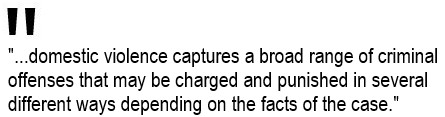
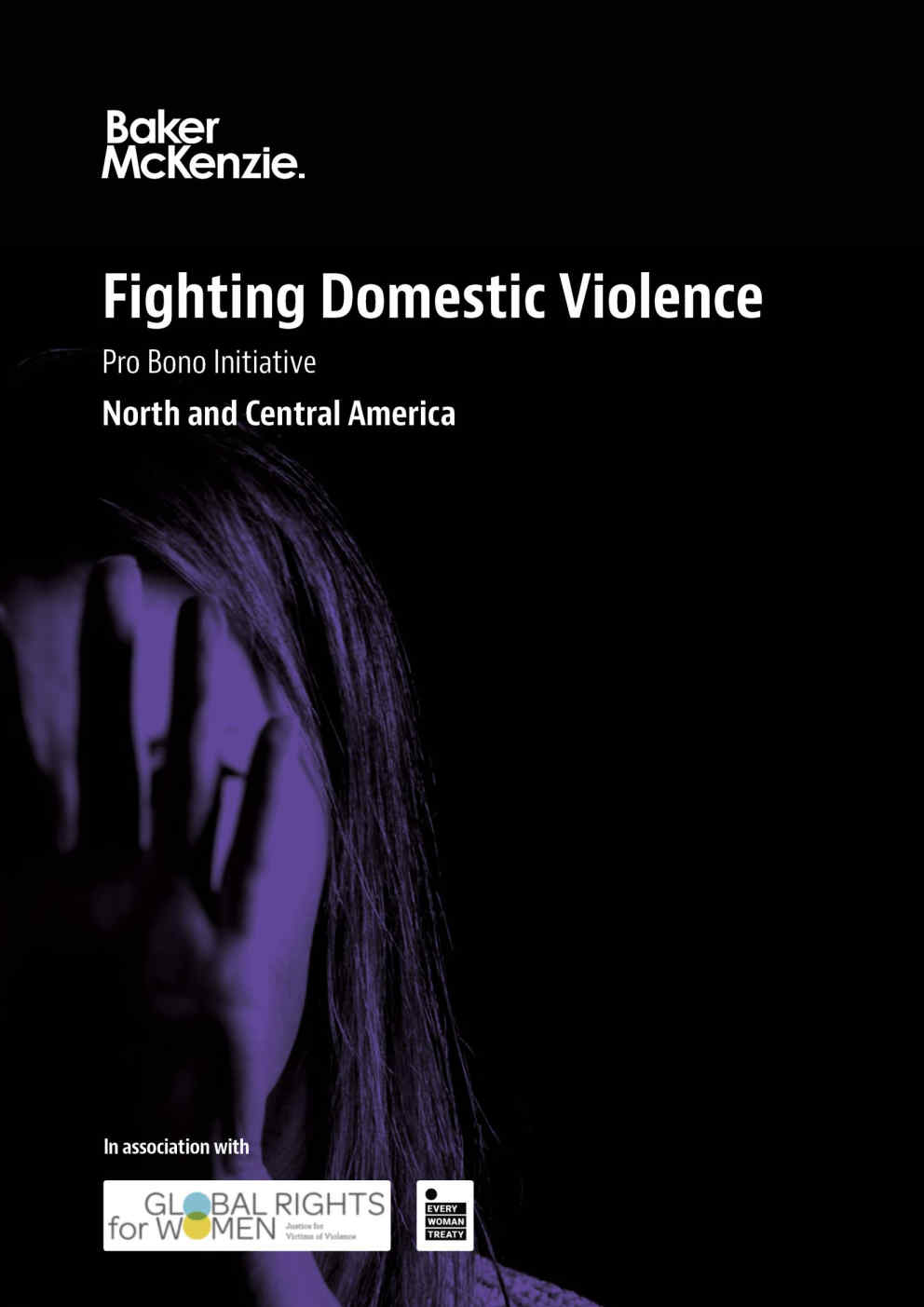
Fighting Domestic Violence - USA - California

| Contents |
| --- |
| To generate table of contents, right-click here and select **Update Field.** |



[USA - California Full Report](https://resourcehub.bakermckenzie.com/en/-/media/fighting-domestic-violence/reports/reports/2022_fdv_usa_california.pdf?sc_lang=en)

**How to use and navigate this report**

# 1. Legal provisions

## Introduction

Most of the laws that apply to victims of domestic violence and sexual assault come from California state laws, for example, laws that deal with protection orders, divorce, custody, crimes, etc. However, there are also federal laws — which apply to all states — that may be relevant for victims of abuse as well. This summary will provide an overview of California state laws that apply to domestic violence.

In California, domestic violence is defined as when your current or former spouse, boyfriend/girlfriend, someone you have a child in common with, someone you live or have lived with, or someone you are related to through blood or marriage[1] does one of the following:

causes or attempts to cause you physical injury

sexually assaults you

makes you fear that you or another person is in danger of immediate and serious physical injury

molests, attacks, batters (uses force) or strikes you

stalks you

threatens or harasses you — either in person or through phone calls, emails or other methods

destroys your personal property

disturbs your peace[2]

The actions listed above are considered “abuse.” It is worth emphasizing that in California abuse does not have to be physical in nature — abuse can be verbal (spoken), emotional or psychological.

In California, domestic violence captures a broad range of criminal offenses that may be charged and punished in several different ways depending on the facts of the case. Less serious domestic violence incidents may be charged as misdemeanors. Some domestic violence charges called “wobblers” (e.g., charges under the California Penal Code (“Penal Code”) Section 273.5, Section 243 and Section 245) may be initially charged as a felony, but subsequently reduced to a misdemeanor. Serious domestic violence incidents are charged as felonies.

## 1.1 What are the relevant statutes and codes?

In respect of California, the following statutes are relevant to cases of domestic violence:

Family Code Section 6203, Section 6211, Section 6218 and Section 6301

Penal Code Section 243(e)(1)

## 1.2 What is the controlling case law?

Coerced sexual activities and coerced debt are also forms of domestic violence. In *People v. Thompson*, 160 Cal. App. 3d 220, 206 Cal. Rptr. 516 (1st Dist. 1984), statute permitting propensity evidence of a defendant’s other acts of domestic violence applies if the charged offense falls within the Family Code definition of domestic violence, even if it does not fall within the more restrictive Penal Code definition.[3]

## 1.3 What are the specific parts of the court system that address domestic violence?

The superior courts handle domestic violence cases.

## 1.4 What are potential causes of action?

Proceedings can be either felonies or misdemeanors, but most crimes of domestic violence are California “wobbler” offenses (i.e., crimes that can be charged as either misdemeanors or felonies). Common crimes include:

corporal injury to a spouse or inhabitant (Penal Code Section 273.5)

domestic battery (Penal Code Section 273.5)

child abuse/endangerment (Penal Code Section 273d and 273a)

elder abuse (Penal Code Section 368)

criminal threats (Penal Code Section 422)

stalking (Penal Code Section 646.9)

aggravated trespass (Penal Code Section 601)

revenge porn (Penal Code Section 647(j)(4))

# 2. Introduction: framework guiding domestic violence law

## 2.1 Are there civil and criminal legal remedies for domestic violence victims?

Yes, the California Constitution, Article I, Section 28(b), also known as Marsy’s Law, entitles victims to restitution.

## 2.2 Is domestic violence identified in national law as a human right (noting that at a European level protection from domestic violence has not been explicitly identified as a human right but is indirectly captured by the other provisions)?

No, domestic violence is not identified at the federal level or by the state of California as a human right.

## 2.3 Has your country signed and ratified the Council of Europe's Istanbul Convention (2011) preventing and combating violence against women and domestic violence (CETS No. 210)?

The United States has not signed CETS No. 210.

## 2.4 If it has ratified the Istanbul Convention, how has this convention been implemented into national law?

N/A

## 2.5 If it has not ratified or signed the Istanbul Convention, is it envisaged that your country will do so?

As the treaty is between the member states of the Council of Europe, it is unlikely that the United States will sign the agreement. However, the United States does have its own laws against domestic violence.

In 1994, the Violence Against Women Act (VAWA) was passed by Congress which made domestic violence a national crime. It is also a crime under Penal Code Section 273.5.

## 2.6 If it has ratified the 1979 Convention, how has the recommendations part of General Comment No. 35 been implemented into national law?

N/A

## 2.7 If the 1979 Convention has not been ratified or signed, is it envisaged that your country will do so?

Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women continues to be debated in the United States. While some members of the United States Congress are in favor of ratifying the agreement, it has never made it to the floor for a full vote by the United States Senate due to partisan political maneuvering.

# 3. Similarities and differences in terminology

## 3.1 Domestic violence

Abuse [defined in 3.1 below] perpetrated against any of the following persons: (a) a spouse or former spouse; (b) a cohabitant or former cohabitant; (c) a person with whom the respondent is having or has had a dating or engagement relationship; (d) a person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent under the Uniform Parentage Act; (e) a child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected; and (f) any other person related by consanguinity or affinity within the second degree.[4]

## 3.2 Stalking

Willfully and maliciously harassing another person or repeatedly following another person and making a credible threat with intent to place that person in reasonable fear for his or her safety or the safety of his or her immediate family.[5]

## 3.3 Harassment

Unlawful violence, a credible threat of violence or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys or harasses the person, and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner.[6]

## 3.4 Victim

A person who is abused, harmed or killed by another person.

## 3.5 Abuser

No definition found.

## 3.6 Civil protection order

A protective order means an order that includes any of the following restraining orders: (a) order enjoining specific acts of abuse; (b) order excluding a person from a dwelling; or (c) order enjoining other specified behavior.[7]

## 3.7 Causes of action

No definition found.

## 3.8 Marital rape

Sexual intercourse with a spouse accomplished under any of the following circumstances: (a) against a person’s will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the person or another; (b) where a person is prevented from resisting due to intoxication and this condition was known or reasonably should have been known; (c) where a person is at the time unconscious of the nature of the act and this is known to the accused; (d) against a victim’s will by threatening to retaliate in the future against the victim or any other person and there is a reasonable possibility the perpetrator will execute the threat; and (e) against the victim’s will by threatening to use authority of a public official to incarcerate, arrest or deport the victim or another.[8]

## 3.9 Are there any other important domestic violence terms defined in relevant domestic violence statutes and codes?

Abuse[9]

To intentionally or recklessly cause or attempt to cause bodily injury.

Sexual assault.

To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.

To engage in any behavior that has been or could be enjoined pursuant to Section 6320 of the Penal Code.

Abuse is not limited to the actual infliction of physical injury or assault.

The [Penal Code Section 243(e)(1)](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=243.&amp;lawCode=PEN) also sets out penalties for battery committed against a spouse, cohabitant, parent of a defendant’s child, former spouse, fiancé or person with whom the defendant is having or has had a dating or engagement relationship.

# 4. Protection for domestic violence victims and relief granted

## 4.1 Civil protection orders

## 4.1.1 Are there civil protection orders available to victims of domestic abuse?

Yes, the following civil protection orders are available:

emergency protective order that lasts up to seven days

temporary restraining order that typically lasts for 20 to 25 days

permanent restraining order that can last up to five years

criminal protective order or “stay-away” order: lasts during the criminal case and for three years after the conclusion of the case[10]

## 4.1.2 Who can petition for civil protection orders?

Married or registered domestic partners, divorced or separated, dating or those that used to date, living together or those that used to live together (but more than roommates), parents who share a child or those in close relations (parent, child, sibling, grandparent, in-law) can petition for a civil protection order.

## 4.1.3 Are there temporary custody of a child or child support orders?

Yes, the court may order a grant to the petitioner or exclusive care of a minor residing in the home of the petitioner or respondent.[11]

## 4.1.4 Is there a provision to order the abuser to move out or stay away from places that the victims frequent?

Yes, the court may order a party to stay away from the family home, home of the other party or shared home.[12]

## 4.1.5 Are there any other types of emergency, preventive and civil protection orders?

N/A

## 4.1.6 Can these orders be requested by direct or indirect victims or legal representatives in children's cases?

N/A

## 4.1.7 Are there different types of civil protection orders, e.g., for a short- term period?

Yes, as set out above.

## 4.1.8 Are ex parte orders permitted without the aggressor being present?

Yes, ex parte orders are permitted under the Family Code 6320-6361.

## 4.1.9 Do emergency orders also extend protection for abuse and intimidation to family members of the victim?

Yes, they cover the victim and any children.

## 4.1.10 How long do the orders last?

Please refer to Section 4.1.1.

## 4.1.11 Please provide any data or hyperlinks to government or NGO websites that include information on how often civil protection orders are issued, and any relevant demographics information, e.g., police reports, convictions, etc.

<https://www.courts.ca.gov/selfhelp-domesticviolence.htm>

## 4.2 Steps for receiving a protective order

## 4.2.1 What documentation is needed to obtain a civil protection order?

Restraining order forms are required and these are available on the California Courts website.[13]

## 4.2.2 Does the victim need to attend a hearing?

For an emergency order, a judge may request to speak with the victim for more information, but this is not always necessary. For a temporary order hearing, the victim must attend.

## 4.2.3 Can you request remedies?

N/A

## 4.2.4 Are there time limits?

Yes, depending on the type of order sought and granted.

## 4.2.5 Are there different rules in emergencies?

Yes, emergency orders do not require a hearing. Judges can issue these orders 24 hours a day and the order starts immediately. This allows the victim time to go to court to file for a temporary restraining order.

## 4.3 Judicial discretion

## 4.3.1 What discretion does a judge have in granting a civil protection order or other protective orders?

N/A

## 4.3.2 Are there age limits on who can obtain orders?

N/A

## 4.4 Restitution and remedies available to victims

## 4.4.1 Can victims obtain reimbursement for costs and restitution paid?

N/A

## 4.4.2 Can they recover wages and profits lost?

N/A

## 4.4.3 Is a separate civil process required?

N/A

# 5. Prosecutorial considerations

## 5.1 Police procedures

## 5.1.1 When do the police get involved in domestic disputes or legal actions?

N/A

## 5.1.2 What circumstances effect law firm involvement?

N/A

## 5.2 Standard of proof

## 5.2.1 Is proof required by any legal means?

N/A

## 5.2.2 Are there any requirements regarding evidence and documents?

N/A

## 5.2.3 Is proof "beyond a reasonable doubt" required?

N/A

## 5.2.4 Is the standard of proof different for ex parte orders?

N/A

## 5.3 Affirmative defenses

## 5.3.1 Are affirmative defenses available to the accused?

N/A

## 5.3.2 Is willful intent required?

N/A

## 5.3.3 Are false accusations punishable for the victim?

N/A

## 5.3.4 How is consent discussed in the law?

N/A

## 5.3.5 Is self-defense or insanity a defense?

N/A

## 5.4 Witness status

## 5.4.1 What is a witness's duty to testify honestly and completely?

N/A

## 5.4.2 Who may abstain from testifying in certain situations?

N/A

## 5.4.3 What potential "excuses" can a witness raise to refuse to testify in a domestic violence action?

N/A

## 5.4.4 What is the impact of domestic violence on witnesses who are children?

N/A

## 5.4.5 Can children be called upon to testify?

N/A

## 5.4.6 What is the effect of a child victim on the charges against the offender?

N/A

## 5.5 Penalties and sentencing; penalty enhancements

## 5.5.1 What are the penalties and sentencing laws for first-time domestic violence offenses?

N/A

## 5.5.2 Are there criminal penalties?

N/A

## 5.5.3 What is the result of a violation of an existing order for protection?

N/A

## 5.5.4 What fines and other penalties are imposed besides incarceration and liberty restriction?

N/A

## 5.6 Post-release restrictions

## 5.6.1 Does the law notify the victim of the offender's release from custody?

N/A

# 6. Special issues

## 6.1 Battered woman syndrome

## 6.1.1 Can lawyers present evidence of battered woman syndrome or other domestic abuse as an affirmative defense to crimes that the battered woman has committed? (Note: Battered Woman Syndrome is accepted by courts in certain jurisdictions to show that battered women can use force to defend themselves and sometimes kill their abusers due to abusive and life-threatening situations.)

Parole boards should consider any information or evidence of battered women syndrome in their decisions, where it appears the criminal behavior was a result of victimization. According to the Board of Parole Hearings: California Code of Regulations Title 15 Section 2239, a history of abuse is not expressly a defense to a criminal act. However, evidence of domestic abuse or “intimate partner battering” is relevant in the context of a claim to self-defense as stated in *People v. Humphrey*, 921 P.2d 1 (1996).

## 6.2 Domestic violence in the workplace

## 6.2.1 Can courts issue orders to protect employees suffering from domestic violence?

Courts can make orders to protect an employee from suffering unlawful violence or credible threats of violence at the workplace including the following:

no harassment or threatening of the employee

no contact or proximity of the employee

no possession of guns

An employer must request a workplace violence restraining order on behalf of an employee who needs protection. The court order can last up to three years and the order can also protect the employee’s certain family or household members and other employees at the employee’s workplace or at the employer’s other workplaces.

These orders will be enforced by law enforcement agencies.[14]

## 6.2.2 Can departure be deemed "for good cause" if related to domestic violence?

Section 1256 of the California Unemployment Insurance Code provides that a claimant may be deemed to have left work for good cause when the claimant leaves work because of “domestic violence abuse.”

In addition, Section 1032 provides that an employer’s reserve account is not subject to charges if it is determined the claimant quit with good cause due to domestic violence abuse.[15]

In determining eligibility for benefits, the code provides that:

An individual may be deemed to have left his or her most recent work with good cause if he or she leaves employment to protect his or her children, or himself or herself from domestic violence abuse.

The claimant’s spouse does not have to be the source of the abuse or threat of abuse, to find good cause for the claimant to leave work. The abuser may be a spouse, a partner, “significant other,” a stalker, etc. To establish that a person has good cause to quit due to domestic violence abuse, the following must be established:

An act or threat of domestic violence abuse occurred.

The claimant or the claimant’s children are the intended victims of the domestic violence abuse.

The claimant has a restraining order, a police report or some other information that identifies the source of the abuse and/or verifies the abuse or threat of abuse.

A leave of absence or a transfer was not available, or would not have resolved the problem, e.g., the claimant has a restraining order against the abuser, but the abuser violates the restraining order.

## 6.2.3 Can family members of domestic violence victims take reasonable leave to help the victim seek treatment or obtain help and services?

The California Labor Code 230(c) allows for an employee to take time off to obtain or attempt to obtain any relief. Relief includes, but is not limited to, a temporary restraining order, restraining order or other injunctive relief, to help ensure the health, safety or welfare of the victim or their child.

State employees are entitled to take leave and use any eligible leave credits available to them to attend to certain family crisis situations.

## 6.3 Immigration

## 6.3.1 Does the law include provisions that are intended to prevent abusers who are citizens or permanent residents from using immigration laws to perpetrate domestic violence against their spouse?

California passed SB 785 in May 2018. This is a bill that prevents the disclosure of the immigration status when individuals come forward to participate in court cases as victims or witnesses, when their immigration status is not relevant to the facts of the case.

## 6.3.2 If battered immigrants cooperate with law enforcement in domestic violence, can they obtain immigration remedies?

In the United States, the federal government usually provides immigration law protections. VAWA contains provisions that are intended to prevent abusers who are United States citizens or permanent residents from using immigration laws to perpetrate domestic violence against their spouse, including allowing battered immigrant spouses to obtain legal immigrant status without having to rely on the cooperation of the abusive spouse. Battered immigrants who cooperate with law enforcement officials in investigating or prosecuting acts of domestic violence may also qualify for a U visa.

## 6.3.3 Does domestic violence law discuss asylum accessibility?

Foreign victims of severe domestic violence and sexual abuse may qualify for asylum status as part of the “membership in a particular social group” category.[16]

## 6.4 Armed forces

## 6.4.1 Can a victim seek a military protective order if the abuser is in active military?

Yes. [10 USC Code §1567(a)](https://www.law.cornell.edu/uscode/text/10/1567) permits military commanders to issue protective orders prohibiting contact or communication with the protected person and is often used in cases concerning abuse by filing [DD Form 2873](https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd2873_2020.pdf).

## 6.5 Child custody and child/spousal support

## 6.5.1 Do judges follow special rules to determine custody or visitation of children in domestic violence cases?

Yes. In domestic violence cases (where a parent has been convicted in a criminal court or there has been a finding of domestic violence in the past five years), the judge must follow Family Code Section 3044 to determine custody or visitation of children. Under Family Code Section 3044, there is a rebuttable presumption that awarding custody to a perpetrator of domestic violence is not in the best interests of the child, and this presumption may only be rebutted by a preponderance of evidence based on specific factors outlined by the code.

## 6.5.2 Can the judge consider the testimonies of the other spouse and the children when determining custody?

Yes. Per [Family Code Section 3042](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3042.&amp;lawCode=FAM), a court must consider the wishes of a child old enough to form “intelligent preference as to custody or visitation” and per [Family Code Section 3080](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM&amp;sectionNum=3080.), there is a presumption, affecting the burden of proof, that joint custody is in the best interests of the child where the parents have agreed.

**Information around coercive family violence under the Divorce Act**

On 29 September 2020, [California S.B. 1141, Chapter 238](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB1141) was signed into law, which amended [Family Code Section 6320](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM&amp;sectionNum=6320.) to clarify that conduct used to establish “coercive control” constitutes abuses under California’s Domestic Violence Prevention Act.

## 6.6 Housing rights of domestic violence victims

## 6.6.1 Does the law include any barriers to prevent landlords from forcing a tenant to move out because they are victims of domestic violence?

Yes. The [California Code of Civil Procedure Section 1161.3](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&amp;sectionNum=1161.3.) stops landlords from making tenants who have been victims of domestic violence move out so long as the abuse has been documented by either a protective order, police report or a qualified third party acting in his or her professional capacity. However, a landlord may end, or refuse to renew, a tenancy if, after giving three days’ notice to correct, (i) the victim allowed the abuser to visit the property, or (ii) the abuser is a physical threat to other tenants or their invitees or their right to use the property.

## 6.6.2 Does the law allow a tenant to terminate his/her lease early due to domestic violence?

Yes. The [California Code of Civil Procedure Section 1946.7](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1946.7.&amp;lawCode=CIV) allows a victim of domestic violence to terminate his or her lease early so long as the tenant provides documented proof that verifies that the abuse occurred. The notice of termination must be given within 180 days of the protective order or police report being issued or within 180 days after the violence occurred. In such case, the victim will be responsible for paying rent for no more than 14 calendar days following delivery to the landlord of the tenant’s termination notice.

## 6.6.3 Can an order exclude the abuser from the residence?

Yes. Per [Family Code Section 6321](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6321.&amp;lawCode=FAM), the court may issue an *ex parte* order excluding a party from a dwelling regardless of which party holds title to the property. [Family Code 6234](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6324.&amp;lawCode=FAM) allows the court to make a temporary move out order, and [Family Code 6340](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6340.&amp;lawCode=FAM) allows the court to issue an order excluding the abuser from the dwelling if it finds that physical or emotional harm would be forced upon the other party or to a minor or person under the care of the victim. Furthermore, a California Appellate Court ruling in 2020[17] reinforced the court’s authority to exclude the abuser from the property regardless of whether the issue of ownership in the property was still being determined in a pending civil suit.

## 6.6.4 Can abusers be forbidden by court orders to alienate or mortgage the property in his/her name if it is the family domicile?

Yes. Per [Family Code Section 2045](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=2045.&amp;lawCode=FAM), a spouse or registered domestic partner who is a victim of domestic violence may ask the court (by completing [Form DV-100](https://www.courts.ca.gov/documents/dv100.pdf)) to issue a domestic violence restraining order prohibiting the abuser from disposing of property, real or personal, whether community, quasi-community or separate, except in the usual course of business or for necessities of life. A judge may also order the abuser to notify the victim of any proposed extraordinary expenditures.

## 6.7 Privacy and confidentiality laws

The [California Invasion of Privacy Act](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&amp;division=&amp;title=15.&amp;part=1.&amp;chapter=1.5.&amp;article=) makes wiretapping a crime and allows victims to file civil suits to recover compensation for the invasion of privacy. However, there are some exceptions to this law. Per [Penal Code Section 633.5](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=633.5.&amp;lawCode=PEN), victims of certain crimes, including domestic violence, may legally record confidential communications if there is a reasonable belief that the communications relate to the crime, and [Penal Code Section 633.6](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=633.6.&amp;lawCode=PEN) allows a victim to use such communications as evidence to obtain a restraining order. The law also provides that a court may grant in a domestic violence restraining order permission for the victim to record confidential communication made by the perpetrator of the crime.

California has created a [Safe at Home](https://www.sos.ca.gov/registries/safe-home) (codified in [Government Code Sections 6205-6216](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6205.&amp;lawCode=GOV)) program administered by the secretary of state’s office that offers victims of domestic violence a substitute mailing address in order to keep the victim from being tracked down by their perpetrator.

# 7. Endnotes

[1]   California Family Code (“**Family Code**”) Section 6211.

[2]    Family Code Sections 6203 and 6320(a).

[3]    *People v. Ogle*, 110 Cal.Rptr.3d 913, 185 Cal.App.4th 1138 (App. 2 Dist. 2010).

[4]    [Family Code 6211](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6211.&amp;lawCode=FAM).

[5]    [Penal Code Sections 240, 242 and 646.9](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=646.9&amp;lawCode=PEN).

[6]    [Ann.Cal.C.C.P. Section 527.6(b)-](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=527.6&amp;lawCode=CCP). Note: specific to seeking temporary restraining order.

[7]    [Family Code 6218](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=FAM&amp;division=10.&amp;title=&amp;part=1.&amp;chapter=&amp;article=).

[8]    [Penal Code 262](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=262.&amp;lawCode=PEN#:~:text=(a)%20Rape%20of%20a%20person,on%20the%20person%20or%20another.).

[9]    [Family Code 6203](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=FAM&amp;division=10.&amp;title=&amp;part=1.&amp;chapter=&amp;article=).

[10]    More info [here](https://www.courts.ca.gov/selfhelp-domesticviolence.htm).

[11]    [Family Code 6320](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6320.&amp;lawCode=FAM) and 6323.

[12]    [Family Code 6321](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6321.&amp;lawCode=FAM).

[13]    Forms linked [here](https://www.courts.ca.gov/documents/dv505info.pdf).

[14]    http://www.courts.ca.gov

[15]    Determinations FOM 08-05-05 and Benefit Determination Guide MI 40.

[16]    Federal, not California specific.

[17]   *Nicole G. v. Braithwaite (2020)* 49 Cal.App.5th 990.

©Copyright © 2025 Baker & McKenzie. All rights reserved. **Ownership**: This documentation and content (Content) is a proprietary resource owned exclusively by Baker McKenzie (meaning Baker & McKenzie International and its member firms). The Content is protected under international copyright conventions. Use of this Content does not of itself create a contractual relationship, nor any attorney/client relationship, between Baker McKenzie and any person. **Non-reliance and exclusion**: All Content is for informational purposes only and may not reflect the most current legal and regulatory developments. All summaries of the laws, regulations and practice are subject to change. The Content is not offered as legal or professional advice for any specific matter. It is not intended to be a substitute for reference to (and compliance with) the detailed provisions of applicable laws, rules, regulations or forms. Legal advice should always be sought before taking any action or refraining from taking any action based on any Content. Baker McKenzie and the editors and the contributing authors do not guarantee the accuracy of the Content and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the Content. The Content may contain links to external websites and external websites may link to the Content. Baker McKenzie is not responsible for the content or operation of any such external sites and disclaims all liability, howsoever occurring, in respect of the content or operation of any such external websites. **Attorney Advertising**: This Content may qualify as “Attorney Advertising” requiring notice in some jurisdictions. To the extent that this Content may qualify as Attorney Advertising, PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. **Reproduction**: Reproduction or copying of the Content on this Site without express written authorization is strictly prohibited.