



California Domestic Violence and Civil Harassment Actions

Research Guide

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Scope

The following Research Guide provides research information concerning civil harassment and domestic violence-related legal actions in the state of California. This guide is not intended as a substitute for legal advice.

NOTE: If you have an **emergency or dangerous situation** involving domestic violence or harassment dial **911** immediately. The telephone number for the 24-hour National Domestic Violence Hotline is **1-800-799-SAFE (1-800-799-7233)**.

What is

Generally speaking, the term “Domestic Violence” refers to family and couple-related violence or abuse. You may obtain domestic violence restraining orders if 1) you are the victim of “abuse” and, 2) you have a close relationship with the abuser. You have a “close relationship” with someone if:

- You are now married, or
- You used to be married, or
- You live together, or
- You used to live together, or
- You are relatives, in-laws, or related by adoption, or
- You are dating or used to date, or

- You are engaged to be married or were engaged to be married, or
- You are parents together of a child or children under 18, or
- You and/or the other party has signed a Voluntary Declaration of Paternity for your child or children.

“Civil Harassment” pertains to all other, non-domestic types of violence and abuse situations.

A civil harassment order is a restraining order available to victims being harassed by someone they do not have a domestic relationship with, such as a friend, neighbor or even a stranger. (If the victim has a domestic relationship with the person who is harassing them, the victim should be applying for a domestic violence restraining order instead).

A civil harassment order can last up to three years and may be renewed after that. There is a filing fee to apply for a civil harassment order, however that fee may be waived based on the victim's ability to pay or if the abuser has caused physical harm to the victim.

A victim can qualify for a civil harassment order if the harasser has intentionally committed a series of acts (more than one) which are frightening, annoying or harassing, and which have caused the victim substantial emotional distress. The harasser does not have to be related to the victim in any way, but the victim must be able to identify the person and find him or her to serve the papers.

A civil harassment order can order the harasser:

- to stay away from the victim, the victim's home, school, work or children's school;
- not to telephone or contact the victim;
- not to frighten, intimidate, annoy or harass the victim;
- not to threaten or make any physical contact with the victim;
- not to keep the victim under surveillance or follow the victim; and
- not to block the victim's movement in public places.

It can also protect the victim's family or anyone else in the home from the harassment and can order the person who lost the case (either the harasser or the victim) to pay the other person's court costs and attorney's fees.

Internet Resources

Free Internet access is available at the San Diego County Public Law Library. The following websites are useful for researching domestic violence or civil harassment issues.

California Courts Self-Help Center--Protection from Abuse site is:

<http://www.courtinfo.ca.gov/selfhelp/protection/>

This web site has links to helpful sections including: Introduction to Restraining Orders; Domestic Violence; Civil Harassment Restraining Orders; Elder or Dependent Adult Abuse; and Workplace Violence. It describes the differences among the various types of harassment, and it explains when each type applies. This site also contains a link to the online Domestic Violence (Form DV) and Civil Harassment (Form CH) Judicial Council forms.

Information for “restrained persons” already subject to a restraining order is located at the following website: <http://www.courtinfo.ca.gov/selfhelp/protection/dv/restrained.htm>.

San Diego Superior Court Domestic Violence Court website is:

http://www.sdcourt.ca.gov/portal/page?_pageid=53,129732&_dad=portal&_schema=PORTAL.

This web site has information on the Domestic Violence Court in San Diego, including Domestic Violence Clinics available at the branches of the San Diego Superior Court.

Print Resources and Forms

The California Judicial Council forms for Civil Harassment (Form CH) and Domestic Violence (Form DV) are available at the Reference Desk. They are also available as “fillable” or “non-fillable” forms” online. Many of these forms include instructions. For example, Forms DV-500, 505, 510, 520, 530, 540, and 550 provide information in English and Spanish about “forms needed” and “getting ready for the hearing.”

The *Judges Guide to Domestic Violence Cases* by the California Administrative Office of the Courts is a very useful resource. It is located at the reference desk (KFC 115.J59) and it explains the various domestic violence and civil harassment-related laws. Some of the topics covered include: Orders under the Family Law Act and Uniform Parentage Act; Workplace Protective Orders; Criminal Firearms Laws; Immigration and Domestic Violence, elder and Dependent Adult Protective Orders, and Stalking. There is also a list of applicable statutes.

The *Domestic Violence Handbook: A Survivor’s Guide* (HV 6626.22C35 D66 2002) is published by the California Attorney General’s Office Crime and Violence Prevention Center. It provides strategies for living violence-free and lists resources for domestic violence victims (including general information on pursuing legal options).

California Forms of Pleading and Practice (KFC 1010 .A65 C3) is a practice guide that contains a detailed discussion on domestic violence and civil harassment. This resource explains the law and provides the necessary forms and annotations. Volume 25, chapter 293 covers the subjects of harassment and domestic violence and volume 26, chapter 303 contains a general discussion off TROs and injunctions in California.

Statutory law

Look at California statutory law and annotations after you have done background research. The web sites and print resources below will help you decide which statutes or cases apply to your particular situation. Please research the statutes and case law applicable to your particular situation and check to ensure the law is up to date and has not changed.

The Domestic Violence Protection Act is at California Family Code §§6200 et seq. Emergency protective orders are addressed in Family Code §§6215, and 6240 et seq. Penal Code §243(e) covers criminal battery and domestic violence.

California Code of Civil Procedure §§525 et seq. pertain to injunctions. Section 527 discusses the procedure for obtaining a preliminary injunction. Section 527.6 addresses temporary restraining orders (TROs) and injunctions which prohibit harassment. Section 527.8 covers injunctive relief by employers, in connection with workplace threats or violence. Enforcement-related statutes include Penal Code §273.5, Code of Civil Procedure §1209(a)(5), and Penal Code §12021(g) (firearm).

The California criminal stalking law is at Penal Code §646.9. Civil stalking laws are at Civil Code §1708.6 et seq. (Interstate stalking is addressed in the federal statutes at 18 United States Code §2261A).

Elder and Dependent Adult Protective Orders are covered at California Welfare and Institutions Code §15657.03. Gender violence, a form of sex discrimination, is addressed in Civil Code §52.4.