

## California False Imprisonment Lawyer

### Overview of Penal Code sections 236-237

A common crime that is associated with domestic violence is false imprisonment. California Penal Code section 236 defines false imprisonment as the unlawful violation of the personal liberty of another. In layman's terms, it basically means preventing someone from leaving an area, either by locking them in a room or holding them so they cannot escape. California Penal Code section 237 sets out the penalties for false imprisonment as follows:

- (a) False imprisonment is punishable by a fine not exceeding one thousand dollars (\$1000), or by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. If the false imprisonment be affected by violence, menace, fraud, or deceit, it shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170.
- (b) False imprisonment of an elder or dependent adult by use of violence, menace, fraud, or deceit shall be punishable as described in subdivision (f) of Section 368.

Penal Code section 368(f) states that a person who commits the false imprisonment of an elder or dependent adult by the use of violence, menace, fraud or deceit is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three or four years.

To put this in simpler terms, false imprisonment is usually a misdemeanor where the maximum punishment is a year in county jail. However, if there is "violence, menace, fraud or deceit" involved, then the crime is a wobbler, which means it can be punished as either a misdemeanor or a felony. And if it's a felony, the maximum is three years pursuant to Penal Code section 1170(h) – aka "county prison". And if there's "violence, menace, fraud or deceit" involved AND the victim is an elder or dependent adult, then the maximum punishment is four years pursuant to Penal Code section 1170(h).

### ELEMENTS

The elements of false imprisonment are:

1. The defendant intentionally restrained or detained or confined a person [by violence or menace]; AND
2. The defendant's act made that person stay or go somewhere against that person's will.

### DEFENSES

There are multiple defenses to false imprisonment. A defendant can establish that the restraint was lawful – for example detaining a suspect in a crime. Another example of lawful false imprisonment would be holding someone as part of self-defense or defense of another. A parent could be accused of false imprisonment of a child, but that crime is very difficult to prove because parents have the legal right to use reasonable parental discipline or authority to control their children.

### Other Consequences

Not only can a false imprisonment conviction lead to criminal penalties, but it can also have drastic firearm, employment, licensing, and immigration consequences. Although misdemeanor false

imprisonment does not lead to firearm restrictions, a conviction for felony false imprisonment will lead to a lifetime ban on firearms. Also, having a false imprisonment conviction can prevent a person from finding a job or lead to a person being fired from their current job. Furthermore, many professions that require licensing from a state board, such as doctors, nurses, lawyers, contractors, teachers, real estate agents and stockbrokers, all require background checks. A professional who has a false imprisonment conviction on their record risks losing their professional license, or never acquiring it in the first place. Perhaps the most severe impact of any false imprisonment conviction involves immigration consequences. Non-citizens who are permanent residents (green card holders) or temporary visitors, with a visa, can be denied admission, naturalization or even deported, with a false imprisonment conviction on their record.