

AMENDED IN SENATE JUNE 19, 2002

AMENDED IN ASSEMBLY MAY 23, 2002

AMENDED IN ASSEMBLY APRIL 18, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 3028

**Introduced by Committee on Judiciary (Corbett (Chair), Dutra,
Jackson, Longville, Shelley, Steinberg, and Wayne)**

March 12, 2002

An act to repeal and add Chapter 5.5 (commencing with Section 6400) of Division 3 of the Business and Professions Code, to amend Sections 228, 527.6, ~~and 527.8~~ 527.8, and 1987 of the Code of Civil Procedure, to amend Sections 2106 and 3111 of the Family Code, to amend Sections 7.6, 68085, 68203.1, and 68516 of, to add Section 69645 to, and to repeal Sections 69510, 69510.5, and 69510.6 of, the Government Code, *to amend Section 1328 of the Penal Code*, and to amend Sections 213.5 and 827 of the Welfare and Institutions Code, relating to courts, *and making an appropriation therefor*.

LEGISLATIVE COUNSEL'S DIGEST

AB 3028, as amended, Committee on Judiciary. Court procedures.

(1) Existing law defines and regulates the activities of a legal document assistant *and unlawful detainer assistant*. Existing law requires a legal document assistant *or unlawful detainer assistant* to register in the county in which his or her principal place of business is located and restricts the type of information that he or she may provide for compensation. Existing law exempts from this regulation certain persons, including immigration consultants, registered process servers,

and providers of services that are regulated by federal law. Existing law prescribes minimum qualifications to register as a legal document assistant *or unlawful detainer assistant*.

Existing law requires an applicant for registration as a legal document assistant *or unlawful detainer assistant* to be denied if, among other things, the applicant has suffered certain criminal convictions. Existing law requires each county to maintain a register of legal document assistants *and unlawful detainer assistants*. Existing law proscribes certain fraudulent conduct by a legal document assistant *or unlawful detainer assistant*. Existing law makes a violation of certain of its provisions by a legal document assistant *or unlawful detainer assistant* a misdemeanor.

Existing law provides for the repeal of these provisions on January 1, 2003, or the date the Director of the Department of Consumer Affairs suspends those requirements, whichever first occurs.

This bill instead would ~~make~~ *revise* these requirements, *as specified, and make them* operative indefinitely *and expand the criminal penalties*. By extending indefinitely *and expanding* the definition of a crime, and *extending indefinitely* the *duties regarding the* registration of legal document assistants ~~duties~~ *and unlawful detainer assistants* applicable to counties, the bill would impose a state-mandated local program.

The bill would also revise the bonding requirements and impose new advertising requirements under these provisions.

(2) Existing law authorizes a person who has suffered harassment, as defined, to seek a temporary restraining order and an injunction prohibiting the harassment. Existing law authorizes the court, on a showing of good cause, to issue a temporary restraining order which protects other named family or household members who reside with the person.

This bill also would authorize the court to issue an injunction which protects other named family or household members who reside with the person who is being subject to harassment under those circumstances.

(3) Under existing law, any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an injunction on behalf of the employee prohibiting further unlawful violence or threats of violence by that individual. Existing law authorizes the court, on a showing of good cause, to issue a temporary



restraining order which protects other named family or household members who reside with the person.

This bill also would authorize the court to issue an injunction which protects other named family or household members who reside with the person who is being subject to that violence under those circumstances.

(4) *Existing law provides for the service of a responsible party if service of a subpoena is to be made on a minor.*

This bill would also require service of the subpoena to be made upon the designated agent for service at the county child welfare department or probation department if the minor meets specified criteria.

(5) Existing law requires a report of a child custody evaluator to be filed with the clerk of the court in which a contested custody or visitation rights hearing will be conducted and served on the parties and their attorneys at least 10 days before the hearing.

This bill also would require that report to be served on any counsel appointed, as specified, for the child.

~~(5)~~

(6) *Existing law establishes the Trial Court Trust Fund and the Trial Court Improvement Fund, and provides for the apportionment of the moneys in these funds.*

This bill would make an appropriation by authorizing the Judicial Council to authorize the direct payment of costs for trial court programs, and requiring the Judicial Council at least quarterly to request the Controller's Office to transfer amounts from these funds as a reimbursement to the support appropriation for these programs, as specified. The bill would also require the Judicial Council to file specified reports and establish certain procedures in this regard.

(7) *Existing law establishes a salary increase for presiding judges of superior courts with 4 or more judges. Under the Constitution, laws that set the salaries of elected state offices constitute appropriations.*

This bill would make an appropriation by establishing a 2% salary increase, operative January 2, 2003, for presiding judges of superior courts with 2 or 3 judges.

(8) Existing law provides that any officer whose office is created by the California Constitution and who is made a member of a state board, commission, or committee, or of the governing body of any state agency or authority may designate a deputy of his or her office holding a specified position to act as the member in the constitutional officer's place and stead, to all intents and purposes as though the constitutional officer were personally present. Existing law expressly provides the



circumstances under which the Lieutenant Governor, Attorney General, and Superintendent of Public Instruction may designate a deputy of his or her office for that purpose.

This bill would expressly provide that the Chief Justice of the California Supreme Court may designate a judge or employee of a state court or an employee of the Administrative Office of the Courts to act as a deputy for those purposes.

~~(6)~~

(9) Existing law authorizes the Judicial Council to establish a tax-exempt public benefit nonprofit corporation, or other tax-exempt entity, for the purposes of undertaking or funding any survey, study, publication, proceeding, or other activity authorized by law to be undertaken by the Judicial Council.

This bill would authorize employees of the Administrative Office of the Courts to establish, staff, and maintain a tax-exempt public benefit nonprofit corporation, or other tax-exempt entity, if the activities are exclusively directed at research and educational programs authorized by the Judicial Council for the support of the judiciary.

~~(7)~~

(10) Under existing law, a majority of the judges of a superior court may order sessions of the court to be held at any place where a municipal court holds sessions within the county or, in a county in which there is no municipal court, where there is a court facility.

This bill instead would require each trial court to determine the number and location of sessions of the court, taking into consideration the employees and facilities of the court. The bill would authorize the session to be held outside the county of the court under certain circumstances.

~~(8)~~

(11) Existing law provides that after a petition has been filed to declare a child a dependent child of the juvenile court, and after a petition has been filed to declare a child a ward of the juvenile court, court may issue ex parte orders enjoining any person from molesting, attacking, threatening, sexually assaulting, stalking, or battering the child, among other things.

Existing law provides that if a temporary restraining order is granted without notice, the matter is required to be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the



temporary restraining order is granted. Existing law authorizes the court, on the motion of the person seeking the restraining order, or on its own motion, to shorten the time for service on the person to be restrained of the order to show cause.

This bill would permit the court, upon its own motion or the filing of an affidavit by the person seeking the restraining order, to find that the person to be restrained could not be served within the time required by law and to reissue an order previously issued and dissolved by the court for failure to serve the person to be restrained.

~~(9)~~

(12) Existing law provides that the juvenile case file of a minor may only be inspected by certain persons, including the attorneys for the parties.

This bill would authorize those files to be inspected by attorneys who represent persons who are, or have been, the subjects of petitions filed in juvenile court, as specified.

~~(10)~~

(13) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: ~~majority~~ ^{2/3}. Appropriation: ~~no~~ ^{yes}. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Chapter 5.5 (commencing with Section 6400) of
- 2 Division 3 of the Business and Professions Code is repealed.
- 3 SEC. 2. Chapter 5.5 (commencing with Section 6400) is
- 4 added to Division 3 of the Business and Professions Code, to read:
- 5



1 CHAPTER 5.5. LEGAL DOCUMENT ASSISTANTS AND UNLAWFUL
2 DETAINER ASSISTANTS

3
4 Article 1. General Provisions

5
6 6400. (a) “Unlawful detainer assistant” means any
7 individual who for compensation renders assistance or advice in
8 the prosecution or defense of an unlawful detainer claim or action,
9 including any bankruptcy petition that may affect the unlawful
10 detainer claim or action.

11 (b) “Unlawful detainer claim” means a proceeding, filing, or
12 action affecting rights or liabilities of any person that arises under
13 Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of
14 the Code of Civil Procedure and that contemplates an adjudication
15 by a court.

16 (c) “Legal document assistant” means:

17 (1) Any person who is not exempted under Section 6401 and
18 who provides, or assists in providing, or offers to provide, or offers
19 to assist in providing, for compensation, any self-help service to
20 a member of the public who is representing himself or herself in
21 a legal matter, or who holds himself or herself out as someone who
22 offers that service or has that authority. This paragraph does not
23 apply to any individual whose assistance consists merely of
24 secretarial or receptionist services.

25 (2) A corporation, partnership, association, or other entity that
26 employs or contracts with any person not exempted under Section
27 6401 who, as part of his or her responsibilities, provides, or assists
28 in providing, or offers to provide, or offers to assist in providing,
29 for compensation, any self-help service to a member of the public
30 who is representing himself or herself in a legal matter or holds
31 himself or herself out as someone who offers that service or has
32 that authority. This paragraph does not apply to an individual
33 whose assistance consists merely of secretarial or receptionist
34 services.

35 (d) “Self-help service” means all of the following:

36 (1) Completing legal documents in a ministerial manner,
37 selected by a person who is representing himself or herself in a
38 legal matter, by typing or otherwise completing the documents at
39 the person’s specific direction.



1 (2) Providing general published factual information that has
2 been written or approved by an attorney, pertaining to legal
3 procedures, rights, or obligations to a person who is representing
4 himself or herself in a legal matter, to assist the person in
5 representing himself or herself. This service in and of itself, shall
6 not require registration as a legal document assistant.

7 (3) Making published legal documents available to a person
8 who is representing himself or herself in a legal matter.

9 (4) Filing and serving legal forms and documents at the specific
10 direction of a person who is representing himself or herself in a
11 legal matter.

12 (e) “Compensation” means money, property, or anything else
13 of value.

14 (f) A legal document assistant, including any legal document
15 assistant employed by a partnership or corporation, may not
16 provide any self-help service for compensation, unless the legal
17 document assistant is registered in the county in which his or her
18 principal place of business is located and in any other county in
19 which he or she performs acts for which registration is required.

20 (g) A legal document assistant may not provide any kind of
21 advice, explanation, opinion, or recommendation to a consumer
22 about possible legal rights, remedies, defenses, options, selection
23 of forms, or strategies. A legal document assistant shall complete
24 documents only in the manner prescribed by paragraph (1) of
25 subdivision (d).

26 6401. This chapter does not apply to any person engaged in
27 any of the following occupations, provided that the person does
28 not also perform the duties of a legal document assistant in
29 addition to those occupations:

30 (a) Any government employee who is acting in the course of his
31 or her employment.

32 (b) A member of the State Bar of California, or his or her
33 employee, paralegal, or agent, or an independent contractor while
34 acting on behalf of a member of the State Bar.

35 (c) Any employee of a nonprofit, tax-exempt corporation who
36 either assists clients free of charge or is supervised by a member
37 of the State Bar of California who has malpractice insurance.

38 (d) A licensed real estate broker or licensed real estate
39 salesperson, as defined in Chapter 3 (commencing with Section
40 10130) of Part 1 of Division 4, who acts pursuant to subdivision



1 (b) of Section 10131 on an unlawful detainer claim as defined in
2 subdivision (b) of Section 6400, and who is a party to the unlawful
3 detainer action.

4 (e) An immigration consultant, as defined in Chapter 19.5
5 (commencing with Section 22441) of Division 8.

6 (f) A person registered as a process server under Chapter 16
7 (commencing with Section 22350) or a person registered as a
8 professional photocopier under Chapter 20 (commencing with
9 Section 22450) of Division 8.

10 (g) A person who provides services relative to the preparation
11 of security instruments or conveyance documents as an integral
12 part of the provision of title or escrow service.

13 (h) A person who provides services that are regulated by
14 federal law.

15 (i) A person who is employed by, and provides services to, a
16 supervised financial institution, holding company, subsidiary, or
17 affiliate.

18 6401.5. This chapter does not sanction, authorize, or
19 encourage the practice of law by nonlawyers. Registration under
20 this chapter, or an exemption from registration, does not immunize
21 any person from prosecution *or liability* pursuant to Section 6125,
22 6126, 6126.5, or 6127.

23 6401.6. A legal document assistant may not provide service
24 to a client who requires assistance that exceeds the definition of
25 self-help service in subdivision (d) of Section 6400, and shall
26 inform the client that the client requires the services of an attorney.

27

28 Article 2. Registration Procedures

29

30 6402. A legal document assistant or unlawful detainer
31 assistant shall be registered pursuant to this chapter by the county
32 clerk in the county in which his or her principal place of business
33 is located (deemed primary registration), and in any other county
34 in which he or she performs acts for which registration is required
35 (deemed secondary registration). Any registration in a county,
36 other than the county of the person's place of business, shall state
37 the person's principal place of business and provide proof that the
38 registrant has satisfied the bonding requirement of Section 6405.
39 No person who has been disbarred or suspended from the practice
40 of law pursuant to Article 6 (commencing with Section 6100) of



1 Chapter 4 may, during the period of any disbarment or suspension,
2 register as a legal document assistant or unlawful detainer
3 assistant. The Department of Consumer Affairs shall develop the
4 application required to be completed by a person for purposes of
5 registration as a legal document assistant. The application shall
6 specify the types of proof that the applicant shall provide to the
7 county clerk in order to demonstrate the qualifications and
8 requirements of Section 6402.1.

9 6402.1. To be eligible to apply for registration under this
10 chapter as a legal document assistant, the applicant shall possess
11 at least one of the following:

12 (a) A high school diploma or general equivalency diploma, and
13 either a minimum of two years of law-related experience under the
14 supervision of a licensed attorney, or a minimum of two years
15 experience providing self-help service.

16 (b) A baccalaureate degree in any field and either a minimum
17 of one year of law-related experience under the supervision of a
18 licensed attorney, or a minimum of one year of experience
19 providing self-help service.

20 (c) A certificate of completion from a paralegal program that
21 is institutionally accredited but not approved by the American Bar
22 Association, that requires successful completion of a minimum of
23 24 semester units, or the equivalent, in legal specialization
24 courses.

25 (d) A certificate of completion from a paralegal program
26 approved by the American Bar Association.

27 6403. (a) The application for registration of a natural person
28 shall contain all of the following statements about the applicant:

29 (1) Name, age, address, and telephone number.

30 (2) Whether he or she has been convicted of a felony, or of a
31 misdemeanor under Section 6126 or 6127, *or found liable under*
32 *Section 6126.5.*

33 (3) Whether he or she has been held liable in a civil action by
34 final judgment or entry of a stipulated judgment, if the action
35 alleged fraud, the use of an untrue or misleading representation, or
36 the use of an unfair, unlawful, or deceptive business practice.

37 (4) Whether he or she has ever been convicted of a
38 misdemeanor violation of this chapter.

39 (5) Whether he or she has had a civil judgment entered against
40 him or her in an action arising out of the applicant's negligent,



1 reckless, or willful failure to properly perform his or her obligation
2 as a legal document assistant or unlawful detainer assistant.

3 (6) Whether he or she has had a registration revoked pursuant
4 to Section 6413.

5 (7) Whether this is a primary or secondary registration. If it is
6 a secondary registration, the county in which the primary
7 registration is filed.

8 (b) The application for registration of a natural person shall be
9 accompanied by the display of personal identification, such as a
10 California driver’s license, birth certificate, or other identification
11 acceptable to the county clerk to adequately determine the identity
12 of the applicant.

13 (c) The application for registration of a partnership or
14 corporation shall contain all of the following statements about the
15 applicant:

16 (1) The names, ages, addresses, and telephone numbers of the
17 general partners or officers.

18 (2) Whether the general partners or officers have ever been
19 convicted of a felony, or a misdemeanor under Section 6126 or
20 6127.

21 (3) Whether the general partners or officers have ever been held
22 liable in a civil action by final judgment or entry of a stipulated
23 judgment, if the action alleged fraud, the use of an untrue or
24 misleading representation, or the use of an unfair, unlawful, or
25 deceptive business practice.

26 (4) Whether the general partners or officers have ever been
27 convicted of a misdemeanor violation of this chapter.

28 (5) Whether the general partners or officers have had a civil
29 judgment entered against them in an action arising out of a
30 negligent, reckless, or willful failure to properly perform the
31 obligations of a legal document assistant or unlawful detainer
32 assistant.

33 (6) Whether the general partners or officers have ever had a
34 registration revoked pursuant to Section 6413.

35 (7) Whether this is a primary or secondary registration. If it is
36 a secondary registration, the county in which the primary
37 registration is filed.

38 (d) The applications made under this section shall be made
39 under penalty of perjury.



1 6404. An applicant shall pay a fee of one hundred
2 seventy-five dollars (\$175) to the county clerk at the time he or she
3 files an application for initial registration, including a primary or
4 secondary registration, or renewal of registration. An additional
5 fee of ten dollars (\$10) shall be paid to the county clerk for each
6 additional identification card.

7 6405. (a) (1) An application for a certificate of registration
8 by an individual shall be accompanied by a bond of twenty-five
9 thousand dollars (\$25,000) executed by a corporate surety
10 qualified to do business in this state and conditioned upon
11 compliance with this chapter. The total aggregate liability on the
12 bond shall be limited to twenty-five thousand dollars (\$25,000).
13 An application for secondary registration shall meet all of the
14 requirements of this subdivision, except that in place of posting
15 another original bond or cash deposit, the applicant shall include
16 a certified copy of the bond or cash deposit posted in the county
17 in which the applicant filed the primary registration.

18 (2) An application for a certificate of registration by a
19 partnership or corporation shall be accompanied by a bond of
20 ~~twenty-five thousand dollars (\$25,000)~~ executed by a corporate
21 surety qualified to do business in this state and conditioned upon
22 ~~compliance with this chapter. The total aggregate liability on the~~
23 ~~bond shall be limited to twenty-five thousand dollars (\$25,000).~~
24 *compliance with this chapter in the following amount, based on the*
25 *total number of legal document assistants and unlawful detainer*
26 *assistants employed by the partnership or corporation:*

27 (A) *Twenty-five thousand dollars (\$25,000) for one to four*
28 *assistants.*

29 (B) *Fifty thousand dollars (\$50,000) for five to nine assistants.*

30 (C) *One hundred thousand dollars (\$100,000) for 10 or more*
31 *assistants.* An application for a certificate of registration by a
32 person employed by a partnership or corporation shall be
33 accompanied by a bond of *at least* twenty-five thousand dollars
34 (\$25,000) only if the partnership or corporation has not posted a
35 ~~bond of twenty-five thousand dollars (\$25,000)~~ *as in the amount*
36 *required by this subdivision.* An application for secondary
37 registration shall meet all of the requirements of this subdivision,
38 except that in place of posting another original bond or cash
39 deposit, the applicant shall include a certified copy of the bond or



1 cash deposit posted in the county in which the applicant filed the
2 primary registration.

3 (3) *If a partnership or corporation increases the number of*
4 *assistants it employs above the number stated in its application for*
5 *a certificate of registration, the partnership or corporation shall*
6 *increase the bond to the applicable amount in subparagraphs (B)*
7 *or (C) of paragraph (2) based on the actual number of assistants*
8 *it employs.*

9 (4) The bond may be terminated pursuant to Section 995.440
10 of, and Article 13 (commencing with Section 996.310) of Chapter
11 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

12 (b) The county clerk shall, upon filing of the bond, deliver the
13 bond forthwith to the county recorder for recording. The recording
14 fee specified in Section 27361 of the Government Code shall be
15 paid by the registrant. The fee may be paid to the county clerk who
16 shall transmit it to the recorder.

17 (c) The fee for filing, canceling, revoking, or withdrawing the
18 bond is seven dollars (\$7).

19 (d) The county recorder shall record the bond and any notice of
20 cancellation, revocation, or withdrawal of the bond, and shall
21 thereafter mail the instrument, unless specified to the contrary, to
22 the person named in the instrument and, if no person is named, to
23 the party leaving it for recording. The recording fee specified in
24 Section 27361 of the Government Code for notice of cancellation,
25 revocation, or withdrawal of the bond shall be paid to the county
26 clerk, who shall transmit it to the county recorder.

27 (e) In lieu of the bond required by subdivision (a), a registrant
28 may deposit twenty-five thousand dollars (\$25,000) in cash with
29 the county clerk.

30 (f) If the certificate is revoked, the bond or cash deposit shall
31 be returned to the bonding party or depositor subject to subdivision
32 (g) and the right of a person to recover against the bond or cash
33 deposit under Section 6412.

34 (g) The county clerk may retain a cash deposit until the
35 expiration of three years from the date the registrant has ceased to
36 do business, or three years from the expiration or revocation date
37 of the registration, in order to ensure there are no outstanding
38 claims against the deposit. A judge of a municipal or superior court
39 may order the return of the deposit prior to the expiration of three



1 years upon evidence satisfactory to the judge that there are no
2 outstanding claims against the deposit.

3 (h) The bond required by this section shall be in favor of the
4 State of California for the benefit of any person who is damaged
5 as a result of the violation of this chapter or by the fraud,
6 dishonesty, or incompetency of an individual, partnership, or
7 corporation registered under this chapter. The bond required by
8 this section shall also indicate the name of the county in which it
9 will be filed.

10 6406. (a) If granted, a certificate of registration shall be
11 effective for a period of two years ~~or~~, until the date the bond
12 expires, *or until the total number of legal document assistants and*
13 *unlawful detainer assistants employed by a partnership or*
14 *corporation exceeds the number allowed for the amount of the*
15 *bond in effect*, whichever occurs first. Thereafter, a registrant shall
16 file a new certificate of registration or a renewal of the certificate
17 of registration and pay the fee required by Section 6404. A
18 certificate of registration may be renewed up to 60 days prior to its
19 expiration date and the effective date of the renewal shall be the
20 date the current registration expires. The renewal shall be effective
21 for a period of two years from the effective date or until the
22 expiration date of the bond, whichever occurs first.

23 (b) Except as provided in subdivisions (d) to (f), inclusive, an
24 applicant shall be denied registration or renewal of registration if
25 the applicant has been found to be any of the following:

26 (1) Convicted of a felony, or of a misdemeanor under Section
27 6126 or 6127.

28 (2) Held liable in a civil action by final judgment or entry of a
29 stipulated judgment, if the action alleged fraud, or the use of an
30 untrue or misleading representation, or the use of an unfair,
31 unlawful, or deceptive business practice.

32 (3) Convicted of a misdemeanor violation of this chapter.

33 (4) Had a civil judgment entered against him or her in an action
34 arising out of the applicant's negligent, reckless, or willful failure
35 to properly perform his or her obligation as a legal document
36 assistant or unlawful detainer assistant.

37 (5) Had his or her registration revoked pursuant to Section
38 6413.

39 (c) If the county clerk finds that the applicant has failed to
40 demonstrate having met the requisite requirements of Section



1 6402 or 6402.1, or that any of the paragraphs of subdivision (b)
2 apply, the county clerk, within three business days of submission
3 of the application and fee, shall return the application and fee to
4 the applicant with a notice to the applicant indicating the reason for
5 the denial and the method of appeal.

6 (d) The denial of an application may be appealed by the
7 applicant by submitting, to the director, the following:

8 (1) The completed application and notice from the county clerk
9 specifying the reasons for the denial of the application.

10 (2) A copy of any final judgment or order that resulted from any
11 conviction or civil judgment listed on the application.

12 (3) Any relevant information the applicant wishes to include
13 for the record.

14 (e) The director shall order the applicant's certificate of
15 registration to be granted if the director determines that the
16 issuance of a certificate of registration is not likely to expose
17 consumers to a significant risk of harm based on a review of the
18 application and any other information relating to the applicant's
19 unlawful act or unfair practice described in paragraphs (1) to (5),
20 inclusive, of subdivision (b). The director shall order the
21 applicant's certificate of registration to be denied if the director
22 determines that issuance of a certificate of registration is likely to
23 expose consumers to a significant risk of harm based on a review
24 of the application and any other information relating to the
25 applicant's unlawful act or unfair practice described in paragraphs
26 (1) to (5), inclusive, of subdivision (b). The director shall send to
27 the applicant and the county clerk a written decision listing the
28 reasons registration shall be granted or denied within 30 days of
29 the submission of the matter.

30 (f) If the director orders that the certificate of registration be
31 granted, the applicant may resubmit the application, with the
32 appropriate application fee and the written decision of the director.
33 The county clerk shall grant the certificate of registration to the
34 applicant within three business days of being supplied this
35 information.

36 6407. (a) The county clerk shall maintain a register of legal
37 document assistants, and a register of unlawful detainer assistants,
38 assign a unique number to each legal document assistant, or
39 unlawful detainer assistant, and issue an identification card to each
40 one. Additional cards for employees of legal document assistants



1 or unlawful detainer assistants shall be issued upon the payment
2 of ten dollars (\$10) for each card. Upon renewal of registration, the
3 same number shall be assigned, provided there is no lapse in the
4 period of registration.

5 (b) The identification card shall be a card 3¹/₂ inches by 2¹/₄
6 inches, and shall contain at the top, the title “Legal Document
7 Assistant” or “Unlawful Detainer Assistant,” as appropriate,
8 followed by the registrant’s name, address, registration number,
9 date of expiration, and county of registration. It shall also contain
10 a photograph of the registrant in the lower left corner. The front of
11 the card, above the title, shall also contain the following statement
12 in 12-point boldface type: “This person is not a lawyer.” The front
13 of the card, at the bottom, shall also contain the following
14 statement in 12-point boldface type: “The county clerk has not
15 evaluated this person’s knowledge, experience, or services.”

16
17 Article 3. Conduct of Business and Prohibited Acts

18
19 ~~6408. The registrant’s name, business address, telephone~~
20 ~~number, registration number, and county of registration shall~~
21 ~~appear on any solicitation or advertisement, and on any~~
22 ~~appropriate papers or documents prepared or used by the~~
23 ~~registrant, including, but not limited to, contracts, letterhead,~~
24 ~~business cards, correspondence, documents, forms, claims,~~
25 ~~petitions, checks, receipts, money orders, and pleadings.~~

26 *6408. The registrant’s name, business address, telephone*
27 *number, registration number, expiration date of the registration,*
28 *and county of registration shall appear in any solicitation or*
29 *advertisement, and on any appropriate papers or documents*
30 *prepared or used by the registrant, including, but not limited to,*
31 *contracts, letterhead, business cards, correspondence, documents,*
32 *forms, claims, petitions, checks, receipts, money orders, and*
33 *pleadings.*

34 *6408.5. (a) All advertisements or solicitations published,*
35 *distributed, or broadcast offering legal document assistant or*
36 *unlawful detainer assistant services shall include the following*
37 *statement: “I am not an attorney. I can only provide self help*
38 *services at your specific direction.” This subdivision does not*
39 *apply to classified or “yellow pages” listings in a telephone or*
40 *business directory of three lines or less that state only the name,*

1 address, and telephone number of the legal document assistant or
2 unlawful detainer assistant.

3 (b) If the advertisement or solicitation is in a language other
4 than English, the statement required by subdivision (a) shall be in
5 the same language as the advertisement or solicitation.

6 6409. No legal document assistant or unlawful detainer
7 assistant shall retain in his or her possession original documents of
8 a client. A legal document assistant or an unlawful detainer
9 assistant shall immediately return all of a client's original
10 documents to the client in any one or more of the following
11 circumstances:

12 (a) If the client so requests at any time.

13 (b) If the written contract required by Section 6410 is not
14 executed or is rescinded, canceled, or voided for any reason.

15 (c) If the services described pursuant to paragraph (1) of
16 subdivision (b) of Section 6410 have been completed.

17 6410. (a) Every legal document assistant or unlawful
18 detainer assistant who enters into a contract or agreement with a
19 client to provide services shall, prior to providing any services,
20 provide the client with a written contract, the contents of which
21 shall be prescribed by regulations adopted by the Department of
22 Consumer Affairs.

23 (b) The written contract shall include all of the following
24 provisions:

25 (1) The services to be performed.

26 (2) The costs of the services to be performed.

27 (3) There shall be printed on the face of the contract in 12-point
28 boldface type a statement that the legal document assistant or
29 unlawful detainer assistant is not an attorney and may not perform
30 the legal services that an attorney performs.

31 (4) The contract shall contain a statement in 12-point boldface
32 type that the county clerk has not evaluated or approved the
33 registrant's knowledge or experience, or the quality of the
34 registrant's services.

35 (5) The contract shall contain a statement in 12-point boldface
36 type that the consumer may obtain information regarding free or
37 low-cost representation through a local bar association or legal aid
38 foundation and that the consumer may contact local law
39 enforcement, a district attorney, or a legal aid foundation if the



1 consumer believes that he or she has been a victim of fraud, the
2 unauthorized practice of law, or any other injury.

3 (6) The contract shall contain a statement in 12-point boldface
4 type that a legal document assistant or unlawful detainer assistant
5 is not permitted to engage in the practice of law, including
6 providing any kind of advice, explanation, opinion, or
7 recommendation to a consumer about possible legal rights,
8 remedies, defenses, options, selection of forms, or strategies.

9 (c) The contract shall be written both in English and in any
10 other language comprehended by the client and principally used
11 in any oral sales presentation or negotiation leading to execution
12 of the contract. The legal document assistant or the unlawful
13 detainer assistant is responsible for translating the contract into the
14 language principally used in any oral sales presentation or
15 negotiation leading to the execution of the contract.

16 (d) Failure of a legal document assistant or unlawful detainer
17 assistant to comply with subdivisions (a), (b), and (c) shall make
18 the contract or agreement for services voidable at the option of the
19 client. Upon the voiding of the contract, the legal document
20 assistant or unlawful detainer assistant shall immediately return in
21 full any fees paid by the client.

22 (e) In addition to any other right to rescind, the client shall have
23 the right to rescind the contract within 24 hours of the signing of
24 the contract. The client may cancel the contract by giving the legal
25 document assistant or the unlawful detainer assistant any written
26 statement to the effect that the contract is canceled. If the client
27 gives notice of cancellation by mail addressed to the legal
28 document assistant or unlawful detainer assistant, with first-class
29 postage prepaid, cancellation is effective upon the date indicated
30 on the postmark. Upon the voiding or rescinding of the contract or
31 agreement for services, the legal document assistant or unlawful
32 detainer assistant shall immediately return to the client any fees
33 paid by the client, except fees for services that were actually,
34 necessarily, and reasonably performed on the client's behalf by the
35 legal document assistant or unlawful detainer assistant with the
36 client's knowing and express written consent. The requirements of
37 this subdivision shall be conspicuously set forth in the written
38 contract.

1 6411. It is unlawful for any person engaged in the business or
2 acting in the capacity of a legal document assistant or unlawful
3 detainer assistant to do any of the following:

4 (a) Make false or misleading statements to the consumer
5 concerning the subject matter, legal issues, or self-help service
6 being provided by the legal document assistant or unlawful
7 detainer assistant.

8 (b) Make any guarantee or promise to a client or prospective
9 client, unless the guarantee or promise is in writing and the legal
10 document assistant or unlawful detainer assistant has a reasonable
11 factual basis for making the guarantee or promise.

12 (c) Make any statement that the legal document assistant or
13 unlawful detainer assistant can or will obtain favors or has special
14 influence with a court, or a state or federal agency.

15 (d) Provide assistance or advice which constitutes the unlawful
16 practice of law pursuant to Section 6125, 6126, or 6127.

17 (e) Engage in the unauthorized practice of law, including, but
18 not limited to, giving any kind of advice, explanation, opinion, or
19 recommendation to a consumer about possible legal rights,
20 remedies, defenses, options, selection of forms, or strategies. A
21 legal document assistant shall complete documents only in the
22 manner prescribed by subdivision (d) of Section 6400.

23 6412. (a) Any owner or manager of residential or
24 commercial rental property, tenant, or other person who is
25 awarded damages in any action or proceeding for injuries caused
26 by the acts of a registrant while in the performance of his or her
27 duties as a legal document assistant or unlawful detainer assistant
28 may recover damages from the bond or cash deposit required by
29 Section 6405.

30 (b) If there has been a recovery against a bond or cash deposit
31 under subdivision (a) and the registration has not been revoked
32 pursuant to Section 6413, the registrant shall file a new bond or
33 deposit an additional amount of cash within 30 days to reinstate the
34 bond or cash deposit to the amount required by Section 6405. If the
35 registrant does not file a bond, or deposit this amount within 30
36 days, his or her certificate of registration shall be revoked.

37 6412.1. (a) Any person injured by the unlawful act of a legal
38 document assistant or unlawful detainer assistant shall retain all
39 rights and remedies cognizable under law. The penalties, relief,



1 and remedies provided in this chapter are not exclusive, and do not
2 affect any other penalties, relief, and remedies provided by law.

3 (b) Any person injured by a violation of this chapter by a legal
4 document assistant or unlawful detainer assistant may file a
5 complaint and seek redress in any superior court for injunctive
6 relief, restitution, and damages. Attorney's fees shall be awarded
7 to the prevailing plaintiff.

8 6413. The county clerk shall revoke the registration of a legal
9 document assistant or unlawful detainer assistant upon receipt of
10 an official document or record stating that the registrant has been
11 found guilty of the unauthorized practice of law pursuant to
12 Section 6125, 6126, or 6127, has been found guilty of a
13 misdemeanor violation of this chapter, *has been found liable under*
14 *Section 6126.5*, or that a civil judgment has been entered against
15 the registrant in an action arising out of the registrant's negligent,
16 reckless, or willful failure to properly perform his or her obligation
17 as a legal document assistant or unlawful detainer assistant. The
18 county clerk shall be given notice of the disposition in any court
19 action by the city attorney, district attorney, or plaintiff, as
20 applicable. A registrant whose registration is revoked pursuant to
21 this section may reapply for registration three years after the
22 revocation.

23 6414. A registrant whose certificate is revoked shall be
24 entitled to challenge the decision in a court of competent
25 jurisdiction.

26 6415. A failure, by a person who engages in acts of a legal
27 document assistant or unlawful detainer assistant, to comply with
28 any of the requirements of Section 6401.6, 6402, 6408, or 6410,
29 or subdivision (a), (b), or (c) of Section 6411 is a misdemeanor
30 punishable by a fine of not less than one thousand dollars (\$1,000)
31 or more than two thousand dollars (\$2,000), as to each client with
32 respect to whom a violation occurs, or imprisonment for not more
33 than one year, or by both that fine and imprisonment. Payment of
34 restitution to a client shall take precedence over payment of a fine.

35 SEC. 3. Section 228 of the Code of Civil Procedure is
36 amended to read:

37 228. Challenges for general disqualification may be taken on
38 one or both of the following grounds, and for no other:

39 (a) A want of any of the qualifications prescribed by this code
40 to render a person competent as a juror.

1 (b) The existence of any incapacity which satisfies the court
2 that the challenged person is incapable of performing the duties of
3 a juror in the particular action without prejudice to the substantial
4 rights of the challenging party.

5 SEC. 4. Section 527.6 of the Code of Civil Procedure is
6 amended to read:

7 527.6. (a) A person who has suffered harassment as defined
8 in subdivision (b) may seek a temporary restraining order and an
9 injunction prohibiting harassment as provided in this section.

10 (b) For the purposes of this section, "harassment" is unlawful
11 violence, a credible threat of violence, or a knowing and willful
12 course of conduct directed at a specific person that seriously
13 alarms, annoys, or harasses the person, and that serves no
14 legitimate purpose. The course of conduct must be such as would
15 cause a reasonable person to suffer substantial emotional distress,
16 and must actually cause substantial emotional distress to the
17 plaintiff.

18 As used in this subdivision:

19 (1) "Unlawful violence" is any assault or battery, or stalking
20 as prohibited in Section 646.9 of the Penal Code, but shall not
21 include lawful acts of self-defense or defense of others.

22 (2) "Credible threat of violence" is a knowing and willful
23 statement or course of conduct that would place a reasonable
24 person in fear for his or her safety, or the safety of his or her
25 immediate family, and that serves no legitimate purpose.

26 (3) "Course of conduct" is a pattern of conduct composed of
27 a series of acts over a period of time, however short, evidencing
28 a continuity of purpose, including following or stalking an
29 individual, making harassing telephone calls to an individual, or
30 sending harassing correspondence to an individual by any means,
31 including, but not limited to, the use of public or private mails,
32 interoffice mail, fax, or computer e-mail. Constitutionally
33 protected activity is not included within the meaning of "course
34 of conduct."

35 (c) Upon filing a petition for an injunction under this section,
36 the plaintiff may obtain a temporary restraining order in
37 accordance with Section 527, except to the extent this section
38 provides a rule that is inconsistent. A temporary restraining order
39 may be issued with or without notice upon an affidavit that, to the
40 satisfaction of the court, shows reasonable proof of harassment of



1 the plaintiff by the defendant, and that great or irreparable harm
2 would result to the plaintiff. In the discretion of the court, and on
3 a showing of good cause, a temporary restraining order or
4 injunction issued under this section may include other named
5 family or household members who reside with the plaintiff. A
6 temporary restraining order issued under this section shall remain
7 in effect, at the court's discretion, for a period not to exceed 15
8 days, or, if the court extends the time for hearing under subdivision
9 (d), not to exceed 22 days, unless otherwise modified or terminated
10 by the court.

11 (d) Within 15 days, or, if good cause appears to the court, 22
12 days from the date the temporary restraining order is issued, a
13 hearing shall be held on the petition for the injunction. The
14 defendant may file a response that explains, excuses, justifies, or
15 denies the alleged harassment or may file a cross-complaint under
16 this section. At the hearing, the judge shall receive any testimony
17 that is relevant, and may make an independent inquiry. If the judge
18 finds by clear and convincing evidence that unlawful harassment
19 exists, an injunction shall issue prohibiting the harassment. An
20 injunction issued pursuant to this section shall have a duration of
21 not more than three years. At any time within the three months
22 before the expiration of the injunction, the plaintiff may apply for
23 a renewal of the injunction by filing a new petition for an
24 injunction under this section.

25 (e) This section does not preclude either party from
26 representation by private counsel or from appearing on the party's
27 own behalf.

28 (f) In a proceeding under this section where there are
29 allegations or threats of domestic violence, a support person may
30 accompany a party in court and, where the party is not represented
31 by an attorney, may sit with the party at the table that is generally
32 reserved for the party and the party's attorney. The support person
33 is present to provide moral and emotional support for a person who
34 alleges he or she is a victim of domestic violence. The support
35 person is not present as a legal adviser and shall not give legal
36 advice. The support person shall assist the person who alleges he
37 or she is a victim of domestic violence in feeling more confident
38 that he or she will not be injured or threatened by the other party
39 during the proceedings where the person who alleges he or she is
40 a victim of domestic violence and the other party must be present



1 in close proximity. This subdivision does not preclude the court
2 from exercising its discretion to remove the support person from
3 the courtroom if the court believes the support person is
4 prompting, swaying, or influencing the party assisted by the
5 support person.

6 (g) Upon filing of a petition for an injunction under this section,
7 the defendant shall be personally served with a copy of the petition,
8 temporary restraining order, if any, and notice of hearing of the
9 petition. Service shall be made at least five days before the hearing.
10 The court may for good cause, on motion of the plaintiff or on its
11 own motion, shorten the time for service on the defendant.

12 (h) The court shall order the plaintiff or the attorney for the
13 plaintiff to deliver a copy of each temporary restraining order or
14 injunction, or modification or termination thereof, granted under
15 this section, by the close of the business day on which the order was
16 granted, to the law enforcement agencies within the court's
17 discretion as are requested by the plaintiff. Each appropriate law
18 enforcement agency shall make available information as to the
19 existence and current status of these orders to law enforcement
20 officers responding to the scene of reported harassment.

21 An order issued under this section shall, on request of the
22 plaintiff, be served on the defendant, whether or not the defendant
23 has been taken into custody, by any law enforcement officer who
24 is present at the scene of reported harassment involving the parties
25 to the proceeding. The plaintiff shall provide the officer with an
26 endorsed copy of the order and a proof of service that the officer
27 shall complete and send to the issuing court.

28 Upon receiving information at the scene of an incident of
29 harassment that a protective order has been issued under this
30 section, or that a person who has been taken into custody is the
31 subject of an order, if the protected person cannot produce a
32 certified copy of the order, a law enforcement officer shall
33 immediately attempt to verify the existence of the order.

34 If the law enforcement officer determines that a protective order
35 has been issued, but not served, the officer shall immediately
36 notify the defendant of the terms of the order and shall at that time
37 also enforce the order. Verbal notice of the terms of the order shall
38 constitute service of the order and is sufficient notice for the
39 purposes of this section and for the purposes of Section 273.6 and
40 subdivision (g) of Section 12021 of the Penal Code.



1 (i) The prevailing party in any action brought under this section
2 may be awarded court costs and attorney’s fees, if any.

3 (j) Any willful disobedience of any temporary restraining order
4 or injunction granted under this section is punishable pursuant to
5 Section 273.6 of the Penal Code.

6 (k) This section does not apply to any action or proceeding
7 covered by Title 1.6C (commencing with Section 1788) of the
8 Civil Code or by Division 10 (commencing with Section 6200) of
9 the Family Code. Nothing in this section shall preclude a plaintiff’s
10 right to use other existing civil remedies.

11 (l) The Judicial Council shall promulgate forms and
12 instructions therefor, and rules for service of process, scheduling
13 of hearings, and any other matters required by this section. The
14 petition and response forms shall be simple and concise, and their
15 use by parties in actions brought pursuant to this section shall be
16 mandatory.

17 (m) A temporary restraining order or injunction relating to
18 harassment or domestic violence issued by a court pursuant to this
19 section shall be issued on forms adopted by the Judicial Council
20 of California and that have been approved by the Department of
21 Justice pursuant to subdivision (i) of Section 6380 of the Family
22 Code. However, the fact that an order issued by a court pursuant
23 to this section was not issued on forms adopted by the Judicial
24 Council and approved by the Department of Justice shall not, in
25 and of itself, make the order unenforceable.

26 (n) Information on any temporary restraining order or
27 injunction relating to harassment or domestic violence issued by
28 a court pursuant to this section shall be transmitted to the
29 Department of Justice in accordance with subdivision (b) of
30 Section 6380 of the Family Code.

31 (o) There shall be no filing fee for a petition that alleges that a
32 person has inflicted or threatened violence against the petitioner,
33 or stalked the petitioner, or acted or spoke in any other manner that
34 has placed the petitioner in reasonable fear of violence, and that
35 seeks a protective or restraining order or injunction restraining
36 stalking or future violence or threats of violence, in any action
37 brought pursuant to this section. No fee shall be paid for filing a
38 response to a petition alleging these acts.

39 SEC. 5. Section 527.8 of the Code of Civil Procedure is
40 amended to read:



1 527.8. (a) Any employer, whose employee has suffered
2 unlawful violence or a credible threat of violence from any
3 individual, that can reasonably be construed to be carried out or to
4 have been carried out at the workplace, may seek a temporary
5 restraining order and an injunction on behalf of the employee
6 prohibiting further unlawful violence or threats of violence by that
7 individual.

8 (b) For the purposes of this section:

9 (1) “Unlawful violence” is any assault or battery, or stalking
10 as prohibited in Section 646.9 of the Penal Code, but shall not
11 include lawful acts of self-defense or defense of others.

12 (2) “Credible threat of violence” is a knowing and willful
13 statement or course of conduct that would place a reasonable
14 person in fear for his or her safety, or the safety of his or her
15 immediate family, and that serves no legitimate purpose.

16 (3) “Course of conduct” is a pattern of conduct composed of
17 a series of acts over a period of time, however short, evidencing
18 a continuity of purpose, including following or stalking an
19 employee to or from the place of work; entering the workplace;
20 following an employee during hours of employment; making
21 telephone calls to an employee; or sending correspondence to an
22 employee by any means, including, but not limited to, the use of
23 the public or private mails, interoffice mail, fax, or computer
24 e-mail.

25 (c) This section does not permit a court to issue a temporary
26 restraining order or injunction prohibiting speech or other
27 activities that are constitutionally protected, or otherwise
28 protected by Section 527.3 or any other provision of law.

29 (d) For purposes of this section, the terms “employer” and
30 “employee” mean persons defined in Section 350 of the Labor
31 Code. “Employer” also includes a federal agency, the state, a state
32 agency, a city, county, or district, and a private, public, or
33 quasi-public corporation, or any public agency thereof or therein.
34 “Employee” also includes the members of boards of directors of
35 private, public, and quasi-public corporations and elected and
36 appointed public officers. For purposes of this section only,
37 “employee” also includes a volunteer or independent contractor
38 who performs services for the employer at the employer’s
39 worksite.



1 (e) Upon filing a petition for an injunction under this section,
2 the plaintiff may obtain a temporary restraining order in
3 accordance with subdivision (a) of Section 527, if the plaintiff also
4 files an affidavit that, to the satisfaction of the court, shows
5 reasonable proof that an employee has suffered unlawful violence
6 or a credible threat of violence by the defendant, and that great or
7 irreparable harm would result to an employee. In the discretion of
8 the court, and on a showing of good cause, a temporary restraining
9 order or injunction issued under this section may include other
10 named family or household members who reside with the
11 employee.

12 A temporary restraining order granted under this section shall
13 remain in effect, at the court's discretion, for a period not to exceed
14 15 days, unless otherwise modified or terminated by the court.

15 (f) Within 15 days of the filing of the petition, a hearing shall
16 be held on the petition for the injunction. The defendant may file
17 a response that explains, excuses, justifies, or denies the alleged
18 unlawful violence or credible threats of violence or may file a
19 cross-complaint under this section. At the hearing, the judge shall
20 receive any testimony that is relevant and may make an
21 independent inquiry. Moreover, if the defendant is a current
22 employee of the entity requesting the injunction, the judge shall
23 receive evidence concerning the employer's decision to retain,
24 terminate, or otherwise discipline the defendant. If the judge finds
25 by clear and convincing evidence that the defendant engaged in
26 unlawful violence or made a credible threat of violence, an
27 injunction shall issue prohibiting further unlawful violence or
28 threats of violence. An injunction issued pursuant to this section
29 shall have a duration of not more than three years. At any time
30 within the three months before the expiration of the injunction, the
31 plaintiff may apply for a renewal of the injunction by filing a new
32 petition for an injunction under this section.

33 (g) This section does not preclude either party from
34 representation by private counsel or from appearing on his or her
35 own behalf.

36 (h) Upon filing of a petition for an injunction under this section,
37 the defendant shall be personally served with a copy of the petition,
38 temporary restraining order, if any, and notice of hearing of the
39 petition. Service shall be made at least five days before the hearing.



1 The court may, for good cause, on motion of the plaintiff or on its
2 own motion, shorten the time for service on the defendant.

3 (i) The court shall order the plaintiff or the attorney for the
4 plaintiff to deliver a copy of each temporary restraining order or
5 injunction, or modification or termination thereof, granted under
6 this section, by the close of the business day on which the order was
7 granted, to the law enforcement agencies within the court's
8 discretion as are requested by the plaintiff. Each appropriate law
9 enforcement agency shall make available information as to the
10 existence and current status of these orders to law enforcement
11 officers responding to the scene of reported unlawful violence or
12 a credible threat of violence.

13 (j) Any intentional disobedience of any temporary restraining
14 order or injunction granted under this section is punishable
15 pursuant to Section 273.6 of the Penal Code.

16 (k) Nothing in this section may be construed as expanding,
17 diminishing, altering, or modifying the duty, if any, of an employer
18 to provide a safe workplace for employees and other persons.

19 (l) The Judicial Council shall develop forms, instructions, and
20 rules for scheduling of hearings and other procedures established
21 pursuant to this section. The forms for the petition and response
22 shall be simple and concise, and their use by parties in actions
23 brought pursuant to this section shall be mandatory.

24 (m) A temporary restraining order or injunction relating to
25 harassment or domestic violence issued by a court pursuant to this
26 section shall be issued on forms adopted by the Judicial Council
27 of California and that have been approved by the Department of
28 Justice pursuant to subdivision (i) of Section 6380 of the Family
29 Code. However, the fact that an order issued by a court pursuant
30 to this section was not issued on forms adopted by the Judicial
31 Council and approved by the Department of Justice shall not, in
32 and of itself, make the order unenforceable.

33 (n) Information on any temporary restraining order or
34 injunction relating to harassment or domestic violence issued by
35 a court pursuant to this section shall be transmitted to the
36 Department of Justice in accordance with subdivision (b) of
37 Section 6380 of the Family Code.

38 (o) There is no filing fee for a petition that alleges that a person
39 has inflicted or threatened violence against an employee of the
40 petitioner, or stalked the employee, or acted or spoke in any other



1 manner that has placed the employee in reasonable fear of
2 violence, and that seeks protective or restraining orders or
3 injunctions restraining stalking or future violence or threats of
4 violence, in any action brought pursuant to this section. No fee
5 shall be paid for filing a response to a petition alleging these acts.

6 SEC. 6. *Section 1987 of the Code of Civil Procedure is*
7 *amended to read:*

8 1987. (a) Except as provided in Sections 68097.1 to 68097.8,
9 inclusive, of the Government Code, the service of a subpoena is
10 made by delivering a copy, or a ticket containing its substance, to
11 the witness personally, giving or offering to the witness at the same
12 time, if demanded by him or her, the fees to which he or she is
13 entitled for travel to and from the place designated, and one day's
14 attendance there. The service shall be made so as to allow the
15 witness a reasonable time for preparation and travel to the place of
16 attendance. The service may be made by any person. ~~When~~ *If*
17 service is to be made on a minor, service shall be made on the
18 minor's parent, guardian, conservator, or similar fiduciary, or if
19 one of ~~them~~ *those persons* cannot be located with reasonable
20 diligence, ~~then~~ service shall be made on any person having the care
21 or control of the minor or with whom the minor resides or by whom
22 the minor is employed, and on the minor if the minor is 12 years
23 of age or older. *If the minor is alleged to come within the*
24 *description of Section 300, 601, or 602 of the Welfare and*
25 *Institutions Code and the minor is not in the custody of a parent or*
26 *guardian, regardless of the age of the minor, service also shall be*
27 *made upon the designated agent for service of process at the*
28 *county child welfare department or the probation department*
29 *under whose jurisdiction the minor has been placed.*

30 (b) In the case of the production of a party to the record of any
31 civil action or proceeding or of a person for whose immediate
32 benefit an action or proceeding is prosecuted or defended or of
33 anyone who is an officer, director, or managing agent of any such
34 party or person, the service of a subpoena upon any such witness
35 is not required if written notice requesting the witness to attend
36 before a court, or at a trial of an issue therein, with the time and
37 place thereof, is served upon the attorney of that party or person.
38 The notice shall be served at least 10 days before the time required
39 for attendance unless the court prescribes a shorter time. If entitled
40 thereto, the witness, upon demand, shall be paid witness fees and



1 mileage before being required to testify. The giving of the notice
2 shall have the same effect as service of a subpoena on the witness,
3 and the parties shall have ~~such~~ *those* rights and the court may make
4 ~~such~~ *those* orders, including the imposition of sanctions, as in the
5 case of a subpoena for attendance before the court.

6 (c) If the notice specified in subdivision (b) is served at least 20
7 days before the time required for attendance, or within ~~such~~ *any*
8 shorter *period of* time as the court may order, it may include a
9 request that the party or person bring with him or her books,
10 documents or other things. The notice shall state the exact
11 materials or things desired and that the party or person has them
12 in his or her possession or under his or her control. Within five days
13 thereafter, or ~~such~~ *any* other *time* period as the court may allow, the
14 party or person of whom the request is made may serve written
15 objections to the request or any part thereof, with a statement of
16 grounds. Thereafter, upon noticed motion of the requesting party,
17 accompanied by a showing of good cause and of materiality of the
18 items to the issues, the court may order production of items to
19 which objection was made, unless the objecting party or person
20 establishes good cause for nonproduction or production under
21 limitations or conditions. The procedure of this subdivision is
22 alternative to the procedure provided by Sections 1985 and 1987.5
23 in the cases herein provided for, and no subpoena duces tecum
24 shall be required.

25 Subject to this subdivision, the notice ~~herein~~ provided *in this*
26 *subdivision* shall have the same effect as is provided in subdivision
27 (b) as to a notice for attendance of that party or person.

28 *SEC. 7.* Section 2106 of the Family Code is amended to read:
29 2106. Except as provided in subdivision (d) of Section 2105
30 or in Section 2110, absent good cause, no judgment shall be
31 entered with respect to the parties' property rights without each
32 party, or the attorney for that party in this matter, having executed
33 and served a copy of the final declaration of disclosure and current
34 income and expense declaration. Each party, or his or her attorney,
35 shall execute and file with the court a declaration signed under
36 penalty of perjury stating that service of the final declaration of
37 disclosure and current income and expense declaration was made
38 on the other party or that service of the final declaration of
39 disclosure has been waived pursuant to subdivision (d) of Section
40 2105 or in Section 2110.



1 ~~SEC. 7.~~

2 *SEC. 8.* Section 3111 of the Family Code is amended to read:

3 3111. (a) In any contested proceeding involving child
4 custody or visitation rights, the court may appoint a child custody
5 evaluator to conduct a child custody evaluation in cases where the
6 court determines it is in the best interests of the child. The child
7 custody evaluation shall be conducted in accordance with the
8 standards adopted by the Judicial Council pursuant to Section
9 3117, and all other standards adopted by the Judicial Council
10 regarding child custody evaluations. If directed by the court, the
11 court-appointed child custody evaluator shall file a written
12 confidential report on his or her evaluation. At least 10 days before
13 any hearing regarding custody of the child, the report shall be filed
14 with the clerk of the court in which the custody hearing will be
15 conducted and served on the parties or their attorneys, and any
16 other counsel appointed for the child pursuant to Section 3150.
17 The report may be considered by the court.

18 (b) The report shall not be made available other than as
19 provided in subdivision (a).

20 (c) The report may be received in evidence on stipulation of all
21 interested parties and is competent evidence as to all matters
22 contained in the report.

23 ~~SEC. 8.~~

24 *SEC. 9.* Section 7.6 of the Government Code is amended to
25 read:

26 7.6. (a) If by law, any officer whose office is created by the
27 California Constitution is made a member of a state board,
28 commission, or committee, or of the governing body of any state
29 agency or authority, the officer may designate a deputy of his or
30 her office holding a position specified in subdivision (c) of Section
31 4 of Article VII of the California Constitution to act as the member
32 in the constitutional officer's place and stead, to all intents and
33 purposes as though the constitutional officer was personally
34 present, including the right of the deputy to be counted in
35 constituting a quorum, to participate in the proceedings of the
36 board, commission, committee, or other governing body, and to
37 vote upon any and all matters. The constitutional officer so
38 designating a deputy shall be responsible for the acts of the deputy
39 acting under the designation in the same manner and to the same
40 extent that the constitutional officer is responsible for the acts of



1 the deputy performing his or her official duties as a deputy of the
 2 office of the constitutional officer.

3 (b) The Lieutenant Governor may designate any person in his
 4 or her office holding a position specified in subdivision (c) or (f)
 5 of Section 4 of Article VII of the California Constitution to act as
 6 a deputy for the purposes of this section only. However, the
 7 Lieutenant Governor may not appoint a person to act as a deputy
 8 for him or her at meetings of the Senate, or of the Regents of the
 9 University of California, or of the Trustees of the California State
 10 University.

11 (c) The Chief Justice of the California Supreme Court may
 12 designate a judge or employee of a state court or an employee of
 13 the Administrative Office of the Courts to act as a deputy for the
 14 purposes of this section.

15 (d) The Attorney General may also designate any person in his
 16 or her office holding a position specified in subdivision (m) of
 17 Section 4 of Article VII of the California Constitution to act as a
 18 deputy for the purpose of this section. However, no person
 19 designated by the Attorney General pursuant to this section to act
 20 as a member on any state board, commission, committee, or
 21 governing body of which the Attorney General is presiding officer
 22 shall act as presiding officer in his or her place.

23 (e) The Superintendent of Public Instruction may designate
 24 any person in his or her office holding a position specified in
 25 Section 2.1 of Article IX of the California Constitution to act as a
 26 deputy for the purposes of this section. However, the
 27 Superintendent of Public Instruction may not appoint a person to
 28 act as a deputy for him or her at meetings of the State Board of
 29 Education, of the Regents of the University of California, or of the
 30 Trustees of the California State University.

31 (f) Notwithstanding subdivisions (a) to (e), inclusive, not more
 32 than one officer subject to this section shall be represented by a
 33 deputy subject to this section at any meeting or session of the State
 34 Lands Commission.

35 ~~SEC. 9.~~

36 *SEC. 10. Section 68085 of the Government Code is amended*
 37 *to read:*

38 68085. (a) (1) There is hereby established the Trial Court
 39 Trust Fund, the proceeds of which shall be apportioned at least
 40 quarterly for the purpose of funding trial court operations, as



1 defined in Section 77003. ~~In no event shall apportionment~~
2 *Apportionment* payments *may not* exceed 30 percent of the total
3 annual apportionment to the Trial Court Trust Fund for state trial
4 court funding in any 90-day period.

5 (2) The apportionment payments shall be made by the
6 Controller. ~~For fiscal year 1997-98, the Controller shall make the~~
7 ~~first apportionment payment within 10 days of the operative date~~
8 ~~of this section.~~ The final payment from the Trial Court Trust Fund
9 for each fiscal year shall be made on or before August 31 of the
10 subsequent fiscal year.

11 (3) If apportionment payments are made on a quarterly basis,
12 the payments shall be on July 15, October 15, January 15, and
13 April 15. In addition to quarterly payments, a final payment from
14 the Trial Court Trust Fund for each fiscal year may be made on or
15 before August 31 of the subsequent fiscal year.

16 (4) *Notwithstanding any other provision of law, in order to*
17 *promote statewide efficiency, the Judicial Council may authorize*
18 *the direct payment of costs for trial court programs, contract costs,*
19 *or legal and financial services that are available statewide. At*
20 *least quarterly, the Judicial Council shall request the Controller*
21 *to transfer amounts from the Trial Court Trust Fund and the Trial*
22 *Court Improvement Fund as a reimbursement to the support*
23 *appropriation from which the programs, contract costs, and legal*
24 *and financial services were paid. This transfer shall be based upon*
25 *the expenditures incurred by the Judicial Council for trial court*
26 *programs, contracts entered into by the Judicial Council or the*
27 *Administrative Office of the Courts for trial courts and legal and*
28 *financial services provided to the trial courts. The Judicial Council*
29 *shall provide the Department of Finance with monthly reports on*
30 *expenditures incurred as authorized by this subdivision. The*
31 *Judicial Council shall establish procedures to provide for the*
32 *administration of this paragraph in a way that promotes the*
33 *effective, efficient, reliable, and accountable operation of the trial*
34 *courts.*

35 (b) Notwithstanding any other provision of law, the fees listed
36 in subdivision (c) shall all be deposited upon collection in a special
37 account in the county treasury, and transmitted ~~herefrom~~ monthly
38 to the Controller for deposit in the Trial Court Trust Fund.

39 (c) (1) Except as specified in subdivision (d), this section
40 applies to all fees collected pursuant to Sections 631.3, 116.230,



1 and 403.060 of the Code of Civil Procedure and Sections 26820.4,
2 26823, 26826, 26826.01, 26827, 26827.4, 26830, 26832.1,
3 26833.1, 26835.1, 26836.1, 26837.1, 26838, 26850.1, 26851.1,
4 26852.1, 26853.1, 26855.4, 26862, 27081.5, 68086, 72055,
5 72056, 72056.01, and 72060.

6 (2) If any of the fees provided for in this subdivision are
7 partially waived by court order, and the fee is to be divided
8 between the Trial Court Trust Fund and any other fund, the amount
9 of the partial waiver shall be deducted from the amount to be
10 distributed to each fund in the same proportion as the amount of
11 each distribution bears to the total amount of the fee.

12 (3) Any amounts transmitted by a county to the Controller for
13 deposit into the Trial Court Trust Fund from fees collected
14 pursuant to Section 27361 between January 1, 1998, and the
15 effective date of this paragraph shall be credited against the total
16 amount the county is required to pay to the state pursuant to
17 paragraph (2) of subdivision (b) of Section 77201 for the 1997–98
18 fiscal year.

19 (d) This section does not apply to that portion of a filing fee
20 collected pursuant to Section 26820.4, 26826, 26827, 72055, or
21 72056 which is allocated for dispute resolution pursuant to Section
22 470.3 of the Business and Professions Code, the county law library
23 pursuant to Section 6320 of the Business and Professions Code, the
24 Judges' Retirement Fund pursuant to Section 26822.3, automated
25 recordkeeping or conversion to micrographics pursuant to
26 Sections 26863 and 68090.7, and courthouse financing pursuant
27 to Section 76238. This section also does not apply to fees collected
28 pursuant to subdivisions (a) and (c) of Section 27361.

29 (e) This section applies to all payments required to be made to
30 the State Treasury by any county or city and county pursuant to
31 Section 77201, 77201.1, or 77205.

32 (f) Notwithstanding any other provision of law, no agency ~~shall~~
33 *may* take action to change the amounts allocated to any of the
34 ~~above~~ funds *described in subdivision (a), (b), (c), or (d)*.

35 (g) Before making any apportionments under this section, the
36 Controller shall deduct, from the annual appropriation for that
37 purpose, the actual administrative costs that will be incurred under
38 this section. Costs reimbursed under this section shall be
39 determined on an annual basis in consultation with the Judicial
40 Council.



1 (h) Any amounts required to be transmitted by a county or city
2 and county to the state pursuant to this section shall be remitted to
3 the Controller no later than 45 days after the end of the month in
4 which the fees were collected. This remittance shall be
5 accompanied by a remittance advice identifying the collection
6 month and the appropriate account in the Trial Court Trust Fund
7 to which it is to be deposited. Any remittance which is not made
8 by the county or city and county in accordance with this section
9 shall be considered delinquent, and subject to the penalties
10 specified in this section.

11 (i) Upon receipt of any delinquent payment required pursuant
12 to this section, the Controller shall calculate a penalty on any
13 delinquent payment by multiplying the amount of the delinquent
14 payment at a daily rate equivalent to 1¹/₂ percent per month for the
15 number of days the payment is delinquent. Notwithstanding
16 Section 77009, any penalty on a delinquent payment that a court
17 is required to reimburse to a county's general fund pursuant to this
18 section and Section 24353 shall be paid from the Trial Court
19 Operations Fund for that court.

20 (j) Penalty amounts calculated pursuant to subdivision (i) shall
21 be paid by the county to the Trial Court Trust Fund no later than
22 45 days after the end of the month in which the penalty was
23 calculated.

24 (k) The Trial Court Trust Fund shall be invested in the Surplus
25 Money Investment Fund and all interest earned shall be allocated
26 to the Trial Court Trust Fund semiannually and shall be allocated
27 among the courts in accordance with the requirements of
28 subdivision (a). The specific allocations shall be specified by the
29 Judicial Council, based upon recommendations from the Trial
30 Court Budget Commission.

31 (l) It is the intent of the Legislature that the revenues required
32 to be deposited into the Trial Court Trust Fund be remitted as soon
33 after collection by the courts as possible. Not later than February
34 1, 2001, the Judicial Council, in consultation with the California
35 State Association of Counties and the California County Auditors
36 Association, shall study and make recommendations to the
37 Legislature on alternative procedures that would improve the
38 collection and remittance of revenues to the Trial Court Trust
39 Fund.



1 *SEC. 11. Section 68203.1 of the Government Code is amended*
 2 *to read:*

3 68203.1. (a) Operative January 2, 2002, the salary of the
 4 position of Chair of the Judicial Council and the position of a
 5 presiding judge of a superior court which has 15 or more judges,
 6 and the positions of the administrative presiding justices of the
 7 Courts of Appeal, shall be increased by that amount ~~which~~ *that* is
 8 produced by multiplying the salary of each of these judicial offices
 9 by 4 percent; and the salary for the position of a presiding judge
 10 of a superior court, ~~which~~ *that* has four to 14 judges, shall be
 11 increased by ~~that the~~ amount ~~which~~ *that* is produced by
 12 multiplying the salary of that judicial office by 2 percent.

13 (b) *Operative January 2, 2003, the salary for the position of a*
 14 *presiding judge of a superior court that has two or three judges,*
 15 *shall be increased by the amount that is produced by multiplying*
 16 *his or her salary by 2 percent.*

17 (c) A judge or justice who no longer serves in the position of
 18 an administrative presiding justice or a presiding judge of a
 19 superior court shall receive only the salary in effect for judges or
 20 justices of his or her court.

21 *SEC. 12. Section 68516 of the Government Code is amended*
 22 *to read:*

23 68516. (a) The Judicial Council is authorized to establish a
 24 tax-exempt public benefit nonprofit corporation, or other
 25 tax-exempt entity, qualified under federal and state law to receive
 26 grants or other financial support from private or public sources, for
 27 the purposes of undertaking or funding any survey, study,
 28 publication, proceeding, or other activity authorized by law to be
 29 undertaken by the Judicial Council.

30 (b) Employees of the Administrative Office of the Courts may
 31 establish, staff, and maintain a tax-exempt public benefit nonprofit
 32 corporation, or other tax-exempt entity as provided under this
 33 section, if the activities are exclusively directed at research and
 34 educational programs authorized by the Judicial Council for the
 35 support of the judiciary.

36 ~~SEC. 10.~~

37 *SEC. 13. Section 69510 of the Government Code is repealed.*

38 ~~SEC. 11.~~

39 *SEC. 14. Section 69510.5 of the Government Code is*
 40 *repealed.*



1 ~~SEC. 12.~~

2 *SEC. 15.* Section 69510.6 of the Government Code is
3 repealed.

4 ~~SEC. 13.~~

5 *SEC. 16.* Section 69645 is added to the Government Code, to
6 read:

7 69645. (a) Notwithstanding any other provision of law, each
8 trial court shall determine the number and location of sessions of
9 the court. In making this determination, the court shall consider,
10 among other factors, the impact of this provision on court
11 employees pursuant to Section 71634, the availability and
12 adequacy of facilities for holding the court session at the specific
13 location, the efficiency and cost of holding the session at the
14 specific location, any applicable security issues, and the
15 convenience to the parties and the public served by the court.

16 (b) In appropriate circumstances, upon agreement of the
17 presiding judges of the courts, and in the discretion of the court,
18 the location of a session may be outside the county, except that the
19 consent of the parties shall be necessary to the holding of a criminal
20 jury trial outside the county. The venue of a case whose session is
21 held outside the county pursuant to this section shall be deemed to
22 be the home county of the court hearing the matter.

23 (c) The Judicial Council may adopt rules for the establishment
24 and operation of court sessions established pursuant to this section.
25 The rules may address, in addition to other issues, when a session
26 is to be held outside the home county of the court and the
27 appropriate mechanism for sharing of expenses and resources
28 between the court holding the session and the court hosting the
29 session.

30 ~~SEC. 14.~~

31 *SEC. 17.* *Section 1328 of the Penal Code is amended to read:*

32 1328. (a) A subpoena may be served by any person, except
33 that the defendant may not serve a subpoena in the criminal action
34 to which he or she is a party, but a peace officer shall serve in his
35 or her county any subpoena delivered to him or her for service,
36 either on the part of the people or of the defendant, and shall,
37 without delay, make a written return of the service, subscribed by
38 him or her, stating the time and place of service. The service is
39 made by delivering a copy of the subpoena to the witness
40 personally.

1 (b) (1) ~~When~~ *If* service is to be made on a minor, service shall
2 be made on the minor's parent, guardian, conservator, or similar
3 fiduciary, or if one of them cannot be located with reasonable
4 diligence, then service shall be made on any person having the care
5 or control of the minor or with whom the minor resides or by whom
6 the minor is employed, unless the parent, guardian, conservator,
7 or fiduciary or other specified person is the defendant, and on the
8 minor if the minor is 12 years of age or older. The person ~~so~~ served
9 shall have the obligation of producing the minor at the time and
10 place designated in the subpoena. A willful failure to produce the
11 minor is punishable as a contempt pursuant to Section 1218 of the
12 Code of Civil Procedure. The person ~~so~~ served shall be allowed the
13 fees and expenses that are provided for subpoenaed witnesses.

14 (2) *If the minor is alleged to come within the description of*
15 *Section 300, 601, or 602 of the Welfare and Institutions Code, and*
16 *the minor is not residing with a parent or guardian, regardless of*
17 *the age of the minor, service shall also be made upon the*
18 *designated agent for service of process at the county child welfare*
19 *department or the probation department under whose jurisdiction*
20 *the child has been placed.*

21 (3) The court having jurisdiction of the case shall have the
22 power to appoint a guardian ad litem to receive service of a
23 subpoena of the child and shall have the power to produce the child
24 ordered to court under this section.

25 (c) ~~Whenever~~ *If* any peace officer designated in Section 830 is
26 required as a witness before any court or magistrate in any action
27 or proceeding in connection with a matter regarding an event or
28 transaction which he or she has perceived or investigated in the
29 course of his or her duties, a criminal subpoena issued pursuant to
30 this chapter requiring his or her attendance may be served either
31 by delivering a copy to the peace officer personally or by
32 delivering two copies to his or her immediate superior or agent
33 designated by his or her immediate superior to receive the service;
34 or, in those counties where the local agencies have consented with
35 the marshal's office or sheriff's office, where appropriate, to
36 participate, by sending a copy by electronic means, including
37 electronic mail, computer modem, facsimile, or other electronic
38 means, to his or her immediate superior or agent designated by the
39 immediate superior to receive the service. If the service is made by
40 electronic means, the immediate superior or agency designated by



1 his or her immediate superior shall acknowledge receipt of the
2 subpoena by telephone or electronic means to the sender of origin.
3 If service is made upon the immediate superior or agent designated
4 by the immediate superior, the immediate superior or the agent
5 shall deliver a copy of the subpoena to the peace officer as soon as
6 possible and in no event later than a time which will enable the
7 peace officer to comply with the subpoena.

8 (d) If the immediate superior or his or her designated agent
9 upon whom service is attempted to be made knows he or she will
10 be unable to deliver a copy of the subpoena to the peace officer
11 within a time which will allow the peace officer to comply with the
12 subpoena, the immediate superior or agent may refuse to accept
13 service of process and is excused from any duty, liability, or
14 penalty arising in connection with the service, upon notifying the
15 server of that fact.

16 (e) If the immediate superior or his or her agent is tendered
17 service of a subpoena less than five working days prior to the date
18 of hearing, and he or she is not reasonably certain he or she can
19 complete the service, he or she may refuse acceptance.

20 (f) If the immediate superior or agent upon whom service has
21 been made, subsequently determines that he or she will be unable
22 to deliver a copy of the subpoena to the peace officer within a time
23 which will allow the peace officer to comply with the subpoena,
24 the immediate superior or agent shall notify the server or his or her
25 office or agent not less than 48 hours prior to the hearing date
26 indicated on the subpoena, and is thereby excused from any duty,
27 liability, or penalty arising because of his or her failure to deliver
28 a copy of the subpoena to the peace officer. The server, so notified,
29 is therewith responsible for preparing the written return of service
30 and for notifying the originator of the subpoena if required.

31 (g) Notwithstanding subdivision (c), in the case of peace
32 officers employed by the California Highway Patrol, if service is
33 made upon the immediate superior or upon an agent designated by
34 the immediate superior of the peace officer, the immediate
35 superior or the agent shall deliver a copy of the subpoena to the
36 peace officer on the officer's first workday following acceptance
37 of service of process. In this case, failure of the immediate superior
38 or the designated agent to deliver the subpoena shall not constitute
39 a defect in service.



1 *SEC. 18.* Section 213.5 of the Welfare and Institutions Code
2 is amended to read:

3 213.5. (a) After a petition has been filed pursuant to Section
4 311 to declare a child a dependent child of the juvenile court, and
5 until the time that the petition is dismissed or dependency is
6 terminated, upon application in the manner provided by Section
7 527 of the Code of Civil Procedure, the juvenile court may issue
8 ex parte orders (1) enjoining any person from molesting, attacking,
9 striking, sexually assaulting, stalking, or battering the child or any
10 other child in the household; (2) excluding any person from the
11 dwelling of the person who has care, custody, and control of the
12 child; and (3) enjoining any person from behavior, including
13 contacting, threatening, or disturbing the peace of the child, that
14 the court determines is necessary to effectuate orders under
15 paragraph (1) or (2). A court issuing an ex parte order pursuant to
16 this subdivision may simultaneously issue an ex parte order
17 enjoining any person from contacting, threatening, molesting,
18 attacking, striking, sexually assaulting, stalking, battering, or
19 disturbing the peace of any parent, legal guardian, or current
20 caretaker of the child, regardless of whether the child resides with
21 that parent, legal guardian, or current caretaker, upon application
22 in the manner provided by Section 527 of the Code of Civil
23 Procedure.

24 (b) After a petition has been filed pursuant to Section 601 or
25 602 to declare a child a ward of the juvenile court, and until the
26 time that the petition is dismissed or wardship is terminated, upon
27 application in the manner provided by Section 527 of the Code of
28 Civil Procedure, the juvenile court may issue ex parte orders (1)
29 enjoining any person from molesting, attacking, threatening,
30 sexually assaulting, stalking, or battering the child; (2) excluding
31 any person from the dwelling of the person who has care, custody,
32 and control of the child; or (3) enjoining the child from contacting,
33 threatening, stalking, or disturbing the peace of any person the
34 court finds to be at risk from the conduct of the child, or with whom
35 association would be detrimental to the child.

36 (c) In the case in which a temporary restraining order is granted
37 without notice, the matter shall be made returnable on an order
38 requiring cause to be shown why the order should not be granted,
39 on the earliest day that the business of the court will permit, but not
40 later than 15 days or, if good cause appears to the court, 20 days



1 from the date the temporary restraining order is granted. The court
2 may, on the motion of the person seeking the restraining order, or
3 on its own motion, shorten the time for service on the person to be
4 restrained of the order to show cause. The court may, upon its own
5 motion or the filing of an affidavit by the person seeking the
6 restraining order, find that the person to be restrained could not be
7 served within the time required by law and to reissue an order
8 previously issued and dissolved by the court for failure to serve the
9 person to be restrained. The reissued order shall state on its face
10 the date of expiration of the order. Any hearing pursuant to this
11 section may be held simultaneously with any regularly scheduled
12 hearings held in proceedings to declare a child a dependent child
13 or ward of the juvenile court pursuant to Section 300, 601, or 602,
14 or subsequent hearings regarding the dependent child or ward.

15 (d) The juvenile court may issue, upon notice and a hearing,
16 any of the orders set forth in subdivisions (a), (b), and (c). Any
17 restraining order granted pursuant to this subdivision shall remain
18 in effect, in the discretion of the court, not to exceed three years,
19 unless otherwise terminated by the court, extended by mutual
20 consent of all parties to the restraining order, or extended by
21 further order of the court on the motion of any party to the
22 restraining order.

23 (e) (1) The juvenile court may issue an order made pursuant to
24 subdivision (a), (c), or (d) excluding a person from a residence or
25 dwelling. This order may be issued for the time and on the
26 conditions that the court determines, regardless of which party
27 holds legal or equitable title or is the lessee of the residence or
28 dwelling.

29 (2) The court may issue an order under paragraph (1) only on
30 a showing of all of the following:

31 (A) Facts sufficient for the court to ascertain that the party who
32 will stay in the dwelling has a right under color of law to possession
33 of the premises.

34 (B) That the party to be excluded has assaulted or threatens to
35 assault the other party or any other person under the care, custody,
36 and control of the other party, or any minor child of the parties or
37 of the other party.

38 (C) That physical or emotional harm would otherwise result to
39 the other party, to any person under the care, custody, and control



1 of the other party, or to any minor child of the parties or of the other
2 party.

3 (f) Any order issued pursuant to subdivision (a), (b), (c), or (d)
4 shall state on its face the date of expiration of the order.

5 (g) The juvenile court shall order any designated person or
6 attorney to mail a copy of any order, or extension, modification,
7 or termination thereof, granted pursuant to subdivision (a), (b), (c),
8 or (d), by the close of the business day on which the order,
9 extension, modification, or termination was granted, and any
10 subsequent proof of service thereof, to each local law enforcement
11 agency designated by the person seeking the restraining order or
12 his or her attorney having jurisdiction over the residence of the
13 person who has care, custody, and control of the child and other
14 locations where the court determines that acts of domestic violence
15 or abuse against the child or children are likely to occur. Each
16 appropriate law enforcement agency shall make available through
17 an existing system for verification, information as to the existence,
18 terms, and current status of any order issued pursuant to
19 subdivision (a), (b), (c), or (d) to any law enforcement officer
20 responding to the scene of reported domestic violence or abuse.

21 (h) Any willful and knowing violation of any order granted
22 pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor
23 punishable under Section 273.65 of the Penal Code.

24 (i) A juvenile court restraining order related to domestic
25 violence issued by a court pursuant to this section shall be issued
26 on forms adopted by the Judicial Council of California and that
27 have been approved by the Department of Justice pursuant to
28 subdivision (i) of Section 6380 of the Family Code. However, the
29 fact that an order issued by a court pursuant to this section was not
30 issued on forms adopted by the Judicial Council and approved by
31 the Department of Justice shall not, in and of itself, make the order
32 unenforceable.

33 (j) Information on any juvenile court restraining order related
34 to domestic violence issued by a court pursuant to this section shall
35 be transmitted to the Department of Justice in accordance with
36 subdivision (b) of Section 6380 of the Family Code.

37 (k) (1) Prior to a hearing on the issuance or denial of an order
38 under this part, a search shall be conducted as described in
39 subdivision (a) Section 6306 of the Family Code.



1 (2) Prior to deciding whether to issue an order under this part,
2 the court shall consider the following information obtained
3 pursuant to a search conducted under paragraph (1): any
4 conviction for a violent felony specified in Section 667.5 of the
5 Penal Code or a serious felony specified in Section 1192.7 of the
6 Penal Code; any misdemeanor conviction involving domestic
7 violence, weapons, or other violence; any outstanding warrant;
8 parole or probation status; any prior restraining order; and any
9 violation of a prior restraining order.

10 (3) (A) If the results of the search conducted pursuant to
11 paragraph (1) indicate that an outstanding warrant exists against
12 the subject of the search, the court shall order the clerk of the court
13 to immediately notify, by the most effective means available,
14 appropriate law enforcement officials of any information obtained
15 through the search that the court determines is appropriate. The
16 law enforcement officials so notified shall take all actions
17 necessary to execute any outstanding warrants or any other
18 actions, as appropriate and as soon as practicable.

19 (B) If the results of the search conducted pursuant to paragraph
20 (1) indicate that the subject of the search is currently on parole or
21 probation, the court shall order the clerk of the court to
22 immediately notify, by the most effective means available, the
23 appropriate parole or probation officer of any information
24 obtained through the search that the court determines is
25 appropriate. The parole or probation officer so notified shall take
26 all actions necessary to revoke any parole or probation, or any
27 other actions, with respect to the subject person, as appropriate and
28 as soon as practicable.

29 (I) Upon making any order for custody or visitation pursuant to
30 this section, the court shall follow the procedures specified in
31 subdivisions (c) and (d) of Section 6323 of the Family Code.

32 ~~SEC. 15.~~

33 *SEC. 19.* Section 827 of the Welfare and Institutions Code is
34 amended to read:

35 827. (a) (1) Except as provided in Section 828, a case file
36 may be inspected only by the following:

37 (A) Court personnel.

38 (B) The district attorney, a city attorney, or city prosecutor
39 authorized to prosecute criminal or juvenile cases under state law.

40 (C) The minor who is the subject of the proceeding.



1 (D) His or her parents or guardian.

2 (E) The attorneys for the parties, including attorneys who
3 represent persons who are, or have been, the subjects of petitions
4 pursuant to Section 300, 601, or 602 for the purpose of other
5 administrative or judicial proceedings, and judges, referees, other
6 hearing officers, probation officers and law enforcement officers
7 who are actively participating in criminal or juvenile proceedings
8 involving the minor.

9 (F) The superintendent or designee of the school district where
10 the minor is enrolled or attending school.

11 (G) Members of the child protective agencies as defined in
12 Section 11165.9 of the Penal Code.

13 (H) The State Department of Social Services to carry out its
14 duties pursuant to Division 9 (commencing with Section 10000),
15 and Part 5 (commencing with Section 7900) of Division 12 of the
16 Family Code to oversee and monitor county child welfare
17 agencies, children in foster care or receiving foster care assistance,
18 and out-of-state placements.

19 (I) To authorized legal staff or special investigators who are
20 peace officers who are employed by, or who are authorized
21 representatives of, the State Department of Social Services, as
22 necessary to the performance of their duties to inspect, license, and
23 investigate community care facilities, and to ensure that the
24 standards of care and services provided in those facilities are
25 adequate and appropriate and to ascertain compliance with the
26 rules and regulations to which the facilities are subject. The
27 confidential information shall remain confidential except for
28 purposes of inspection, licensing, or investigation pursuant to
29 Chapter 3 (commencing with Section 1500) and Chapter 3.4
30 (commencing with Section 1596.70) of Division 2 of the Health
31 and Safety Code, or a criminal, civil, or administrative proceeding
32 in relation thereto. The confidential information may be used by
33 the State Department of Social Services in a criminal, civil, or
34 administrative proceeding. The confidential information shall be
35 available only to the judge or hearing officer and to the parties to
36 the case. Names that are confidential shall be listed in attachments
37 separate to the general pleadings. The confidential information
38 shall be sealed after the conclusion of the criminal, civil, or
39 administrative hearings, and shall not subsequently be released
40 except in accordance with this subdivision. If the confidential



1 information does not result in a criminal, civil, or administrative
2 proceeding, it shall be sealed after the State Department of Social
3 Services decides that no further action will be taken in the matter
4 of suspected licensing violations. Except as otherwise provided in
5 this subdivision, confidential information in the possession of the
6 State Department of Social Services shall not contain the name of
7 the minor.

8 (J) Members of children’s multidisciplinary teams, persons or
9 agencies providing treatment or supervision of the minor.

10 (K) A judge, commissioner, or other hearing officer assigned
11 to a family law case with issues concerning custody or visitation,
12 or both, involving the minor, and the following persons, if actively
13 participating in the family law case: a family court mediator
14 assigned to a case involving the minor pursuant to Article 1
15 (commencing with Section 3160) of Chapter 11 of Part 2 of
16 Division 8 of the Family Code, a child custody evaluator appointed
17 by the court pursuant to Section 3118 of the Family Code, and
18 counsel appointed for the minor in the family law case pursuant to
19 Section 3150 of the Family Code. Prior to allowing counsel
20 appointed for the minor in the family law case to inspect the file,
21 the court clerk may require counsel to provide a certified copy of
22 the court order appointing him or her as the minor’s counsel.

23 (L) Juvenile justice commissions as established under Section
24 225. The confidentiality provisions of Section 10850 shall apply
25 to a juvenile justice commission and its members.

26 (M) Any other person who may be designated by court order
27 of the judge of the juvenile court upon filing a petition.

28 (2) Notwithstanding any other law and subject to subparagraph
29 (A) of paragraph (3), juvenile case files, except those relating to
30 matters within the jurisdiction of the court pursuant to Section 601
31 or 602, which pertain to a deceased child who was within the
32 jurisdiction of the juvenile court pursuant to Section 300, shall be
33 released to the public pursuant to an order by the juvenile court
34 after a petition has been filed and interested parties have been
35 afforded an opportunity to file an objection. Any information
36 relating to another child or which could identify another child,
37 except for information about the deceased, shall be redacted from
38 the juvenile case file prior to release, unless a specific order is
39 made by the juvenile court to the contrary. Except as provided in
40 this paragraph, the presiding judge of the juvenile court may issue



1 an order prohibiting or limiting access to the juvenile case file, or
2 any portion thereof, of a deceased child only upon a showing that
3 release of the juvenile case file or any portion thereof is
4 detrimental to the safety, protection, or physical, or emotional
5 well-being of another child who is directly or indirectly connected
6 to the juvenile case that is the subject of the petition.

7 (3) Access to juvenile case files pertaining to matters within the
8 jurisdiction of the juvenile court pursuant to Section 300 shall be
9 limited as follows:

10 (A) If a juvenile case file, or any portion thereof, is privileged
11 or confidential pursuant to any other state law or federal law or
12 regulation, the requirements of that state law or federal law or
13 regulation prohibiting or limiting release of the juvenile case file
14 or any portions thereof shall prevail. Unless a person is listed in
15 subparagraphs (A) to (L), inclusive, of paragraph (1) and is
16 entitled to access under the other state law or federal law or
17 regulation without a court order, all those seeking access, pursuant
18 to other authorization, to portions of, or information relating to the
19 contents of, juvenile case files protected under another state law
20 or federal law or regulation, shall petition the juvenile court. The
21 juvenile court may only release the portion of, or information
22 relating to the contents of, juvenile case files protected by another
23 state law or federal law or regulation if disclosure is not
24 detrimental to the safety, protection, or physical or emotional
25 well-being of a child who is directly or indirectly connected to the
26 juvenile case that is the subject of the petition. This paragraph shall
27 not be construed to limit the ability of the juvenile court to carry
28 out its duties in conducting juvenile court proceedings.

29 (B) Prior to the release of the juvenile case file or any portion
30 thereof, the court shall afford due process, including a notice of
31 and an opportunity to file an objection to the release of the record
32 or report to all interested parties.

33 (4) A juvenile case file, any portion thereof, and information
34 relating to the content of the juvenile case file, shall not be
35 disseminated by the receiving agencies to any persons or agencies,
36 other than those persons or agencies authorized to receive
37 documents pursuant to this section. Further, a juvenile case file,
38 any portion thereof, and information relating to the content of the
39 juvenile case file, shall not be made as an attachment to any other
40 documents without the prior approval of the presiding judge of the



1 juvenile court, unless it is used in connection with and in the course
2 of a criminal investigation or a proceeding brought to declare a
3 person a dependent child or ward of the juvenile court.

4 (b) (1) While the Legislature reaffirms its belief that juvenile
5 court records, in general, should be confidential, it is the intent of
6 the Legislature in enacting this subdivision to provide for a limited
7 exception to juvenile court record confidentiality to promote more
8 effective communication among juvenile courts, family courts,
9 law enforcement agencies, and schools to ensure the rehabilitation
10 of juvenile criminal offenders as well as to lessen the potential for
11 drug use, violence, other forms of delinquency, and child abuse.

12 (2) Notwithstanding subdivision (a), written notice that a
13 minor enrolled in a public school, kindergarten to grade 12,
14 inclusive, has been found by a court of competent jurisdiction to
15 have committed any felony or any misdemeanor involving curfew,
16 gambling, alcohol, drugs, tobacco products, carrying of weapons,
17 a sex offense listed in Section 290 of the Penal Code, assault or
18 battery, larceny, vandalism, or graffiti shall be provided by the
19 court, within seven days, to the superintendent of the school
20 district of attendance. Written notice shall include only the offense
21 found to have been committed by the minor and the disposition of
22 the minor's case. This notice shall be expeditiously transmitted by
23 the district superintendent to the principal at the school of
24 attendance. The principal shall expeditiously disseminate the
25 information to those counselors directly supervising or reporting
26 on the behavior or progress of the minor. In addition, the principal
27 shall disseminate the information to any teacher or administrator
28 directly supervising or reporting on the behavior or progress of the
29 minor whom the principal believes needs the information to work
30 with the pupil in an appropriate fashion, to avoid being needlessly
31 vulnerable or to protect other persons from needless vulnerability.

32 Any information received by a teacher, counselor, or
33 administrator under this subdivision shall be received in
34 confidence for the limited purpose of rehabilitating the minor and
35 protecting students and staff, and shall not be further disseminated
36 by the teacher, counselor, or administrator, except insofar as
37 communication with the juvenile, his or her parents or guardians,
38 law enforcement personnel, and the juvenile's probation officer is
39 necessary to effectuate the juvenile's rehabilitation or to protect
40 students and staff.



1 An intentional violation of the confidentiality provisions of this
2 paragraph is a misdemeanor punishable by a fine not to exceed five
3 hundred dollars (\$500).

4 (3) If a minor is removed from public school as a result of the
5 court's finding described in subdivision (b), the superintendent
6 shall maintain the information in a confidential file and shall defer
7 transmittal of the information received from the court until the
8 minor is returned to public school. If the minor is returned to a
9 school district other than the one from which the minor came, the
10 parole or probation officer having jurisdiction over the minor shall
11 so notify the superintendent of the last district of attendance, who
12 shall transmit the notice received from the court to the
13 superintendent of the new district of attendance.

14 (c) Each probation report filed with the court concerning a
15 minor whose record is subject to dissemination pursuant to
16 subdivision (b) shall include on the face sheet the school at which
17 the minor is currently enrolled. The county superintendent shall
18 provide the court with a listing of all of the schools within each
19 school district, within the county, along with the name and mailing
20 address of each district superintendent.

21 (d) Each notice sent by the court pursuant to subdivision (b)
22 shall be stamped with the instruction: "Unlawful Dissemination
23 Of This Information Is A Misdemeanor." Any information
24 received from the court shall be kept in a separate confidential file
25 at the school of attendance and shall be transferred to the minor's
26 subsequent schools of attendance and maintained until the minor
27 graduates from high school, is released from juvenile court
28 jurisdiction, or reaches the age of 18, whichever occurs first. After
29 that time the confidential record shall be destroyed. At any time
30 after the date by which a record required to be destroyed by this
31 section should have been destroyed, the minor or his or her parent
32 or guardian shall have the right to make a written request to the
33 principal of the school that the minor's school records be reviewed
34 to ensure that the record has been destroyed. Upon completion of
35 any requested review and no later than 30 days after the request for
36 the review was received, the principal or his or her designee shall
37 respond in writing to the written request and either shall confirm
38 that the record has been destroyed or, if the record has not been
39 destroyed, shall explain why destruction has not yet occurred.



1 Except as provided in paragraph (2) of subdivision (b), no
2 liability shall attach to any person who transmits or fails to transmit
3 any notice or information required under subdivision (b).

4 (e) For purposes of this section, a “juvenile case file” means
5 a petition filed in any juvenile court proceeding, reports of the
6 probation officer, and all other documents filed in that case or
7 made available to the probation officer in making his or her report,
8 or to the judge, referee, or other hearing officer, and thereafter
9 retained by the probation officer, judge, referee, or other hearing
10 officer.

11 ~~SEC. 16.~~

12 *SEC. 20.* No reimbursement is required by this act pursuant
13 to Section 6 of Article XIII B of the California Constitution for
14 certain costs that may be incurred by a local agency or school
15 district because in that regard this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.

21 However, notwithstanding Section 17610 of the Government
22 Code, if the Commission on State Mandates determines that this
23 act contains other costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code. If the statewide cost of the
27 claim for reimbursement does not exceed one million dollars
28 (\$1,000,000), reimbursement shall be made from the State
29 Mandates Claims Fund.

