



## Family Law

### Various Types of Restraining Orders

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**D**uring a divorce or legal separation case, the parties may need protection for themselves, their children or their property. Restraining orders can protect the parties and their property. There are several types of restraining orders to consider.

First, upon the filing of a divorce or legal separation case, there are initially three "standard mutual restraining orders" which take effect automatically. These restraining orders protect **both** parties, their children and property immediately upon filing an action. The "standard mutual restraining orders" restrain and protect **both** parties from removing the minor children from the state of California, from transferring or concealing in any way disposing of any property of the parties and from cashing, borrowing against or canceling or chang-

ing the beneficiaries of any insurance or other coverage, including life, health, car and disability held for the benefit of the parties and their children without written consent of the other spouse or court order. These restraining orders are enforceable any place in the state by any law enforcement agency that has received mailed notice of the orders or by any officer who has been shown a copy of the orders. These orders remain in effect until the final judgment.

Second, "domestic violence prevention" orders may be obtained in a divorce or legal separation case or independently from that case under the Domestic Violence Prevention Act. Protective orders may be obtained within 24 hours if certain criteria are met. The party must show that "great or irreparable injury" will result if the orders are not

granted. The court must be satisfied that the party has shown acts of abuse in order to grant the restraining order. "Abuse" does not need to be actual infliction of physical injury or assault but the act of placing a person in "reasonable apprehension" of imminent serious bodily injury. These orders may be granted for up to three (3) years.

Third, Protective orders may be obtained on an "emergency" basis in cases of imminently threatened domestic violence, child abuse or child abduction or stalking. A judge or commissioner is available to issue orders by telephone or otherwise, at all times whether or not court is in session. These orders are issued only at the request of a law enforcement officer. Emergency protective orders are limited in duration.

Fourth, parties can obtain "mutual restraining orders" by court order or by their own written agreement. In order for the court to issue "mutual restraining orders", both parties must personally appear and each present to the court written evidence of abuse or domestic violence of the other party. The court must find that both parties acted primarily as aggressors and that neither acted primarily in self defense.

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