

Judicial Council of California • Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT SPR12-25

Title	Action Requested
Protective Orders: Notice of New Hearing and Order on Reissuance	Review and Submit Comments by June 15, 2012
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise form DV-116 (<i>Notice of New Hearing and Order on Reissuance</i>)	January 1, 2013
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Tamara Abrams, 415-865-7712, tamara.abrams@jud.ca.gov
Hon. Kimberly J. Nystrom-Geist, Cochair	
Hon. Dean Stout, Cochair	

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes revisions to the *Notice of New Hearing and Order on Reissuance* (form DV-116) to reduce confusion and promote safety, as suggested by courts and members of the public.

Background

The proposal is not a result of new legislation but is in response to requests from courts and other forms users. Form DV-116 was new effective January 1, 2012, and the issues addressed by this proposal would respond to specific workload and other concerns expressed by judicial officers and court professionals. They are intended to improve court efficiency and public safety.

The Proposal

Proposed revisions to form DV-116 would include:

1. Add “CLETS” to the footer to clarify that the data on the form must be entered into the California Restraining and Protective Order System so that law enforcement officers are notified when the court extends the duration of the restraining order.
2. Revise item 3 to add the current hearing date. This amendment would clarify that a hearing was previously scheduled in the case and would reduce confusion by differentiating the continued hearing from other cases.

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 These proposals are circulated for comment purposes only.

3. Revise item 4 to change the words “in this court on this new date” to “as follows” to reduce confusion in those circumstances when the continued hearing is set in another court.
4. Revise item 5 as follows:
 - a. Add the word “ Continue” to the title to more accurately reflect the court’s order.
 - b. Replace the word “reissue” with “keep . . . in effect” to reflect the underlying meaning of the item and to acknowledge that the court may have reissued or continued the order.
 - c. Add two subsections to item 5b to specify whether the original restraining order was modified in any way other than the expiration date.
 - d. Require that the restraining order be attached to form DV-116 only if the restraining order was modified. Courts that routinely attach the restraining order, whether the original version or the revised version, could continue their local practice.
5. Revise the Warning and Notice section to eliminate unnecessary text.
6. Eliminate the expiration date as a separate item number; the expiration date is referenced in item 5b(1)–(2) and under the Warning and Notice statement.
7. Revise item 6 as follows:
 - a. Eliminate the checkbox for service on the protected person. Circumstances requiring service on the protected person are rare, and including it as an option on the form may cause confusion.
 - b. Clarify that form DV-116 must be personally served on the restrained person unless otherwise specified.
 - c. Add a checkbox to allow for flexibility such as in instances where the order must be served on the protected person.

Alternatives considered

The proposal would respond to specific workload concerns that the wording of the form has been interpreted by some courts as a new requirement to locate, photocopy and attach the existing temporary order to form DV-116. The committee concluded that the proposal would respond to this concern and is therefore warranted. The alternative, to make no changes to the form, would not be responsive to the workload concerns. Courts that routinely attach the restraining order, whether the original version or the modified version, could continue their local practice.

Implementation Requirements, Costs, and Operational Impacts

The proposal would not result in increased costs for courts other than the nominal cost of providing blank copies to litigants, for those courts that provide such copies. The proposal would decrease costs for the courts that have instituted new procedures to process form DV-116. Those courts could revert to older procedures that required less staff time to implement.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

Attachments

The proposed revised form is attached at pages 4–6.

Clerk stamps date here when form is filed.

DRAFT Not Approved by the Judicial Council

1 Name of Person Asking for Protection:

Your lawyer in this case (if you have one):

Name: State Bar No.:

Firm Name:

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.):

Address:

City: State: Zip:

Telephone: Fax:

E-Mail Address:

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

2 Name of Person to Be Restrained:

(Court will fill out all sections below.)

3 New Hearing Date

The hearing currently scheduled for (date): is reset to the date in 4 below because:

- a. The person in 2 was not served before the current hearing date.
b. The parties were referred to Family Court Services.
c. The person in 2 asked for time to hire a lawyer or prepare a response.
d. Other (specify):

Three horizontal lines for specifying other reasons.

4 Order for Continuance and Notice of Hearing

The Notice of Court Hearing (Form DV-109) is reset for hearing as follows:

Form with fields for New Hearing Date (Date, Time, Dept., Room) and Name and address of court if different from above.

This is a Court Order.

Your name: _____

5 Temporary Restraining Order (Reissue and/or Continue)

- a. No temporary restraining orders were issued in this case.
- b. The request to keep temporary restraining orders in effect until the new hearing date is **GRANTED**.
 - (1) There are no changes to the *Temporary Restraining Order* except for the expiration date. Any orders listed on the *Temporary Restraining Order* (Form DV-110) remain in effect until the end of the hearing in **4**.
 - (2) The *Temporary Restraining Order* is modified. See the attached modified order. Any orders on the attached form remain in effect until the end of the hearing in **4**.
- c. The request to keep temporary restraining orders in effect is **DENIED** until the hearing.
Reason for denial:

Warning and Notice to the Person in 2

If **5 b** is checked, you must continue to obey the Temporary Restraining Order until it expires at the end of the hearing scheduled in **4**.

6 Service of Order

- a. No further service of this Order is required because both parties were present at the hearing when the new hearing date was ordered.
- b. A copy of this Order must be served on the person in **2** at least _____ days before the hearing, along with all other documents requesting domestic violence restraining orders. This Order must be personally served unless otherwise specified in **6 c**. If item **5 c** is checked, a copy of the Temporary Restraining Order must **not** be attached or served.
- c. Other (*specify*): _____

7 No Fee to Serve (Notify) Restrained Person

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

Date: _____

Judicial Officer

This is a Court Order.



Case Number: _____

Your name: _____



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office for *Request for Accommodations by Persons with Disabilities and Response* (Form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk’s Certificate—

Clerk’s Certificate

I certify that this *Notice of New Hearing Date and Order on Reissuance* (CLETS) is a true and correct copy of the original on file in the court.

[seal]

Date: _____ Clerk, by _____, Deputy

This is a Court Order.