

ASSEMBLY BILL

No. 2303

**Introduced by Committee on Judiciary (Jones (Chair), Evans,
Laird, Levine, Lieber, and Montanez)**

February 22, 2006

An act to amend Section 52.2 of the Civil Code, to amend Sections 527.9, 1276, 1277, 1278, 1278.5, and 1279.5 of the Code of Civil Procedure, to amend Sections 12585, 12599, 12599.1, and 12599.2 of the Government Code, to amend Section 959.1 of the Penal Code, and to amend Section 15657.03 of the Welfare and Institutions Code, relating to the judiciary.

LEGISLATIVE COUNSEL'S DIGEST

AB 2303, as introduced, Committee on Judiciary. Judiciary: omnibus bill.

(1) The Small Claims Act provides that the jurisdiction of the small claims court includes actions brought by a natural person, if the amount of the demand does not exceed \$7,500, with specified exceptions. Existing law limits the jurisdiction of the small claims court in specified actions in which the demand does not exceed \$5,000, including actions for specified acts of discrimination, boycotting, or blacklisting, or the refusal to buy or sell to a person, actions for violence, threat of violence, or intimidation based on specified characteristics of a person, actions for denial or interference with the right of access of a disabled person to specified public accommodations, and other related civil rights actions, as specified.

This bill would permit these actions to be brought in small claims court if the amount of damages demanded does not exceed the jurisdiction of the small claims court for that person pursuant to the Small Claims Act.

(2) Existing law requires a person subject to a temporary restraining order or injunction issued pursuant to specified provisions to relinquish any firearm in his or her immediate possession or control, within 24 hours of the order, to local law enforcement or by sale to a licensed gun dealer. If the respondent is not present at the hearing, existing law allows for that relinquishment or sale within a 48-hour period.

This bill would delete that latter provision, and instead would require all relinquishments or sales to occur within 24 hours of the respondent being served with the order.

(3) Existing law sets forth the procedures for a change of name, including requiring an application for a name change to be made to the superior court of the county where the person whose name is proposed to be changed resides, by petition signed by the person, or if the person is under 18 years of age, signed by one of the person's parents, if living, or if both parents are dead, then by the guardian of the person.

This bill would revise and recast these provisions to, among other things, modify the procedures for persons objecting to a name change and notice thereto, as specified.

(4) Existing law requires a charitable organization, unincorporated association, or a trustee holding property for charitable purposes to register its articles of incorporation with the Attorney General's Registry of Charitable Trusts within 30 days of receiving the property.

This bill would instead require these entities to file an initial registration form with the Attorney General, and would require the Attorney General to adopt rules and regulations as to the contents of that form and related procedures. The bill would make other procedural changes relating to the means of payment of the annual registration or renewal fee by other entities required to register with the Attorney General's Registry of Charitable Trusts.

(5) Existing law allows a criminal prosecution to be commenced by filing an accusatory pleading in electronic form with the magistrate, or in a court having authority to receive it, under specified conditions. Existing law also authorizes a court to receive and file a notice of parking violation or a notice to appear in electronic form under certain conditions.

This bill would revise and recast those conditions for the receipt and filing of an accusatory pleading or a notice to appear in electronic form.

(6) Existing law provides for emergency protective orders with respect to elder abuse, as specified. For those purposes, existing law requires the respondent to be personally served at least two days before the hearing on the protective order.

This bill would instead require at least five days service before that hearing.

(7) The Administrative Office of the Courts administers various court-related programs.

This bill would require the Administrative Office of the Courts to expend all funds allocated for services to assist self-represented litigants in proportion to the number of self-represented parties in each county.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 52.2 of the Civil Code is amended to
2 read:

3 52.2. An action pursuant to Section 52 or 54.3 may be
4 brought in any court of competent jurisdiction. A “court of
5 competent jurisdiction” shall include small claims court if the
6 amount of the damages sought in the action does not exceed ~~five~~
7 ~~thousand dollars (\$5,000)~~ *the jurisdiction of the small claims*
8 *court for that person.*

9 SEC. 2. Section 527.9 of the Code of Civil Procedure is
10 amended to read:

11 527.9. (a) A person subject to a temporary restraining order
12 or injunction issued pursuant to Section 527.6 or 527.8 of the
13 Code of Civil Procedure, or subject to a restraining order issued
14 pursuant to Section 136.2 of the Penal Code, or Section 15657.03
15 of the Welfare and Institutions Code, shall relinquish the firearm
16 pursuant to this section.

17 ~~(b) If the person subject to the order or injunction is present in~~
18 ~~court at a duly noticed hearing~~ *Upon issuance of a protective*
19 *order described in subdivision (a), the court shall order the*
20 *person to relinquish any firearm in that person’s immediate*
21 *possession or control, or subject to that person’s immediate*
22 *possession or control, within 24 hours of being served with the*
23 *order, by either by surrendering the firearm to the control of local*

1 law enforcement officials, or by selling the firearm to a licensed
2 gun dealer, as specified in Section 12071 of the Penal Code. ~~If~~
3 ~~the respondent is not present at the hearing, the respondent shall~~
4 ~~relinquish the firearm within 48 hours after being served with the~~
5 ~~order.~~ A person ordered to relinquish any firearm pursuant to this
6 subdivision shall file with the court a receipt showing the firearm
7 was surrendered to the local law enforcement agency or sold to a
8 licensed gun dealer within 72 hours after receiving the order. In
9 the event that it is necessary to continue the date of any hearing
10 due to a request for a relinquishment order pursuant to this
11 section, the court shall ensure that all applicable protective orders
12 described in Section 6218 of the Family Code remain in effect or
13 bifurcate the issues and grant the permanent restraining order
14 pending the date of the hearing.

15 (c) A local law enforcement agency may charge the person
16 subject to the order or injunction a fee for the storage of any
17 firearm relinquished pursuant to this section. The fee shall not
18 exceed the actual cost incurred by the local law enforcement
19 agency for the storage of the firearm. For purposes of this
20 subdivision, “actual cost” means expenses directly related to
21 taking possession of a firearm, storing the firearm, and
22 surrendering possession of the firearm to a licensed dealer as
23 defined in Section 12071 of the Penal Code or to the person
24 relinquishing the firearm.

25 (d) The restraining order requiring a person to relinquish a
26 firearm pursuant to subdivision (b) shall state on its face that the
27 respondent is prohibited from owning, possessing, purchasing, or
28 receiving a firearm while the protective order is in effect and that
29 the firearm shall be relinquished to the local law enforcement
30 agency for that jurisdiction or sold to a licensed gun dealer, and
31 that proof of surrender or sale shall be filed with the court within
32 a specified period of receipt of the order. The order shall also
33 state on its face the expiration date for relinquishment. Nothing
34 in this section shall limit a respondent’s right under existing law
35 to petition the court at a later date for modification of the order.

36 (e) The restraining order requiring a person to relinquish a
37 firearm pursuant to subdivision (b) shall prohibit the person from
38 possessing or controlling any firearm for the duration of the
39 order. At the expiration of the order, the local law enforcement
40 agency shall return possession of any surrendered firearm to the

1 respondent, within five days after the expiration of the
2 relinquishment order, unless the local law enforcement agency
3 determines that (1) the firearm has been stolen, (2) the
4 respondent is prohibited from possessing a firearm because the
5 respondent is in any prohibited class for the possession of
6 firearms, as defined in Sections 12021 and 12021.1 of the Penal
7 Code and Sections 8100 and 8103 of the Welfare and Institutions
8 Code, or (3) another successive restraining order is used against
9 the respondent under this section. If the local law enforcement
10 agency determines that the respondent is the legal owner of any
11 firearm deposited with the local law enforcement agency and is
12 prohibited from possessing any firearm, the respondent shall be
13 entitled to sell or transfer the firearm to a licensed dealer as
14 defined in Section 12071 of the Penal Code. If the firearm has
15 been stolen, the firearm shall be restored to the lawful owner
16 upon his or her identification of the firearm and proof of
17 ownership.

18 (f) The court may, as part of the relinquishment order, grant an
19 exemption from the relinquishment requirements of this section
20 for a particular firearm if the respondent can show that a
21 particular firearm is necessary as a condition of continued
22 employment and that the current employer is unable to reassign
23 the respondent to another position where a firearm is
24 unnecessary. If an exemption is granted pursuant to this
25 subdivision, the order shall provide that the firearm shall be in
26 the physical possession of the respondent only during scheduled
27 work hours and during travel to and from his or her place of
28 employment. In any case involving a peace officer who as a
29 condition of employment and whose personal safety depends on
30 the ability to carry a firearm, a court may allow the peace officer
31 to continue to carry a firearm, either on duty or off duty, if the
32 court finds by a preponderance of the evidence that the officer
33 does not pose a threat of harm. Prior to making this finding, the
34 court shall require a mandatory psychological evaluation of the
35 peace officer and may require the peace officer to enter into
36 counseling or other remedial treatment program to deal with any
37 propensity for domestic violence.

38 (g) During the period of the relinquishment order, a
39 respondent is entitled to make one sale of all firearms that are in
40 the possession of a local law enforcement agency pursuant to this

1 section. A licensed gun dealer, who presents a local law
 2 enforcement agency with a bill of sale indicating that all firearms
 3 owned by the respondent that are in the possession of the local
 4 law enforcement agency have been sold by the respondent to the
 5 licensed gun dealer, shall be given possession of those firearms,
 6 at the location where a respondent's firearms are stored, within
 7 five days of presenting the local law enforcement agency with a
 8 bill of sale.

9 SEC. 3. Section 1276 of the Code of Civil Procedure is
 10 amended to read:

11 1276. (a) All applications for change of names shall be made
 12 to the superior court of the county where the person whose name
 13 is proposed to be changed resides, except as specified in
 14 subdivision ~~(e)~~ (e), either (1) by petition signed by the person or,
 15 if the person is under 18 years of age, either by one of the
 16 person's parents, or by any guardian of the person, or if both
 17 parents are dead and there is no guardian of the person, then by
 18 some near relative or friend of the person or (2) as provided in
 19 Section 7638 of the Family Code.

20 The petition or pleading shall specify the place of birth and
 21 residence of the person, his or her present name, the name
 22 proposed, and the reason for the change of name, ~~and~~.

23 (b) *In a proceeding for a change of name commenced by the*
 24 *filing of a petition, if the person whose name is to be changed is*
 25 *under 18 years of age, the petition shall, if neither parent of the*
 26 *person has signed the petition, name, as far as known to the*
 27 *person proposing the name change, the parents of the person and*
 28 *their place of residence, if living, or if neither parent is living,*
 29 *near relatives of the person, and their place of residence.*

30 ~~(b)~~

31 (c) ~~In an action~~ *a proceeding* for a change of name
 32 commenced by the filing of a petition:

33 ~~(1) If~~, *if* the person whose name is proposed to be changed is
 34 under 18 years of age and the petition is signed by only one
 35 parent, the petition shall specify the address, if known, of the
 36 other parent if living. If the petition is signed by a guardian, the
 37 petition shall specify the name and address, if known, of the
 38 parent or parents, if living, or the grandparents, if the addresses
 39 of both parents are unknown or if both parents are deceased, of
 40 the person whose name is proposed to be changed.

1 ~~(2) If~~
 2 (d) *In a proceeding for a change of name commenced by the*
 3 *filing of a petition, if the person whose name is proposed to be*
 4 *changed is 12 years of age or over older, has been relinquished to*
 5 *an adoption agency by his or her parent or parents, and has not*
 6 *been legally adopted, the petition shall be signed by the person*
 7 *and the adoption agency to which the person was relinquished.*
 8 *The near relatives of the person and their place of residence shall*
 9 *not be included in the petition unless they are known to the*
 10 *person whose name is proposed to be changed.*

11 ~~(e)~~
 12 (e) *All applications petitions for the change of the name of a*
 13 *minor submitted by a guardian appointed by the juvenile court or*
 14 *the probate court shall be made in the appointing court.*

15 ~~(f)~~
 16 (f) *If the petition is signed by a guardian, the petition shall*
 17 *specify relevant information regarding the guardianship, the*
 18 *likelihood that the child will remain under the guardian's care*
 19 *until the child reaches the age of majority, and information*
 20 *suggesting that the child will not likely be returned to the custody*
 21 *of his or her parents.*

22 SEC. 4. Section 1277 of the Code of Civil Procedure is
 23 amended to read:

24 1277. (a) ~~Where an action~~ *If a proceeding for a change of*
 25 *name is commenced by the filing of a petition, except as*
 26 *provided in subdivisions (b) and ~~(e)~~ (e), the court shall thereupon*
 27 *make an order reciting the filing of the petition, the name of the*
 28 *person by whom it is filed, and the name proposed, and directing.*
 29 *The order shall direct all persons interested in the matter to*
 30 *appear before the court at a time and place specified, which shall*
 31 *be not less than ~~four~~ six or more than ~~eight~~ 12 weeks from the*
 32 *time of making the order, unless the court orders a different time,*
 33 *to show cause why the application for change of name should not*
 34 *be granted. ~~A~~ The order shall direct all persons interested in the*
 35 *matter to make known any objection that they may have to the*
 36 *granting of the petition for change of name by filing a written*
 37 *objection, which includes the reasons for the objection, with the*
 38 *court at least two court days before the matter is scheduled to be*
 39 *heard and by appearing in court at the hearing to show cause*
 40 *why the petition for change of name should not be granted. The*

1 *order shall state that, if no written objection is timely filed, the*
 2 *court may grant the petition without a hearing.*

3 A copy of the order to show cause shall be published pursuant
 4 to Section 6064 of the Government Code in a newspaper of
 5 general circulation to be designated in the order published in the
 6 county. If no newspaper of general circulation is published in the
 7 county, a copy of the order to show cause shall be posted by the
 8 clerk of the court in three of the most public places in the county
 9 in which the court is located, for a like period. Proof shall be
 10 made to the satisfaction of the court of this publication or
 11 posting, at the time of the hearing of the application.

12 Four weekly publications shall be sufficient publication of the
 13 order to show cause. If the order is published in a daily
 14 newspaper, publication once a week for four successive weeks
 15 shall be sufficient.

16 ~~Where~~

17 *If a petition has been filed for a minor by a parent and the other*
 18 *parent, if living, does not join in consenting thereto, the petitioner*
 19 *shall cause, not less than 30 days prior to the hearing, to be*
 20 *served notice of the time and place of the hearing or a copy of the*
 21 *order to show cause on the other parent pursuant to Section*
 22 *413.10, 414.10, 415.10, or 415.40. If notice of the hearing cannot*
 23 *reasonably be accomplished pursuant to Section 415.10 or*
 24 *415.40, the court may order that notice be given in a manner that*
 25 *the court determines is reasonably calculated to give actual*
 26 *notice to the nonconsenting parent. For good cause, the court*
 27 *may determine that publication of the order to show cause*
 28 *pursuant to this subdivision is sufficient notice to the*
 29 *nonconsenting parent.*

30 (b) ~~Where~~ *If the petition for a change of name alleges that the*
 31 *reason for the petition is to avoid domestic violence, as defined*
 32 *in Section 6211 of the Family Code, or stalking, as defined in*
 33 *Section 646.9 of the Penal Code, and the petitioner is a*
 34 *participant in the address confidentiality program created*
 35 *pursuant to Chapter 3.1 (commencing with Section 6205) of*
 36 *Division 7 of Title 1 of the Government Code, the petition, the*
 37 *order of the court, and the copy published pursuant to subdivision*
 38 *(a) shall, in lieu of reciting the proposed name, indicate that the*
 39 *proposed name is confidential and will be on file with the*

1 Secretary of State pursuant to the provisions of the address
2 confidentiality program.

3 (c) ~~An action~~ *A proceeding* for a change of name for a witness
4 participating in the state Witness Protection Program established
5 by Title 7.5 (commencing with Section 14020) of Part 4 of the
6 Penal Code who has been approved for the change of name by
7 the program is exempt from the requirement for publication of
8 the order to show cause under subdivision (a).

9 (d) ~~Where~~ *If* application for change of name is brought as part
10 of an action under the Uniform Parentage Act (Part 3
11 (commencing with Section 7600) of Division 12 of the Family
12 Code), whether as part of a petition or cross-complaint or as a
13 separate order to show cause in a pending action thereunder,
14 service of the application shall be made upon all other parties to
15 the action in a like manner as prescribed for the service of a
16 summons, as is set forth in Article 3 (commencing with Section
17 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting of a
18 hearing on the issue, notice of the hearing shall be given to all
19 parties in the action in a like manner and within the time limits
20 prescribed generally for the type of hearing (whether trial or
21 order to show cause) at which the issue of the change of name is
22 to be decided.

23 (e) ~~Where~~ *If* a guardian files a petition to change the name of
24 his or her minor ward pursuant to Section 1276:

25 (1) The guardian shall provide notice of the hearing to any
26 living parent of the minor by personal service at least 30 days
27 prior to the hearing.

28 (2) If either or both parents are deceased or cannot be located,
29 the guardian shall cause, not less than 30 days prior to the
30 hearing, to be served a notice of the time and place of the hearing
31 or a copy of the order to show cause on the child's grandparents,
32 if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

33 SEC. 5. Section 1278 of the Code of Civil Procedure is
34 amended to read:

35 1278. (a) Except as provided in subdivisions (c) and (d), the
36 *petition or* application shall be heard at the time designated by
37 the court, only if objections are filed by any person who can, in
38 those objections, show to the court good reason against the
39 change of name. At the hearing, the court may examine on oath
40 any of the petitioners, remonstrants, or other persons, touching

1 the *petition or* application, and may make an order changing the
2 name, or dismissing the *petition or* application, as to the court
3 may seem right and proper.

4 If no objection is filed *at least two court days before the date*
5 *set for hearing*, the court may, without hearing, enter the order
6 that the change of name is granted.

7 (b) ~~Where~~*If* the provisions of subdivision (b) of Section 1277
8 apply, the court shall not disclose the proposed name unless the
9 court finds by clear and convincing evidence that the allegations
10 of domestic violence or stalking in the petition are false.

11 (c) ~~Where~~*If* the application for a change of name is brought as
12 part of an action under the Uniform Parentage Act (Part 3
13 (commencing with Section 7600) of Division 12 of the Family
14 Code), the hearing on the issue of the change of name shall be
15 conducted pursuant to statutes and rules of court governing those
16 proceedings, whether the hearing is conducted upon an order to
17 show cause or upon trial.

18 (d) ~~Where the application~~*If the petition* for a change of name
19 is filed by a guardian on behalf of a minor ward, the court shall
20 first find that the ward is likely to remain in the guardian's care
21 until the age of majority and that the ward is not likely to be
22 returned to the custody of his or her parents. Upon making ~~such~~
23 *those* findings, the court shall consider the petition and may grant
24 the petition only if it finds that the proposed name change is in
25 the best interest of the child.

26 SEC. 6. Section 1278.5 of the Code of Civil Procedure is
27 amended to read:

28 1278.5. In any proceeding pursuant to this title in which a
29 petition has been filed to change the name of a minor, and both
30 parents, if living, do not join in ~~consenting thereto~~ *consent*, the
31 court may deny the petition in whole or in part if it finds that any
32 portion of the proposed name change is not in the best interest of
33 the child.

34 SEC. 7. Section 1279.5 of the Code of Civil Procedure is
35 amended to read:

36 1279.5. (a) Except as provided in subdivision (b), (c), (d), or
37 (e), nothing in this title shall be construed to abrogate the
38 common law right of any person to change his or her name.

39 (b) Notwithstanding any other law, no person imprisoned in
40 the state prison and under the jurisdiction of the Director of

1 Corrections shall be allowed to file ~~an application~~ *a petition* for
2 change of name pursuant to Section 1276, except as permitted at
3 the discretion of the Director of Corrections.

4 (c) A court shall deny ~~an application~~ *a petition* for a name
5 change pursuant to Section 1276 made by a person who is under
6 the jurisdiction of the Department of Corrections, unless that
7 person's parole agent or probation officer grants prior written
8 approval. Before granting that approval, the parole agent or
9 probation officer shall determine that the name change will not
10 pose a security risk to the community.

11 (d) Notwithstanding any other law, a court shall deny ~~an~~
12 ~~application~~ *a petition* for a name change pursuant to Section
13 1276 made by a person who is required to register as a sex
14 offender under Section 290 of the Penal Code, unless the court
15 determines that it is in the best interest of justice to grant the
16 ~~application~~ *petition* and that doing so will not adversely affect the
17 public safety. If ~~an application~~ *a petition* for a name change is
18 granted for an individual required to register as a sex offender,
19 the individual shall, within five working days, notify the chief of
20 police of the city in which he or she is domiciled, or the sheriff of
21 the county if he or she is domiciled in an unincorporated area,
22 and additionally; with the chief of police of a campus of a
23 University of California or California State University if he or
24 she is domiciled upon the campus or in any of its facilities.

25 (e) For the purpose of this section, the court shall use the
26 California Law Enforcement Telecommunications System
27 (CLETS) and Criminal Justice Information System (CJIS) to
28 determine whether or not an applicant for a name change is under
29 the jurisdiction of the Department of Corrections or is required to
30 register as a sex offender pursuant to Section 290 of the Penal
31 Code. Each person applying for a name change shall declare
32 under penalty of perjury that he or she is not under the
33 jurisdiction of the Department of Corrections or is required to
34 register as a sex offender pursuant to Section 290 of the Penal
35 Code. If a court is not equipped with CLETS or CJIS, the clerk of
36 the court shall contact an appropriate local law enforcement
37 agency, which shall determine whether or not the ~~applicant~~
38 *petitioner* is under the jurisdiction of the Department of
39 Corrections or is required to register as a sex offender pursuant to
40 Section 290 of the Penal Code.

1 SEC. 8. Section 12585 of the Government Code is amended
2 to read:

3 12585. (a) Every charitable corporation, unincorporated
4 association, and trustee subject to this article shall file with the
5 Attorney General ~~a copy of the articles of incorporation, or other~~
6 ~~instrument that governs the operation of the corporation,~~
7 ~~unincorporated association, or trust~~ *an initial registration form,*
8 *under oath, setting forth information and attaching documents*
9 *prescribed in accordance with rules and regulations of the*
10 *Attorney General,* within 30 days after the corporation,
11 unincorporated association, or trustee initially receives property.
12 A trustee is not required to register as long as the charitable
13 interest in a trust is a future interest, but shall do so within 30
14 days after any charitable interest in a trust becomes a present
15 interest.

16 (b) *The Attorney General shall adopt rules and regulations as*
17 *to the contents of the initial registration form and the manner of*
18 *executing and filing that document or documents.*

19 SEC. 9. Section 12599 of the Government Code is amended
20 to read:

21 12599. (a) “Commercial fundraiser for charitable purposes”
22 means any individual, corporation, unincorporated association, or
23 other legal entity who for compensation does any of the
24 following:

25 (1) Solicits funds, assets, or property in this state for charitable
26 purposes.

27 (2) As a result of a solicitation of funds, assets, or property in
28 this state for charitable purposes, receives or controls the funds,
29 assets, or property solicited for charitable purposes.

30 (3) Employs, procures, or engages any compensated person to
31 solicit, receive, or control funds, assets, or property for charitable
32 purposes.

33 A commercial fundraiser for charitable purposes shall include
34 any person, association of persons, corporation, or other entity
35 that obtains a majority of its inventory for sale by the purchase,
36 receipt, or control for resale to the general public, of salvageable
37 personal property solicited by an organization qualified to solicit
38 donations pursuant to Section 148.3 of the Welfare and
39 Institutions Code.

1 A commercial fundraiser for charitable purposes shall not
2 include a “trustee” as defined in Section 12582 or 12583, a
3 “charitable corporation” as defined in Section 12582.1, or any
4 employee thereof. A commercial fundraiser for charitable
5 purposes shall not include an individual who is employed by or
6 under the control of a commercial fundraiser for charitable
7 purposes registered with the Attorney General. A commercial
8 fundraiser for charitable purposes shall not include any federally
9 insured financial institution that holds as a depository funds
10 received as a result of a solicitation for charitable purposes.

11 As used in this section, “charitable purposes” includes any
12 solicitation in which the name of any organization of law
13 enforcement personnel, firefighters, or other persons who protect
14 the public safety is used or referred to as an inducement for
15 transferring any funds, assets, or property, unless the only
16 expressed or implied purpose of the solicitation is for the sole
17 benefit of the actual active membership of the organization.

18 (b) A commercial fundraiser for charitable purposes shall,
19 prior to soliciting any funds, assets, or property, including
20 salvageable personal property, in California for charitable
21 purposes, or prior to receiving and controlling any funds, assets,
22 or property, including salvageable personal property, as a result
23 of a solicitation in this state for charitable purposes, register with
24 the Attorney General’s Registry of Charitable Trusts on a
25 registration form provided by the Attorney General. Renewals of
26 registration shall be filed with the Registry of Charitable Trusts
27 by January 15 of each calendar year in which the commercial
28 fundraiser for charitable purposes does business and shall be
29 effective for one year. A registration or renewal fee of two
30 hundred dollars (\$200) shall be required for registration of a
31 commercial fundraiser for charitable purposes, and shall be
32 payable by certified or cashier’s check to the Attorney General’s
33 Registry of Charitable Trusts at the time of registration or
34 renewal. The Attorney General may adjust the annual registration
35 or renewal fee, *or means of payment*, as needed pursuant to this
36 section. The Attorney General’s Registry of Charitable Trusts
37 may grant extensions of time to file annual registration as
38 required, pursuant to subdivision (b) of Section 12586.

39 (c) A commercial fundraiser for charitable purposes shall file
40 with the Attorney General’s Registry of Charitable Trusts an

1 annual financial report on a form provided by the Attorney
 2 General, accounting for all funds collected pursuant to any
 3 solicitation for charitable purposes during the preceding calendar
 4 year. The annual financial report shall be filed with the Attorney
 5 General’s Registry of Charitable Trusts no later than 30 days
 6 after the close of the preceding calendar year.

7 (d) The contents of the forms for annual registration and
 8 annual financial reporting by commercial fundraisers for
 9 charitable purposes shall be established by the Attorney General
 10 in a manner consistent with the procedures set forth in
 11 subdivisions (a) and (b) of Section 12586. The annual financial
 12 report shall require a detailed, itemized accounting of funds,
 13 assets, or property, solicited for charitable purposes on behalf of
 14 each charitable organization exempt from taxation under Section
 15 501(c)(3) of the Internal Revenue Code or for each charitable
 16 purpose during the accounting period, and shall include, among
 17 other data, the following information for funds, assets, or
 18 property, solicited by the commercial fundraiser for charitable
 19 purposes:

- 20 (1) Total revenue.
- 21 (2) The fee or commission charged by the commercial
 22 fundraiser for charitable purposes.
- 23 (3) Salaries paid by the commercial fundraiser for charitable
 24 purposes to its officers and employees.
- 25 (4) Fundraising expenses.
- 26 (5) Distributions to the identified charitable organization or
 27 purpose.
- 28 (6) The names and addresses of any director, officer, or
 29 employee of the commercial fundraiser for charitable purposes
 30 who is a director, officer, or employee of any charitable
 31 organization listed in the annual financial report.

32 (e) A commercial fundraiser for charitable purposes that
 33 obtains a majority of its inventory for sale by the purchase,
 34 receipt, or control for resale to the general public, of salvageable
 35 personal property solicited by an organization qualified to solicit
 36 donations pursuant to Section 148.3 of the Welfare and
 37 Institutions Code shall file with the Attorney General’s Registry
 38 of Charitable Trusts, and not with the sheriff of any county, an
 39 annual financial report on a form provided by the Attorney
 40 General that is separate and distinct from forms filed by other

1 commercial fundraisers for charitable purposes pursuant to
2 subdivisions (c) and (d).

3 (f) It shall be unlawful for any commercial fundraiser for
4 charitable purposes to solicit funds in this state for charitable
5 purposes unless the commercial fundraiser for charitable
6 purposes has complied with the registration or annual renewal
7 and financial reporting requirements of this article. Failure to
8 comply with these registration or annual renewal and financial
9 reporting requirements shall be grounds for injunction against
10 solicitation in this state for charitable purposes and other civil
11 remedies provided by law.

12 (g) A commercial fundraiser for charitable purposes is a
13 constructive trustee for charitable purposes as to all funds
14 collected pursuant to solicitation for charitable purposes and shall
15 account to the Attorney General for all funds. A commercial
16 fundraiser for charitable purposes is subject to the Attorney
17 General's supervision and enforcement over charitable funds and
18 assets to the same extent as a trustee for charitable purposes
19 under this article.

20 (h) Not less than 10 working days prior to the commencement
21 of each solicitation campaign, event, or service, or not later than
22 commencement of solicitation for solicitations to aid victims of
23 emergency hardship or disasters, a commercial fundraiser for
24 charitable purposes shall file with the Attorney General's
25 Registry of Charitable Trusts a notice on a form prescribed by the
26 Attorney General that sets forth all of the following:

27 (1) The name, address, and telephone number of the
28 commercial fundraiser for charitable purposes.

29 (2) The name, address, and telephone number of the charitable
30 organization with whom the commercial fundraiser has
31 contracted.

32 (3) The fundraising methods to be used.

33 (4) The projected dates when performance under the contract
34 will commence and terminate.

35 (5) The name, address, and telephone number of the person
36 responsible for directing and supervising the work of the
37 commercial fundraiser under the contract.

38 (i) There shall be a written contract between a commercial
39 fundraiser for charitable purposes and a charitable organization
40 for each solicitation campaign, event, or service, that shall be

1 signed by the authorized contracting officer for the commercial
2 fundraiser and by an official of the charitable organization who is
3 authorized to sign by the organization's governing body. The
4 contract shall be available for inspection by the Attorney General
5 and shall contain all of the following provisions:

6 (1) The legal name and address of the charitable organization
7 as registered with the Registry of Charitable Trusts, unless the
8 charitable organization is exempt from registration.

9 (2) A statement of the charitable purpose for which the
10 solicitation campaign, event, or service is being conducted.

11 (3) A statement of the respective obligations of the
12 commercial fundraiser and the charitable organization.

13 (4) If the commercial fundraiser is to be paid a fixed fee, a
14 statement of the fee to be paid to the commercial fundraiser and a
15 good faith estimate of what percentage the fee will constitute of
16 the total contributions received. The contract shall clearly
17 disclose the assumptions upon which the estimate is based, and
18 the stated assumptions shall be based upon all of the relevant
19 facts known to the commercial fundraiser regarding the
20 solicitation to be conducted by the commercial fundraiser.

21 (5) If a percentage fee is to be paid to the commercial
22 fundraiser, a statement of the percentage of the total
23 contributions received that will be remitted to or retained by the
24 charitable organization, or, if the solicitation involves the sale of
25 goods or services or the sale of admissions to a fundraising event,
26 the percentage of the purchase price that will be remitted to the
27 charitable organization. The stated percentage shall be calculated
28 by subtracting from contributions received and sales receipts not
29 only the commercial fundraiser's fee, but also any additional
30 amounts that the charitable organization is obligated to pay as
31 fundraising costs.

32 (6) The effective and termination dates of the contract and the
33 date solicitation activity is to commence within the state.

34 (7) A provision that requires that each contribution in the
35 control or custody of the commercial fundraiser shall in its
36 entirety and within five working days of its receipt comply with
37 either of the following:

38 (A) Be deposited in an account at a bank or other federally
39 insured financial institution that is solely in the name of the

1 charitable organization and over which the charitable
2 organization has sole control of withdrawals.

3 (B) Be delivered to the charitable organization in person, by
4 United States express mail, or by another method of delivery
5 providing for overnight delivery.

6 (8) A statement that the charitable organization exercises
7 control and approval over the content and frequency of any
8 solicitation.

9 (9) If the commercial fundraiser proposes to make any
10 payment in cash or in kind to any person or legal entity to secure
11 any person's attendance at, or sponsorship, approval, or
12 endorsement of, a charity fundraising event, the maximum dollar
13 amount of those payments shall be set forth in the contract.
14 "Charity fundraising event" means any gathering of persons,
15 including, but not limited to, a party, banquet, concert, or show,
16 that is held for the purpose or claimed purpose of raising funds
17 for any charitable purpose or organization.

18 (10) A provision that ~~the~~ *includes all of the following*
19 *statements:*

20 (A) *The* charitable organization has the right to cancel the
21 contract without cost, penalty, or liability for a period of 10 days
22 following the date on which the contract is executed; ~~that the~~.

23 (B) *The* charitable organization may cancel the contract by
24 serving a written notice of cancellation on the commercial
25 fundraiser; ~~that, if~~.

26 (C) *If* mailed, service shall be by certified mail, return receipt
27 requested, and cancellation shall be deemed effective upon the
28 expiration of five calendar days from the date of mailing; ~~that~~
29 ~~any~~.

30 (D) *Any* funds collected after effective notice that the contract
31 has been canceled shall be deemed to be held in trust for the
32 benefit of the charitable organization without deduction for costs
33 or expenses of any nature; ~~and that the~~.

34 (E) *The* charitable organization shall be entitled to recover all
35 funds collected after the date of cancellation.

36 (11) A provision that, ~~following~~ *includes all of the following*
37 *statements:*

38 (A) *Following* the initial 10-day cancellation period, the
39 charitable organization may terminate the contract by giving 30
40 days' written notice; ~~that, if~~.

1 (B) *If* mailed, service of the notice shall be by certified mail,
2 return receipt requested, and shall be deemed effective upon the
3 expiration of five calendar days from the date of mailing; ~~and~~
4 ~~that, in.~~

5 (C) *In* the event of termination under this subdivision, the
6 charitable organization shall be liable for services provided by
7 the commercial fundraiser up to 30 days after the effective
8 service of the notice.

9 (12) A provision that, following the initial 10-day cancellation
10 period, the charitable organization may terminate the contract at
11 any time upon written notice, without payment or compensation
12 of any kind to the commercial fundraiser, if the commercial
13 fundraiser or its agents, employees, or representatives ~~(A) make~~
14 *do any of the following:*

15 (A) *Make* any material misrepresentations in the course of
16 solicitations or with respect to the charitable organization; ~~(B)~~
17 ~~are.~~

18 (B) *Are* found by the charitable organization to have been
19 convicted of a crime arising from the conduct of a solicitation for
20 a charitable organization or purpose punishable as a
21 misdemeanor or a felony; ~~or (C) otherwise.~~

22 (C) *Otherwise* conduct fundraising activities in a manner that
23 causes or could cause public disparagement of the charitable
24 organization’s good name or good will.

25 (13) Any other information required by the regulations of the
26 Attorney General.

27 (j) It shall be unlawful for a commercial fundraiser for
28 charitable purposes to not disclose the percentage of total
29 fundraising expenses of the fundraiser upon receiving a written
30 or oral request from a person solicited for a contribution for a
31 charitable purpose. “Percentage of total fundraising expenses,” as
32 used in this section, means the ratio of the total expenses of the
33 fundraiser to the total revenue received by the fundraiser for the
34 charitable purpose for which funds are being solicited, as
35 reported on the most recent financial report filed with the
36 Attorney General’s Registry of Charitable Trusts. A commercial
37 fundraiser shall disclose this information in writing within five
38 working days from receipt of a request by mail or facsimile. A
39 commercial fundraiser shall orally disclose this information
40 immediately upon a request made in person or in a telephone

1 conversation and shall follow this response with a written
2 disclosure within five working days. Failure to comply with the
3 requirements of this subdivision shall be grounds for an
4 injunction against solicitation in this state for charitable purposes
5 and other civil remedies provided by law.

6 (k) If the Attorney General issues a report to the public
7 containing information obtained from registration forms or
8 financial report forms filed by commercial fundraisers for
9 charitable purposes, there shall be a separate section concerning
10 commercial fundraisers for charitable purposes that obtain a
11 majority of their inventory for sale by the purchase, receipt, or
12 control for resale to the general public, of salvageable personal
13 property solicited by an organization qualified to solicit
14 donations pursuant to Section 148.3 of the Welfare and
15 Institutions Code. The report shall include an explanation of the
16 distinctions between these thrift store operations and other types
17 of commercial fundraising.

18 (l) No person may act as a commercial fundraiser for
19 charitable purposes if that person, any officer or director of that
20 person's business, any person with a controlling interest in the
21 business, or any person the commercial fundraiser employs,
22 engages, or procures to solicit for compensation, has been
23 convicted by a court of any state or the United States of a crime
24 arising from the conduct of a solicitation for a charitable
25 organization or purpose punishable as a misdemeanor or felony.

26 (m) A commercial fundraiser for charitable purposes shall not
27 solicit in the state on behalf of a charitable organization unless
28 that charitable organization is registered or is exempt from
29 registration with the Attorney General's Registry of Charitable
30 Trusts.

31 (n) If any provision of this section or the application thereof to
32 any person or circumstances is held invalid, that invalidity shall
33 not affect any other provision or application of this section that
34 can be given effect without the invalid provision or application,
35 and to this end the provisions of this section are severable.

36 SEC. 10. Section 12599.1 of the Government Code is
37 amended to read:

38 12599.1. (a) "Fundraising counsel for charitable purposes" is
39 defined as any individual, corporation, unincorporated

1 association, or other legal entity who is described by all of the
2 following:

3 (1) For compensation plans, manages, advises, counsels,
4 consults, or prepares material for, or with respect to, the
5 solicitation in this state of funds, assets, or property for charitable
6 purposes.

7 (2) Does not solicit funds, assets, or property for charitable
8 purposes.

9 (3) Does not receive or control funds, assets, or property
10 solicited for charitable purposes in this state.

11 (4) Does not employ, procure, or engage any compensated
12 person to solicit, receive, or control funds, assets, or property for
13 charitable purposes.

14 (b) “Fundraising counsel for charitable purposes” does not
15 include any of the following:

16 (1) An attorney, investment counselor, or banker who in the
17 conduct of that person’s profession advises a client when actually
18 engaged in the giving of legal, investment, or financial advice.

19 (2) A trustee as defined in Section 12582 or 12583.

20 (3) A charitable corporation as defined in Section 12582.1, or
21 any employee thereof.

22 (4) A person employed by or under the control of a
23 fundraising counsel for charitable purposes, as defined in
24 subdivision (a).

25 (5) A person, corporation, or other legal entity, engaged as an
26 independent contractor directly by a trustee or a charitable
27 corporation, that prints, reproduces, or distributes written
28 materials prepared by a trustee, a charitable corporation, or any
29 employee thereof, or that performs artistic or graphic services
30 with respect to written materials prepared by a trustee, a
31 charitable corporation, or any employee thereof, provided that
32 the independent contractor does not perform any of the activities
33 described in paragraph (1) of subdivision (a).

34 (6) A person whose total annual gross compensation for
35 performing any activity described in paragraph (1) of subdivision
36 (a) does not exceed twenty-five thousand dollars (\$25,000).

37 (c) A fundraising counsel for charitable purposes shall, prior to
38 managing, advising, counseling, consulting, or preparing material
39 for, or with respect to, the solicitation in this state of funds,
40 assets, or property for charitable purposes, register with the

1 Attorney General's Registry of Charitable Trusts on a
2 registration form provided by the Attorney General. Renewals of
3 registration shall be filed with the Registry of Charitable Trusts
4 by January 15 of each calendar year in which the fundraising
5 counsel for charitable purposes does business and shall be
6 effective for one year.

7 A registration or renewal fee of two hundred dollars (\$200)
8 shall be required for registration of a fundraising counsel for
9 charitable purposes, and shall be payable by certified or cashier's
10 check to the Attorney General's Registry of Charitable Trusts at
11 the time of registration and renewal. The Attorney General may
12 adjust the annual registration or renewal fee, *or means of*
13 *payment*, as needed pursuant to this section. The Attorney
14 General's Registry of Charitable Trusts may grant extensions of
15 time to file annual registration as required, pursuant to
16 subdivision (b) of Section 12586.

17 (d) A fundraising counsel for charitable purposes shall file
18 annually with the Attorney General's Registry of Charitable
19 Trusts on a form provided by the Attorney General, a report
20 listing each person, corporation, unincorporated association, or
21 other legal entity for whom the fundraising counsel has
22 performed any services described in paragraph (1) of subdivision
23 (a), and a statement certifying that the fundraising counsel had a
24 written contract with each listed person, corporation,
25 unincorporated association, or other legal entity that complied
26 with the requirements of subdivision (f).

27 (e) Not less than 10 working days prior to the commencement
28 of the performance of any service for a charitable organization by
29 a fundraising counsel for charitable purposes, or not later than
30 commencement of solicitation for solicitations to aid victims of
31 emergency hardship or disasters, the fundraising counsel shall
32 file with the Attorney General's Registry of Charitable Trusts a
33 notice on a form prescribed by the Attorney General that sets
34 forth all of the following:

35 (1) The name, address, and telephone number of the
36 fundraising counsel for charitable purposes.

37 (2) The name, address, and telephone number of the charitable
38 organization with whom the fundraising counsel has contracted.

39 (3) The projected dates when performance under the contract
40 will commence and terminate.

1 (4) The name, address, and telephone number of the person
2 responsible for directing and supervising the work of the
3 fundraising counsel under the contract.

4 (f) There shall be a written contract between a fundraising
5 counsel for charitable purposes and a charitable organization for
6 each service to be performed by the fundraising counsel for the
7 charitable organization, that shall be signed by the authorized
8 contracting officer for the fundraising counsel and by an official
9 of the charitable organization who is authorized to sign by the
10 organization's governing body. The contract shall be available
11 for inspection by the Attorney General and shall contain all of the
12 following provisions:

13 (1) The legal name and address of the charitable organization
14 as registered with the Registry of Charitable Trusts unless the
15 charitable organization is exempt from registration.

16 (2) A statement of the charitable purpose for which the
17 solicitation campaign is being conducted.

18 (3) A statement of the respective obligations of the fundraising
19 counsel and the charitable organization.

20 (4) A clear statement of the fees and any other form of
21 compensation, including commissions and property, that will be
22 paid to the fundraising counsel.

23 (5) The effective and termination dates of the contract and the
24 date services will commence with respect to solicitation in this
25 state of contributions for a charitable organization.

26 (6) A statement that the fundraising counsel will not at any
27 time solicit funds, assets, or property for charitable purposes,
28 receive or control funds, assets, or property solicited for
29 charitable purposes, or employ, procure, or engage any
30 compensated person to solicit, receive, or control funds, assets, or
31 property for charitable purposes.

32 (7) A statement that the charitable organization exercises
33 control and approval over the content and frequency of any
34 solicitation.

35 (8) A provision that ~~the~~ *includes all of the following*
36 *statements:*

37 (A) *The* charitable organization has the right to cancel the
38 contract without cost, penalty, or liability for a period of 10 days
39 following the date on which the contract is executed; ~~that the~~
40 ~~charitable~~.

1 (B) *The charitable* organization may cancel the contract by
2 serving a written notice of cancellation on the fundraising
3 counsel; ~~and that, if.~~

4 (C) *If mailed*, service shall be by certified mail, return receipt
5 requested, and cancellation shall be deemed effective upon the
6 expiration of five calendar days from the date of mailing.

7 (9) A provision that, ~~following~~ *includes all of the following*
8 *statements:*

9 (A) *Following* the initial 10-day cancellation period, the
10 charitable organization may terminate the contract by giving 30
11 days' written notice; ~~that, if.~~

12 (B) *If mailed*, service of the notice shall be by certified mail,
13 return receipt requested, and shall be deemed effective upon the
14 expiration of five calendar days from the date of mailing; ~~and~~
15 ~~that, in.~~

16 (C) *In* the event of termination under this subdivision, the
17 charitable organization shall be liable for services provided by
18 the fundraising counsel to the effective date of the termination.

19 (10) Any other information required by the regulations of the
20 Attorney General.

21 (g) It shall be unlawful for any fundraising counsel for
22 charitable purposes to manage, advise, counsel, consult, or
23 prepare material for, or with respect to, the solicitation in this
24 state of funds, assets, or property for charitable purposes unless
25 the fundraising counsel for charitable purposes has complied
26 with the registration or annual renewal and financial reporting
27 requirements of this article.

28 (h) A fundraising counsel for charitable purposes is subject to
29 the Attorney General's supervision and enforcement to the same
30 extent as a trustee for charitable purposes under this article.

31 (i) If any provision of this section or the application thereof to
32 any person or circumstances is held invalid, that invalidity shall
33 not affect other provisions or application of this section which
34 can be given effect without the invalid provision or application,
35 and to this end the provisions of this section are severable.

36 SEC. 11. Section 12599.2 of the Government Code is
37 amended to read:

38 12599.2. (a) "Commercial coventurer" is defined as any
39 person who, for profit, is regularly and primarily engaged in
40 trade or commerce other than in connection with the raising of

1 funds, assets, or property for charitable organizations or
2 charitable purposes, and who represents to the public that the
3 purchase or use of any goods, services, entertainment, or any
4 other thing of value will benefit a charitable organization or will
5 be used for a charitable purpose.

6 (b) A commercial coventurer is a trustee as defined in Section
7 12582. Notwithstanding the requirements of Sections 12585 and
8 12586, a commercial coventurer is not required to register or file
9 periodic reports with the Attorney General provided that the
10 commercial coventurer:

11 (1) Has a written contract with a trustee or charitable
12 corporation subject to this article, signed by two officers of the
13 trustee or charitable corporation, prior to representing to the
14 public that the purchase or use of any goods, services,
15 entertainment, or any other thing of value will benefit the trustee
16 or charitable corporation or will be used for a charitable purpose.

17 (2) Within 90 days after commencement of those
18 representations, and at the end of each successive 90-day period
19 during which the representations are made, transfers to that
20 trustee or charitable corporation subject to this article all funds,
21 assets, or property received as a result of the representations.

22 (3) Provides in conjunction with each transfer required by
23 paragraph (2) a written accounting to the trustee or charitable
24 corporation subject to this article of all funds, assets, or property
25 received sufficient to enable the trustee or charitable corporation
26 (A) to determine that representations made to the public on its
27 behalf have been adhered to accurately and completely, and (B)
28 to prepare its periodic report filed with the Attorney General
29 pursuant to Section 12586.

30 (c) A commercial coventurer that does not meet the
31 requirements of paragraphs (1), (2), and (3) of subdivision (b)
32 shall register and report to the Attorney General on forms
33 required by the Attorney General. An annual registration or
34 renewal fee of two hundred dollars (\$200) shall be required for
35 registration or renewal of registration of a commercial
36 coventurer, and shall be payable by certified or cashier's check to
37 the Attorney General's Registry of Charitable Trusts at the time
38 of registration or renewal. The Attorney General may adjust the
39 annual registration or renewal fee, *or means of payment*, as
40 needed pursuant to this section.

1 SEC. 12. Section 959.1 of the Penal Code is amended to read:
2 959.1. (a) Notwithstanding Sections 740, 806, 949, and 959
3 or any other ~~provision of the law to the contrary~~, a criminal
4 prosecution may be commenced by filing an accusatory pleading
5 in electronic form with the magistrate or in a court having
6 authority to receive it.

7 (b) As used in this section, accusatory pleadings include, but
8 are not limited to, the complaint, the information, *and* the
9 indictment, ~~and any citation or notice to appear issued on a form~~
10 ~~approved by the Judicial Council~~.

11 (c) A magistrate or court is authorized to receive and file an
12 accusatory pleading in electronic form if all of the following
13 conditions are met:

14 (1) The accusatory pleading is issued in the name of, and
15 transmitted by, a public prosecutor or law enforcement agency
16 filing pursuant to Chapter 5c (commencing with Section 853.5)
17 or Chapter 5d (commencing with Section 853.9), or by a clerk of
18 the court with respect to complaints issued for the offenses of
19 failure to appear, pay a fine, or comply with an order of the court.

20 (2) The magistrate or court has the facility to electronically
21 store the accusatory pleading for the statutory period of record
22 retention.

23 (3) The magistrate or court has the ability to reproduce the
24 accusatory pleading in physical form upon demand and payment
25 of any costs involved.

26 An accusatory pleading shall be deemed to have been filed
27 when it has been received by the magistrate or court.

28 When transmitted in electronic form, the accusatory pleading
29 shall be exempt from any requirement that it be subscribed by a
30 natural person. It is sufficient to satisfy any requirement that an
31 accusatory pleading, or any part of it, be sworn to before an
32 officer entitled to administer oaths, if the pleading, or any part of
33 it, was in fact sworn to and the electronic form indicates which
34 parts of the pleading were sworn to and the name of the officer
35 who administered the oath.

36 ~~(4)~~

37 (d) Notwithstanding any other ~~provision of law, a notice of~~
38 ~~parking violation or a notice to appear issued on a form approved~~
39 ~~by the Judicial Council~~ may be received and filed by a court in
40 electronic form, if the following conditions are met:

1 ~~(A)~~
 2 ~~(1) The notice of parking violation to appear is issued and~~
 3 ~~transmitted by a law enforcement agency prosecuting pursuant to~~
 4 ~~Article 3 (commencing with Section 40200) of Chapter 5c~~
 5 ~~(commencing with Section 853.5) or Chapter 5d (commencing~~
 6 ~~with Section 853.9) of Title 3 of Part 2 of this code, or Chapter 1~~
 7 ~~2 (commencing with Section 40300) of Division 17 of the~~
 8 ~~Vehicle Code.~~

9 ~~(B)~~
 10 ~~(2) The court has the all of the following:~~
 11 ~~(A) The ability to receive the notice to appear in electronic~~
 12 ~~format.~~
 13 ~~(B) The facility to electronically store an electronic copy and~~
 14 ~~the data elements of the notice of parking violation to appear for~~
 15 ~~the statutory period of record retention and to produce those.~~
 16 ~~(C) The ability to reproduce the electronic copy of the notice~~
 17 ~~to appear and those data elements in printed form upon demand~~
 18 ~~and payment of any costs involved.~~

19 ~~(C)~~
 20 ~~(3) The issuing agency has the ability to reproduce the notice~~
 21 ~~of parking violation to appear in physical form upon demand and~~
 22 ~~payment of any costs involved, as provided in Section 40206.5 of~~
 23 ~~the Vehicle Code.~~

24 ~~(e) A notice to appear that is received under subdivision (d) is~~
 25 ~~deemed to have been filed when it has been accepted by the court~~
 26 ~~and is in the form approved by the Judicial Council.~~

27 ~~(f) If transmitted in electronic form, the notice to appear is~~
 28 ~~deemed to have been signed by the defendant if it includes a~~
 29 ~~digitized facsimile of the defendant's signature on the notice to~~
 30 ~~appear. A notice to appear filed electronically under subdivision~~
 31 ~~(d) need not be subscribed by the citing officer. An electronically~~
 32 ~~submitted notice to appear need not be verified by the citing~~
 33 ~~officer with a declaration under penalty of perjury if the~~
 34 ~~electronic form indicates which parts of the notice are verified by~~
 35 ~~that declaration and the name of the officer making the~~
 36 ~~declaration.~~

37 SEC. 13. Section 15657.03 of the Welfare and Institutions
 38 Code is amended to read:

1 15657.03. (a) An elder or dependent adult who has suffered
2 abuse as defined in Section 15610.07 may seek protective orders
3 as provided in this section.

4 (b) For the purposes of this section, “protective order” means
5 an order that includes any of the following restraining orders,
6 whether issued ex parte, after notice and hearing, or in a
7 judgment:

8 (1) An order enjoining a party from abusing, intimidating,
9 molesting, attacking, striking, stalking, threatening, sexually
10 assaulting, battering, harassing, telephoning, including, but not
11 limited to, annoying telephone calls as described in Section 653m
12 of the Penal Code, destroying personal property, contacting,
13 either directly or indirectly, by mail or otherwise, or coming
14 within a specified distance of, or disturbing the peace of the
15 petitioner.

16 (2) An order excluding a party from the petitioner’s residence
17 or dwelling, except that this order shall not be issued if legal or
18 equitable title to, or lease of, the residence or dwelling is in the
19 sole name of the party to be excluded, or is in the name of the
20 party to be excluded and any other party besides the petitioner.

21 (3) An order enjoining a party from specified behavior that the
22 court determines is necessary to effectuate orders described in
23 paragraph (1) or (2).

24 (c) An order may be issued under this section, with or without
25 notice, to restrain any person for the purpose of preventing a
26 recurrence of abuse, if an affidavit shows, to the satisfaction of
27 the court, reasonable proof of a past act or acts of abuse of the
28 petitioning elder or dependent adult.

29 (d) (1) Upon filing a petition for protective orders under this
30 section, the petitioner may obtain a temporary restraining order
31 in accordance with Section 527 of the Code of Civil Procedure,
32 except to the extent this section provides a rule that is
33 inconsistent. The temporary restraining order may include any of
34 the protective orders described in subdivision (b). However, the
35 court may issue an ex parte order excluding a party from the
36 petitioner’s residence or dwelling only on a showing of all of the
37 following:

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

1 (B) That the party to be excluded has assaulted or threatens to
2 assault the petitioner.

3 (C) That physical or emotional harm would otherwise result to
4 the petitioner.

5 (2) If a temporary restraining order is granted without notice,
6 the matter shall be made returnable on an order requiring cause to
7 be shown why a permanent order should not be granted, on the
8 earliest day that the business of the court will permit, but not later
9 than 20 days or, if good cause appears to the court, 25 days from
10 the date the temporary restraining order is granted, unless the
11 order is otherwise modified or terminated by the court.

12 (e) The court may issue, upon notice and a hearing, any of the
13 orders set forth in subdivision (b). The court may issue, after
14 notice and hearing, an order excluding a person from a residence
15 or dwelling if the court finds that physical or emotional harm
16 would otherwise result to the other party.

17 (f) In the discretion of the court, an order issued after notice
18 and a hearing under this section may have a duration of not more
19 than three years, subject to termination or modification by further
20 order of the court either on written stipulation filed with the court
21 or on the motion of a party. These orders may be renewed upon
22 the request of a party, either for three years or permanently,
23 without a showing of any further abuse since the issuance of the
24 original order, subject to termination or modification by further
25 order of the court either on written stipulation filed with the court
26 or on the motion of a party. The failure to state the expiration
27 date on the face of the form creates an order with a duration of
28 three years from the date of issuance.

29 (g) Upon the filing of a petition for protective orders under
30 this section, the respondent shall be personally served with a
31 copy of the petition, notice of the hearing or order to show cause,
32 temporary restraining order, if any, and any affidavits in support
33 of the petition. Service shall be made at least ~~two~~ *five* days before
34 the hearing. The court may, on motion of the petitioner or on its
35 own motion, shorten the time for service on the respondent.

36 (h) The court may, upon the filing of an affidavit by the
37 applicant that the respondent could not be served within the time
38 required by statute, reissue an order previously issued and
39 dissolved by the court for failure to serve the respondent. The
40 reissued order shall be made returnable on the earliest day that

1 the business of the court will permit, but not later than 20 days
2 or, if good cause appears to the court, 25 days from the date of
3 reissuance. The reissued order shall state on its face the date of
4 expiration of the order.

5 (i) (1) If the person named in a temporary restraining order is
6 personally served with the order and notice of hearing with
7 respect to a restraining order or protective order based thereon,
8 but the person does not appear at the hearing, either personally or
9 by counsel, and the terms and conditions of the restraining order
10 or protective order; are identical to the temporary restraining
11 order, except for the duration of the order, then the restraining
12 order or protective order may be served on the person by
13 first-class mail sent to that person at the most current address for
14 the person available to the court.

15 (2) The judicial form for orders issued pursuant to this
16 subdivision shall contain a statement in substantially the
17 following form:

18 “NO ADDITIONAL PROOF OF SERVICE IS REQUIRED IF
19 THE FACE OF THIS FORM INDICATES THAT BOTH
20 PARTIES WERE PERSONALLY PRESENT AT THE
21 HEARING WHERE THE ORDER WAS ISSUED. IF YOU
22 HAVE BEEN PERSONALLY SERVED WITH A
23 TEMPORARY RESTRAINING ORDER OR EMERGENCY
24 PROTECTIVE ORDER AND NOTICE OF HEARING, BUT
25 YOU DO NOT APPEAR AT THE HEARING EITHER IN
26 PERSON OR BY COUNSEL, AND A RESTRAINING ORDER
27 OR PROTECTIVE ORDER IS ISSUED AT THE HEARING
28 THAT DOES NOT DIFFER FROM THE PRIOR
29 TEMPORARY RESTRAINING ORDER OR EMERGENCY
30 PROTECTIVE ORDER, A COPY OF THE ORDER WILL BE
31 SERVED UPON YOU BY MAIL AT THE FOLLOWING
32 ADDRESS _____. IF THAT ADDRESS IS NOT CORRECT OR
33 YOU WISH TO VERIFY THAT THE TEMPORARY OR
34 EMERGENCY ORDER WAS MADE PERMANENT
35 WITHOUT SUBSTANTIVE CHANGE, CALL THE CLERK
36 OF THE COURT AT _____.”

37 (j) (1) The court shall order the petitioner or the attorney for
38 the petitioner to deliver, or the clerk of the court to mail, a copy
39 of an order issued under this section, or a reissuance, extension,
40 modification, or termination of the order, and any subsequent

1 proof of service, by the close of the business day on which the
2 order, reissuance, extension, modification, or termination was
3 made, to each local law enforcement agency designated by the
4 petitioner or the attorney for the petitioner having jurisdiction
5 over the residence of the petitioner, and to any additional law
6 enforcement agencies within the court's discretion as are
7 requested by the petitioner. Each appropriate law enforcement
8 agency shall make available information as to the existence and
9 current status of these orders to law enforcement officers
10 responding to the scene of reported abuse.

11 (2) An order issued under this section shall, on request of the
12 petitioner, be served on the respondent, whether or not the
13 respondent has been taken into custody, by any law enforcement
14 officer who is present at the scene of reported abuse involving
15 the parties to the proceeding. The petitioner shall provide the
16 officer with an endorsed copy of the order and a proof of service,
17 which the officer shall complete and send to the issuing court.

18 (3) Upon receiving information at the scene of an incident of
19 abuse that a protective order has been issued under this section,
20 or that a person who has been taken into custody is the
21 respondent to that order, if the protected person cannot produce
22 an endorsed copy of the order, a law enforcement officer shall
23 immediately attempt to verify the existence of the order.

24 (4) If the law enforcement officer determines that a protective
25 order has been issued, but not served, the officer shall
26 immediately notify the respondent of the terms of the order and
27 where a written copy of the order can be obtained, and the officer
28 shall at that time also enforce the order. The law enforcement
29 officer's verbal notice of the terms of the order shall constitute
30 service of the order and is sufficient notice for the purposes of
31 this section and for the purposes of Section 273.6 of the Penal
32 Code.

33 (k) Nothing in this section shall preclude either party from
34 representation by private counsel or from appearing on the
35 party's own behalf.

36 (l) There is no filing fee for a petition, response, or paper
37 seeking the reissuance, modification, or enforcement of a
38 protective order filed in a proceeding brought pursuant to this
39 section.

1 (m) (1) Fees otherwise payable by a petitioner to a law
2 enforcement agency for serving an order issued under this section
3 may be waived in any case in which the petitioner has requested
4 a fee waiver on the initiating petition and has filed a declaration
5 that demonstrates, to the satisfaction of the court, the financial
6 need of the petitioner for the fee waiver. The declaration required
7 by this subdivision shall be on one of the following forms:

8 (A) The form formulated and adopted by the Judicial Council
9 for litigants proceeding in forma pauperis pursuant to Section
10 68511.3 of the Government Code, but the petitioner is not subject
11 to any other requirements of litigants proceeding in forma
12 pauperis.

13 (B) Any other form that the Judicial Council may adopt for
14 this purpose pursuant to subdivision (r).

15 (2) In conjunction with a hearing pursuant to this section, the
16 court may make an order for the waiver of fees otherwise payable
17 by the petitioner to a law enforcement agency for serving an
18 order issued under this section.

19 (n) The prevailing party in any action brought under this
20 section may be awarded court costs and attorney's fees, if any.

21 (o) (1) An order issued pursuant to this section shall prohibit
22 the person subject to it from owning, possessing, purchasing,
23 receiving, or attempting to purchase or receive, a firearm.

24 (2) Paragraph (1) shall not apply to a case consisting solely of
25 financial abuse unaccompanied by force, threat, harassment,
26 intimidation, or any other form of abuse.

27 (3) The court shall order a person subject to a protective order
28 issued under this section to relinquish any firearms he or she
29 owns or possesses pursuant to Section 527.9 of the Code of Civil
30 Procedure.

31 (4) Every person who owns, possesses, purchases, or receives,
32 or attempts to purchase or receive a firearm while the protective
33 order is in effect is punishable pursuant to subdivision (g) of
34 Section 12021 of the Penal Code.

35 (p) Any willful disobedience of any temporary restraining
36 order or restraining order after hearing granted under this section
37 is punishable pursuant to Section 273.6 of the Penal Code.

38 (q) This section does not apply to any action or proceeding
39 covered by Title 1.6C (commencing with Section 1788) of *Part 4*
40 of *Division 3* of the Civil Code, by Chapter 3 (commencing with

1 Section 525) of *Title 7 of Part 2* of the Code of Civil Procedure,
2 or by Division 10 (commencing with Section 6200) of the Family
3 Code. Nothing in this section shall preclude a petitioner’s right to
4 use other existing civil remedies.

5 (r) The Judicial Council shall promulgate forms and
6 instructions therefor, rules for service of process, scheduling of
7 hearings, and any other matters required by this section. The
8 petition and response forms shall be simple and concise.

9 SEC. 14. It is the intent of the Legislature that effective
10 self-help services be made available to assist self-represented
11 parties in civil matters in every county. The Administrative
12 Office of the Courts shall expend all funds allocated for services
13 to assist self-represented litigants so as to provide services in all
14 civil cases in proportion to the number of self-represented parties
15 in each county. In the allocation of funds for new or augmented
16 services, priority shall be given to rural and other underserved
17 areas and to the provision of court-based services, supervised by
18 an attorney, and coordinated with other legal service providers in
19 the community, including, but not limited to, qualified legal
20 service providers, pro bono legal service projects, and local bar
21 association referral services, allowing assessment of the legal
22 needs and provision of referral information, as appropriate.