



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 27, 2015

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Title	Agenda Item Type
Domestic Violence: Preparing for Restraining Order Court Hearing	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise form DV-520-INFO	January 1, 2016
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	October 13, 2015
Hon. Jerilyn L. Borack, Cochair	Contact
Hon. Mark A. Juhas, Cochair	Julia F. Weber, 415-865-7693 <a href="mailto:julia.weber@jud.ca.gov">julia.weber@jud.ca.gov</a>

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### Executive Summary

Form DV-520-INFO, *Get Ready for the Court Hearing*, has been available for optional use by courts to provide information to litigants about preparing for a domestic violence restraining order hearing. While courts report finding the form helpful, they have also identified problems—for both courts and litigants—with the form. Accordingly, the Family and Juvenile Law Advisory Committee recommends revising the form so that it is clearer, is legally accurate, and as a result, accomplishes the original goal in approving this optional form: to inform litigants and assist in making these complex and important hearings run more smoothly.

### Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2016, revise form DV-520-INFO as follows:

1. Reformat the entire form so that it reflects best practices for providing legal information in plain language, demonstrates improved readability with more white space and graphics, and eliminates unnecessary or confusing language;
2. Change the name of the form to clarify that it provides information about restraining order hearings (*Get Ready for the Restraining Order Court Hearing* instead of *Get Ready for the Court Hearing*);
3. Provide examples of documents that can assist the court in making decisions about support and at the same time explain that the judge will make decisions about what documents may be considered so that litigants are less likely to assume that everything brought to court will be admissible;
4. Provide information about form DV-570, *Which Financial Form—FL-155 or FL-150?*, which can assist parties in determining whether they need to complete an Income and Expense Declaration or a Simplified Financial Statement;
5. Clarify that witnesses may come to court and write statements but may be required to testify if objections to the written declarations arise;
6. Inform parties that a local form may be available with which to request an interpreter;
7. Clarify that a restrained party might be served in the courtroom after a hearing;
8. Clarify that litigants may need to arrange for childcare if a children's waiting room isn't available and children are not permitted in the courtroom during the hearing;
9. Provide more information about what happens at and after the hearing; and
10. Make some technical changes to remove commas and correct a typo.

The proposed revised form is attached at pages 5–7.

### **Previous Council Action**

The Judicial Council last revised DV-520-INFO effective January 1, 2012.

### **Rationale for Recommendation**

Form DV-520-INFO, *Get Ready for the Court Hearing*, has been 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. Although courts report finding the form helpful, 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 California Courts public website, so litigants may be relying on it to their detriment. The form revisions proposed by the Family and Juvenile Law Advisory Committee in this report will make the form clearer and more legally accurate. As a result, the revised form will better accomplish the original goal in approving the form: to inform litigants and assist in making these complex and important hearings run more smoothly.

### **Comments, Alternatives Considered, and Policy Implications**

The proposal was sent out for comment during the spring 2015 comment period. In addition to being posted on the judicial branch website, the invitation to comment was circulated to trial courts and lists of professionals and members of the public who have provided their contact information to review and provide comment on Judicial Council forms. Specific input from professionals who work in the domestic violence field was also solicited.

Eleven commentators provided comments on the proposal. Four agreed with the proposed changes if modified and one agreed; six did not indicate a position but otherwise provided suggestions for additional edits. In response to specific questions about the value of the form, commentators indicated that the form will be helpful to litigants and suggested outreach efforts to make it more accessible to the public. Others noted that the “modifications will improve the ability of all litigants, especially those who are self-represented, to understand the forms and prepare for their restraining order hearing.”

Several commentators suggested formatting changes to make the form easier to use. Additionally, because the form seeks to cover information for petitioners as well as respondents, the form contains a lot of information. As a result, the committee decided it would be helpful if the form could be reformatted to include more white space and graphics and eliminate unnecessary words, as well as be edited to include more plain language where possible. Although the new format was developed after the form was circulated for comment, the content of the form still reflects what was circulated with changes made as a result of input from commentators. The committee believes the formatting changes fit in with other plain-language forms in the DV series and will be helpful to the public and the trial courts.

### **Alternatives**

The committee considered retaining the format that has been in place for this form and only changing the content as originally proposed. However, the suggestions commentators made created a form with more information, which decreased the readability of the form when kept in its original format. The committee also considered adding numbers and letters to provide reference points instead of bullets, however, with the proposed reformatting of the form, that suggestion appeared to be unnecessary.

## **Implementation Requirements, Costs, and Operational Impacts**

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

### **Attachments and Links**

1. Judicial Council form DV-520-INFO, at pages 5–7
2. Chart of comments, at pages 8–31

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

This form explains what to do *before*, *during*, and *after* the restraining order hearing. You can go to [www.courts.ca.gov/dvforms](http://www.courts.ca.gov/dvforms) for more information and to find the court forms listed in this information form

## Before the hearing

Take these papers to court (you can use the check boxes on this page to keep track of what you need or have ):

- 3 copies of **all** papers you filed for your case.
- 3 copies of documents that support your case (police or medical reports, rental agreements or receipts, photos, bills). Be ready to give the other party copies of what you give to the judge. Sometimes the judge cannot look at or consider certain documents. The judge will decide which documents can be included in your case.
- 3 copies of pay stubs or other proof of income (only if orders about money, such as child or spousal support were requested). If the judge accepts your proof, s/he will also give a copy to the other person.
- The signed Proof of Service form.** For more information, see [DV-200-INFO](#), *What Is “Proof of Personal Service?”*
- Make a list of the orders you want (or don’t want), and practice saying it. You may only have a few minutes to talk to the judge. If you get nervous at the hearing, just read from your list. You may also write a statement and read it to the judge. You may also say other things after you read the statement.

## If needed, make arrangements for:

- A support person.** But that person cannot speak for you in court.
- Witness(es)** to testify in court. Or you may bring a witness’s signed statement of what they saw or heard. The witness’s statement can be on a sheet of paper that says *Declaration* at the top, and *Signed under penalty of perjury* at the bottom, just above the witness’s signature. Or the witness may use Form [MC-030](#), *Declaration* instead.
- Childcare.** Most of the time, children will not be allowed in the courtroom during the hearing. Call the court and ask if they have a children’s waiting room. If not, arrange for childcare.
- If you do not speak English well, ask the clerk for an **interpreter**. The clerk may ask you to fill out a request form if you want the court to have an interpreter at the hearing. If the court cannot give you an interpreter, bring an adult to interpret for you. Do not ask a witness or a child involved in your case to interpret for you.



heard. The witness’s statement can be on a sheet of paper that says *Declaration* at the top, and *Signed under penalty of perjury* at the bottom, just above the witness’s signature. Or the witness may use Form [MC-030](#), *Declaration* instead.

**Exception:** If the other person objects to your witness, that witness must be in court if you want the judge to hear from him or her.



request form if you want the court to have an interpreter at the hearing. If the court cannot give you an interpreter, bring an adult to interpret for you. Do not ask a witness or a child involved in your case to interpret for you.

If the hearing is about getting a restraining order **against** you:

- **Go to the hearing!** If you miss it, the judge can make orders without hearing your side.
- Read [DV-120-INFO](#), *How Can I Respond to a Request for Domestic Violence Restraining Order?*
- You can fill out and file a court form to tell the judge your side (Form [DV-120](#), *Response to Request for Domestic Violence Restraining Order*). Take 3 copies of this form to the court hearing.
- *Note:* If the other person asks for orders about money (child or spousal support or other financial orders), read Form [DV-570](#) to see if you should fill out an Income and Expense Declaration or a Simplified Financial Statement.



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

## At the hearing



Get to court at least **30 minutes early**. Find your courtroom. When it opens, go in and tell the courtroom clerk or law enforcement officer you are present, and the names of any witnesses, and if the witness needs an interpreter.

- 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.
- Go to the front of the courtroom when they call your name.
- You may be at court several hours. It depends on how many cases there are. Your hearing may last just a few minutes or over an hour.

**Warning!** If you asked for the restraining order but do not go to the hearing, your temporary restraining order will end and there may not be a hearing. The court could make other orders if the other side asks, even if the restraining order is not granted. To get another restraining order, you must fill out and file a new set of forms.



### In the courtroom

The judge may ask you questions. The other people in the case and their lawyers may ask questions, too.

- Tell the truth. Speak slowly. Give complete answers. You can read from your list.
- Try to answer exactly what the judge asks.
- If you don't understand, say "I don't understand the question."
- Speak only to the judge unless it's your turn to ask questions or the judge tells you to answer a question from the other person or his/her lawyer.
- Do not interrupt anyone! If the other person tells a lie, wait until s/he finishes talking, then tell the judge.

### Family Court Services

If you ask for parenting time (custody and visitation) orders, the court may send both parents to Family Court Services for *court-connected mediation* or *child custody recommending counseling*. For more information, see Forms: [FL-313-INFO](#), *Child Custody Information Sheet—Recommending Counseling*, or [FL-314-INFO](#), *Child Custody Information Sheet—Child Custody Mediation*. If you are sent to Family Court Services, the judge may extend the date of the orders (or make new temporary orders) to last until your next court date.



### The court may postpone (continue) your case if:

- The person to be restrained has not been served or needs time to get a lawyer or prepare an answer.
- The judge wants more information or your hearing is taking longer than planned.

If this happens, you will have to come back another day. The person who asked for the order may ask the judge to make the temporary orders last until the new hearing date. The court might use Form [DV-116](#) for the new hearing.

### At the end of the hearing

For most cases, the judge will make decisions about your case at the end of the hearing. To decide if the requested orders should be approved or not, the judge will decide if the evidence shows that the person asking for protection is entitled to a restraining order. The judge will consider the evidence and the safety risks of the adults and children involved in the case. If the judge makes orders at the hearing, the orders will be on Form [DV-130](#), *Restraining Order After Hearing*.

If you asked for the order(s):

- The court clerk might fill out Form [DV-130](#). If so, s/he will take it to the judge. If not, ask who should fill it out, and where to file it. After the form is filed, the court clerk will give you up to 3 copies.
- Read the signed Form [DV-130](#) carefully. If anything is different from what the judge said in court, ask the clerk for help right away. Or talk to your lawyer, if you have one.
- Your temporary orders expire at midnight of the date of your hearing. File your new order the same day so you will be protected.
- If the court makes the restraining order, the clerk will send Form [DV-130](#), *Restraining Order After Hearing* to law enforcement. Doing this puts your orders in a database called CLETS. This lets police everywhere in the state know about the orders.
- **Important!** Always keep a copy of the restraining order with you.



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

## After the hearing

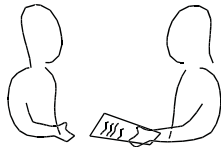
If you **asked** for the restraining order, and the court made the order...



You must have the other person served with a copy of Form [DV-130](#). You may have him or her served with a copy of Form [DV-130](#) in the courtroom after the hearing or by mail.

If the restrained person was *not* at the hearing and the new orders are

- the **same** as the temporary order, you may have the other person served with a copy of Form [DV-130](#) by mail. Ask the server to complete Form DV-250.
- **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.



**Important!** You must file a completed Form [DV-200](#), *Proof of Personal Service*, or Form [DV-250](#), *Proof of Service by Mail*. Keep a copy for your records. Keep a copy of the orders with you at all times.

## Other orders

If you asked for support or child custody/visitation orders, you may also get one of these forms:

- 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.



### What if you are 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](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons With Disabilities and Order* (Form [MC-410](#)). (Civil Code, § 54.8)

If the court made a restraining order **against** you...

- You must obey orders the judge makes at the hearing. Orders are written on Form [DV-130](#). If you do not obey them, you could be arrested.
- You will be served the *Restraining Order After Hearing* (Form [DV-130](#)) at the hearing or within a few days, by mail or in person.
- Read the signed Form [DV-130](#) carefully when you receive it. If anything is different from what the judge said, ask the court clerk for help right away. Or talk to your lawyer, if you have one.

If you do not receive a copy of the orders within a few days, ask the clerk for a copy.

Review *How Do I Turn In, Sell, or Store My Firearms* ([DV-800-INFO/JV-252-INFO](#)).

## Need more help?

Ask the court clerk about free or low-cost legal help. Ask for information at the court about the Self-Help Center or Family Law Facilitator Office.

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.

**SPR 15-17**

**Domestic Violence: Preparing for Restraining Order Court Hearing** (revise form DV-520-INFO)

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
1.	California Partnership to End Domestic Violence by Krista Niemczyk Public Policy Manager Sacramento	NI	<p><b>Are there any aspects of the proposed changes that may be unclear or confusing to self-represented litigants?</b></p> <p>We appreciate the Court’s attention to the needs of self-represented litigants, and the barriers they often face when the court process is confusing or unclear. Research has indicated that almost 70% of victims of domestic violence and sexual assault must appear in court by themselves (1), making a focus on this group of litigants especially crucial. To improve clarity, we offer the following suggestions.</p> <ol style="list-style-type: none"> <li>1. <u>Remove current language from the form which states “Provide the other party with all of your documents”</u> This language currently appears as the second bullet point under “<b>Be Prepared</b>”, on page 1 of the proposed DV-520-INFO. A self-represented client should not feel that they must hand over copies of all of their evidence, especially if some of that evidence may be inadmissible. Furthermore, a person seeking protection should not feel forced to approach the other party for any reason, despite the relative safety of a court room. This is something the judge should effectuate, and currently does.</li> <li>2. <u>Modify the current language “At the hearing, the judge will decide if the</u></li> </ol>	<ol style="list-style-type: none"> <li>1. The committee proposes changing the form to say, “Be ready to give the other party copies of what you give the judge. Sometimes the judge cannot look at or consider certain documents. The judge will decide which documents can be included in your case.”</li> </ol>



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**Domestic Violence: Preparing for Restraining Order Court Hearing** (revise form DV-520-INFO)

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	Commentator	Position	Comment	Committee Response
			<p><u>evidence shows you are entitled to a restraining order.”</u>                      On page 2 of the proposed DV-520-INFO, under <b>“The judge will decide”</b>, the proposed form states, “At the hearing, the judge will decide if the evidence shows you are entitled to a restraining order.” Use of the word “you” in this context is vague and confusing because the document provides guidance to both the protected party and the restrained party. This language could mislead the restrained party into believing that they can get a restraining order against the protected party even though they haven’t filed their own DVRO application.</p> <p>To remedy this, we recommend changing the language to read, “At the hearing, the judge will decide if the evidence shows that the person asking for protection is entitled to a restraining order.”</p> <p>We believe that these modifications will improve the ability of all litigants, and especially those who are self- represented, to understand the forms and prepare for their restraining order hearing. Thank you for the opportunity to provide these comments...</p> <p><sup>1</sup> Carter, T. (2004). Pour It On: Activists Cite Rising Need for Lawyers to Respond to Domestic Violence, A.B.A. Journal, pg. 73.</p>	<p>2. The committee agrees and proposes to change the language as suggested (“At the hearing, the judge will decide if the evidence shows that the person asking for protection is entitled to a restraining order.”)</p>

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**Domestic Violence: Preparing for Restraining Order Court Hearing** (revise form DV-520-INFO)

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
2.	<p>The Executive Committee of the Family Law Section of the State Bar of California (FLEXCOM) by Saul Bercovitch Legislative Counsel San Francisco</p> <p><u>DISCLAIMER:</u></p> <p>This position is only that of the FAMILY LAW SECTION of the State Bar of California. This position has not been adopted by either the State Bar’s Board of Trustees or overall membership, and is not to be construed as representing the position of the State Bar of California.</p> <p>Membership in the FAMILY LAW SECTION is voluntary and funding for section activities, including all legislative activities, is obtained entirely from voluntary sources.</p>	NI	<p>The Executive Committee of the Family Law Section of the State Bar (FLEXCOM) submits the following comments as to proposed revisions to form DV-520-INFO:</p> <p>-As to the request for specific comments, FLEXCOM believes that this form will be helpful to those litigants who read it. Perhaps some outreach efforts to make litigants aware of helpful forms like this one would result in increased use.</p> <p>-FLEXCOM recommends inserting item numbers on this form to make it easier to read, less overwhelming to look at and to bring it into alignment with other information sheets. In addition, it is difficult to address comments to unnumbered sections.</p> <p>-Item “Be prepared”:</p> <p style="padding-left: 40px;">-Bullet Point #5: Remove “if you haven’t already” from end of first sentence as it is unnecessary. Add the requirement to file an I&amp;E or Financial Statement to the last sentence, clarify that support means child or spousal, and add restitution, debt payments and attorney fees and costs to the list.</p> <p style="padding-left: 40px;">-Bullet Point #6: For clarity, add to the end of the first sentence “to be present at the hearing” or “inside the courtroom.”</p>	<p>The committee agrees and is supportive of ongoing efforts to make this and other forms accessible to litigants.</p> <p>The committee proposes a complete reformatting of the form to make it more accessible. Formatting changes have been made to make the document easier to read and follow.</p> <p>Agree. Removed “if you haven’t already.” Added “Read Form DV-570 to see whether you should complete an Income and Expense Declaration or a Simplified Financial Statement.”</p> <p>Agree. Committee proposes adding “Most of the time, children will not be allowed in the courtroom during the hearing.”</p>

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**Domestic Violence: Preparing for Restraining Order Court Hearing** (revise form DV-520-INFO)

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	Commentator	Position	Comment	Committee Response
			<p>-Bullet Point #7: Add the following sentence (or something similar):                      “Remember that you have a limited time in front of the Judge.                      If you have a lot to say, you may want to remind the Judge that you already filed a written statement, and then say anything else you have thought of since then.”</p> <p>-Item subtitled “Don’t miss the hearing”:</p> <p>-Bullet Point #1: FLEXCOM proposes revising to state: “If you are the person asking for protection and you miss your court date, your restraining order may end and there may be no hearing. The court could make other orders requested by the other side even if the restraining order is not granted. To get another restraining order, you would have to complete a new set of application forms and re-file.”</p> <p>-Bullet Point #2: FLEXCOM proposes revising to state: “If you are the person to be restrained and you miss the court date, the hearing will happen without you present and the Judge can make orders.”</p> <p>-Item subtitled “Get there 30 minutes early”:</p> <p>-FLEXCOM proposes adding “You have the right to bring a support person to court. If you bring a support person, try to ensure</p>	<p>Added: “You only have a few minutes to talk to the judge...”</p> <p>Added information about what can happen if you miss the hearing.</p> <p>Added, “If you miss it, the judge can make orders without hearing your side.”</p> <p>Form changed to say: “If needed, make arrangements for a support person.”</p>

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**Domestic Violence: Preparing for Restraining Order Court Hearing** (revise form DV-520-INFO)

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	Commentator	Position	Comment	Committee Response
			<p>he/she is not someone who might add to the conflict.” The form should clarify the role of a support person under the law.</p> <p>-Furthermore, this form should clarify to the restrained person that the temporary restraining order is good (valid and enforceable) until the end of the hearing, and that any violation may result in an arrest even inside the courthouse. The form should indicate it is recommended that the restrained person not sit anywhere near the other party and not look at him/her, not talk or gesture to him/her, and that neither the restrained nor protected party can have anyone else, including his/her support person, interact with the opposing side during the hearing. Also clarify that if the restrained person is represented, his/her attorney can talk to the protected party or his/her attorney if he/she is represented.</p> <p>-Item subtitled “The judge may ask questions”:</p> <p>Bullet Point#4: FLEXCOM proposes adding at the end of the sentence “from the other party or witnesses”.</p> <p>Bullet Point#8: FLEXCOM proposes starting this sentence with “Only_____”, and ending it with “not witnesses or support persons”.</p>	<p>Information about when temporary orders included. Added, “Do not sit near or talk to the other person. If you are afraid of the other person, tell the officer.”</p> <p>Because bullet point #4 originally addressed to whom the parties might direct questions, the committee did not make a change as there may be times it would be appropriate for parties to ask questions of others including clerks, for example.</p> <p>Bullet point #8 was not changed as suggested because there may be times that others will have appropriate questions.</p>

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	Commentator	Position	Comment	Committee Response
			<p>-Item subtitled “The judge will decide”:</p> <p style="padding-left: 40px;">Bullet Point #1: FLEXCOM proposes starting the first sentence with “After both sides have finished talking to the judge, the judge will make orders or determinations.”</p> <p>-Item subtitled “What if the judge makes orders ... “:</p> <p style="padding-left: 40px;">FLEXCOM proposes that the following sub-points are included such that the points are communicated to the protected party:</p> <p style="padding-left: 40px;">-It is important to have the orders prepared and filed the same day because the temporary orders are set to expire at midnight.</p> <p style="padding-left: 40px;">-If the Protected party is represented, the attorney will be ordered to prepare and file and give him/her copies.</p> <p style="padding-left: 40px;">-If self-represented, the court may have staff assigned to prepare and file the order right after the hearing and provide her/him copies.</p> <p style="padding-left: 40px;">-The Protected party is entitled to at least three certified copies.</p> <p style="padding-left: 40px;">-The Protected party must ensure that a copy is served on the restrained party as ordered by the court in DV-130 (service by mail or in person).</p>	<p>No change. Sometimes both parties aren’t present.</p> <p>Agree. Added: “It is important to have the orders prepared and filed the same day because the temporary orders are set to expire at midnight.”</p> <p>No change. This varies by court.</p> <p>Already noted that the clerk will provide up to three copies.</p> <p>Added.</p>

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**Domestic Violence: Preparing for Restraining Order Court Hearing** (revise form DV-520-INFO)

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	Commentator	Position	Comment	Committee Response
			<p>Bullet Point #1 under the item subtitled “For person to be restrained” should clarify that if the judge grants the restraining orders, violation of the orders could result in arrest of the restrained party.</p> <p>-Item subtitled “The judge may “continue” your case”:</p> <p>FLEXCOM proposes this item include failure to serve as one of the possible reasons to continue the hearing/reissue the TRO.</p> <p>FLEXCOM proposes this form should also clarify that the order to continue the case has to be filed the same day to extend the temporary restraining order to the next hearing date.</p> <p>-Item subtitled “What happens after the hearing?”:</p> <p>Bullet Point #7: FLEXCOM proposes replacing the existing proposed text with “If you do not receive a copy of the orders within a few days after the hearing, you may obtain your own copies from the Business Office in the courthouse.”</p> <p>-Item subtitled “Need more help?”: FLEXCOM proposes including information about the Self Help Center and Family Law Facilitator’s Office.</p>	<p>Added: “If the court made a restraining order against you, you must obey orders the judge makes at the hearing. If you do not obey them, you could be arrested.”</p> <p>Agree. Added, “The person to be restrained has not been served or needs time to get a lawyer or prepare an answer.”</p> <p>Disagree. Extension is automatic.</p> <p>Disagree. Stated as, “If you do not receive a copy of the orders within a few days after the hearing, ask the clerk for a copy.”</p> <p>Agree. Added.</p>

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**Domestic Violence: Preparing for Restraining Order Court Hearing** (revise form DV-520-INFO)

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
3.	Los Angeles Center for Law and Justice by Diane Trunk Managing Attorney	NI	<p><b>A. Comment:</b> page 1-Heading- Be Prepared- the third bullet states that “Either party can bring a support person...” This statement should be removed as it is NOT in accordance with the DVPA. Only the protected person is be allowed to bring a support person with her to the hearing. See FC §6303.</p> <p style="padding-left: 40px;">Recommended: “The protected person can bring a support person...”</p> <p><b>B. Comment:</b> page 1-Heading- Don't miss the hearing - first bullet states: “If you are the person asking for protection ....you will have to complete the paperwork all over again.” For clarity, we would like to add that the protected person will only need to complete the paperwork again IF they decide they still need protection.</p> <p style="padding-left: 40px;">Recommended: “If you are the person asking for protection....you will have to complete the paperwork all over again if you still want protection.”</p> <p><b>C. Comment:</b> page 1-Heading- Don't miss the hearing – second bullet states: “If you are the person to be restrained and you miss the hearing, the judge can still make the orders.” For clarification, we would like to add that the judge can still make the orders requested by the protected person.</p>	<p>A. Family Code section 6303(b) states as follows: “A support person shall be permitted to accompany either party to any proceeding to obtain a protective order, as defined in Section 6218. Where the party is not represented by an attorney, the support person may sit with the party at the table that is generally reserved for the party and the party's attorney.” The words “to feel safer” have been removed.</p> <p>B. The committee agrees. Language changed to “To get another restraining order, ...”</p> <p>Agreed. Changed.</p>

**SPR 15-17**

**Domestic Violence: Preparing for Restraining Order Court Hearing** (revise form DV-520-INFO)

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	Commentator	Position	Comment	Committee Response
			<p>Recommended: “If you are the person to be restrained and you miss the hearing, the judge can still make the orders requested by the protected person.”</p> <p><b>D. Comment:</b> page 1-Heading- What if you don't speak English – second sentence states: “If a court interpreter is not available, bring someone to interpret for you.” This is not in accordance with Evidence Code §756, which states that an interpreter will be provided free of charge. We think this entire sentence needs to be deleted in order to comply with the code section.</p> <p>Recommended: DELETE the sentence to comply with EC §756.</p> <p><b>E. Comment:</b> page 3- Heading- What happens after the hearing/For person to be protected- fourth bullet states: “Ask the server to complete DV-200, Proof of Personal Service, and give it back to you.” We would like to add that the protected person must file the form with the court and keep a copy for their records.</p> <p>Recommended: “Ask the server to complete DV-200, Proof of Personal Service, and give it back to you. You</p>	<p>D. The committee recognizes that in some instances, an interpreter may not be available and believes the parties should be informed that they may bring someone to interpret for them.</p> <p>E. The committee agrees to change the language as indicated.</p>



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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			will need to file this form with the court and keep a copy for your records.”	
4.	Hon. Maren Nelson Supervising Judge Family Law Division Superior Court of Los Angeles County	NI	I agree with Staff’s comments and add:  (1) Clarify that the person to be restrained must be served. If there is no service the judge may permit a continuance but service must occur.  (2) Clarify that the Proof of Service form re: service of the temporary order must be completed in full. If there is no Proof of Service or the Proof of Service is defective and the person to be restrained is not at the hearing the judge can continue the hearing for a proper form but the reissuance must also be served.	Agree. Added (see DV-200-INFO, What Is “Proof of Personal Service”?) under Be Prepared.
5.	Orange County Bar Association by Ashleigh Aitken President	A	Yes, the form will assist self-represented parties.  No, the form is not unduly confusing.	Agree.
6.	Fariba Soroosh Supervising Attorney Self Help Center/Family Law Facilitator’s Office Superior Court of Santa Clara County	NI	<b>DV-520-INFO</b> -Request for comments: I believe that this form, and other information sheet like this, will continue to be helpful to those litigants who read it. Perhaps some outreach efforts to make litigants aware of helpful forms like this one would result in increased use.  -Please insert item numbers on this form to make it easier to read, less overwhelming to	The committee agrees and is supportive of ongoing efforts to make this and other forms accessible to litigants.  The committee proposes a complete reformatting of the form to make it more accessible.

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			<p>look at and bring it into alignment with other information sheets. Not to mention that it is hard to address comments to unnumbered sections!</p> <p>-Item “Be prepared”:            -Bullet Point #5: Remove “if you haven’t already” from end of first sentence as it is unnecessary. Add the requirement to file an I&amp;E or Financial Statement to the last sentence, clarify that support means child or spousal, and add restitution, debt payments and attorney fees and costs to the list.</p> <p>-BP #6: For clarity, add to the end of the first sentence “to be present at the hearing” or “inside the courtroom”.</p> <p>-Add the following sentence to BP #7 (or something similar): I see many SRL’s run out of time during the hearing. So the following reminder may be helpful. “Remember that you have a limited time in front of the Judge. Also the Judge has already read your court file. So if you have a lot to say, you may just want to remind the Judge that you already filed a written statement and say anything else you have thought of since then.”</p> <p>-Item “Don’t miss the hearing”:            -BP #1: How about “If you are the</p>	<p>Formatting changes have been made to make the document easier to read and follow.</p> <p>Agree. Removed “if you haven’t already.” Added “Read Form DV-570 to see whether you should complete an Income and Expense Declaration or a Simplified Financial Statement.”</p> <p>Agree. Committee proposes adding “Most of the time, children will not be allowed in the courtroom during the hearing.”</p> <p>Added: “You only have a few minutes to talk to the judge. If you get nervous at the hearing, just read from your list. You may also write a statement and read it to the judge. You may also say other things after you read the statement.”</p> <p>Added information about what can happen if you</p>

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			<p>person asking for protection and you miss your court date, there will be no hearing and your restraining order will end at that time. To get another restraining order, you must complete a new set of application forms all over again.” ?</p> <p>BP #2: How about “If you are the person to be restrained and you miss the court date, the hearing will happen without you present and the Judge can make orders.”?</p> <p>-Item “Get there 30 minutes early”: -Add information about the right of both parties to bring a support person to court and that It is probably advisable not to bring a new intimate partner or another person that has problems with the other party. Clarify the role of a support person under the law.</p> <p>-Clarify to the restrained person that the restraining order is good until the end of the hearing (by local rule is some counties and state law if AB1081 is chaptered), and that any violation will result in an arrest even inside the courthouse. Recommend that the restrained person not sit anywhere near the other party and not look at them, not talk or gesture to them, and that</p>	<p>miss the hearing.</p> <p>Added, “If you miss it, the judge can make orders without hearing your side.”</p> <p>Form changed to say: “If needed, make arrangements for a support person.”</p> <p>Information about when temporary orders included. Added, “Do not sit near or talk to the other person. If you are afraid of the other person, tell the officer.”</p>

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			<p>they cannot have their support person say do any of that either.</p> <p>-Item “The judge may ask questions”: BP#4: Add at the end of the sentence “from the other party or witnesses”.</p> <p>BP#8: Start this sentence with “Only . . . .”, and end it with “, not witnesses or support persons”.</p> <p>-Item “The judge will decide”: BP #1: Start first sentence with “After both sides have finished talking to the judge, the judge will . . . .”</p> <p>-Item “What if the judge makes orders . . . “: It is important to ensure that the following points are communicated to the protected party here: -It is important to have the orders prepared and filed the same day because the temporary order are set to expire at midnight. -If the protected party is represented, the attorney will prepare and file and give him/her copies. -If self represented, the court may have staff assigned to prepare and file the order</p>	<p>Because bullet point #4 originally addressed to whom the parties might direct questions, the committee did not make a change as there may be times it would be appropriate for parties to ask questions of others including clerks, for example.</p> <p>Bullet point #8 was not changed as suggested because there may be times that others will have appropriate questions.</p> <p>No change. Sometimes both parties aren’t present.</p> <p>Agree. Added: “It is important to have the orders prepared and filed the same day because the temporary orders are set to expire at midnight.”</p> <p>No change. This varies by court.</p>

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			<p>right after the hearing and give her/him copies.</p> <p>-Protected party is entitle to at least three certified copy.</p> <p>-Protected party has to ensure that a copy is served on restrained party as ordered by the court in DV-130 (by mail or in person). This information is also mentioned on the next page but also makes sense to put it here.</p> <p>BP#1 under “For person to be restrained” should clarify that if the judge grants the restraining orders, violation of the orders could result in arrest.</p> <p>-Item “The judge may “continue” your case”: Include failure to serve as one of the reasons to continue the hearing.</p> <p>Also clarify that the order to continue the case has to be filed the same day to extend the temporary restraining order to the next hearing date.</p> <p>-Item “What happens after the hearing?”: BP#7: Replace with “If you do not receive a copy of the orders within a few days after the hearing, you may get your own copies at the Clerk’s Office</p>	<p>Already noted that the clerk will provide up to three copies.</p> <p>Added.</p> <p>Added: “If the court made a restraining order against you, you must obey orders the judge makes at the hearing. If you do not obey them, you could be arrested.”</p> <p>Agree. Added, “The person to be restrained has not been served or needs time to get a lawyer or prepare an answer.”</p> <p>Disagree. Extension is automatic.</p> <p>Disagree. Stated as, “If you do not receive a copy of the orders within a few days after the hearing, ask the clerk for a copy</p>

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			<p>in the courthouse.”</p> <p>-Item “Need more help?”: Consider including information about the Self Help Center and Family Law Facilitator’s Office.</p>	<p>Agree. Added.</p>
7.	The State Bar of California’s Standing Committee on the Delivery of Legal Services (SCDLS)	AM	<p>SCDLS recommends consistent use of the first person in the headings and minor edits to clarify points.</p> <p><b>Specific Comments</b></p> <p><u>Do the proposed changes more clearly provide litigants with information that will assist them at restraining order hearings?</u></p> <p>Yes, the form provides clear explanations regarding the proceeding.</p> <p><u>Are there any aspects of the proposed changes that may be unclear or confusing to self-represented litigants?</u></p> <p>Please see additional specific comments.</p> <p><b>Additional specific comments (including suggested edits):</b></p> <p>(1) Underserved and communities in need would benefit from the proposal because it provides a plain language explanation of what to expect from court. DV-520 would need to be</p>	<p>This form in its past incarnation has been translated and made available in multiple languages; once the updated form is approved, the committee agrees that it should also be translated.</p>

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			<p>translated into multiple languages to be more effective with non-English Speakers.</p> <p>(2) Suggested edits for improvement.</p> <p><i>Keep consistent use of the first person in the headings.</i></p> <p><del>Be Prepared.</del> How do I prepare for my hearing?  <del>Don't miss the hearing.</del> What do I do on my hearing day?</p> <ul style="list-style-type: none"> <li>• Don't miss the hearing.</li> </ul> <p>What if <del>you</del> I don't speak English?  <del>The judge may ask questions.</del> What happens during the hearing?</p> <ul style="list-style-type: none"> <li>• The judge may ask questions.</li> </ul> <p><del>The judge may "continue" your case.</del> What if the judge "continues" my case?</p> <p><i>Suggested wording:</i></p> <p><b>Heading: Be Prepared.</b></p> <p>Bullet 1            Bring two copies of all documents and filed forms, including the <u>signed</u> <i>Proof of Service</i>.</p> <p>Bullet 4            Witnesses can use form MC-030, <i>Declaration</i>, or a sheet of paper entitled "<u>Declaration</u>," <u>and signed under penalty of perjury</u>, to provide statements in writing.</p>	<p>Formatting has been changed to improve access and readability</p> <p>"Signed" added.</p> <p>Added.</p>

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			<p><b>Heading: Get there 30 minutes early.</b></p> <p>Bullet 2 When the courtroom opens, go in and tell the court clerk or officer that you are present. <u>Tell the court clerk the names of your witnesses that will testify and if they will need an interpreter.</u></p> <p><b>Heading: The judge may ask questions.</b></p> <p>Bullet 2 <del>Give complete answers.</del> <u>Try to answer the specific question that the judge is asking. The judge cannot accept a nodding or shaking of your head as an answer.</u></p> <p><b>Heading: Which forms will I receive after the hearing?</b></p> <p>Bullet 4 <del>Sometimes there may be forms in addition to these.</del> <u>The court may use additional forms, as needed.</u></p> <p><i>Formatting Suggestion</i></p> <p>Eliminate white space.</p>	<p>Added information about interpreter.</p> <p>Added: “Try to answer exactly what the judge asks.”</p> <p>Committee did not think it was necessary to add this information.</p>
8.	Superior Court of Los Angeles County	AM	<p><b>DVPA Instructions:</b></p> <p>(1) Clarify that the person to be restrained must be served. If there is no service the judge may permit a continuance but service must occur.</p>	<p>(1) Agree. Information added about where to find more information about service and that the hearing may be continued if there is no service.</p>



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			<p>(2) Clarify that the Proof of Service form re: service of the temporary order must be completed in full. If there is no Proof of Service or the Proof of Service is defective and the person to be restrained is not at the hearing the judge can continue the hearing for a proper form but the reissuance must also be served.</p> <p>The proposed new version of DV-520-INFO would be further improved by adding a bullet and language to make it clear that the person to be protected needs to file a Proof of Service form if the restrained person served either by mail or in person with a copy of Form DV-130 after the hearing. On page, 3, after the fourth bullet under <b>“What happens after the hearing? For person to be protected:”</b> we suggest adding:</p> <ul style="list-style-type: none"> <li>• If you have the restrained person served either by mail or in person with the Form DV-130 after the hearing, you must file with the court a completed Form DV-200, Proof of Personal Service, or Form DV-250, Proof of Service by Mail.”</li> </ul> <p><b>Request for Specific Comments</b> In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:</p> <ul style="list-style-type: none"> <li>• Do the proposed changes more clearly provide litigants with information that will</li> </ul>	<p>(2) Information added about needing to come back another day and that a request may then need to be made for temporary orders to continue until the new hearing date.</p> <p>Agreed. Added in box “Important! You must filed a completed Form DV-200, Proof of Personal Service, or Form DV-250, Proof of Service By Mail,” in After the hearing section.</p> <p>The committee appreciates the comment that this will assist litigants.</p>

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			<p>assist them at restraining order hearings?  <b>Yes.</b></p> <ul style="list-style-type: none"> <li>Are there any aspects of the proposed changes that may be unclear or confusing to self-represented litigants?  <b>Please see above.</b></li> </ul> <p>The advisory committee also seeks comments from courts on the following cost and implementation matters:</p> <ul style="list-style-type: none"> <li>Would the proposal provide cost savings? If so, please quantify.  <b>There might be savings resulting from efficiency at the hearing if self-represented litigants read and follow the instructions and so appear better prepared, but it is too difficult to quantify such savings.</b></li> <li>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?  <b>None.</b></li> <li>Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</li> </ul>	<p>The committee appreciates the comments providing clarification.</p> <p>The committee appreciates the difficulty of measuring the impact and the possibility that the form may assist in providing helpful guidance.</p> <p>The committee appreciates these comments favoring the proposal.</p>

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			<p><b>Yes.</b></p> <ul style="list-style-type: none"> <li>How well would this proposal work in courts of different sizes?</li> </ul> <p><b>The benefit of better prepared self-represented litigants should be relatively the same.</b></p>	
9.	Superior Court of Orange County Family Law and Juvenile Court Operations Managers in Orange County	NI	<p>Page 1, in the section regarding not speaking English, we recommend adding, “The court may provide an interpreter the day of the hearing.”</p> <p>Page 2, in the section regarding the judge making orders at the hearing, we recommend inserting “<i>certified</i>” copies will be provided to the party.</p>	<p>Information added on first page about requesting interpreters.</p> <p>Added, “certified”.</p>
10.	Superior Court of San Diego County by Mike Roddy Executive Officer	AM	<p>On page 1 of the DV-520-INFO form, under the first section titled, “<b>Be prepared.</b>”</p> <ol style="list-style-type: none"> <li>The first sentence of the second bullet should be made into two separate sentences and should specify that pay stubs or other proof of income should be provided if financial issues (e.g. child support, spousal support, attorney fees, costs and services, or out-of-pocket expenses) have been raised by either party.</li> <li>The fifth bullet implies that the restrained person must file the DV-120. This is incorrect. Often, if the restrained person has criminal charges pending they will not respond in writing by filing a DV-120, once they have been advised of their rights. This</li> </ol>	<p>Changes made to include the list but kept to one sentence.</p> <p>Agreed. Changed to “can” file DV-120 and added reference to DV-120-INFO.</p>

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			<p>bullet should at least be modified to clarify that if the restrained person wants to respond in writing they can do so by completing, serving and filing the DV-120 form. Also, it would be helpful to cross reference the DV-120-INFO form, where the restrained person is notified that what they write or say can be used against them.</p> <p>This form should also include a notice to the restrained person on what to do if they have a firearm in their possession, including cross referencing the DV-120-INFO and/or the DV-800-INFO forms.</p>	<p>Reference to DV 120-INFO added.</p>
11.	Superior Court of Santa Clara County by Hon. Christine Copeland Commissioner	AM	<ol style="list-style-type: none"> <li>2nd bullet point under “Be Prepared” - The second sentence implies that exhibits should be exchanged before the hearing. I have concerns that that puts too much of a burden on the parties if they read it that way, and am concerned that a restrained person on a TRO is here being invited to violate the TRO by getting the protected person copies of that party's exhibits. Maybe the 2nd bullet can be combined with the first, so that parties are told to have enough copies of exhibits so that protected person, restrained person and the judge can each have one set of copies at the court hearing.</li> <li>4th bullet under “Be Prepared”- I don't like setting expectations that any judicial officer</li> </ol>	<ol style="list-style-type: none"> <li>Changed to “Be ready to give the other party copies of what you give to the judge. Sometimes the judge cannot look at or consider certain documents.”</li> <li>The particulars of the case, objections, and judicial discretion determine whether witness statements will be provided. The committee</li> </ol>

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			<p>can or will hear from witnesses by any means other than live testimony. I'm not sure why we encourage them to bring written statements from third parties.</p> <p>3. 5th bullet down under "Be Prepared" - Restrained parties should be clear that filing a Response is not mandatory; the court can take their response "out loud" at the court hearing. The way this is written now, it appears to make the filing of a Response mandatory. Particularly for respondents who have a related criminal case pending, they wouldn't want to file a substantive response if they wish to exercise their 5th amendment right. We should just be more clear on this DV-520 INFO that a response is optional.</p> <p>4. 7th bullet down under "Be Prepared"- Many judicial officers, including yours truly, absent some extreme circumstance, do not let either party read a prepared statement. I'll let people refer to notes, but usually the expectations for hearings involve testimony, and not so much reading canned statements. I am concerned that telling litigants here to write out a statement to read to the judge may promise too much.</p>	<p>believes the language is accurate and helpful to litigants.</p> <p>3. Added information on DV-120-INFO for those filing a response and changed to "You can fill out and file."</p> <p>4. The committee believes that in many instances, it can be useful for litigants to be prepared with notes or a statement in these matters and that this form can be helpful in giving litigants an opportunity to be prepared prior to the hearing. At the same time, officers may determine in a given situation whether a particular presentation in a hearing is appropriate.</p>

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			<p>5. 1st bullet under “Don’t miss the hearing” - we tell a protected party that missing the hearing means the RO will end- that implies there was a TRO in place pending the hearing, which may not be the case. It might be better to say that failure to attend the hearing means that your request for a restraining order will not be considered, and if you had any TRO pending the court date, your failure to appear at the court date will mean that that TRO expires.</p> <p>6. 2nd and 4th bullets under “Get there 30 minutes early”- what do we mean by “officer”? Law enforcement officer or courtroom clerk? I am not clear, so I’m not sure litigants will be.</p> <p>7. 1st bullet under “The Judge will decide”- I don’t understand the last sentence: are we saying that lack of finances is a type of safety concern? I just don’t understand the sentence, and it could just be me!</p> <p>8. In section “The judge may continue your case”- maybe add a bullet to say it might be continued if you have no proof that restrained person was served with notice for the hearing.</p> <p>9. In section “The judge may continue your</p>	<p>5. Changed to “If you are the person asking for protection and you miss the hearing, if you had a temporary restraining order, it will end and there may be no hearing.”</p> <p>6. Changed to law enforcement officer.</p> <p>7. Last sentence deleted to improve clarity.</p> <p>8. Added.</p> <p>9. No change.</p>

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			case”- 1st bullet says “answer” and we might want to say “response” instead.  10. 2nd bullet under “What happens after the hearing”- I wasn't aware that restrained person is entitled to any service if they attended the hearing	10. Sentence rewritten to clarify what to do depending on whether the person was in court on the day of hearing.  Additional comments unrelated to this proposal will be considered by the advisory committee going forward when reviewing domestic violence rules, forms, and legislative proposals.