



Parentage and the DVPA Training: Resources Sheet

This document provides **supplemental resources and information**, including relevant citations, for the recorded webinar entitled “Parentage and the Domestic Violence Prevention Act.” All undesignated statutory references are to the **Family Code**; all rules references are to the **California Rules of Court**.

- California **statutes**: <https://leginfo.legislature.ca.gov/faces/codes.xhtml>
- California **Rules of Court**: <http://www.courts.ca.gov/rules.htm>
- **Judicial Council** court forms: <http://www.courts.ca.gov/forms.htm>

For more information and questions, please contact NCLR and/or FVAP and/or another attorney.

Slide #	Additional Information and Citations
1	National Center for Lesbian Rights (NCLR) <ul style="list-style-type: none"> • http://nclrights.org/ • Email: info@NCLRrights.org • Phone: 415 392 6257 Family Violence Appellate Project (FVAP) <ul style="list-style-type: none"> • https://www.fvaplaw.org/ • Email: info@fvaplaw.org • Phone: 510 858 7358
2	DVPA: § 6200 et seq.
5	Qualifying relationship: § 6211; see also §§ 6205-6210 & 6301; <i>Phillips v. Campbell</i> (2016) 2 Cal.App.5th 844; <i>O’Kane v. Irvine</i> (1996) 47 Cal.App.4th 207 “Abuse”: §§ 6203 & 6320 <ul style="list-style-type: none"> • Can include abuse against the survivor’s child: <i>Gou v. Xiao</i> (2014) 228 Cal.App.4th 812; <i>De la Luz Perez v. Torres-Hernandez</i> (2016) 1 Cal.App.5th 389 FVAP resources: https://www.fvaplaw.org/resources-training.html CPEDV: http://www.cpedv.org/ PBTI: http://pbtraining.org/
6	Content: § 6323, subd. (a)(2)(A); see <i>Gonzalez v. Munoz</i> (2007) 156 Cal.App.4th 413, 421 <ul style="list-style-type: none"> • Gonzalez requested DVRO against Munoz, father of Child (p. 417)

	<ul style="list-style-type: none">• Court issued a one-year DVRO without Child as protected party and without custody and visitation orders (p. 418)• Munoz filed an order to show cause for custody and visitation in county's child support action vis-a-vis Child; court granted custody to Gonzalez, and Munoz got supervised visitation (p. 419) <p>Sole legal custody: § 3006 Sole physical custody: § 3007</p> <p>§ 3064 provides in full: "(a) The court shall refrain from making an order granting or modifying a custody order on an ex parte basis unless there has been a showing of immediate harm to the child or immediate risk that the child will be removed from the State of California.</p> <p>"(b) 'Immediate harm to the child' includes, but is not limited to, the following: "(1) Having a parent who has committed acts of domestic violence, where the court determines that the acts of domestic violence are of recent origin or are a part of a demonstrated and continuing pattern of acts of domestic violence. "(2) Sexual abuse of the child, where the court determines that the acts of sexual abuse are of recent origin or are a part of a demonstrated and continuing pattern of acts of sexual abuse."</p>
7	<p>Content: § 6323, subd. (d); see §§ 3100 & 3101</p> <p>Best interest test: §§ 3011, 3020 & 3040; see §§ 3044 & 3080; see also <i>Keith R. v. Superior Court</i> (2009) 174 Cal.App.4th 1047, 1053-1055</p>
8	<p>Content: § 6323, subd. (c); see § 3031</p> <p>Petitioner can keep address confidential on DVRO court forms: § 6225</p>
9	<p><i>Barkaloff v. Woodward</i> (1996) 47 Cal.App.4th 393</p> <ul style="list-style-type: none">• Woodward was the mother of two children, Children, and a DV survivor (pp. 395-396)• Barkaloff was the abuser and ex-boyfriend of Woodward, and the natural father of one Child; he held himself out to the world as Child's father for the first five years of her life (p. 395)• Garcia was the natural father of one Child and Woodward's eventual husband, after Woodward's relationship with Barkaloff ended (p. 396)• Garcia filed a paternity action for Child and obtained a stipulated judgment, with no visitation for Barkaloff (p. 396)• Woodward sought a DVRO against Barkaloff; they stipulated to mutual DVROs and unsupervised visitation for Barkaloff (p. 396)• Barkaloff then filed a paternity action for both Children (p. 396)

	<ul style="list-style-type: none"> • In DVRO proceeding, Woodward challenged Barkaloff’s right to visit with Child (since Garcia had paternity judgment regarding her); the trial court said that although the UPA would not allow visitation for Barkaloff, the DVPA would (p. 397) • One holding by the court of appeal: “By expressly authorizing ex parte visitation orders in a proceeding commenced under the DVPA only in cases where there is a marital relationship between the parties, the Legislature has implicitly prohibited visitation orders in those proceedings where the parties are not married. [Citation.]” (p. 398) • This holding was abrogated by an amendment to § 6323: stats. 1997, ch. 396, § 2; Cal. Bill. Anal., S.B. 564 Sen., 5/19/1997 (“This bill would require a court to issue an ex parte order regarding visitation of a minor child under the DVPA if the parties are the parents of the child, regardless of their marital relationship.”) • Another holding that is still good law: Barkaloff’s presumption of being the natural father of Child was successfully rebutted because Garcia had obtained a paternity judgment, and Garcia and Woodward objected to Barkaloff having visitation with Child, so the trial court was correct to deny Barkaloff visitation (p. 399)
<p>10</p>	<p>First three points: § 6340, subd. (a) (emphasis added); see <i>De la Luz Perez v. Torres-Hernandez</i> (2016) 1 Cal.App.5th 389, 402-403 (conc. opn. of Streeter, J.); see also <i>Gonzalez, supra</i>, at pp. 422-423</p> <p>Fourth point: § 3044; see <i>Christina L. v. Chauncey B.</i> (2014) 229 Cal.App.4th 731; <i>Celia S. v. Hugo H.</i> (2016) 3 Cal.App.5th 655</p>
<p>11</p>	<p>First point: § 6346</p> <ul style="list-style-type: none"> • UPA: § 7600 et seq. <p>Second point: § 6402, subd. (c)</p> <p>Third point: § 6341, subd. (a)</p>
<p>12</p>	<p>Birth: § 6323, subd. (a)(2)(B)(i)</p> <p>Presumed (see § 7540) or court determined (see § 7541): § 6323, subd. (a)(2)(B)(ii)</p> <p>Adoption: § 6323, subd. (a)(2)(B)(iii)</p> <p>Voluntary declaration: § 6323, subd. (a)(2)(B)(iv)</p> <p>Juvenile court: § 6323, subd. (a)(2)(B)(v)</p> <p>UPA (see § 7600 et seq.): § 6323, subd. (a)(2)(B)(vii)</p> <p>Stipulation: § 6323, subd. (a)(2)(B)(viii)</p>

	<p>Child support reimbursement action (see Welf. & Inst. Code, § 11350.1; <i>County of Ventura v. George</i> (1983) 149 Cal.App.3d 1012, 1016-1017): § 6323, subd. (a)(2)(B)(vi)</p> <ul style="list-style-type: none"> Welf. & Inst. Code, § 11350.1 was repealed by stats. 1999, ch. 478 (AB 196) (see <i>County of Lake v. Palla</i> (2001) 94 Cal.App.4th 418, 422) <p>Exclusive list: § 6323, subd. (b)(1)</p>
13	<p>Second point: § 6323, subd. (a)(2)(B)(iv) Third point: Cal. Rules of Court, rule 5.18(b) provides in full: “If the court is unable to resolve the issue in the proceeding under the Family Code, the court may reserve jurisdiction over the particular issue until such time as the rights of such person and the parties to the proceeding under the Family Code have been determined in a separate action or proceeding.”</p>
14	<p>First two points: § 6360</p> <ul style="list-style-type: none"> UPA: §§ 7710, 7720 & 7730 <p>Third point: Welf. & Inst. Code, § 213.5; <i>Priscilla N. v. Leonardo G.</i> (2017) 17 Cal.App.5th 1208</p>
16	<p>First point: § 7601, subd. (a) Second point: § 7620 Third point: § 7602</p>
17	<p>First point: §§ 7601, subs. (c) & (d) & 7612, subd. (c); see NCLR, Simplified Adoption, p. 3 Second point: § 7700</p>
18	<p>Adoption: see generally § 7610 Methods: § 8500 et seq.</p> <ul style="list-style-type: none"> Streamlined process: § 9000.5 Second-parent: § 8617; see <i>Sharon S. v. Superior Court</i> (2003) 31 Cal.4th 417
19	<p>First point: § 7662, subd. (a)</p> <ul style="list-style-type: none"> Free: § 7670 Stays: § 7662, subd. (c) DVPA: § 7662, subd. (d) <p>Second point: §§ 7660-7671</p>
20	<p>Generally: §§ 7540 & 7611 Second point: § 7611.5 Third point: § 7612</p>

21	Content: <i>L.M. v. M.G.</i> (2012) 208 Cal. App. 4th 133, 139; see § 7612, subd. (c); NCLR, Trans Family Law , at p. 3
22	Definition: § 7606 Generally: §§ 7613 & 7613.5 See also: NCLR, Fact Sheet on Assisted Reproduction Law
23	<p>Generally: § 7613, subd. (b) <i>Jason P. v. Danielle S.</i> (2017) 9 Cal.App.5th 1000</p> <ul style="list-style-type: none"> • Danielle and Jason had an on-and-off dating relationship, and she eventually used his sperm to get pregnant, and she had a child (pp. 1008-1009) • After they broke up, Jason petitioned to be recognized as a presumed parent under § 7611, subd. (d) (p. 1015) • The trial court initially found Jason was not a presumed parent because he was a sperm donor under § 7611, subd. (b), and the court of appeal reversed in a 2014 decision (see 226 Cal.App.4th 167) (p. 1016) • After the first trial, Jason harassed Danielle, and disturbed her peace, with intimidating emails, texts, and phone calls, so Danielle obtained a one-year DVRO in 2013, which was then renewed for five years (pp. 1016-1017) • At the second trial on remand, the court found Jason to be a presumed parent, and, although it found Jason had not rebutted the § 3044 presumption “at this time,” it concluded he would after completing counseling, since the abuse was not physical (pp. 1017-1018) • The court of appeal affirmed Jason was a presumed parent under § 7611, subd. (b) based on his post-birth conduct, albeit not on his biological relationship (pp. 1018-1026) • The court of appeal also conditionally reversed the joint custody order, noting the trial “court was not empowered to award joint custody to Jason, even if that joint custody was to be delayed for six months,” since there was no evidence he had yet rebutted the presumption (pp. 1026-1029)

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