

Sample Statement of Decision Request

Instruction Sheet

This instruction sheet explains how to help clients fill in the sample statement of decision request in a domestic violence restraining order case.

In what circumstances should a client ask for a statement of decision?

If a client is preparing to go to a restraining order hearing and is concerned that the judge may not grant the restraining order, asking for a statement of decision can be a helpful way to memorialize the court's reasoning and can potentially set up the case for appeal.

For more information on statements of decision, including the specific rules on how to ask for a statement of decision and why to ask for one, see FVAP's tip sheet: *How Do I Get a Court's Reasons for Making a Family Court Order When a Court Doesn't Have to Give Its Reasons?*

If your client feels that the court is going to grant the restraining order, she can always tell the court that she does not need the statement of decision any more if she does not want to ask the court for one.

How do I fill in this sample statement of decision?

Clients can fill in this statement of decision request with information specific to their case to submit to the court in advance of the hearing. Below is a line by line description of what they need to fill in.

1. Fill in the basic information (these are highlighted in the text as a reminder to personalize and then un-highlight them):
 - a. The name and address of the petitioner (lines 1-5).
 - b. The county the proceeding is taking place (line 10).
 - c. The petitioner and respondent's names (lines 13 and 19).
 - d. The case number (line 21).
 - e. The client's name (line 28).
2. In numbers 1 and 2 (lines 31 and 32), it asks the court to make findings about credibility. This means that the court has to decide whether it believes what the petitioner and the respondent say in court and why.¹
3. Use numbers three and four (beginning line 33) to describe the acts of abuse that you are asking the court to make findings on. (These are highlighted so you remember to personalize and then un-highlight them.)
 - a. General acts of abuse (Numbers 3.a—e, lines 33-40):

¹ This can be helpful in the context of an appeal. For example, if the court finds that the petitioner's testimony is credible, and she testifies that the respondent hit her multiple times, and then the court denies the restraining order, that would make it potentially easier to appeal.

Here, the client can use general language to ask the court to describe the abuse—for example, if the case is based partly on physical abuse, the client could write, “Did Respondent intentionally or recklessly cause bodily harm to Petitioner?” If the case is based on financial, emotional, and psychological abuse only, then that would not apply, but the client could instead write, for example, “Did Respondent commit an act of abuse that disturbed the Petitioner’s peace?” See additional examples in the sample, and feel free to add them as your client sees fit.

b. Specific incidents of abuse (Numbers 4.a—d, lines 41-45):

In addition to the general language, the client can ask about specific incidences of abuse that she alleges in her declaration. Use the declaration as the guide for filling in the statement of decision. The sample statement of decision has examples of different kinds of incidents that clients can ask the court to make findings about. Where dates are available, put them in.

4. Number 5 (line 46) asks the court generally to provide its reasons for granting or denying the restraining order request. The client does not need to add anything to this.
5. Number 6 (line 47) asks the court to explain why it does not allow the client to present new evidence, if the client wants to present new evidence at trial that was not included in the original DV-100 petition. This can be deleted if the client does not want to present any new evidence of incidents beyond what was already alleged in the DV-100.
6. If custody is requested as part of the DVRO, then the client can add numbers 7-9 (lines 49-61). If not, do not include these items.
7. Fill in the date and the name of the client (line 65), and make sure the client signs the request before filing it.

How do I get more assistance?

Contact **Eliza Duggan** at eduggan@fvaplaw.org or 510-858-7358 for questions or technical assistance on how to create and file a statement of decision request.

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2 Petitioner: [redacted]

3 Address line 1

4 Address line 2

5 Phone: [redacted]

6 email: [redacted]

9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF [redacted]

14 [redacted])

15)

16 Petitioner-Plaintiff,)

17)

18 v.)

19)

20 [redacted])

21)

22 Respondent-Defendant)

23 _____)

24)

REQUEST FOR STATEMENT OF DECISION
PURSUANT TO CODE CIV. PROC., § 632

CASE NUMBER: [redacted]

28 Consistent with Code of Civil Procedure section 632 and California Rules of Court, rule
29 3.1590, Petitioner, [redacted Name], hereby requests that a Statement of Decision be prepared by
30 the court, or at the court's direction, which addresses the factual and legal basis for the Court's
31 decision on the following principal, controverted issues:

- 32 1. Does the Court find Petitioner's testimony to be credible? If not, why not?
- 33 2. Does the Court find Respondent's testimony to be credible? If not, why not?
- 34 3. Does the Court find that Respondent committed a past act or acts of abuse against
- 35 Petitioner? What are they?
 - 36 a. Did Respondent intentionally or recklessly cause bodily harm to Petitioner?
 - 37 b. Were there acts of abuse that disturbed Petitioner's peace? List them.
 - 38 c. Did Respondent harass Petitioner?
 - 39 d. Did Respondent sexually assault Petitioner or force her to engage in sex?

- 40 e. Did Respondent place Petitioner in reasonable apprehension of imminent harm to
41 her children? Her mother? Her dog?
- 42 4. Does the court find that the following incidents occurred?
- 43 a. Did Respondent hit Petitioner on the back of her head on 01/14/16?
- 44 b. Did Respondent grab Petitioner's breast at her work after they broke up?
- 45 c. Did Respondent telephone Petitioner 675 times in the course of a week?
- 46 d. Did Respondent go to Petitioner's workplace and yell at her on 04/03/16?
- 47 5. What are your reasons for granting or denying Petitioner's restraining order request?
- 48 6. If this court does not allow Petitioner to present evidence at the hearing that was not
49 included as part of her DV-100 request for a restraining order, please explain the reasons.
- 50 7. Does Family Code § 3044 apply (presumption against awarding joint or sole custody to a
51 parent who has perpetrated domestic violence)? If not, why not?
- 52 8. If this court has made a finding that Respondent has perpetrated an act or acts of domestic
53 violence against Petitioner, and this court awards joint or sole custody to the Respondent,
54 which § 3044 factors did the court consider? Please explain how each was applied.
- 55 a. Has OP successfully completed batterers' intervention?
- 56 b. Is OP on probation or parole? Has OP complied with its terms?
- 57 c. Is OP restrained by a protective order, including a Temporary Restraining Order?
58 Has OP complied with its terms?
- 59 d. Has OP committed any further acts of domestic violence? What and against
60 whom?
- 61 e. Has OP successfully completed any court-ordered parenting classes?
- 62 f. Has OP successfully completed any alcohol or drug abuse counseling?
- 63 g. Is there any finding that OP habitually uses drugs or alcohol?
- 64 9. How does the custody exchange order protect Petitioner's safety?

65

66

67 Dated: _____

Signed: _____

68

(Name) _____

69

Petitioner

70