

Can I Renew My Domestic Violence Restraining Order? Frequently Asked Questions About Renewals for Survivors and Advocates

If you have a California Domestic Violence Restraining Order After Hearing and you want to continue the protection after the restraining order expires, you can file a request to renew your restraining order. The request must be filed with the court before the current restraining order expires. This tip sheet only applies to Domestic Violence Restraining Orders After Hearing (Judicial Council Form DV-130) and Juvenile Restraining Orders (Judicial Council Form JV-255) being renewed in family court. It does not apply to temporary domestic violence restraining orders (Judicial Council Form DV-110), criminal protection orders, emergency protection orders, other types of civil restraining orders, or to Juvenile Restraining Orders being renewed in juvenile court.

Does the law allow me to renew my restraining order?

- Yes, Family Code § 6345 is part of the Domestic Violence Prevention Act (DVPA). Under this law, the court can renew your restraining order, but only if you file a request with the court.¹
- If you do not file a request in court to renew your restraining order, your restraining order will automatically end on the expiration date. The expiration date is usually found in a box on the bottom of the first page of the Restraining Order After Hearing form (Judicial Council Form DV-130) or Item 3a on the Juvenile Restraining Order (Judicial Council Form JV-255).

For how long can the court renew my restraining order?

- Renewals of domestic violence restraining orders are for five years or permanently.²
- The court can not renew a restraining order for less than five years.³

Will the court renew all the orders in my restraining order?

- No, only the personal conduct, stay away, and move-out orders can be renewed. These orders are generally found on the second page of the Restraining Order After Hearing (Judicial Council Form DV-130), or as items 1, 2, 3 or Item 5a, b, d, e on the Juvenile Restraining Order (Judicial Council Form JV-255)⁴
- Other orders in the restraining order such as custody, visitation, and support orders, cannot be renewed under this law.⁵ However, these other orders **do not expire** when the restraining order expires.⁶

¹ CA Family Code § 6345(a).

² CA Family Code § 6345(a).

³ *Avalos v. Perez* (2011) 196 Cal.App.4th 773, 777.

⁴ CA Family Code § 6345(a).

⁵ CA Family Code § 6345(b).

⁶ CA Family Code § 6340(a).

What if I have already renewed my restraining order before? Is there a limit on how many times I can renew?

- No, Family Code § 6345 does not limit the number of times a court can renew a restraining order.⁷

When can I ask the court to renew my restraining order?

- The request must be filed before your restraining order expires.⁸
- You can file the request at any time during the last three months of protection under the restraining order.⁹
- If you have a restraining order that lasts for three months or less, then you can request renewal any time before it expires.
- The expiration date is usually found in a box on the bottom of the first page of the Restraining Order After Hearing form (Judicial Council Form DV-130) or Item 3a on the Juvenile Restraining Order (Judicial Council Form JV-255). If there is no date, then the order expires at midnight 3 years after the order was made, which is usually on the date of the hearing.¹⁰

How do I ask the court to renew my restraining order?

- You make a request to renew your restraining order by completing Judicial Council Form DV-700 “Request to Renew Restraining Order (Domestic Violence Prevention)” and filing it with the court. A copy of your current restraining order should be attached to your request.
- The request will need to be served on the other party by someone else, who is over the age of 18, before the hearing.
- Your local self-help center or Family Law Facilitator can help you get the forms and give you information on how to complete the forms and have the other party served with the forms.¹¹
- You do not need a lawyer to request a renewal, but it may help you to have a lawyer or get advice from a lawyer before filing your request or going to court.

What happens after I file the request to renew my restraining order?

- The court will schedule a hearing to decide your request.
- The other party will have a chance to file a response to your request.
- It is important that you go to the hearing. If you do not show up to the hearing, the court can deny your request for a renewal. You cannot apply for a renewal after your restraining order has expired.

⁷ In fact, the Request to Renew Restraining Order (DV-700) form asks you to write in the number of times their restraining order has been previously renewed. This shows that a protected party may request to renew a restraining order more than once.

⁸ CA Family Code § 6345(a).

⁹ CA Family Code § 6345(a).

¹⁰ Judicial Council Form DV-130 (July 1, 2016) p.1; CA Family Code § 6345(c); Judicial Council Form JV-255, p.1, item 3a. The JV-255 is a mandatory form. If you have specific questions about the expiration date for your restraining order, then please speak with an attorney.

¹¹ Forms can be found at the Judicial Council of California website, www.courts.ca.gov/forms. The forms are available to read in many languages but only the English version can be filed.

What do I need to show the court for it to renew my restraining order?

- Under the law, you will need to show the court that you have a “reasonable apprehension” of future abuse.¹² Apprehension is another word for fear.
- “Reasonable” means that someone in the same circumstances as you would also be likely to fear future abuse without the renewal.¹³
- A reasonable fear of future abuse does not mean abuse will happen or that you are afraid the abuse will happen soon or right away.¹⁴
- While you are allowed to testify in court, you can also write out a declaration that explains your fear and the reasons for your request, and file it along with your request.
- If you have evidence -- such as documents or witnesses -- that can help explain why you have a reasonable fear of future abuse, let the court know about them in your request and be prepared to bring copies of any documents and any witnesses to your court hearing.

Do I have to prove I am afraid of physical abuse in the future or that I will be abused?

- No, you do not need to show fear of future physical abuse.¹⁵ Fear of *any* future abuse is enough. In California, abuse is broadly defined and includes psychological and emotional abuse, actions that “disturb your peace,” and harassment.
- The abuse does not need to be the same type of abuse that was used to make the original restraining order.¹⁶ For example, if there was physical abuse in the past, it does not mean you have to be afraid of physical abuse in the future.
- If the other party has abused your child, then the court should also consider that abuse when deciding whether to renew your order.¹⁷
- You do not have to show future abuse **will happen** without the restraining order. You only need to show that your fear of future abuse is reasonable.¹⁸

What if nothing has really happened since I got the restraining order? Can I still get a renewal?

- Yes, you do not have to show that there has been any abuse since you have had a restraining order.¹⁹
- The fact that the restraining order may be working does not mean the court should not renew it. In fact, it is a good reason to ask for a renewal.²⁰

What if the other party has not been following the orders about not contacting me or staying away?

- Evidence of any violation of a restraining order, even if it is not physical or violent, is strong support for ordering a renewal.²¹ For example, if the restraining order says that the other person cannot contact you unless it is about the children, and the other person has been

¹² *Ritchie v. Konrad* (2004) 115 Cal.App.4th 1275, 1290.

¹³ *Cueto v. Dozier* (2015) 241 Cal.App.4th 550, 559.

¹⁴ *Rybolt v. Riley* (2018) 20 Cal.App.5th 864, 874 citing *Ritchie v. Konrad*, *supra*, at p. 1288.

¹⁵ *Eneaji v. Ubboe* (2014) 229 Cal.App.4th 1457, 1464.

¹⁶ *Eneaji v. Ubboe* (2014) 229 Cal.App.4th 1457, 1464; see also *De la luz Perez v. Torres-Hernandez* (2016) 1 Cal.App.5th 389.

¹⁷ *De la luz Perez v. Torres-Hernandez* (2016) 1 Cal.App.5th 389, 400.

¹⁸ *Ritchie v. Konrad*, *supra*, at p. 1290.

¹⁹ CA Family Code § 6345(a).

²⁰ *Ritchie v. Konrad*, *supra*, at p. 1284.

²¹ *Lister v. Bowen* (2013) 215 Cal.App.4th 319, 335.

contacting you about other things, that is strong support to show your restraining order should be renewed.

- If you have any evidence, including documents or witnesses to show that the other party has violated the restraining order, you can let the court know in your request. Be prepared to bring the documents and witnesses to court.²²

What else will the court think about before renewing my restraining order?

- The trial court will look at the abuse that led to the original restraining order.²³
- The trial court will not allow the other party to try and argue that abuse didn't really happen.²⁴
- The trial court will also consider whether the situation has changed for the better or become worse.²⁵
 - For example, the court may consider whether one of you has moved away; if the other person has taken steps like classes and programs to stop their abuse; if you still have to interact with each other because you have children together; or if the other party is still making negative or angry comments about you, including on social media.
- When a renewal request is based on a fear of *non-physical* abuse, the trial court may also consider the burdens a renewed order would have on the restrained party.²⁶
 - For example, the court can look at whether a renewal would be a burden on the restrained party's job opportunities,²⁷ social life, child custody, and access to firearms.²⁸ However, the burdens have to be real, and the abusive person has to prove them.²⁹
- When a renewal request is based on a fear of *physical* abuse, the court will treat the safety of the protected party as more important than any burdens on the restrained party.³⁰

Can I renew my domestic violence restraining order in family court if my restraining order was issued by a juvenile or dependency court?

- Yes, a family court can renew a domestic violence restraining order issued by a juvenile court or a dependency court.³¹
- Domestic violence restraining orders from juvenile or dependency court are often called juvenile restraining orders or JVROs (Judicial Council Form JV-255). These can be renewed in family court.

Contact FVAP at info@fvaplaw.org or (510) 858-7358 if you have questions about the information in this tip-sheet.

²² It may be helpful to consult with an attorney experienced in domestic violence about what documents and witnesses you should include, especially if that information is confidential such as medical records.

²³ *Ritchie v. Konrad, supra*, at p. 1291.

²⁴ *Ritchie v. Konrad, supra*, at p. 1290.

²⁵ *Ritchie v. Konrad, supra*, at p. 1291; see also *Lister v. Bowen, supra*, at p. 333.

²⁶ *Ritchie v. Konrad, supra*, at pp. 1291-92; see also *Lister v. Bowen, supra*, at p. 333.

²⁷ *Lister v. Bowen, supra*, at p. 333.

²⁸ *Ritchie v. Konrad, supra*, at p. 1291, pp. 1295-96.

²⁹ See *Rybolt v. Riley, supra*, at p. 877.

³⁰ *Ritchie v. Konrad, supra*, at pp. 1291-92; see also *Lister v. Bowen, supra*, at p. 333.

³¹ *Garcia v. Escobar* (2017) 17 Cal.App.5th 257,272; see also *Priscila N. v. Leonardo G.* (2017) 17 Cal.App.5th 1208.

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