

California Domestic Violence Lawyer

Overview of Penal Code section 243(e)(1)

Violence committed against a spouse, partner or roommate is usually defined as domestic violence. If a person commits a battery on their spouse or significant other or roommate, but the battery does not result in an injury, the person can be charged with misdemeanor domestic violence under Penal Code section 243(e)(1). The maximum punishment for this crime is one year in jail but conviction also requires the defendant to complete a one-year domestic violence program.

Elements

The District Attorney's office has to show each of the following elements, **beyond a reasonable doubt**, in order to prove the crime of misdemeanor domestic violence:

- The defendant willfully and unlawfully touched the victim in a harmful or offensive manner;
- The victim is the defendant's current or former spouse, cohabitant, fiancée, person with whom defendant has current or previous dating relationship, or father/mother of defendant's child;
- The defendant did not act in self-defense.

Other factors:

- Someone commits an act willfully when he or she does it willingly or on purpose. It is not required that he or she intend to break the law, hurt someone else, or gain any advantage.
- The slightest touching can be enough to commit a battery if it is done in a rude or angry way. Making contact with another person, including through his or her clothing, is enough. The touching does not have to cause pain or injury of any kind.
- The touching can be done indirectly by causing an object or someone else to touch the other person.
- "Cohabitants" means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship.

These elements can be found in CalCrim 841 of the Jury Instructions.

Other Consequences

Not only can a domestic violence conviction lead to criminal penalties, but it can also have drastic firearm, employment, licensing and **immigration consequences**. Penal Code section 243(e)(1) is one of the few misdemeanors that results in a 10-year ban on firearms. Also, having a domestic violence 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 stock brokers, all require background checks. A professional who has a domestic violence conviction on their record risks losing their professional license, or never acquiring it in the first place. Perhaps the most severe impact of any domestic violence 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 domestic violence conviction on their record.

The Right Lawyer

Choosing the right criminal defense lawyer will be the most important decision someone can make when facing criminal threats charges. Many people who face domestic violence charges are good people who made a mistake or exercised poor judgment. There are also some people who have been wrongfully accused of domestic violence, based on a misunderstanding or false evidence. You need an attorney who will listen to your side of the story carefully, who will evaluate the evidence thoroughly, who will negotiate with the judge and the District Attorney's office skillfully, and who will fight in trial aggressively. You need an attorney like Fred Thiagarajah.

As a former Deputy District Attorney, Fred Thiagarajah has the negotiating skills and trial experience necessary to get the best results for his clients. At the District Attorney's office, Fred Thiagarajah was assigned to the domestic violence unit and prosecuted hundreds of domestic violence cases. He now uses that specialized knowledge to fight on behalf of clients accused of domestic violence. Fred has won over 90% of all his domestic violence cases set for jury trial. If you want the Right Results, you need the Right Lawyers.

Make the Right Choice!TM

