the written declarations arise;
- Informing parties that a local form may be available with which to request an interpreter;
- Clarifying that the judge will decide whether enough evidence exists to issue a restraining order;
- Clarifying that a restrained party might be served in the courtroom after a hearing; and
- Making some technical changes to remove commas and correct a typo.

Text of the proposed revised form is attached at pages 4–6.

Alternatives Considered

The committee considered not making the changes proposed. However, because some of the information on the form may be read to suggest that evidence offered by the litigants will always be accepted by the judge—and may be confusing in other respects—some courts have chosen not to provide the form out of concern that it may be unclear or misleading. The committee agrees that given the value of the form and the need to provide litigants with helpful information to assist in more smoothly running hearings, it is important to propose revisions correcting these inaccuracies, thereby improving the form and enabling courts to more routinely make it available.

Implementation Requirements, Costs, and Operational Impacts

Courts may be required to produce paper copies of the information form to replace the existing form.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Do the proposed changes more clearly provide litigants with information that will assist them at restraining order hearings?
- Are there any aspects of the proposed changes that may be unclear or confusing to self-represented litigants?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Proposed form DV-520-INFO, attached at pages 4–6
2. Current form DV-520-INFO, at www.courts.ca.gov/documents/dv520info.pdf

DV-520-INFO Get Ready for the Restraining Order Court Hearing

Be prepared.

- Bring two copies of all documents and filed forms, including the *Proof of Service*.
- Bring documents that support your case (police or medical reports, rental agreements or receipts, photos, bills, pay stubs or other proof of income if support is requested, etc.). Provide the other party with a copy of all documents. Sometimes the judge cannot look at or consider certain documents. The judge will decide which of the documents that you and the other party bring can be included in your case.
- Either person can bring a support person to the court hearing to feel safer. The support person must not talk for either person in court.
- At the hearing, both of you can have witnesses to testify in support of your case. Your witnesses can also write their statements about what they saw or heard in a declaration signed under penalty of perjury. However, if the party objects to the written declarations, the witnesses will need to be present in court and testify. Witnesses can use form MC-030, *Declaration*, or a sheet of paper entitled “Declaration,” to provide statements in writing.
- If you are the person to be restrained, complete, file, and serve Form DV-120, *Response to Request for Domestic Violence Restraining Order*, if you haven’t already. Bring three copies of Form DV-120 to the hearing. Also bring pay stubs or other proof of income, if support is being requested.
- Most courtrooms do not allow children. Before the date of the hearing, ask if there is a children’s waiting room in the courthouse, if you do not have childcare available.
- Practice what you want to say to the judge. Make a list of the orders you want or the orders you disagree with. If you get nervous at the hearing, just read from your list. You may also write out a statement and read it to the judge.

Don't miss the hearing.

- If you are the person asking for protection and you miss the hearing, the restraining orders will end and you will have to complete the paperwork all over again.
- If you are the person to be restrained and you miss the hearing, the judge can still make the orders.

Get there 30 minutes early.

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

What if you don't speak English?

When you file your papers, tell the clerk you will need an interpreter. Your court may have a local form you can use to request an interpreter. If a court interpreter is not available, bring someone to interpret for you. Do not ask a child, a protected person, or a witness to interpret for you.

The judge may ask questions.

- Tell the truth. Speak slowly. You can read from your list.
- Give complete answers.
- If you don’t understand, say “I don't understand the question.”



DV-520-INFO Get Ready for the Restraining Order Court Hearing

- Speak only to the judge, unless it is your turn to ask questions.
- When people are talking, wait for them to finish. Then you can ask them questions about what they said.
- Do not interrupt other than for legal objections.
- If the other person tells a lie, wait until he or she finishes talking, then tell the judge.
- The person to be protected and the person to be restrained or their lawyers may ask questions.

The judge will decide.

- At the hearing, the judge will decide if the evidence shows you are entitled to a restraining order. The judge will consider whether denial of any orders will risk the safety of the person asking for protection or the safety of children for whom custody, visitation, or support orders are requested. Safety concerns about the financial needs of the person asking for protection will also be considered.
- At the end of the hearing, the judge will say what the orders are. The orders will be put on Form DV-130, *Restraining Order After Hearing*.

What if the judge makes orders at the hearing—Form DV-130?

For person to be protected:

- Sometimes the courtroom clerk will fill out Form DV-130. If not, ask who should fill it out.
- If the courtroom clerk fills out Form DV-130, the clerk will bring the form to the judge.
- If you fill out Form DV-130, ask where you should bring the form when you finish so that it can be filed. After the form is filed, the court clerk will give you up to three copies.
- Read the signed Form DV-130 carefully. If anything is different from what the judge ordered, ask for help at the courthouse right away or talk to your lawyer, if you have one for the case.

For person to be restrained:

- If the judge makes orders at the hearing, you must obey them. If you do not, you could be arrested.
- Any orders will be written on Form DV-130. When you receive the signed and filed Form DV-130, read it carefully. If anything is different from what the judge ordered, ask for help at the courthouse right away or talk to your lawyer, if you have one for the case.

The judge may "continue" your case.

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

- The person to be restrained needs time to get a lawyer or prepare an answer.
- The judge wants more information.
- Your hearing is taking longer than planned.

The person to be protected may ask the judge to extend the temporary orders until the new hearing date.

The court may use *Notice of New Hearing Date and Order on Reissuance* (Form DV-116) for the new hearing.

What about child custody or visitation?

- If you ask for child custody or visitation orders, the court may send you to Family Court Services (also known as *court-connected mediation or child custody recommending counseling*). See Forms FL-313-INFO, *Child Custody Information Sheet—Recommending Counseling*, and FL-314-INFO, *Child Custody Information Sheet—Child Custody Mediation*, for more information.
- If you are sent to Family Court Services, the judge may extend the temporary restraining order, and make or extend temporary custody and visitation orders, which last until the next hearing or until another court order.



DV-520-INFO Get Ready for the Restraining Order Court Hearing

What happens after the hearing?

For person to be protected:

- The court clerk will send Form DV-130 to law enforcement or CLETS for you. CLETS is a statewide computer system that lets police know about the order.
- If the restrained person was at the hearing, you may have him or her served with a copy of Form DV-130 by mail, or some courts may have the restrained person served in the courtroom after the hearing.
- If the restrained person was not at the hearing but the judge's orders are the *same* as the temporary order, you may have him or her served with a copy of Form DV-130 by mail.
- If the restrained person was not at the hearing and the judge's orders are *different* from the temporary order, you must have someone serve Form DV-130 in person, not by mail. Ask the server to complete Form DV-200, *Proof of Personal Service*, and give it back to you.
- Keep a copy of the orders with you at all times.

For person to be restrained:

- You will be served with the *Restraining Order After Hearing* (Form DV-130) either at the hearing or within a few days, by mail or in person.
- If you do not receive a copy of the orders within a few days after the hearing, ask the clerk for a copy.
- Keep a copy of the orders with you at all times.

Which forms will I receive after the hearing?

Use this checklist to see if you have the right forms for the case:

- Form DV-130, *Restraining Order After Hearing*, if the judge made orders at the hearing.
- Form DV-140, *Child Custody and Visitation Order*, if the judge ordered child custody or visitation.
- Form FL-342, *Child Support Information and Order Attachment*, or Form FL-343, *Spousal, Partner, or Family Support Order Attachment*, if the judge orders child support and/or spousal support.
- Sometimes there may be other forms in addition to these.

Need more help?

Ask the court clerk about free or low-cost legal help. For a referral to a local domestic violence or legal assistance program, 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.

What if I am deaf or hard of hearing?



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.courts.ca.gov/forms for *Request for Accommodations by Persons With Disabilities and Response* (Form MC-410). (Civil Code, § 54.8.)