



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: September 24, 2019

Title	Agenda Item Type
Protective Orders: Alternative Service in Domestic Violence Prevention Act Cases	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Adopt forms DV-117 and DV-210; approve form DV-205-INFO; revise forms DV-200-INFO and DV-250	January 1, 2020
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	September 3, 2019
Hon. Jerilyn L. Borack, Cochair	Contact
Hon. Mark A. Juhas, Cochair	Frances Ho, 415-865-7662 frances.ho@jud.ca.gov

Executive Summary

The Family and Juvenile Law Advisory Committee recommends adopting two forms, approving one information form, and revising an information form and one other form to implement the provisions in Assembly Bill 2694 (Stats. 2018, ch. 219). The bill allows for alternative service for domestic violence restraining order requests when, after diligent efforts, personal service has not been accomplished and there is reason to believe that the person to be served is evading service.

Recommendation

The Family and Juvenile Law Advisory Committee recommends the following, effective January 1, 2020:

1. Adopt form DV-117, *Order Granting Alternative Service*, and form, DV-210, *Summons (Domestic Violence Restraining Order)*;
2. Approve form DV-205-INFO, *What if the Person I Want Protection From is Avoiding (Evading) Service?*;

3. Revise form DV-200-INFO, *What is “Proof of Personal Service”?*; and
4. Revise form DV-250, *Proof of Service by Mail*.

The new and revised forms are attached at pages 7–15.

Relevant Previous Council Action

In 2016, form DV-200-INFO was revised to implement the provisions in AB 1081 (Stats. 2015, ch. 411), which broadened and clarified the grounds for granting a continuance, excised the concept of “reissuance” of a protective order from the statutes, and clarified that a temporary restraining order may be extended to a new hearing date without first having to be “dissolved by the court.” No previous council action has been taken on the other three forms included in this proposal, which are being proposed for the first time.

Analysis/Rationale

This proposal implements newly enacted law by providing forms for the public and courts to use. These forms are necessary to ensure that litigants representing themselves have access to the relief provided under Family Code section 6340(a)(2), and to provide consistency in court processes and orders statewide.

Adopt form DV-210, *Summons (Domestic Violence Restraining Order)*

This form would serve as the summons that would be used when the court permits a method of alternative service that requires service of a summons. The goal of the summons is to stress to the person to be restrained the importance of acting on a request for restraining order either by going to the scheduled court hearing or going to the courthouse to find out more information about the request for restraining order. To this end, the summons includes:

- The name of the person requesting the restraining order;
- Information on what can happen if the person to be restrained does NOT go to the court hearing;
- The statement, “Having a restraining order against you may affect your life, including preventing you from having guns and ammunition”;
- Where to go to see the request for the restraining order;
- Where to go to get help; and
- When and where to go for the court hearing.

Code of Civil Procedure section 412.20 requires that a summons contain specific elements, including what would happen if the “defendant” (in this case the person to be restrained) does nothing in an action brought against them. No other form in the Domestic Violence Prevention (DV) series could be used as a summons and comply with the code requirements. In addition, other forms in the DV series contain more information than what is needed for a summons, as defined by the code, such as the address for the person requesting the restraining order. Including additional information raises potential safety issues for the person seeking the restraining order

if, for example, the information were widely distributed, such as posted in a courthouse or published in a newspaper.

Form DV-210 is designed to comply with section 412.20 by giving the person to be restrained the necessary information to act, should they choose to, while excluding sensitive information that is not required. The form is also completely bilingual in Spanish.

Adopt form DV-117, *Order Granting Alternative Service*

The committee recommends adopting form DV-117, a one-page attachment that would be used when a court grants a request for alternative service. In the Invitation to Comment, the committee recommended revising the continuance order (form DV-116) to include additional methods for service in the Service of Order section. One commenter suggested that this information be on a separate form since alternative methods of service will not apply in a majority of cases. The committee agrees with the commenter and recommends adopting form DV-117 for this purpose.

On form DV-117, the court would specify the (1) deadline for service, (2) papers to be served on the restrained party, and (3) method for service. The form, at item 2, also includes the findings required for the court to grant alternative service. The findings are included at item 2, instead of item 1, so that the specific orders relating to service are more prominent for the protected party.

Approve new information form DV-205-INFO

New form DV-205-INFO, *What if the Person I Want Protection From Is Avoiding (Evading) Service?*, would give the moving party in a domestic violence restraining order case information on the availability of alternative service, including:

- The type of service generally required for the court to issue a restraining order after hearing;
- What a litigant would need to show the court to qualify for alternative service; and
- Some examples of alternative methods of service.

Revise information form on personal service (form DV-200-INFO)

To comply with AB 2694, this information sheet needs to be revised to include alternative service as an option. Currently, the form states that personal service is required for all cases. The revised version would state that, although in most cases personal service would be required, in some cases alternative service may be allowed.

In addition to changing the service requirement, the committee also recommends:

- Reformatting the form so that the information is presented in two columns. This is consistent with the formatting used in other information forms and also makes the form easier to read by creating shorter lines of text.
- Including graphics to represent key concepts, like personal service and avoiding service.
- Using plain language.

- Reorganizing content into steps the litigant must take to accomplish service.
- Including an advisement on possible safety issues that could be present at the time of service.

The revisions are recommended to improve the usability of the form.

Revise form DV-250

At item 4, on form DV-250, the committee proposes a minor change to strike the following sentence, “*Note: You cannot serve DV-100, DV-105, DV-109, or DV-110 by mail.*” This sentence is inconsistent with the new laws on alternative service which may involve service by mail of the DV-100, DV-109, DV-110, and any other attachments to these forms. This change was not proposed in the Invitation to Comment, but the committee believes that this change is a minor substantive change that is unlikely to generate controversy and proposes to make the change without public comment consistent with California Rules of Court, rule 10.22(d)(2).

Policy implications

There are no policy implications for this proposal.

Comments

Twelve commenters responded to this proposal, including five courts: the Superior Courts of Los Angeles, Orange, San Bernardino, San Diego, and Ventura Counties. Other commenters are the Joint Rules Subcommittee (JRS) on behalf of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee; the Director of Domestic Violence Clinic, University of California, Irvine School of Law; the Family Violence Law Center; the Executive Committee of the Family Law Section of the California Lawyers Association; the Harriett Buhai Center for Family Law; and the Orange County Bar Association.

Five commenters agreed with the proposal, five agreed if modified; and two did not indicate a position but suggested modifications. No commenter opposed the proposal. Most modifications proposed by commenters were incorporated. Some issues received more than one comment and are described below.

Whether to create a new request form or revise DV-115

One commenter suggested that a request for an alternative service form be created because form DV-115 is too general and should contain specific questions to elicit the information needed for the court to allow for service by alternative means. Another commenter suggested including more specific questions on form DV-115 to elicit information needed. The committee agrees that form DV-115 is not the right form to be used by itself to elicit the information needed for a request to serve by alternative means. In cases where a petitioner wants to serve by publication or posting, the committee notes that there are existing family law forms available for these requests that can be used in domestic violence restraining order proceedings, and form DV-205-INFO refers people to these forms. In the future as time and resources permit, the committee will consider whether to propose a request for an alternative service form.

Advisal regarding consequences of restraining order on *Summons* (form DV-210)

A few commenters suggested modifying the language regarding the consequences of a restraining order. Some suggested including more examples of the types of orders that could be included in a restraining order (stay away, no contact orders, spousal support, financial support, attorney's fees). One commenter stated that some of the language is unnecessary and that it may be suggesting that the respondent should fight the restraining order.

The committee decided against including more examples of potential orders because the committee believes that the language circulated for public comment does a good job of putting the restrained party on notice of the potential consequences of failing to appear for a restraining order hearing. The committee does not agree that the language may be suggesting that the respondent should fight the restraining order but believes that it is sufficient to put the restrained party on notice of the possible consequences for not going to their court date.

Bilingual *Summons* form

Two commenters made suggestions on the layout of the form and how it could be improved to provide access to the Spanish translations. One commenter suggested creating a separate Spanish version because the first page is hard to read with both English and Spanish. The other commenter suggested including both English and Spanish information on one page. Based on these comments, the committee reorganized the two-page form so that each side is fully bilingual while also creating more white space so the form is easier to read; the information that is most important is on page 1.

Alternatives considered

As noted above, committee considered a commenter's suggestion to have a separate Spanish version of form DV-210 and not include Spanish translations on the English version of form DV-210 because the translations made the form crowded and hard to read. The committee did not accept the suggestion but did reformat the form so that the content is easier to read.

Fiscal and Operational Impacts

The committee anticipates that this proposal will result in some costs incurred by courts to incorporate new forms into their paper or electronic processes and to train court staff. However, the committee also anticipates that the proposal will result in cost savings by creating a new summons form that would otherwise have to be created by local courts to use if publication or posting is ordered. The new information sheet (form DV-205-INFO) could also create cost savings by providing self-help centers and court staff with a tool to assist self-represented litigants and possibly decrease the number of hearings needed in cases where personal service has been unsuccessful.

Attachments and Links

1. Forms DV-117, DV-210, DV-250, DV-200-INFO, and DV-205-INFO, at pages 7–15
2. Attachment A: Chart of comments on proposal SPR19-39, at pages 16–42
3. Link A: Assembly Bill 2694 (Stats. 2018, ch. 219),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2694

DV-117**Order Granting Alternative Service**Case Number: This form is attached to (check one): DV-116 Other: _____**1 Serving the Restrained Party****Protected party:** You must have the restrained party served by following the orders below.(a) **Deadline:** You must serve the restrained party by (date): _____(b) **Papers to Serve** (check all that apply):

- (1) A copy of this order, including form DV-116
- (2) Form DV-210
- (3) All the documents indicated on form DV-109, item ⑥
- (4) Other: _____

(c) **How to Serve Papers**(1) **Substituted Service**

- (A) **Home or mailing address:** You must have your server (1) leave a copy of all the papers listed ①b at the restrained party's home or usual mailing address with an adult that lives there, and (2) mail a copy to the restrained party to the same address.
- (B) **Workplace:** You must have your server (1) leave a copy of all the papers listed in ①b at the restrained party's workplace with someone who seems to be in charge, and (2) mail a copy to the restrained party at the same workplace.

(2) **Publish in a newspaper**

- (A) You must have form DV-210 published at least once a week for 4 weeks in a row with the newspaper listed here: _____
- (B) If you find an address for the restrained party while form DV-210 is published in the newspaper, you must have someone mail all the papers listed in ①b to that address.

(3) **Post papers at the courthouse**

- (A) You must have your server post form DV-210 for 28 days in a row at the courthouse located at (address): _____
- (B) You must have your server mail a copy of the papers listed in ①b to the restrained party's last known address: _____
- (C) If you find an address for the restrained party, you must have your server mail all the papers listed in ①b to that address.

(4) **Other:** _____

For more information on alternative service, read form DV-205-INFO, What if the Person I Want Protection from is Avoiding (Evading) Service?

2 Findings That Support This Order

- (a) The protected person has made diligent efforts to have the restrained party personally served but has been unsuccessful.
- (b) There is reason to believe that the restrained party is avoiding (evading) service.

This is a Court Order.

DV-210

**Summons (Domestic Violence Restraining Order)
Citación (Orden de restricción de violencia en el hogar)**

If ordered by a judge to use this form, complete items ①, and ② only.
(Spanish)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

DRAFT August 6, 2019

**NOT APPROVED
BY THE JUDICIAL
COUNCIL**

Superior Court of California, County of
Corte Superior de California, Condado de

Case Number:
Número de caso:

① **Person asking for protection:**
La persona que solicita protección:

② **Notice to (name of person to be restrained):**
Aviso a (nombre de la persona a ser restringida):

The person in ① is asking for a Domestic Violence Restraining Order against you.

La persona en ① está pidiendo una orden de restricción de violencia en el hogar contra usted. Lea la página 2 para más información.

— The court will complete the rest of this form —
— El tribunal llenará el resto de este formulario —

③ **You have a court date**
[Spanish]

Date Fecha: _____ Name and address of court, if different from above:
Time Hora: _____ Nombre y dirección de la corte, si no es la misma de arriba:
Dept. Depto.: _____
Room Sala: _____

What if I don't go to my court date?

If you do not go to your court date, the judge can grant a restraining order that limits your contact with the person in ①. If you have a child with the person in ①, the court could make orders that limit your time with your child. Having a restraining order against you may impact your life in other ways, including preventing you from having guns and ammunition. If you do not go to your court date, the judge could grant everything that the person in ① asked the judge to order.

Insert Spanish translation



How do I find out what the person in ① is asking for?

To find out what the person in ① is asking the judge to order, go to the courthouse listed at the top of page 1. Ask the court clerk to let you see your case file. You will need to give the court clerk your case number, which is listed above and on page 1. The request for restraining order will be on form DV-100, *Request for Domestic Violence Restraining Order*.

Where can I get help?

Free legal information is available at your local court’s self-help center. Go to www.courts.ca.gov/selfhelp to find your local center.

Do I need a lawyer?

You are not required to have a lawyer, but you may want legal advice before your court hearing. For help finding a lawyer, you can visit www.lawhelpca.org or contact your local bar association.

Content above translated into Spanish

[seal]
[sello]

Date (Fecha): _____ Clerk, by (Secretario, por): _____,
Deputy (Asistente)

Clerk stamps date here when form is filed.

DRAFT

**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:

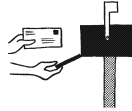
1 Name of Person Asking for Protection:

2 Name of Person to Be Restrained:

3 Notice to Server

The server must:

- Be 18 years of age or over.
- Not be listed in items **1**, **2** or **3** of form DV-100, *Request for Domestic Violence Restraining Order*.
- Mail a copy of all documents checked in **4** to the person in **5**.



4 I (the server) am 18 years of age or over and live in or am employed in the county where the mailing took place. I mailed a copy of all documents checked below to the person in 5:

- a. DV-112, *Waiver of Hearing on Denied Request for Temporary Restraining Order*
- b. DV-120, *Response to Request for Domestic Violence Restraining Order*
- c. FL-150, *Income and Expense Declaration*
- d. FL-155, *Simplified Financial Statement*
- e. DV-130, *Restraining Order After Hearing (Order of Protection)*
- f. Other (*specify*): _____

5 I placed copies of the documents checked above in a sealed envelope and mailed them as described below:

- a. Name of person served: _____
- b. To this address: _____
City: _____ State: _____ Zip: _____
- c. Mailed on (*date*): _____
- d. Mailed from (*city*): _____ (*state*): _____

6 Server's Information

Name: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____

If you are a registered 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

What is "service"?

Service is the act of giving your court papers to the other party in your case. There are different ways to serve the other party: in person, by mail, and others.

Why do I have to serve my legal papers?

Before a judge can grant a domestic violence restraining order (that can last up to five years), the person you want a restraining order against must know about your request and have a chance to go to court to explain their side. Also, if a restraining order is in place, the police cannot arrest the restrained person for violating the restraining order until the restrained person is served with the order.

**What is "personal service"?**

Personal service is when someone, known as a server, personally delivers your court papers to the other party.

In most cases, these forms must be served to the other party by personal service:

- ▶ Form DV-109;
- ▶ Form DV-100;
- ▶ Form DV-110;
- ▶ Form DV-120 (leave this form blank);
- ▶ Form DV-120-INFO; and
- ▶ Form DV-250 (leave this form blank).

Who can serve?

Any adult who is not protected by the restraining order can serve your court papers. **You cannot serve your own court papers.**



Some situations may be dangerous. Think about people's safety when deciding who you want to serve your papers.

A sheriff or marshal will serve your court papers for free. A registered process server is a business you pay to deliver papers. To hire a process server, look for "process server" on the internet or in the yellow pages.

How do I have my court papers served?**○ Step 1: Choose a server**

The person who gives your court papers to the other party is called a server. Your server must be at least 18-years-old. They must not be protected by the restraining order or involved in your case. This means that you cannot serve your own court papers.

○ Step 2: Have your server give your court papers to the other party

Give your server these instructions:

- 1 Before you serve the forms, note which forms you have, including the name of the form and the form number. See form DV-200 for a list of forms.
- 2 Find the person you need to serve. Make sure you are serving the right person by asking the person's name.
- 3 Give the person the papers. If the person refuses to take the papers, put them on the ground or somewhere next to the person. The person doesn't have to touch or sign for the papers. It is okay if they tear them up.
- 4 Fill out form DV-200 completely and sign.
- 5 File form DV-200 with the court or give form DV-200 to the person who is asking for the restraining order so they can file it.

○ Step 3: File proof with the court

The court needs proof that service happened and that it was done correctly. If your server was successful, have your server fully complete and sign form DV-200. **The person you want restrained does not sign anything.**

Take form DV-200 to the court to file in your case as soon as possible. This information will automatically go into a restraining order database that police have access to.

If the sheriff or marshal served your court papers, they may use another form for proof besides form DV-200. Make sure a copy is filed with the court and that you get a copy.

When is the deadline to serve my court papers?

It depends. To know the exact date, you need to look at two items on [form DV-109](#). Follow these steps:

- **Step 1: Look at the court date listed under 3 on page 1.**

3 Notice of Court Hearing
A court hearing is scheduled on

Hearing Date → Date: _____
Dept.: _____

- **Step 2: Look at the number of days written in 6 on page 2.**

6 Service of Documents by the Person
At least five ___ days before the

- **Step 3: Look at a calendar.** Subtract the number of days in **6** from the court date. That's the deadline to have your court papers served. It's okay to serve your court papers before the deadline.

If nothing is written in **6**, you must have your court papers served at least five days before your court date.

What happens if I can't get my court papers served before the court date?

You will need to ask the court to reschedule (continue) your court date. Fill out and file [form DV-115](#) and [form DV-116](#). These forms ask the judge for a new court date and to make any temporary orders last until the end of the new court date.

If the judge gives you a new court date, the person you want restrained will have to be served with form DV-116, form DV-115, and the original papers you filed. You should keep a copy of form DV-115, form DV-116, and a copy of your original paperwork. That way, the police will know your orders are still in effect.

For more information on asking for a new court date, read [form DV-115-INFO](#).

What if the other party is avoiding (evading) service?



If you've tried many times to serve the the restrained person, and you can show the judge that the restrained person is avoiding (evading) service, you may ask the court to allow you to serve another way. If you want to make this request, at your first court date tell the judge details about your attempts to have the restrained person served. The judge may require a written statement for this.

Read [form DV-205-INFO, What if the Person I Want Protection From is Avoiding \(Evading\) Service?](#), for more information.

Why do I have to serve the restrained person?

Before a judge can grant a domestic violence restraining order (that can last up to five years), the person you want a restraining order against must know about your request and have a chance to go to court to explain their side. In most cases, the judge will require that you have someone personally deliver the papers to the person you want restrained. This is called personal service. See [form DV-200-INFO](#) for more information.

What if I already have a domestic violence restraining order?

If a judge granted you a domestic violence restraining order on [form DV-130](#), alternative service is not an option for you. Follow the orders for service on [form DV-130](#). It is important to follow the orders for service because this is how the restrained person will find out about the restraining orders. Once you file proof that the restrained person was served, law enforcement and the court will have proof that the restrained person knows about the orders. If you have questions about what the judge ordered in your case, see page 3 for where to get legal help.

What if I can't personally serve the restrained person?

When you cannot personally serve the restrained person with a copy of form DV-100 and related papers, a judge may allow you to give, or serve, the restraining order papers another way. This is called alternative service. The judge could order you to have your server give the restrained person your court papers in more than one way. To qualify for alternative service, you must show the judge at least two things.

1 You have tried many times (usually 3 or more times) to have someone personally serve the restrained person.


Some examples of ways you can try to have the restrained person personally served:

- ▶ Serve the restrained person at home, their workplace, or somewhere they go a lot.
- ▶ Search online for where they may be located.
- ▶ Check with their family and friends.



Make sure any attempts to find the restrained person are done safely.

If you have an address for the restrained person, you can ask the sheriff or marshal to serve your papers, and they will do it for free.

2 You believe the restrained person is avoiding (evading) personal service. 

Be ready to explain why you think the restrained person is avoiding service. If you have people who will help you prove this to a judge, bring them to your court hearing or have them write a statement that describes what they witnessed. [Form MC-030](#) may be used for this purpose.

Alternative service may involve other people having access to your court papers.

This will mean they can see your name, the fact that you want a restraining order against the other party, and possibly your statements regarding the abuse.

You may want to talk to an advocate about your safety and privacy concerns before you consider this request.



DV-205-INFO What if the Person I Want Protection From is Avoiding (Evading) Service?

What are some examples of alternative service?

Here are some examples of what a judge can order if the judge allows alternative service in your case.

1

Leave a copy and mail a copy to the restrained person's home, mailing address, or workplace

If you have the restrained person's home, mailing (not a PO box), or workplace address, this type of service requires your server to follow these steps:

- 1 Give the papers to someone 18 years or older who lives at the restrained person's home or mailing address, or who appears to be in charge at the restrained person's workplace;
- 2 Get the name of the adult who got the papers, and tell the adult that the papers are for a request for a restraining order against the restrained person;
- 3 Mail the papers to the restrained person's home, mailing, or workplace address;
- 4 Completely fill out [form POS-010](#); and
- 5 File [form POS-010](#) with the court or give the completed form to the person asking for the restraining order so they can file it with the court.

This type of service is called "substituted service." Check with your local self-help center or a lawyer to find out how to make this request. Your court may have forms that you can complete to make this request.

2



Publish in a newspaper

You would have to pay a newspaper to run a copy of [form DV-210](#) at least once a week for at least four weeks in a row. The judge would approve a newspaper that would have the best chances of the restrained person seeing it. To make this request, complete the forms listed below and take them to the courthouse to file.

- ▶ [Form FL-980](#); and
- ▶ [Form DV-210](#), items 1 and 2.

If the judge grants your request, follow the orders made by the judge. Usually these orders are made on [form FL-982](#).

After the newspaper publishes form DV-210, make sure you get a signed statement from the newspaper that includes a copy of what was published in the newspaper and when it was published. This statement is usually called "Proof of Publication." After you receive this statement, take it to the courthouse to file in your case.

3



Post in courthouse

If you do not have money to pay a newspaper to publish your papers, you could ask the judge for permission to post a copy of [form DV-210](#) in a courthouse. To be eligible, you have to qualify for a fee waiver. To make a request to post your court papers in a courthouse, complete the forms listed below. Take the completed forms to the courthouse to file.

- ▶ [Form FW-001](#);
- ▶ [Form FL-980](#); and
- ▶ [Form DV-210](#), items 1 and 2.

If the judge allows you to serve the restrained person this way, you must find a server (an adult not protected by the restraining order or ask the court clerk) to post [form DV-210](#) for you in the location approved by the judge for at least 28 days. After it has been posted for the required number of days, have your server completely fill out [form FL-985](#) and [form DV-250](#). Take both forms to the courthouse to file in your case.





**May I serve by email
or electronically?**

To serve someone electronically, like by email or text message, the person you are serving has to agree to being served electronically. In your situation, if the person is avoiding service, it is unlikely that they will agree to being served electronically. The judge could tell you to send your paperwork by email or electronically to the restrained person as a way to give the restrained person notice, but the judge would also tell you to serve the restrained person in another way, like one of the examples listed above.



Where can I find legal help?

Free legal information is available in every county at a court self-help center. Staff can provide you with your legal options but will not tell you what you should do in your case and will not provide you with legal representation. To find your local self-help center, go to www.courts.ca.gov/selfhelp.

Where can I find other help?

For safety tips or other help, call the [National Domestic Violence Hotline](http://www.nvhl.org) at 1-800-799-7233; TDD: 1-800-787-3224.

SPR19-39

Protective Orders: Alternative Service in Domestic Violence Prevention Act Cases

(Adopt forms DV-117 and DV-210; approve form DV-205-INFO and revise forms DV-200-INFO and DV-250)

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

	Commenter	Position	Comment	Committee Responses
1.	<p>California Lawyers Association, Executive Committee of the Family Law Section By Saul Bercovitch, Director of Governmental Affairs California Lawyers Association 400 Capitol Mall, Suite 650 Sacramento, CA 95814 916-516-1704 saul.bercovitch@calawyers.org</p>	A	<p>FLEXCOM agrees with this proposal and offers the minor suggestions below for the Family and Juvenile Law Advisory Committee’s consideration.</p> <p>1. As to form DV-210, the Committee may wish to consider whether it would be advisable to augment the existing third bulleted paragraph under section (2), which currently reads “Having a restraining order against you may impact your life, including preventing you from having guns or ammunition.” Our suggestion is to augment the sentence with the underlined language, so it would read, “Having a restraining order against you may impact your life, including preventing you from having guns or ammunition, <u>or from obtaining or maintaining certain jobs or licenses.</u>”</p> <p>2. As to form DV-205-INFO, we offer the suggestion of adding the parenthetical “(an adult not protected by the restraining order)” after the word “someone” in the first paragraph on page 1, entitled “Why do I have to serve the other party?”</p> <p>3. In the language of enumerated paragraph 5 under the two sections that begins “Leave a copy and mail a copy...” we offer the suggestion of having the</p>	<p>1. The committee thanks the commenter for this response but does not believe this statement is appropriate without having a statutory basis for including it. While it may be harder for a person restrained by a protective order to obtain employment that requires the possession of a firearm, the Domestic Violence Prevention Act does provide an exemption for firearms for work purposes if certain criteria can be met.</p> <p>2. The committee thanks the commenter for the suggestion. Because the purpose of the paragraph is to explain why service is needed the committee does not believe that the suggested language, which refers to a requirement for service, should be included. Instead, the committee proposes changing the last sentence to “See form DV-200-INFO for personal service requirements.”</p> <p>3. The committee has reorganized these sections so that some of the information is clearly directed at the server as instructions for the server.</p>

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SPR19-39

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			<p>language read “File form POS-010 with the court or give the completed form to you so you can file it with the court.” This is suggested because the rest of the instructions are already directed to the person seeking the restraining the restraining order, and use the term “you.”</p>	
2.	<p>Family Violence Law Center By Cory Hernandez Staff Attorney 470 27th St. Oakland, CA 94612 510-208-0220 chernandez@fvlc.org</p>	AM	<ol style="list-style-type: none"> 1. Since the Council is updating the DV-200-INFO form to discuss alternative methods of service, why not the DV-700-INFO form as well? While some of us believe the new law (AB 2694) applies only to the TRO/DVRO stage, and not renewals, we all still believe alternative methods of service are allowed for renewals. 2. We strongly believe all of these forms need to be available in Spanish and, if possible, other languages, as well. 3. For proposed DV-210 (Summons), we are generally agreeable to the idea of the form and most of its contents, and we appreciate the goal of complying with CCP section 412.20 while also excluding unnecessary and sensitive information of the case. <p>We are split on whether to include a statement saying the restraining order may affect the respondent’s life. Some of us think the language is unnecessary, unduly provocative (e.g., “the court could make orders that limit your time with your child”), and somewhat entering the territory of suggesting or recommending the respondent</p>	<ol style="list-style-type: none"> 1. The committee will consider this request in a future cycle. 2. The committee agrees. Forms are translated with available resources. Staff will look into the possibility of translating these forms. 3. Thank you for your comment. The committee does not agree that the language may be suggesting that the respondent should fight the restraining order. The committee believes the language, as proposed in the <i>Invitation to Comment</i>, does a good job of providing the restrained party with the possible consequences of not appearing at the court date.

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			<p>should fight the restraining order. Others like language along this line to make it clear the ramifications of having a restraining order against you. We would suggest being very cautious with this type of language, and really thinking about what statutory authority allows the Judicial Council to include such language, and the reasons the committee wants to add this.</p> <p>If the committee decides to keep some of this language, which on the Summons is the third dot in the dot-list under item 2, then we would suggest better, clearer language, like: “Having a restraining order against you may impact child custody and visitation, spousal support, and your right to possess guns and ammunition.”</p> <p>4. The Spanish translations need to be on a separate form. As the draft stands now, the form is very hard to read with two languages, and can be very confusing very fast to unrepresented litigants.</p> <p>5. The fourth dot in the dot-list (dot-list is better than “bullet list” because it’s less violent) under item 2 is missing a comma after “the judge to order.”</p> <p>6. The fifth dot in item 2’s dot-list should clarify that self-help centers <i>do not provide legal advice</i></p>	<p>4. The committee believes that having a fully bilingual summons form is important but agrees that the draft included in the <i>Invitation to Comment</i> is hard to read because it has too much information on the first page. The committee has revised the proposed form to include more information on the second page while including more important information on the first page.</p> <p>5. The committee has made this revision.</p> <p>6. The committee does not believe that this level of detail is needed. The goal of this</p>

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			<p><i>or representation</i>, they just provide information and help with completing some forms.</p> <p>DV-205-INFO.</p> <p>7. There should be added the same statement and information from the first page of the DV-200-INFO form under “Who can serve?” outlining, “Any adult who is not protected by the restraining order”</p> <p>8. On the first page of this form, the penultimate sentence of the “How do I make a request for alternative service?” section should add “or attorney” after “an advocate.”</p>	<p>form is notify the restrained person that someone wants a restraining order against them. In the event that they do not understand what the summons means, the summons refers them to a self-help center so that they can learn what the paperwork means. It is the practice of self-help center staff to inform customers of the center’s ability to provide information and legal options only, and not advice. If the restrained person later decides that they want to hire a lawyer, the restrained person will be entitled to one continuance to do so.</p> <p>7. The committee thanks the commenter for the suggestion. Because the purpose of the paragraph is to explain why service is needed the committee does not believe that the suggested language, which refers to a requirement for service, should be included. Instead, the committee proposes changing the last sentence to “See form DV-200-INFO for personal service requirements.”</p> <p>8. The committee has made this revision.</p>

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			<p>9. On the second page of this form, in the section of “What are some examples of alternative service?” the second sentence should be revised to read (emphasis added for revisions): “A judge could order <u>service on the restrained party</u> in more than one way.”</p> <p>10. And third and fourth sentences should be added to state: “This service cannot be done by you or anyone listed on your restraining order. This service must be done by another adult of your choice.” This way the person reading this doesn’t think they are the one who can or will do the service, which is not allowed.</p> <p>11. On the third page of this form, in the section “Post in the courthouse,” remove the sentence, “To be eligible, you have to qualify for a fee waiver.” Because this is not true. We have used posting at a courthouse, and other methods of service, without needing to get a fee waiver first. And fees are not required in DVPA proceedings.</p>	<p>9. Thank you for your comment. The committee has revised the sentence to “The judge could order you to have your server give the restrained person your court papers in more than one way” to make more clear that someone else, not petitioner, must serve the court papers.</p> <p>10. The committee agrees that the language on the form should make clear that service cannot be done by the party.</p> <p>11. The committee acknowledges that filing fees are not required in domestic violence restraining order cases under Fam. Code section 6222. However, the council has previously adopted rule 5.72 which requires a determination of financial eligibility for service by posting. Because posting may provide less widespread notice than publication, posting is only available when the requesting party can prove an inability to pay. The method for determining financial eligibility for posting is the same as that for waiving court filing fees through submission of a fee waiver application (FW-001). Courts also have</p>

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			<p>12. On this same page, in this same section, the penultimate sentence should be revised (emphasis added): “After it is posted for the time ordered by the judge, have your server . . .”</p> <p>13. On the third page of the form, in the “May I serve by e-mail or electronically?” we would recommend making this a broader question of “May I serve by other means, such as e-mail?” And we would recommend removing the first sentence, because we don’t believe the person being served is first required to consent to being served by e-mail. Moreover, we have seen in our practice judges allowing other methods of service, usually with one of the types you’ve listed in the form (like posting and serving by mail), such as personal service on respondent’s family who reside in the same home, or service by email.</p> <p>DV-200-INFO.</p> <p>14. On the first page of this form, under “What is ‘personal service’?,” the list seems to be missing DV-120 (blank), DV-120-INFO, the firearm relinquishment forms, etc.</p> <p>15. On the second page of this form, the bottom of the page’s section, “Instructions for Server,” is easy to miss but very important, so maybe should be bolded more, larger font, boxed in,</p>	<p>the discretion to order another form of service.</p> <p>12. The committee accepts the suggestion but has used different language to convey the same meaning.</p> <p>13. The committee does not agree with this revision. This paragraph is only meant to explain that electronic service, without consent to receive notice electronically by the opposing party, would be insufficient service. See Code of Civil Procedure. 1010.6 and rule 2.251.</p> <p>14. The committee has added forms DV-120, DV-120-INFO and DV-250 to this list. These forms are required for service as listed on form DV-109, <i>Notice of Court Hearing</i>.</p> <p>15. The committee agrees and has made revisions to this section.</p>

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			<p>accompanied by a graphic, and/or something else. In that same section on that page there is also an extra comma in the penultimate dot in the dot-list.</p>	
3.	<p>Harriett Buhai Center for Family Law By Rebecca L. Fischer Staff Attorney 3250 Wilshire Boulevard, Ste 710 Los Angeles, California 90010 Telephone (713) 388-7505</p>	AM	<p>The Harriett Buhai Center for Family Law wholeheartedly supports modifying the rules and forms to address alternative service in DVPA cases.</p> <p>1. Does the proposal appropriately address the stated process? In general, yes.</p> <p>2. Are the forms easy for users, especially self-represented litigants, to understand? Yes, see comments below.</p> <p>3. Do you have any suggestions for improving their usability or readability?</p> <p>DV-210 Summons: A clearer break between items 2 and 3 indicating the court will complete the form below the line</p> <p>4. DV-205-INFO: Add a clear statement that the litigant should not attempt any form of alternative service until the judge orders the litigant to do so.</p>	<p>Thank you for submitting comments to this proposal.</p> <p>1. No response required.</p> <p>2. See below for the committee’s responses to comments.</p> <p>3. The committee has made this revision.</p> <p>4. Thank you for the comment. The committee did not accept this suggestion. In some cases, a litigant may choose to notify the opposing party in ways which may not be sufficient to prove notice but could result in the opposing party</p>

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			<p>5. Should other information be included on the new forms (DV-205-INFO and DV-210)? DV-210 Summons:</p> <ul style="list-style-type: none"> • N/A <p>6. DV-205-INFO: Clarify whether the alternative means of service listed on DV-205-INFO will be available as an option if a litigant has attempted personal service of a Restraining Order After Hearing (DV-130) as ordered in item 25(b)(2) and has been unable to do so or specifically state that the alternative means of service are only available for service of temporary restraining orders. Whether or not the Respondent was served with the temporary order by alternative means or was personally served, a litigant ordered to personally serve the Respondent with the ROAH may look to the DV-200-INFO form for instructions on personal service, and, if the Respondent is evading service at that stage, turn to the DV-205-INFO as suggested by the form. The forms should make it very clear when the alternative means of service are an acceptable alternative for personal service of restraining orders</p>	<p>appearing for the court date. Because some litigants might use this as a strategy the committee did not include the suggested language.</p> <p>5. No response required.</p> <p>6. This information is already included on the form on page 2.</p>

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			<p>and when the alternative means of service cannot be used.</p> <p>Other comments:</p> <p>7. If posting is listed as an option for an alternative means of service, it may be helpful to consider modifying the Judicial Council posting forms to recognize this potential use or provide an information sheet on applying for posting under these circumstances.</p> <p>8. In addition, there seems to be an issue in requiring fee waiver eligibility for permission to serve by posting in a DVPA case. In a DVP A case, a litigant's indigence or ability to pay is not an issue considered for other means of service, such as personal service by a sheriff or marshal. There may be any number of litigants who do not qualify for a fee waiver, but cannot afford to publish in a newspaper. Requiring a litigant to save up money to serve a DVP A action by publication or requiring a hearing on the litigant's financial circumstances as contemplated by FL-982 runs contrary to the goals of the DVPA.</p>	<p>7. The committee will consider this suggestion in the future.</p> <p>8. The committee acknowledges that filing fees are not required in domestic violence restraining order cases under Family Code section 6222 and service for DVPA matters is waived under Government Code section 6103.2(b)(4). However, under rule 5.72 a determination of financial eligibility for service by posting is required in family law matters. Because posting may provide less widespread notice than publication, posting is only available when the requesting party can prove an inability to pay. The method for determining financial eligibility for posting is the same as that for waiving court filing fees through submission of a fee waiver application (FW-001). The committee notes that courts also have the discretion to order other means of service.</p>

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			<p>9. Additional language in item 2 on page 1 of DV-205-INFO to clarify avoiding/ evading service. For litigants representing themselves, examples of evading or, more critically, what would be considered not evading service. For example, will alternative service through this process be an option for a litigant who, after due diligence, simply cannot find the Respondent?</p>	<p>9. The committee did not include any examples of avoiding service as this requirement seems straightforward.</p>
4.	<p>Orange County Bar Association By Dierdre Kelly, President P.O. Box 6130 Newport Beach, CA 92658</p>	A	<p>Does the proposal appropriately address the stated purpose? Yes.</p> <p>Are the forms easy for users, especially self-represented litigants, to understand? Yes.</p> <p>Do you have any suggestions for improving their usability or readability? No.</p> <p>Should other information be included on the new forms (DV-205-INFO and DV-210)? No.</p> <p>Should other resources be listed in the “other help” section, on page 2? No.</p>	<p>Thank you for your comments. No responses required for the comments submitted.</p>

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5.	Janani Ramachandran Judicial Extern for Judge Tara Flanagan; Berkeley Law Student	AM	<p>My name is Janani Ramachandran, judicial extern to Judge Tara Flanagan and student at Berkeley Law. I have conducted extensive research on the matter of alternative service in DVROs, and submitted by e-mail my report, including the sample forms I designed. If you have any questions about my comments, you can contact me at jananir92@berkeley.edu.</p> <p>I find that the new DV-210 Summons, the DV-205-INFO, and the edited DV-200-INFO are informative and helpful to the self-represented petitioner, but that those forms alone are insufficient to effectively implement alternative service.</p> <p>1. My primary comment is that a motion for alternative service form is lacking, which I have created in my sample e-mailed forms. The proposed DV-205-INFO suggests that the DV-115, request to continue, could be instead used to make the request, but I believe that form is too general to be applied here.</p> <p>Having a form motion would enable petitioners be prepared to thoroughly express their arguments to a judge as to why alternative service is needed in their situation. A motion that details the various possible methods by which to try to identify the respondent's whereabouts may also provide petitioners inspiration to pursue those methods prior to seeking alternative service. The sample motion form I created encourages petitioners to attempt a variety of methods of locating the respondent before requesting</p>	<p>1. Thank you for your comment and research on this topic. The committee will consider whether a request for alternative service should be created in the future. Such a form would need to go out for public comment. The committee agrees that form DV-115 should not be revised so that it alone could be used to make a request for alternative service. This is not to say that form DV-115 could not be used together with other available forms.</p>

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			<p>alternative service. This includes having the respondent contacted at their home, workplace, by phone or social media, or through friends and family. Ensuring that the petitioner has attempted a variety of methods to have the respondent personally served helps address fears that petitioners can use alternative service to bypass procedural safeguards to protect the respondent’s due process rights. It also helps ensure that abusive partners, who file DVRO petitions against their victims as a tactic of litigation abuse, are not using alternative service to manipulate a victim’s access to courts and thwart their opportunity to be heard. In addition, the form is written in relatively straightforward language in recognition of the fact that most DVRO petitioners are self-represented and may not have an understanding of fundamental legal processes.</p> <p>Below are additional comments about the proposed forms:</p> <p>2. Comment on DV-210 Summons: The form should contain stronger language that informs the respondent what the consequences of their failure to appear at court can include. I suggest something along these lines:</p> <p>"NOTICE: A petition for a domestic violence restraining order has been filed against you. You must appear in family court on the date listed above. Failure to appear could result in the court issuing a domestic violence restraining order against you for up to five years. This will require you to stay away from and cease contact with Petitioner and other</p>	<p>2. The committee thanks you for your comment but does not agree with the suggested language. The committee believes that the language, as proposed, provides enough information to put the restrained party on notice of the possible consequences of not appearing at the court date and directs the person to the courthouse to find out about the details of their case.</p>

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			<p>protected parties, and prohibit you from being present in certain areas. A restraining order may have a variety of other consequences for you including your rights to child custody and visitation, ability to remain in a home shared with Petitioner, obligations to pay Petitioner financial support and attorney’s fees, ability to possess firearms, and requirement to attend batterer-intervention classes. Failing to appear can waive your constitutional right for an opportunity to be heard."</p> <p>3. Comment on DV-205-INFO: Electronic service - Under the first table, "Am I eligible to serve in another way," I would add more exhaustive methods by which a petitioner can try to personally serve the respondent or identify their whereabouts. This can include using the Respondent’s social security number and date of birth, if known, to run a Service Members Civil Relief Act (SCRA) web search to find out if Respondent is currently in the military at https://scra.dmdc.osd.mil/. It can also include running a search on the online Federal Bureau of Prisons Inmate Locator (https://www.bop.gov/inmateloc/) and the CDCR Inmate Locator (https://inmatelocator.cdcr.ca.gov/search.aspx) to find out if Respondent is currently incarcerated.</p>	<p>3. The committee thanks the commenter for the suggestion. In order to qualify for alternative service, the petitioner, in addition to making diligent efforts to serve, must also show that the person is avoiding (evading) service. If a person is incarcerated or in the military, it is unlikely that the petitioner would be able to show that the person is avoiding service. The committee also notes that while the petitioner must show diligent efforts, this does not mean that the petitioner must perform an exhaustive search for the respondent. The court will be best able to decide what satisfies due diligence on a case-by-case basis.</p>
6.	Superior Court of California, County of Los Angeles 111 N. Hill Street Los Angeles, CA 90012	AM	<p>1. Proposed Modifications Form DV-210 Below the title in the section where it indicates “Complete items 1 and 2 only” – Change the Spanish translation from “puntos” to “articulos”</p>	<p>1. Thank you for the comment. “Puntos” is the Plain Language term that we have chosen to implement across all translations of documents and content.</p>

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			<p>2. Item 2, third bullet point – Add “...including preventing you from having guns, ammunition, and magazines”, to be consistent with the current law.</p> <p>3. Item 2, third bullet we recommend making the following a stand-alone sentence. “If you have a child with the person in 1, the court could make orders that limit your time with your child.”</p> <p>4. We suggest a thorough review of the Spanish translation and a separate Spanish version of this form.</p> <p>5. Form DV-200-INFO Title: What is “Proof of Personal Service?” – Change to What is “Proof of Service?”</p> <p>Then Detail the different types of service that may be used to effectuate service in priority order. For example, (1) Personal Service, (2) Substitute Service, etc.</p> <p>6. Section Title: “What if the other person is avoiding service? (Page 11) – Add “What if the other person is avoiding (evading) service?”</p>	<p>2. The definition of ammunition includes magazines as well as other types of ammunition. To be consistent with the language in the other domestic violence forms, the committee proposes to keep the language as proposed.</p> <p>3. The committee does not agree with suggestion but has reorganized this page so that the information regarding the consequences of failing to appear for a case is more visible.</p> <p>4. The summons is a fully bilingual form and therefore a separate Spanish version will not be needed.</p> <p>5. The committee would like public comment on this and will consider changing the title of the form in a future forms cycle.</p> <p>6. The committee has added “(evading)” to the heading of the section.</p>

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			<p>7. Add clarification about what constitutes “many times.”</p> <p>Request for Specific Comments</p> <p>8. Does the proposal appropriately address the stated purpose? Yes, the proposal appropriately addresses the purpose.</p> <p>9. Are the forms easy for users, especially self-represented litigants, to understand? Yes, the forms are easy to understand.</p> <p>10. Do you have any suggestions for improving their usability or readability? Yes, please see proposed modifications above.</p> <p>11. Should other information be included on the new forms (DV-205-INFO and DV-210)? Yes, please see proposed modifications above.</p> <p>The advisory committee seeks comments from courts on the following cost and implementation matters:</p> <p>12. Would the proposal provide cost savings? If so please quantify. Cost savings are not likely. There are now more forms to reproduce and more fee waivers to review if the applicant is requesting publication/posting.</p>	<p>7. The committee notes that the court’s self-help website describes diligent efforts as “usually 3 or more” attempts and have included this same language on the form to describe “many times.”</p> <p>8. Thank you for submitting comments to this proposal. No responses are required for the remaining comments.</p>

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			<p>13. 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?</p> <p>Implementation requirements would include training of staff from the Court, and Self-Help Centers; estimated time for training is two to three hours. For the Case Management System, it would require the addition of a new document code for form FL-210.</p> <p>14. Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>Yes, three months would be sufficient.</p> <p>15. How well would this proposal work in courts of different sizes?</p> <p>Courts would be impacted similarly.</p>	
7.	<p>Superior Court of California, County of Orange By Cynthia Beltrán Administrative Analyst Family Law and Juvenile Court 657-622-6128 cbeltran@occourts.org</p>	NI	<p>What is “Proof of Personal Service”? (DV-200-INFO)</p> <p>1. On page 1, in the <i>What is “personal service”?</i> section, clarify that personal service is when someone, <u>who is 18 years of age or older and not a party to the case</u>, delivers your court papers to the other party.</p>	<p>1. The committee does not agree with the suggested addition because the same information is under the next section entitled “Who can serve?”</p>

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			<p>Summons (Domestic Violence Restraining Order) (DV-210)</p> <p>2. On page 1, section 2, update the fourth bullet to say, "... go to the courthouse <u>listed above</u> and ask to see your case file." This would be helpful for counties where domestic violence cases are filed at multiple locations.</p> <p>What if the Person I want Protection from is Avoiding (Evading) Service? (DV-205-INFO)</p> <p>3. On page 1, update the chart to clarify that someone 18 years of age or older and not a party to the case must serve the restraining person.</p> <p>4. On page 3, in the <i>Post in courthouse</i> section, update the sentence that reads, "If the judge allows you to serve the restrained person this way, you must find a server to post form DV-210 for you in the location approved by the judge" to allow for other options. In Orange County, the court will post the DV-210 on behalf of the party and provide proof of service.</p>	<p>2. The committee has made added this reference.</p> <p>3. The committee has reorganized the information on the form. The chart is now a step-by-step guide on page one and the language suggested by commenter is under Step 1, with some modifications.</p> <p>4. The committee has added the following language, "In some courts, the court clerk will post form DV-210 for you."</p>
8.	Superior Court of California, County of San Bernardino By Court Executive Office 247 W. Third Street 11 th Floor San Bernardino, California 92415	A	<p>1. Does the proposal appropriately address the stated purpose? Yes</p> <p>2. Are the forms easy for users, especially self-represented litigants, to understand? Yes</p>	Thank you for your comments. No responses are required for the comments submitted.

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SPR19-39

Protective Orders: Alternative Service in Domestic Violence Prevention Act Cases

(Adopt forms DV-117 and DV-210; approve form DV-205-INFO and revise forms DV-200-INFO and DV-250)

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			<p>3. Do you have any suggestions for improving their usability or readability? None</p> <p>4. Would the proposal provide cost savings? Possibly will prevent additional hearing dates if it is known from the onset that the proposed restrained party is evading service and an alternative method of service can be accomplished</p> <p>5. 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?</p> <p>There will be training on the process, updating procedures and creating codes for the case management system but overall it would not be too impactful.</p> <p>6. Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes</p> <p>7. How well would this proposal work in courts of different sizes? I think it would be relatively the same no matter the size of the courthouse.</p>	

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	Commenter	Position	Comment	Committee Responses
9.	Superior Court of California, County of San Diego By Mike Roddy, Executive Officer Central Courthouse 1100 Union Street San Diego, California 92101	A	<p>Q: Does the proposal appropriately address the stated purpose?</p> <p>Yes.</p> <p>Q: Are the forms easy for users, especially self-represented litigants, to understand?</p> <p>Yes.</p> <p>Q: Do you have any suggestions for improving their usability or readability?</p> <p>No.</p> <p>Q: Should other information be included on the new forms (DV-205-INFO and DV-210)?</p> <p>No.</p> <p>Q: Would the proposal provide cost savings? If so, please quantify.</p> <p>None.</p> <p>Q: 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?</p>	1. Thank you for your comments. No responses are required.

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			<p>Notifying staff, updating internal procedures, and adding new filings to case management system.</p> <p>Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>Yes.</p> <p>Q: How well would this proposal work in courts of different sizes?</p> <p>It appears that the proposal would work for courts of all sizes.</p> <p>GENERAL COMMENTS:</p> <p>DV-205-INFO, page 1: The form states that if the litigant is eligible for alternative service, they can complete the DV-115 form to make the request; however, proposed DV-115 does not include the ability to make this request.</p>	
10.	<p>Superior Court of California, County of Ventura By Julie Camacho, Court Manager</p>		<p>Agree with proposed revisions with the following modifications/clarification:</p> <p>1. Recommend that the new DV-210 be modified to fit both the English and Spanish information on one page, much like the current Family Law Summons FL-110. The number of postings in the court has increased over the years and due to the limited space that the court has on the</p>	<p>1. The committee understands the challenges of posting. The committee has reorganized the form so that the most important information is on the first page in both English and Spanish.</p>

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			<p>public bulletin board in the court to post these filings, it would be helpful to reduce the summons to one page to alleviate the need for the court to purchase additional bulletin boards.</p> <p>2. Is it the intent that the DV-210 will only be issued when the court grants a request for service of the TRO by posting and not every time a Request for Domestic Violence Restraining Order is filed? We recommend that the DV-210 be issued when the court orders service by posting.</p> <p>3. When the court orders an alternative method of service by posting, how long must the court post the DV-210? Is it 28 days, or 28 days plus an additional 5 days for service requirement under Family Code 243? The code is silent on this issue and it would be beneficial not only to court staff, but to the public, if the number of days to post was set forth in Family Code 243. The same is needed when substitute service or service by publication is granted.</p> <p>4. Because there are no filing fees required in Domestic Violence cases, the court has already been questioned on why a Request to Waive Court Fees is required when a party is asking the court to order service of the TRO by posting. It would be helpful if this requirement was clearly stated in the appropriate code section.</p>	<p>2. Yes, form DV-210 would only be needed when a method of alternative service requires service of a summons under the Code of Civil Procedure.</p> <p>3. The timeframe for service is addressed by statute. The question is outside the scope of this proposal.</p> <p>4. While filing fees are not required in domestic violence restraining order cases under Fam. Code section 6222, the committee notes that the council has previously adopted Rule 5.72 which requires a determination of financial eligibility for service by posting. The suggested revision to applicable statutes is outside the scope of this proposal.</p>

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			<p>5. Form DV-205-INFO, last paragraph on Page 1, “How do I make a request for alternative service?” tells filers you can complete form DV-115 to make this request but this is the form to request a continuance of the hearing and does not have a place for the party to make a request for an alternative form of service. There are local and Judicial Council forms to request service by publication and posting that can be referenced.</p> <p>6. Form DV-205-INFO, Page 3, paragraph one “Post in courthouse” can be confusing to filers as worded because it instructs the filer to find a server to post form DV-210 for you in the location approved by the judge. In many courts there is a designated location for posting and the court staff are the only persons who can post the documents and complete the proof of service. Perhaps this section can be revised to instruct the filer to contact the court to determine the requirements for posting.</p> <p>7. Form DV-205-INFO – eliminate the paragraph titled “May I serve by e-mail or electronically” - it is highly unlikely that a restrained party will provide the necessary consent and file the appropriate Judicial Council consent form to agree to electronic service, so this writer feels this is information that may cause unnecessary confusion to filers.</p>	<p>5. The committee has removed references to form DV-115 and instead refers people to complete other judicial council forms for publication and posting and to check with their local self-help center on how to make a request for other means of alternative service.</p> <p>6. The committee has added “or ask the court clerk to post” under this section.</p> <p>7. The committee did not accept this suggestion. The committee believes that whether service by email or other electronic means would be sufficient service will be a common question that litigants will have given that many people use email as a primary means of communication. The committee agrees that electronic service is unlikely to be permitted as the method for alternative</p>

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				service but believes that some courts may require electronic service in addition to another of method of service.
11.	TCPJAC/CEAC Joint Rules Subcommittee (JRS) on behalf of the Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC)	A	The JRS notes that the inability to personally serve a person to be restrained is a common problem. The proposed rule change addresses its stated purpose of increasing the likelihood that a person to be restrained under a domestic violence restraining order will receive notice. The rule proposal should be implemented because it is an important alternative means to provide notice to persons to be restrained by court order.	Thank you for the comment.
12.	University of California, Irvine By Jane K. Stoever Clinical Professor of Law Director, UCI Initiative to End Family Violence Director, Domestic Violence Clinic University of California, Irvine School of Law jstoever@law.uci.edu 949-824-3418	NI	Thank you for the invitation to comment on judicial council forms regarding continuances and alternative service in domestic violence cases. I have taught domestic violence clinics for over 15 years, having taught at the law schools at Georgetown, American University, and Seattle University prior to being hired in 2013 to direct the Domestic Violence Clinic at the University of California, Irvine (UCI) School of Law, where I also teach Family Law, Domestic Violence Law, and Legal Ethics. The UCI Law Domestic Violence Clinic testified in favor of Assembly Bill 2694 (Stats. 2018, ch. 219) on behalf of multiple clients who were unable to receive legal protection when they could not achieve personal service in domestic violence restraining order cases. The recommendations in this Comment are based on my experience litigating cases in jurisdictions that have long permitted alternative service in domestic violence cases; my research, as reflected in my	

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			<p>recently published article: Access to Safety and Justice: Service of Process in Domestic Violence Cases, 94 WASH. L. REV. 333 (2019); my clients’ insights about service over many years; and my clinic interns’ recommendations about the proposed forms.</p> <p>The form proposals in SPR19-39 and SPR19-37 implement the alternative service options that now appear in Family Code Section 6340(a)(2), increasing survivors’ and their children’s access to safety and justice. My Domestic Violence Clinic reviewed the proposed forms, being particularly mindful of the high percentage of pro per litigants in domestic violence cases in California. We have several recommendations to increase the understanding of legal options, all of which apply to the SPR19-37 packet.</p> <ol style="list-style-type: none"> 1. Our first recommendation aims to increase knowledge of the new provisions in Family Code Section 6340(a)(2). We suggest that the DV-115, in the Instructions section or under 4(a), include the following language or similar language: “Read DV-205-INFO, What if the Person I Want Protection From Is Avoiding (Evading) Service if, after diligent effort, you have been unable to accomplish personal service.” Cross-referencing the DV-205-INFO will increase knowledge of legal options and increase efficiency for courts and litigants, as petitioners may otherwise return to court numerous times without being aware 	<ol style="list-style-type: none"> 1. The DV-115 is a form that can be used by either party to request a continuance. Because the new alternative service laws only apply to petitioners the committee did not include reference to form DV-205-INFO. If in the future the committee proposes a request for alternative service form, form DV-205-INFO can be referenced on that form.

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			<p>that they can request alternative methods of service.</p> <p>2. Our second set of recommendations seeks a streamlined way of requesting alternative service. The DV-205-INFO instructs, “If you believe you are eligible for alternative service, you can complete form DV-115, Request to Continue Hearing, to make this request.” The proposed DV-115, however, does not include a question prompt for doing so. Based on page 5 of the SPR19-37, we understand that the Family and Juvenile Law Advisory Committee considered including an item in the DV-115 regarding alternative means of service, but determined that petitioners could instead use form FL-980 to request publication or posting. This determination is inconsistent with the instructions in DV-205-INFO to use the DV-115 to request alternative service; furthermore, the DV-115 does not guide litigants to the FL-980, and the FL-980 does not provide options for substituted service and other means beyond publication or posting. We recommend that the DV-115, at item 4, include the following option: “After diligent effort, I have been unable to accomplish personal service, and there is reason to believe that the restrained party is evading service. Explain:” An additional prompt should ask litigants to identify which of the following methods of service would be</p>	<p>2. Thank you for your comment. The committee has revised form DV-205-INFO to remove any references to form DV-115. Based on the comments submitted, the committee will consider whether to propose a new request for alternative service form in the future. The committee does not believe that form DV-115 should be revised to include the specific questions posed by commenter as the revisions to form DV-115 would be substantial and including the information may confuse petitioners that are not seeking alternative service which represent the majority of cases.</p>

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			<p>designed to “give reasonable notice of the action to the respondent: substituted service (mailing service and delivery to a person at the respondent’s home, mailing address, or workplace), publication, posting, or other.” These questions provide a clear way to request alternative service and prompt litigants to provide information the judicial officer needs, increasing judicial efficiency as the judge enters orders in the DV-116.</p> <p>3. Finally, the DV-116, at item 6(e), could provide a brief explanation of what “substituted service” is, namely that it means leaving a copy and mailing a copy of papers to be served to the restrained person’s home or mailing address or workplace. We recommend that 6(e) state as follows, with our addition underlined here: “The restrained party may be served by substituted service, with a copy of (1) this order, (2) a copy of all the documents indicated on form DV-109, item 6 and (3) a copy of form DV-210, Summons (Domestic Violence Restraining Order), no later than (date):_____, by leaving a copy with a person over age 18 and mailing a copy to the restrained party’s <input type="checkbox"/> home <input type="checkbox"/> mailing address <input type="checkbox"/> workplace.” The proposed DV-</p>	<p>3. The committee has included this information, with minor edits, on form DV-117, <i>Order Granting Alternative Service</i>. Form DV-117 would be an attachment to form DV-116. A separate attachment was created in response to a suggestion by a commenter.¹</p>

¹ Judge Amy K. Guerra from the Superior Court of Fresno submitted a comment on another proposal which includes form DV-116. In her comment she suggests creating a separate form for alternative service because, in the vast majority of cases, alternative service will not apply.

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			<p>116 helpfully directs the protected party to the DV-205-INFO in the next sentence. We posit that briefly identifying the meaning of “substituted service” within the DV-116 will help protected parties understand and follow the court order.</p> <p>This Comment seeks to further the legislative purpose of domestic violence restraining orders by increasing the accessibility of this vitally important legal remedy for abuse survivors who are unable to accomplish personal service. Thank you for your consideration of these recommendations. I encourage you to contact me with any questions.</p>	

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