

Federal and State Laws: Relationship Violence - California

Relationship Violence Laws

Domestic Violence

California law defines *domestic violence* as abusive behavior between two people who:

- have dated, married, or lived together
- have a child in common
- are related by blood or marriage
- are parent and child

Domestic and dating abuse can be spoken, written, or physical, and includes:

- sexual assault
- actual or attempted physical injury
- causing fear of imminent serious bodily injury
- threatening, harassing, stalking, disturbing their peace, or destroying their personal property
- emotional abuse, financial or property control, or other coercive and controlling behaviors

Statutes

California Law

Domestic and Dating Violence Statutes

The Legislature finds and declares all of the following:

(a) Every person has a right to be safe and free from violence and abuse in his or her home and intimate relationships.

(b) Domestic violence is a pervasive public safety and public health problem that affects people of all income levels, cultures, religions, ages, ethnic backgrounds, sexual orientations, and neighborhoods.

- (c) Domestic violence is not limited to actual and threatened physical acts of violence, but also includes sexual abuse, stalking, psychological and emotional abuse, financial control, property control, and other behaviors by the abuser that are designed to exert coercive control and power over the victim.
- (d) There is a positive correlation between domestic violence and child abuse, and children, even when they are not physically assaulted, suffer deep and lasting emotional, health, and behavioral effects from exposure to domestic violence.
- (e) Domestic violence victims face significant barriers to safely leaving an abusive relationship, including, but not limited to, a risk of retaliation and escalated violence by the abuser, concerns over the safety and custody of their children, an impending loss of financial support and housing, the responsibility for other household members and pets, and difficulties accessing legal and community systems to seek protection from abuse.
- (f) Studies have shown that obtaining a civil protective order against an abuser can increase a victim's safety, decrease a victim's fear of future harm, and improve a victim's overall sense of well being and self-esteem.
- (g) Because the issuance of civil protective orders often results in declines in domestic violence, public money spent on protective order intervention produces significant cost savings to society, including decreasing victims' time off from work, property loss, use of health services, and use of community, legal, and criminal justice interventions.
- (h) Civil protective orders are most effective when they offer comprehensive relief to address the various barriers victims face when safely separating from an abuser, are specific in their terms, and are consistently enforced.
- (i) For these reasons, the effective issuance and enforcement of civil protective orders are of paramount importance in the State of California as a means for promoting safety, reducing violence and abuse, and preventing serious injury and death.

California Codes
Family Code
Division 10 Prevention of Domestic Violence
Part 1. Short Title and Definitions

Section 6203. "Abuse"

(a) For purposes of this act, "abuse" means any of the following:

- (1) To intentionally or recklessly cause or attempt to cause bodily injury.
- (2) Sexual assault.
- (3) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.
- (4) To engage in any behavior that has been or could be enjoined pursuant to Section 6320. *[Note: "Section 6320 behavior" includes "molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, ... (content omitted for clarity) harassing, telephoning, including, but not limited to, making annoying telephone calls, ... (content omitted for clarity) destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the other party, and, in the discretion of the court, on a showing of good cause, of other named family or household members."]*

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

Section 6205. "Affinity,"

"Affinity," when applied to the marriage relation, signifies the connection existing in consequence of marriage between each of the married persons and the blood relatives of the other.

Section 6209. "Cohabitant"

"Cohabitant" means a person who regularly resides in the household. "Former cohabitant" means a person who formerly regularly resided in the household.

Section 6210. "Dating relationship"

"Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affection or sexual involvement independent of financial considerations.

Section 6211. "Domestic violence"

"Domestic violence" is abuse perpetrated against any of the following persons:

- (a) A spouse or former spouse.

- (b) A cohabitant or former cohabitant, as defined in Section 6209.
- (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 ... *[content omitted for clarity]*
- (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.
- (f) Any other person related by consanguinity or affinity within the second degree.

California Codes

Penal Code

Part 1. Of Crimes and Punishments

Title 8. Of Crimes Against the Person

Chapter 9. Assault and Battery

Section 243. Punishment for battery generally; Punishment for battery against specified officers or others

(a) A battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.

.... *[Content omitted for clarity]*

(d) When a battery is committed against any person and serious bodily injury is inflicted on the person, the battery is punishable by imprisonment in a county jail not exceeding one year or imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

(e)

(1) When a battery is committed against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship, the battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail for a period of not more than one year, or by both that fine and imprisonment. If probation is granted, or the execution or imposition of the sentence is suspended, it shall be a condition thereof that the defendant participate in, for no less than one year, and successfully complete, a batterer's treatment program ... *[content omitted for clarity]*, or if none is available,

another appropriate counseling program designated by the court ... *[content omitted for clarity]*

.... *[Content omitted for clarity]*

(f) As used in this section:

.... *[Content omitted for clarity]*

(4) "Serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

.... *[Content omitted for clarity]*

(10) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement independent of financial considerations.

.... *[Content omitted for clarity]*

.... *[Content omitted for clarity.]*

California Codes

Penal Code

Part 1. Of Crimes and Punishments

Title 9. Of Crimes Against the Person Involving Sexual Assault, and Crimes Against Public Decency and Good Morals

Chapter 1. Rape, Abduction, Carnal Abuse of Children, and Seduction

Section 264.2. Provision of "Victims of Domestic Violence Card"; Notice to local rape victim counseling center; Right to sexual assault victim counselor and another support person

(a) Whenever there is an alleged violation or violations of ... *[content omitted for clarity]* [243(e)

(1) *involving a battery against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship]*, the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the "Victims of Domestic Violence" card ... *[content omitted for clarity]*

[Pursuant to California Penal Code § 13701, The "Victims of Domestic Violence" card shall include:

- (i) The names and phone numbers of or local county hotlines for, or both the phone numbers of and local county hotlines for, local shelters for battered women and rape victim counseling centers within the county, including those centers specified in Section 13837, and their 24-hour counseling service telephone numbers.
 - (ii) A simple statement on the proper procedures for a victim to follow after a sexual assault.
 - (iii) A statement that sexual assault by a person who is known to the victim, including sexual assault by a person who is the spouse of the victim, is a crime.
 - (iv) A statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime.]
- (b)
- (1) The law enforcement officer ... *[content omitted for clarity]* shall immediately notify the local rape victim counseling center, whenever a victim of an alleged [rape] is transported to a hospital for any medical evidentiary or physical examination. The hospital may notify the local rape victim counseling center, when the victim ... *[content omitted for clarity]* is presented to the hospital for the medical or evidentiary physical examination, upon approval of the victim. The victim has the right to have a sexual assault counselor ... *[content omitted for clarity]* and a support person of the victim's choosing present at any medical evidentiary or physical examination.
 - (2) Prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault, the medical provider shall give the victim the card described in subdivision (a) of Section 689.2. This requirement shall apply only if the law enforcement agency has provided the card to the medical provider in a language understood by the victim.
 - (3) The hospital may verify with the law enforcement officer, or his or her agency, whether the local rape victim counseling center has been notified, upon the approval of the victim.

- (4) A support person may be excluded from a medical evidentiary or physical examination if the law enforcement officer or medical provider determines that the presence of that individual would be detrimental to the purpose of the examination.
- (5) After conducting the medical evidentiary or physical examination, the medical provider shall give the victim the opportunity to shower or bathe at no cost to the victim, unless a showering or bathing facility is not available.
- (6) A medical provider shall, within 24 hours of obtaining sexual assault forensic evidence from the victim, notify the law enforcement agency having jurisdiction over the alleged violation if the medical provider knows the appropriate jurisdiction. If the medical provider does not know the appropriate jurisdiction, the medical provider shall notify the local law enforcement agency.

California Codes

Penal Code

Part 1. Of Crimes and Punishments

Title 9. Of Crimes Against the Person Involving Sexual Assault, and Crimes Against Public Decency and Good Morals

Chapter 2. Abandonment and Neglect of Children

Section 273.5. Infliction of injury on present or former spouse, present or former cohabitant, present or former fiancé/fiancée, present or former dating partner, or parent of child;

Punishment; Conditions of probation; Issuance of restraining order

(a) Any person who willfully inflicts corporal injury resulting in a traumatic condition upon a victim described in subdivision (b) is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000) or by both that fine and imprisonment.

(b) Subdivision (a) shall apply if the victim is or was one or more of the following:

- (1) The offender's spouse or former spouse.
- (2) The offender's cohabitant or former cohabitant.
- (3) The offender's fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, as defined in paragraph (10) of subdivision (f) of Section 243 ["Dating relationship" means frequent, intimate

associations primarily characterized by the expectation of affectional or sexual involvement independent of financial considerations].

(4) The mother or father of the offender's child.

(c) Holding oneself out to be the spouse of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

(d) As used in this section, "traumatic condition" means a condition of the body, such as a wound, or external or internal injury, including, but not limited to, injury as a result of strangulation or suffocation, whether of a minor or serious nature, caused by a physical force. For purposes of this section, "strangulation" and "suffocation" include impeding the normal breathing or circulation of the blood of a person by applying pressure on the throat or neck.

(e) For the purpose of this section, a person shall be considered the father or mother of another person's child if the alleged male parent is presumed the natural father under Sections 7611 and 7612 of the Family Code.

(f)

(1) Any person convicted of violating this section for acts occurring within seven years of a previous conviction under subdivision (a), or subdivision (d) of Section 243 [battery resulting in serious bodily injury], or Section 243.4 [sexual battery], 244 [using vitriol, corrosive, acid, flammable substance, or caustic chemicals with intent to injure or disfigure another person], 244.5 [committing an assault with a stun gun or less lethal weapon], or 245 [committing an assault with a firearm or other deadly weapon], shall be punished by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison for two, four, or five years, or by both imprisonment and a fine of up to ten thousand dollars (\$10,000).

(2) Any person convicted of a violation of this section for acts occurring within seven years of a previous conviction under subdivision (e) of Section 243 shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to ten thousand dollars (\$10,000), or by both that imprisonment and fine.

.... [Content omitted for clarity.]

California Codes
Penal Code
Part 4. Prevention of Crimes and Apprehension of Criminals
Title 5. Law Enforcement Response to Domestic Violence
Chapter 1. General Provisions

Section 13700. Definitions
As used in this title:

- (a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.
- (b) "Domestic violence" means abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as spouses, (5) the continuity of the relationship, and (6) the length of the relationship.
- (c) "Officer" means any officer or employee of a local police department or sheriff's office, and any peace officer of the Department of the California Highway Patrol, the Department of Parks and Recreation, the University of California Police Department, or the California State University and College Police Departments, as defined in Section 830.2, a peace officer of the Department of General Services of the City of Los Angeles, as defined in subdivision (c) of Section 830.31, a housing authority patrol officer, as defined in subdivision (d) of Section 830.31, a peace officer as defined in subdivisions (a) and (b) of Section 830.32, or a peace officer as defined in subdivision (a) of Section 830.33.
- (d) "Victim" means a person who is a victim of domestic violence.

California Codes

Penal Code

Part 4. Prevention of Crimes and Apprehension of Criminals

Title 2. Sentence Enhancements

Section 12022.7. Bodily harm inflicted during commission of felony not having bodily harm as an element

.... *[Content omitted for clarity.]*

(e) Any person who personally inflicts great bodily injury under circumstances involving domestic violence in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for three, four, or five years. As used in this subdivision, "domestic violence" has the meaning provided in subdivision (b) of Section 13700.

(f) As used in this section, "great bodily injury" means a significant or substantial physical injury.

.... *[Content omitted for clarity.]*

California Law

Spousal Rape Statute

California Codes

Penal Code

Part 1. Of Crimes and Punishments

Title 9. Of Crimes Against the Person Involving Sexual Assault, and Crimes Against Public Decency and Good Morals

Chapter 1. Rape, Abduction, Carnal Abuse of Children, and Seduction

Section 262. Spousal Rape

(a) Rape of a person who is the spouse of the perpetrator is an act of sexual intercourse accomplished under any of the following circumstances:

(1) Where it is accomplished 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.

(2) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known, by the accused.

(3) Where a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(A) Was unconscious or asleep.

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(5) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official ... *[content omitted for clarity]* The perpetrator does not actually have to be a public official.

(b) As used in this section, "duress" means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in apprising the existence of duress.

(c) As used in this section, "menace" means any threat, declaration, or act that shows an intention to inflict an injury upon another ...

.... *[Content omitted for clarity]*

Section 263. Penetration

The essential guilt of rape consists in the outrage to the person and feelings of the victim of the rape. Any sexual penetration, however slight, is sufficient to complete the crime.