

SPOUSAL ABUSE

**IT'S COMPLICATED - IT'S SERIOUS - IT REQUIRES
COURAGE - IT REQUIRES GOOD JUDGMENT - IT
REQUIRES SELF-TRUST - IT HAS CONSEQUENCES - IT
CAN BE A WEAPONIZED TOOL IN A DIVORCE CASE - IT
REQUIRES PROTECTION!**

The question posed: How do I protect myself?

If you find yourself in a situation where you are the victim of legitimate spousal abuse:

1. Call 911 and report the abuse for immediate police response and protection – the police have the authority to issue a Temporary Protective Order (usually for 10 days) to protect the abused victim. A victim may consider finding protection by entering a temporary stay at a home for abused Domestic Violence (DV) victims.
2. Find an experience lawyer to engage, prosecute and seek a Domestic Violence Restraining Order (DVRO), which, if sustained by the Court, imposes on the Domestic Violence perpetrator:
 - 2.1 A permanent DVRO (a no violence order, a stay away and no contact order, among others) for 1 to 5 years (with the availability of an extension of the DVRO depending on future circumstances (additional Domestic Violence by the perpetrator or violation(s) of the DVRO);
 - 2.2 An Order that he or she attend 52 weeks of Domestic Violence counseling;
 - 2.3 An order for the perpetrator to surrender any weapons (guns, rifles, etc.) in the possession of the Domestic Violence perpetrator.
 - 2.4 An order that the perpetrator move out of the residence shared with the victim.
3. Most importantly: There are other serious consequences that can impact a Domestic Violence perpetrator in a divorce case. As an example:

- 3.1 A perpetrator of Domestic Violence in a divorce case can, pursuant to Family Code section 3044, create a rebuttable presumption that awarding the perpetrator of domestic violence, sole or joint custody is contrary to the child's best interests, and for the domestic violence perpetrator to gain custody, the perpetrator must prove by a preponderance of the evidence that doing so is in the child's best interest (which can be a difficult burden of proof). The Court weighs several factors, including the safety of the child, completion of a battered intervention program, compliance with the restraining orders, and successful completion of any Court-ordered alcohol, drug or parenting programs. Additionally, the Court could or may order limited visitation (supervised, if warranted) to the domestic violence perpetrator or deny visitation under Family Code section 3031.

The practical effect of a DVRO issued against a perpetrator can seriously limit the perpetrator's custodial/visitation time with the parties' children (and such a situation could be in place for months and possibly beyond one year – until the perpetrator petitions the Court to overcome the strict presumption in Family Code section 3044.

Now – the question you may be eager to ask: What does this cost in attorney's fees to pursue a DVRO (Temporary and Permanent)?

Answer: It depends – it could be expensive – there are public assistance programs or low-cost law firms and even a Los Angeles Superior Court facilitator that can assist a domestic violence victim to pursue a DVRO proceeding *in pro per*. If an abuse victim is successful in sustaining a DVRO after hearing, the victim would be entitled to receive an order from the Court for attorney's fees to be paid by the perpetrator.

Now – let's address real issues that impact the Domestic Violence Restraining Order process:

Weaponization of the DVRO process! **WARNING:** An alleged Domestic Violence victim that makes a false abuse claim (not a victim) and pursues and uses the DVRO process to gain an advantage in a party's divorce case – specifically as it impacts the custody issue, which impacts child support orders and spousal support orders and kick-out orders which topic is the subject for another discussion on another day!

Financial Hardship: Often a DVRO issued against a perpetrator that requires a perpetrator to move-out of the shared residence with limited contact with the parties' children, could (depending upon the parties' income and finances) create substantial financial hardships to both the victim and the perpetrator, not to mention the impact to the parties' children, if the perpetrator's custody/visitation rights are limited and the victims of DV as well!