



DOMESTIC VIOLENCE GUIDE

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About Me

- University of Utah
 - *Majored in International Studies*
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Course Outline

- Purpose
- Types of Protection Orders
- What Is Domestic Violence
- How to Prepare for Trial
- Necessary Forms
- Serving Paperwork
- Extending Restraining Orders

Dual Purpose of Domestic Violence Prevention Act

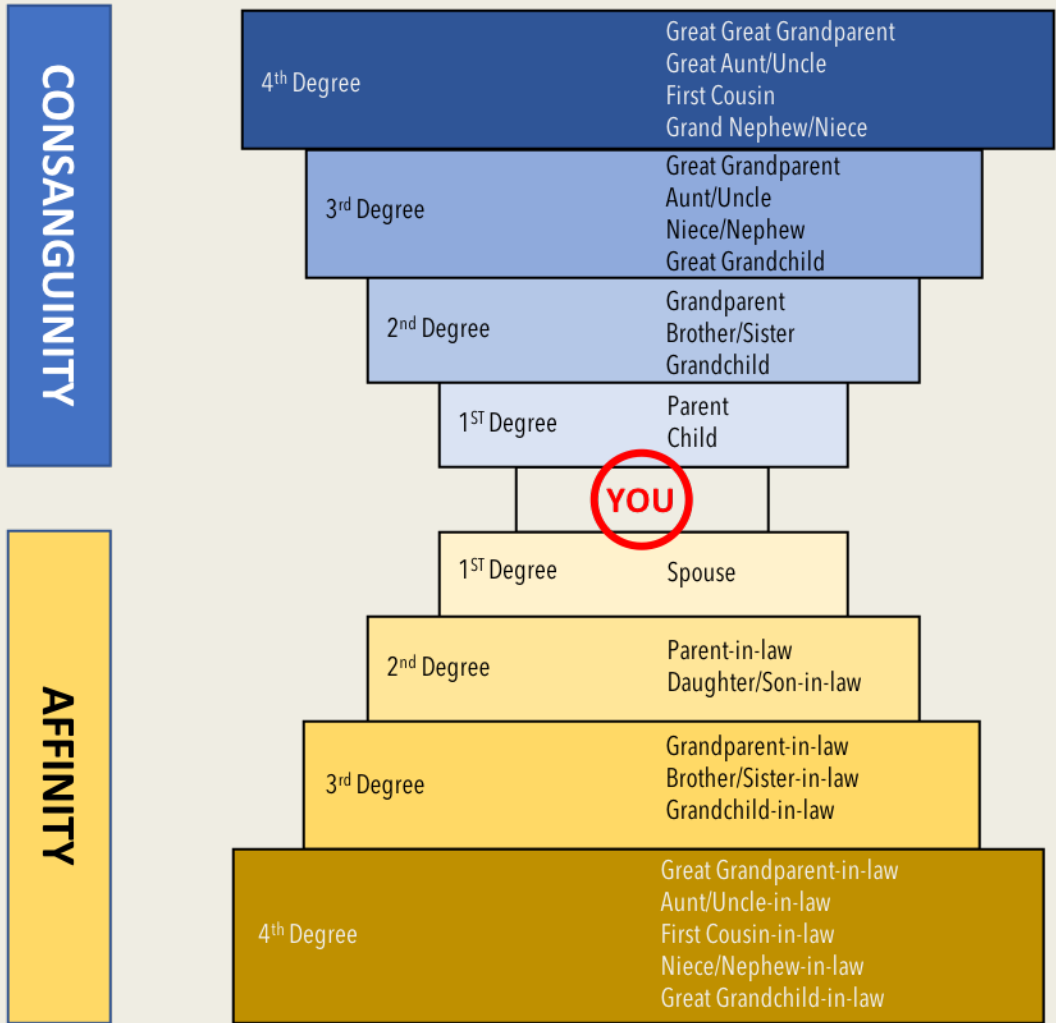
[Fam. Code, § 6220](#)

- To prevent acts of domestic violence, abuse, and sexual abuse
- To provide for a separation of the persons involved in the domestic violence for a period sufficient to enable these persons to seek a resolution of the causes of the violence

Who Is Protected by the Domestic Violence Prevention Act?

[Fam. Code, § 6211](#)

- Spouse or former spouse
- Cohabitant or former cohabitant
- Dating or engagement relationship
- A person with whom the respondent has had a child
- A child of a party
- Blood or marriage relative within the 2nd degree



Note: Step relationship (ste-brother, step-father, etc) are considered the same as blood relationships.

Types of Protection Orders

- Emergency Protective Order
 - *Lasts the earlier of*
 - 5 court days
 - 7 calendar days
 - *Issued by a police officer*
- Temporary Restraining Order
 - *21 to 25 calendar days*
- Permanent Restraining Order
- Criminal Protective Order

Specific Orders Obtainable

- Contact, Credibly or Falsely Impersonating, or Destroying Personal Property; Protection for Companion Animals ([Fam. Code, § 6320](#))
- Excluding Party from Dwelling ([Fam. Code, § 6321](#))
- Prohibiting Specified Behavior ([Fam. Code, § 6322](#))
- Prohibition upon Certain Prohibited Parties from Acting to Obtain Addresses or Locations of Protected Persons ([Fam. Code, § 6322.7](#))

Specific Orders Obtainable

- Ex Parte Orders Regarding Temporary Custody and Visitation of Minor Children ([Fam. Code, § 6323](#))
- Regarding Real or Personal Property ([Fam. Code, § 6324](#))
- Insurance Coverage ([Fam. Code, § 6325.5](#))
- Record unlawful communications ([See Pen. Code, § 632](#))

Legal Definitions of Abuse

[Fam. Code, § 6203](#)

- Bodily injury
- Sexual assault
- To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another
- Abuse is not limited to the actual infliction of physical injury or assault

Legal Definitions of Abuse

[Fam. Code, § 6320](#)

- Molesting
- Attacking
- Striking
- Stalking
- Threatening
- Sexually assaulting
- Battering

Legal Definitions of Abuse

[Fam. Code, § 6320](#)

- Credibly impersonating
- Falsely personating
- Telephoning, including, but not limited to, making annoying telephone calls ([See Pen. Code, § 653m](#))
 - *obscene language*
 - *threat to inflict injury*
 - to the person
 - property of the person
 - any member of his or her family

Legal Definitions of Abuse

[Fam. Code, § 6320](#)

- Harassing
- Destroying personal property
- Contacting, coming within a specified distance of, or disturbing the peace of the other party or other named family or household members

Disturbing the Peace

- Ex-boyfriend's acts amounted to “**disturbing the peace** of the other party,” and thus were “abuse” supporting a **Domestic Violence** Protection Act (DVPA) restraining order, where ex-boyfriend continued to contact ex-girlfriend over eight months even though ex-girlfriend asked ex-boyfriend several times to not contact her, and ex-boyfriend then came to ex-girlfriend's home unannounced and uninvited, and paced around her porch for about 10 minutes after she asked him to leave and threatened to call the police. Burquet v. Brumbaugh (2014) 223 Cal.App.4th 1140, 1144.

Disturbing the Peace

- Under the Domestic Violence Prevention Act, disturbing the peace of the other party (in this case the mother) means conduct that destroys the mental or emotional calm of the other party, including the evidence in this case that father struck daughter. Perez v. Torres-Hernandez (2016) 1 Cal.App.5th 389, 401.

Preparing for Trial

- What is a case theory?
 - *Unproven account of the case*
- What is your theory of the case?
- How are you going to prove your theory of the case?
 - *Witnesses*
 - *Evidence*

What Is Evidence?

- Your testimony
 - *Specific dates and times*
 - *Who, what, when, where, why, how*
- The testimony of other witnesses who have personal knowledge
- Photographs
- Electronic communications from the other party

Inadmissible Evidence

- Police Reports
- Statements from persons other than the parties (Hearsay)
- Testimony from witnesses that do not have personal knowledge

Essential Forms

- Request for Domestic Violence Restraining Order ([DV-100](#))
 - *Describe Relationship*
 - *Ask for Specific Orders*
 - *Describe Abuse ([DV-101](#))*
- Notice of Court Hearing ([DV-109](#))
 - *21 to 25 Days after Ex Parte Hearing*
- Witness List ([FL-321](#))
- Exhibit List

Essential Forms

- Confidential CLETS Information ([CLETS-001](#))
 - *California Law Enforcement Telecommunications System*
- Declaration Re: Notice of Ex Parte Application ([L-1124](#))
 - *4 Hours*
 - *No Notice for Good Cause*
- Temporary Restraining Order ([DV-110](#))
- Family Law Notice Re Related Case ([L-1120](#))
- Blank Response to Request for Domestic Violence Restraining Order ([DV-120](#))

Forms if Children Involved

- Request for Child Custody and Visitation Orders ([DV-105](#))
 - *Child Custody and Visitation Order* ([DV-140](#))
 - *Supervised Visitation and Exchange Order* ([DV-150](#))
- Request for Order: No Travel with Children ([DV-108](#))
 - *Order: No Travel with Children (County, State, Country)* ([DV-145](#))
- Request to Keep Minor's Information Confidential ([DV-160](#)) (Jan. 1, 2019)
 - *Order on Request to Keep Minor's Information Confidential* ([DV-165](#))
 - *Notice of Order Protecting Information of Minor* ([DV-170](#))
 - *Cover Sheet for Confidential Information* ([DV-175](#))

Forms if Asking for Child or Spousal Support, or Attorney Fees

- Completely Filled Income and Expense Declaration ([FL-150](#))
 - *No blanks*
 - *Actual expenses rather than estimated or proposed needs*
 - *For Paragraphs 11(a)(b) & (c), use Schedule of Assets and Debts ([FL-142](#))*
- Blank Income and Expense Declaration ([FL-150](#))
 - *Blank Schedule of Assets and Debts ([FL-142](#))*

Once Forms Are Filled

- Make 2 copies;
 - *File original at court*
 - *One copy is a service copy*
 - *The other is for your records*

Personally Serving the Other Party Temporary Orders

- Have Sheriff or other person over 18 personally serve the other party
- Sheriff or other person needs to sign a prefilled Proof of Personal Service ([DV-200](#))
- Make sure to check all appropriate
- Permanent orders can be served by mail ([See Fam. Code, § 6384](#))

The Trial

- The restrained party is entitled to have hearing within 21 days
- The restrained party is also entitled to one continuance, no good cause required ([See Fam. Code, § 245](#))
- Imperative for the moving party to be ready to proceed on the date that papers are filed
 - *Opens up the discovery door*

Extending the Restraining Order

- Three Options ([Fam. Code, § 6345](#))
 - *5 years*
 - *Permanently*
 - *No extension*

Violations of Restraining Orders

- Constitutes a crime ([See Fam. Code, § 6388](#))
- Abuse includes violations of a restraining order, and is not limited to acts inflicting physical injury. ([See N.T. v. H.T. \(2019\) 34 Cal.App.5th 595, 597](#))

Other Resources

- Can a Domestic Violence Restraining Order Help Me? ([DV-500-INFO](#))
- How do I ask for a Temporary Restraining Order? ([DV-505-INFO](#))
- Self Help Centers at Courts
- Orange County Superior Court Domestic Violence Restraining Order Packets
 - [No Children](#)
 - [Children](#)

Other Resources

- [Community Legal Aid SoCal](#)
- Paralegal Services
- Attorney Services

Disclaimer

- The information you obtain from this guide is not, nor is it intended to be, legal advice. You should consult an attorney for advice regarding your individual situation. We invite you to contact us and welcome your calls, letters and electronic mail. Contacting us does not create an attorney-client relationship. Please do not send any confidential information to us until such time as an attorney-client relationship has been established. Only after a signed retainer agreement is executed should you consider yourself represented.