

AMENDED IN ASSEMBLY MARCH 16, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 454

Introduced by Assembly Member Silva

February 15, 2011

An act to amend Sections 527.6, 527.8, and 527.85 of the Code of Civil Procedure, to amend Section 6345 of the Family Code, and to amend Sections 213.5 and 15657.03 of the Welfare and Institutions Code, relating to protective orders.

LEGISLATIVE COUNSEL'S DIGEST

AB 454, as amended, Silva. Protective orders: early termination.

Existing law *authorizes a court to issue an injunction enjoining a party from certain acts and behaviors in a variety of circumstances, including in cases of harassment, workplace violence, potential violence at a postsecondary school campus, domestic violence, child abuse, and elder abuse.* Existing law permits a court to terminate or modify ~~specified these~~ protective orders, ~~including~~ *which may include stay-away and residence exclusion orders, on written stipulation filed with the court or on the motion of a party.*

This bill would require, ~~if a proceeding is set~~ *an action is filed* for the purpose of terminating or modifying specified protective orders prior to their expiration *by a party other than the protected party*, that the party who is protected by the order be given notice of the proceeding *to hear that action* prior to the hearing, as specified. The bill would require a court to deny the motion to modify or terminate the order without prejudice or continue the hearing if the party cannot be notified prior to the hearing. *The bill would permit the protected person to waive his or right to notice under specified circumstances.*

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

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

1 SECTION 1. Section 527.6 of the Code of Civil Procedure, as
2 amended by Section 1 of Chapter 572 of the Statutes of 2010, is
3 amended to read:

4 527.6. (a) (1) A person who has suffered harassment as
5 defined in subdivision (b) may seek a temporary restraining order
6 and an injunction prohibiting harassment as provided in this
7 section.

8 (2) A minor, under 12 years of age, accompanied by a duly
9 appointed and acting guardian ad litem, shall be permitted to appear
10 in court without counsel for the limited purpose of requesting or
11 opposing a request for a temporary restraining order or injunction,
12 or both, under this section as provided in Section 374.

13 (b) For the purposes of this section:

14 (1) "Course of conduct" is a pattern of conduct composed of a
15 series of acts over a period of time, however short, evidencing a
16 continuity of purpose, including following or stalking an individual,
17 making harassing telephone calls to an individual, or sending
18 harassing correspondence to an individual by any means, including,
19 but not limited to, the use of public or private mails, interoffice
20 mail, fax, or computer e-mail. Constitutionally protected activity
21 is not included within the meaning of "course of conduct."

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

26 (3) "Harassment" is unlawful violence, a credible threat of
27 violence, or a knowing and willful course of conduct directed at
28 a specific person that seriously alarms, annoys, or harasses the
29 person, and that serves no legitimate purpose. The course of
30 conduct must be such as would cause a reasonable person to suffer
31 substantial emotional distress, and must actually cause substantial
32 emotional distress to the petitioner.

33 (4) "Petitioner" means the person to be protected by the
34 temporary restraining order and injunction and, if the court grants
35 the petition, the protected person.

1 (5) “Respondent” means the person against whom the temporary
2 restraining order and injunction are sought and, if the petition is
3 granted, the restrained person.

4 (6) “Temporary restraining order” and “injunction” mean orders
5 that include any of the following restraining orders, whether issued
6 ex parte or after notice and hearing:

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

14 (B) An order enjoining a party from specified behavior that the
15 court determines is necessary to effectuate orders described in
16 subparagraph (A).

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

20 (c) In the discretion of the court, on a showing of good cause,
21 a temporary restraining order or injunction issued under this section
22 may include other named family or household members.

23 (d) Upon filing a petition for an injunction under this section,
24 the petitioner may obtain a temporary restraining order in
25 accordance with Section 527, except to the extent this section
26 provides a rule that is inconsistent. The temporary restraining order
27 may include any of the restraining orders described in paragraph
28 (6) of subdivision (b). A temporary restraining order may be issued
29 with or without notice, based on a declaration that, to the
30 satisfaction of the court, shows reasonable proof of harassment of
31 the petitioner by the respondent, and that great or irreparable harm
32 would result to the petitioner.

33 (e) A request for the issuance of a temporary restraining order
34 without notice under this section shall be granted or denied on the
35 same day that the petition is submitted to the court, unless the
36 petition is filed too late in the day to permit effective review, in
37 which case the order shall be granted or denied on the next day of
38 judicial business in sufficient time for the order to be filed that day
39 with the clerk of the court.

1 (f) A temporary restraining order issued under this section shall
 2 remain in effect, at the court’s discretion, for a period not to exceed
 3 21 days, or, if the court extends the time for hearing under
 4 subdivision (g), not to exceed 25 days, unless otherwise modified
 5 or terminated by the court.

6 (g) Within 21 days, or, if good cause appears to the court, 25
 7 days from the date that a petition for a temporary order is granted
 8 or denied, a hearing shall be held on the petition for the injunction.
 9 If no request for temporary orders is made, the hearing shall be
 10 held within 21 days, or, if good cause appears to the court, 25 days,
 11 from the date that the petition is filed.

12 (h) The respondent may file a response that explains, excuses,
 13 justifies, or denies the alleged harassment or may file a
 14 cross-petition under this section.

15 (i) At the hearing, the judge shall receive any testimony that is
 16 relevant, and may make an independent inquiry. If the judge finds
 17 by clear and convincing evidence that unlawful harassment exists,
 18 an injunction shall issue prohibiting the harassment.

19 (j) (1) In the discretion of the court, an order issued after notice
 20 and hearing under this section may have a duration of not more
 21 than three years, subject to termination or modification by further
 22 order of the court either on written stipulation filed with the court
 23 or on the motion of a party. These orders may be renewed, upon
 24 the request of a party, for a duration of not more than three years,
 25 without a showing of any further harassment since the issuance of
 26 the original order, subject to termination or modification by further
 27 order of the court either on written stipulation filed with the court
 28 or on the motion of a party. The request for renewal may be brought
 29 at any time within the three months before the expiration of the
 30 order.

31 (2) The failure to state the expiration date on the face of the
 32 form creates an order with a duration of three years from the date
 33 of issuance.

34 (3) *If an action is filed for the purpose of terminating or*
 35 *modifying a protective order prior to the expiration date specified*
 36 *in the order by a party other than the protected party, the party*
 37 *who is protected by the order shall be given notice of the*
 38 *proceeding to hear that action prior to the hearing either by*
 39 *personal service or by mail with return receipt required. If the*
 40 *party who is protected by the order cannot be notified prior to the*

1 *hearing for modification or termination of the protective order,*
2 *the court shall deny the motion to modify or terminate the order*
3 *without prejudice or continue the hearing until the party who is*
4 *protected can be properly noticed. The protected party may waive*
5 *his or her right to notice if he or she is physically present in court*
6 *and requests that the court take action on the termination or*
7 *modification request.*

8 (k) This section does not preclude either party from
9 representation by private counsel or from appearing on the party's
10 own behalf.

11 (l) In a proceeding under this section if there are allegations of
12 unlawful violence or credible threats of violence, a support person
13 may accompany a party in court and, if the party is not represented
14 by an attorney, may sit with the party at the table that is generally
15 reserved for the party and the party's attorney. The support person
16 is present to provide moral and emotional support for a person
17 who alleges he or she is a victim of violence. The support person
18 is not present as a legal adviser and may not provide legal advice.
19 The support person may assist the person who alleges he or she is
20 a victim of violence in feeling more confident that he or she will
21 not be injured or threatened by the other party during the
22 proceedings if the person who alleges he or she is a victim of
23 violence and the other party are required to be present in close
24 proximity. This subdivision does not preclude the court from
25 exercising its discretion to remove the support person from the
26 courtroom if the court believes the support person is prompting,
27 swaying, or influencing the party assisted by the support person.

28 (m) Upon the filing of a petition for an injunction under this
29 section, the respondent shall be personally served with a copy of
30 the petition, temporary restraining order, if any, and notice of
31 hearing of the petition. Service shall be made at least five days
32 before the hearing. The court may for good cause, on motion of
33 the petitioner or on its own motion, shorten the time for service
34 on the respondent.

35 (n) A notice of hearing under this section shall notify the
36 respondent that if he or she does not attend the hearing, the court
37 may make orders against him or her that could last up to three
38 years.

39 (o) (1) The court may, upon the filing of a declaration by the
40 petitioner that the respondent could not be served within the time

1 required by statute, reissue an order previously issued and dissolved
2 by the court for failure to serve the respondent. The reissued order
3 shall remain in effect until the date set for the hearing.

4 (2) The reissued order shall state on its face the date of
5 expiration of the order.

6 (p) (1) If a respondent, named in a restraining order issued after
7 a hearing, has not been served personally with the order but has
8 received actual notice of the existence and substance of the order
9 through personal appearance in court to hear the terms of the order
10 from the court, no additional proof of service is required for
11 enforcement of the order.

12 (2) If the respondent named in a temporary restraining order is
13 personally served with the order and notice of hearing with respect
14 to a restraining order or protective order based on the temporary
15 restraining order, but the respondent does not appear at the hearing,
16 either personally or by an attorney, and the terms and conditions
17 of the restraining order or protective order issued at the hearing
18 are identical to the temporary restraining order, except for the
19 duration of the order, then the restraining order or protective order
20 issued at the hearing may be served on the respondent by first-class
21 mail sent to the respondent at the most current address for the
22 respondent available to the court.

23 (3) The Judicial Council form for temporary orders issued
24 pursuant to this subdivision shall contain a statement in
25 substantially the following form:

26
27 “If you have been personally served with this temporary
28 restraining order and notice of hearing, but you do not appear at
29 the hearing either in person or by a lawyer, and a restraining order
30 that is the same as this temporary restraining order except for the
31 expiration date is issued at the hearing, a copy of the restraining
32 order will be served on you by mail at the following address: ____.

33 If that address is not correct or you wish to verify that the
34 temporary restraining order was converted to a restraining order
35 at the hearing without substantive change and to find out the
36 duration of that order, contact the clerk of the court.”

37
38 (q) (1) Information on any temporary restraining order or
39 injunction relating to civil harassment issued by a court pursuant

1 to this section shall be transmitted to the Department of Justice in
2 accordance with either paragraph (2) or (3).

3 (2) The court shall order the petitioner or the attorney for the
4 petitioner to deliver a copy of an order issued under this section,
5 or reissuance, extension, modification, or termination of the order,
6 and any subsequent proof of service, by the close of the business
7 day on which the order, reissuance, extension, modification, or
8 termination was made, to a law enforcement agency having
9 jurisdiction over the residence of the petitioner and to any
10 additional law enforcement agencies within the court's discretion
11 as are requested by the petitioner.

12 (3) Alternatively, the court or its designee shall transmit, within
13 one business day, to law enforcement personnel all information
14 required under subdivision (b) of Section 6380 of the Family Code
15 regarding any order issued under this section, or a reissuance,
16 extension, modification, or termination of the order, and any
17 subsequent proof of service, by either one of the following
18 methods:

19 (A) Transmitting a physical copy of the order or proof of service
20 to a local law enforcement agency authorized by the Department
21 of Justice to enter orders into the California Law Enforcement
22 Telecommunications System (CLETS).

23 (B) With the approval of the Department of Justice, entering
24 the order or proof of service into CLETS directly.

25 (4) Each appropriate law enforcement agency shall make
26 available information as to the existence and current status of these
27 orders to law enforcement officers responding to the scene of
28 reported harassment.

29 (5) An order issued under this section shall, on request of the
30 petitioner, be served on the respondent, whether or not the
31 respondent has been taken into custody, by any law enforcement
32 officer who is present at the scene of reported harassment involving
33 the parties to the proceeding. The petitioner shall provide the
34 officer with an endorsed copy of the order and a proof of service
35 that the officer shall complete and send to the issuing court.

36 (6) Upon receiving information at the scene of an incident of
37 harassment that a protective order has been issued under this
38 section, or that a person who has been taken into custody is the
39 subject of an order, if the protected person cannot produce a

1 certified copy of the order, a law enforcement officer shall
2 immediately attempt to verify the existence of the order.

3 (7) If the law enforcement officer determines that a protective
4 order has been issued, but not served, the officer shall immediately
5 notify the respondent of the terms of the order and shall at that
6 time also enforce the order. Verbal notice of the terms of the order
7 shall constitute service of the order and is sufficient notice for the
8 purposes of this section and for the purposes of Section 273.6 and
9 subdivision (g) of Section 12021 of the Penal Code.

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

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

15 (t) (1) A person subject to a protective order issued under this
16 section shall not own, possess, purchase, receive, or attempt to
17 purchase or receive a firearm or ammunition while the protective
18 order is in effect.

19 (2) The court shall order a person subject to a protective order
20 issued under this section to relinquish any firearms he or she owns
21 or possesses pursuant to Section 527.9.

22 (3) Every person who owns, possesses, purchases or receives,
23 or attempts to purchase or receive a firearm or ammunition while
24 the protective order is in effect is punishable pursuant to
25 subdivision (g) of Section 12021 of the Penal Code.

26 (u) This section does not apply to any action or proceeding
27 covered by Title 1.6C (commencing with Section 1788) of the
28 Civil Code or by Division 10 (commencing with Section 6200) of
29 the Family Code. This section does not preclude a petitioner from
30 using other existing civil remedies.

31 (v) (1) The Judicial Council shall develop forms, instructions,
32 and rules relating to matters governed by this section. The petition
33 and response forms shall be simple and concise, and their use by
34 parties in actions brought pursuant to this section shall be
35 mandatory.

36 (2) A temporary restraining order or injunction relating to civil
37 harassment issued by a court pursuant to this section shall be issued
38 on forms adopted by the Judicial Council of California and that
39 have been approved by the Department of Justice pursuant to
40 subdivision (i) of Section 6380 of the Family Code. However, the

1 fact that an order issued by a court pursuant to this section was not
2 issued on forms adopted by the Judicial Council and approved by
3 the Department of Justice shall not, in and of itself, make the order
4 unenforceable.

5 (w) There is no filing fee for a petition that alleges that a person
6 has inflicted or threatened violence against the petitioner, or stalked
7 the petitioner, or acted or spoken in any other manner that has
8 placed the petitioner in reasonable fear of violence, and that seeks
9 a protective or restraining order or injunction restraining stalking
10 or future violence or threats of violence, in any action brought
11 pursuant to this section. No fee shall be paid for a subpoena filed
12 in connection with a petition alleging these acts. No fee shall be
13 paid for filing a response to a petition alleging these acts.

14 (x) (1) Subject to paragraph (4) of subdivision (b) of Section
15 6103.2 of the Government Code, there shall be no fee for the
16 service of process by a sheriff or marshal of a protective order,
17 restraining order, or injunction to be issued, if either of the
18 following conditions apply:

19 (A) The protective order, restraining order, or injunction issued
20 pursuant to this section is based upon stalking, as prohibited by
21 Section 646.9 of the Penal Code.

22 (B) The protective order, restraining order, or injunction issued
23 pursuant to this section is based upon unlawful violence or a
24 credible threat of violence.

25 (2) The Judicial Council shall prepare and develop forms for
26 persons who wish to avail themselves of the services described in
27 this subdivision.

28 *SEC. 2. Section 527.8 of the Code of Civil Procedure, as*
29 *amended by Section 2 of Chapter 572 of the Statutes of 2010, is*
30 *amended to read:*

31 527.8. (a) Any employer, whose employee has suffered
32 unlawful violence or a credible threat of violence from any
33 individual, that can reasonably be construed to be carried out or
34 to have been carried out at the workplace, may seek a temporary
35 restraining order and an injunction on behalf of the employee and,
36 at the discretion of the court, any number of other employees at
37 the workplace, and, if appropriate, other employees at other
38 workplaces of the employer.

39 (b) For the purposes of this section:

1 (1) “Course of conduct” is a pattern of conduct composed of a
2 series of acts over a period of time, however short, evidencing a
3 continuity of purpose, including following or stalking an employee
4 to or from the place of work; entering the workplace; following
5 an employee during hours of employment; making telephone calls
6 to an employee; or sending correspondence to an employee by any
7 means, including, but not limited to, the use of the public or private
8 mails, interoffice mail, fax, or computer e-mail.

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

13 (3) “Employer” and “employee” mean persons defined in
14 Section 350 of the Labor Code. “Employer” also includes a federal
15 agency, the state, a state agency, a city, county, or district, and a
16 private, public, or quasi-public corporation, or any public agency
17 thereof or therein. “Employee” also includes the members of boards
18 of directors of private, public, and quasi-public corporations and
19 elected and appointed public officers. For purposes of this section
20 only, “employee” also includes a volunteer or independent
21 contractor who performs services for the employer at the
22 employer’s worksite.

23 (4) “Petitioner” means the employer that petitions under
24 subdivision (a) for a temporary restraining order and injunction.

25 (5) “Respondent” means the person against whom the temporary
26 restraining order and injunction are sought and, if the petition is
27 granted, the restrained person.

28 (6) “Temporary restraining order” and “injunction” mean orders
29 that include any of the following restraining orders, whether issued
30 ex parte or after notice and hearing:

31 (A) An order enjoining a party from harassing, intimidating,
32 molesting, attacking, striking, stalking, threatening, sexually
33 assaulting, battering, abusing, telephoning, including, but not
34 limited to, making annoying telephone calls as described in Section
35 653m of the Penal Code, destroying personal property, contacting,
36 either directly or indirectly, by mail or otherwise, or coming within
37 a specified distance of, or disturbing the peace of the employee.

38 (B) An order enjoining a party from specified behavior that the
39 court determines is necessary to effectuate orders described in
40 subparagraph (A).

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

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

8 (d) In the discretion of the court, on a showing of good cause,
9 a temporary restraining order or injunction issued under this section
10 may include other named family or household members, or other
11 persons employed at the employee’s workplace or workplaces.

12 (e) Upon filing a petition for an injunction under this section,
13 the petitioner may obtain a temporary restraining order in
14 accordance with subdivision (a) of Section 527, if the petitioner
15 also files a declaration that, to the satisfaction of the court, shows
16 reasonable proof that an employee has suffered unlawful violence
17 or a credible threat of violence by the respondent, and that great
18 or irreparable harm would result to an employee. The temporary
19 restraining order may include any of the protective orders described
20 in paragraph (6) of subdivision (b).

21 (f) A request for the issuance of a temporary restraining order
22 without notice under this section shall be granted or denied on the
23 same day that the petition is submitted to the court, unless the
24 petition is filed too late in the day to permit effective review, in
25 which case the order shall be granted or denied on the next day of
26 judicial business in sufficient time for the order to be filed that day
27 with the clerk of the court.

28 (g) A temporary restraining order granted under this section
29 shall remain in effect, at the court’s discretion, for a period not to
30 exceed 21 days, or if the court extends the time for hearing under
31 subdivision (h), not to exceed 25 days, unless otherwise modified
32 or terminated by the court.

33 (h) Within 21 days, or if good cause appears to the court, 25
34 days from the date that a petition for a temporary order is granted
35 or denied, a hearing shall be held on the petition for the injunction.
36 If no request for temporary orders is made, the hearing shall be
37 held within 21 days, or, if good cause appears to the court, 25 days,
38 from the date that the petition is filed.

1 (i) The respondent may file a response that explains, excuses,
2 justifies, or denies the alleged unlawful violence or credible threats
3 of violence.

4 (j) At the hearing, the judge shall receive any testimony that is
5 relevant and may make an independent inquiry. Moreover, if the
6 respondent is a current employee of the entity requesting the
7 injunction, the judge shall receive evidence concerning the
8 employer's decision to retain, terminate, or otherwise discipline
9 the respondent. If the judge finds by clear and convincing evidence
10 that the respondent engaged in unlawful violence or made a
11 credible threat of violence, an injunction shall issue prohibiting
12 further unlawful violence or threats of violence.

13 (k) (1) In the discretion of the court, an order issued after notice
14 and hearing under this section may have a duration of not more
15 than three years, subject to termination or modification by further
16 order of the court either on written stipulation filed with the court
17 or on the motion of a party. These orders may be renewed, upon
18 the request of a party, for a duration of not more than three years,
19 without a showing of any further violence or threats of violence
20 since the issuance of the original order, subject to termination or
21 modification by further order of the court either on written
22 stipulation filed with the court or on the motion of a party. The
23 request for renewal may be brought at any time within the three
24 months before the expiration of the order.

25 (2) The failure to state the expiration date on the face of the
26 form creates an order with a duration of three years from the date
27 of issuance.

28 (3) *If an action is filed for the purpose of terminating or*
29 *modifying a protective order prior to the expiration date specified*
30 *in the order by a party other than the protected party, the party*
31 *who is protected by the order shall be given notice of the*
32 *proceeding to hear that action prior to the hearing either by*
33 *personal service or by mail with return receipt required. If the*
34 *party who is protected by the order cannot be notified prior to the*
35 *hearing for modification or termination of the protective order,*
36 *the court shall deny the motion to modify or terminate the order*
37 *without prejudice or continue the hearing until the party who is*
38 *protected can be properly noticed. The protected party may waive*
39 *his or her right to notice if he or she is physically present in court*

1 *and requests that the court take action on the termination or*
2 *modification request.*

3 (l) This section does not preclude either party from
4 representation by private counsel or from appearing on his or her
5 own behalf.

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

13 (n) A notice of hearing under this section shall notify the
14 respondent that, if he or she does not attend the hearing, the court
15 may make orders against him or her that could last up to three
16 years.

17 (o) (1) The court may, upon the filing of a declaration by the
18 petitioner that the respondent could not be served within the time
19 required by statute, reissue an order previously issued and dissolved
20 by the court for failure to serve the respondent. The reissued order
21 shall remain in effect until the date set for the hearing.

22 (2) The reissued order shall state on its face the date of
23 expiration of the order.

24 (p) (1) If a respondent, named in a restraining order issued
25 under this section after a hearing, has not been served personally
26 with the order but has received actual notice of the existence and
27 substance of the order through personal appearance in court to
28 hear the terms of the order from the court, no additional proof of
29 service is required for enforcement of the order.

30 (2) If the respondent named in a temporary restraining order is
31 personally served with the order and notice of hearing with respect
32 to a restraining order or protective order based on the temporary
33 restraining order, but the person does not appear at the hearing,
34 either personally or by an attorney, and the terms and conditions
35 of the restraining order or protective order issued at the hearing
36 are identical to the temporary restraining order, except for the
37 duration of the order, then the restraining order or protective order
38 issued at the hearing may be served on the person by first-class
39 mail sent to that person at the most current address for the person
40 available to the court.

1 (3) The Judicial Council form for temporary orders issued
2 pursuant to this subdivision shall contain a statement in
3 substantially the following form:

4
5 “If you have been personally served with this temporary
6 restraining order and notice of hearing, but you do not appear at
7 the hearing either in person or by a lawyer, and a restraining order
8 that is the same as this restraining order except for the expiration
9 date is issued at the hearing, a copy of the order will be served on
10 you by mail at the following address: _____.

11 If that address is not correct or you wish to verify that the
12 temporary restraining order was converted to a restraining order
13 at the hearing without substantive change and to find out the
14 duration of that order, contact the clerk of the court.”

15
16 (q) (1) Information on any temporary restraining order or
17 injunction relating to workplace violence issued by a court pursuant
18 to this section shall be transmitted to the Department of Justice in
19 accordance with either paragraph (2) or (3).

20 (2) The court shall order the petitioner or the attorney for the
21 petitioner to deliver a copy of any order issued under this section,
22 or a reissuance, extension, modification, or termination of the
23 order, and any subsequent proof of service, by the close of the
24 business day on which the order, reissuance, extension,
25 modification, or termination was made, to each law enforcement
26 agency having jurisdiction over the residence of the petitioner and
27 to any additional law enforcement agencies within the court’s
28 discretion as are requested by the petitioner.

29 (3) Alternatively, the court or its designee shall transmit, within
30 one business day, to law enforcement personnel all information
31 required under subdivision (b) of Section 6380 of the Family Code
32 regarding any order issued under this section, or a reissuance,
33 extension, modification, or termination of the order, and any
34 subsequent proof of service, by either one of the following
35 methods:

36 (A) Transmitting a physical copy of the order or proof of service
37 to a local law enforcement agency authorized by the Department
38 of Justice to enter orders into the California Law Enforcement
39 Telecommunications System (CLETS).

1 (B) With the approval of the Department of Justice, entering
2 the order or proof of service into CLETS directly.

3 (4) Each appropriate law enforcement agency shall make
4 available information as to the existence and current status of these
5 orders to law enforcement officers responding to the scene of
6 reported unlawful violence or a credible threat of violence.

7 (5) At the request of the petitioner, an order issued under this
8 section shall be served on the respondent, regardless of whether
9 the respondent has been taken into custody, by any law
10 enforcement officer who is present at the scene of reported
11 unlawful violence or a credible threat of violence involving the
12 parties to the proceedings. The petitioner shall provide the officer
13 with an endorsed copy of the order and proof of service that the
14 officer shall complete and send to the issuing court.

15 (6) Upon receiving information at the scene of an incident of
16 unlawful violence or a credible threat of violence that a protective
17 order has been issued under this section, or that a person who has
18 been taken into custody is the subject of an order, if the petitioner
19 or the protected person cannot produce an endorsed copy of the
20 order, a law enforcement officer shall immediately attempt to
21 verify the existence of the order.

22 (7) If the law enforcement officer determines that a protective
23 order has been issued, but not served, the officer shall immediately
24 notify the respondent of the terms of the order and obtain the
25 respondent's address. The law enforcement officer shall at that
26 time also enforce the order, but may not arrest or take the
27 respondent into custody for acts in violation of the order that were
28 committed prior to the verbal notice of the terms and conditions
29 of the order. The law enforcement officer's verbal notice of the
30 terms of the order shall constitute service of the order and
31 constitutes sufficient notice for the purposes of this section and
32 for the purposes of Section 273.6 and subdivision (g) of Section
33 12021 of the Penal Code. The petitioner shall mail an endorsed
34 copy of the order to the respondent's mailing address provided to
35 the law enforcement officer within one business day of the reported
36 incident of unlawful violence or a credible threat of violence at
37 which a verbal notice of the terms of the order was provided by a
38 law enforcement officer.

39 (r) (1) A person subject to a protective order issued under this
40 section shall not own, possess, purchase, receive, or attempt to

1 purchase or receive a firearm or ammunition while the protective
2 order is in effect.

3 (2) The court shall order a person subject to a protective order
4 issued under this section to relinquish any firearms he or she owns
5 or possesses pursuant to Section 527.9.

6 (3) Every person who owns, possesses, purchases or receives,
7 or attempts to purchase or receive a firearm or ammunition while
8 the protective order is in effect is punishable pursuant to
9 subdivision (g) of Section 12021 of the Penal Code.

10 (s) Any intentional disobedience of any temporary restraining
11 order or injunction granted under this section is punishable pursuant
12 to Section 273.6 of the Penal Code.

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

16 (u) (1) The Judicial Council shall develop forms, instructions,
17 and rules for relating to matters governed by this section. The
18 forms for the petition and response shall be simple and concise,
19 and their use by parties in actions brought pursuant to this section
20 shall be mandatory.

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

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

1 (w) (1) Subject to paragraph (4) of subdivision (b) of Section
2 6103.2 of the Government Code, there shall be no fee for the
3 service of process by a sheriff or marshal of a temporary restraining
4 order or injunction to be issued pursuant to this section if either
5 of the following conditions apply:

6 (A) The temporary restraining order or injunction issued
7 pursuant to this section is based upon stalking, as prohibited by
8 Section 646.9 of the Penal Code.

9 (B) The temporary restraining order or injunction issued
10 pursuant to this section is based on unlawful violence or a credible
11 threat of violence.

12 (2) The Judicial Council shall prepare and develop forms for
13 persons who wish to avail themselves of the services described in
14 this subdivision.

15 *SEC. 3. Section 527.85 of the Code of Civil Procedure, as*
16 *amended by Section 4 of Chapter 572 of the Statutes of 2010, is*
17 *amended to read:*

18 527.85. (a) Any chief administrative officer of a postsecondary
19 educational institution, or an officer or employee designated by
20 the chief administrative officer to maintain order on the school
21 campus or facility, a student of which has suffered a credible threat
22 of violence made off the school campus or facility from any
23 individual, which can reasonably be construed to be carried out or
24 to have been carried out at the school campus or facility, may, with
25 the written consent of the student, seek a temporary restraining
26 order and an injunction, on behalf of the student and, at the
27 discretion of the court, any number of other students at the campus
28 or facility who are similarly situated.

29 (b) For the purposes of this section, the following definitions
30 shall apply:

31 (1) “Chief administrative officer” means the principal, president,
32 or highest ranking official of the postsecondary educational
33 institution.

34 (2) “Course of conduct” means a pattern of conduct composed
35 of a series of acts over a period of time, however short, evidencing
36 a continuity of purpose, including any of the following:

37 (A) Following or stalking a student to or from school.

38 (B) Entering the school campus or facility.

39 (C) Following a student during school hours.

40 (D) Making telephone calls to a student.

1 (E) Sending correspondence to a student by any means,
2 including, but not limited to, the use of the public or private mails,
3 interoffice mail, fax, or computer e-mail.

4 (3) “Credible threat of violence” means a knowing and willful
5 statement or course of conduct that would place a reasonable person
6 in fear for his or her safety, or the safety of his or her immediate
7 family, and that serves no legitimate purpose.

8 (4) “Petitioner” means the chief administrative officer, or his
9 or her designee, who petitions under subdivision (a) for a temporary
10 restraining order and injunction.

11 (5) “Postsecondary educational institution” means a private
12 institution of vocational, professional, or postsecondary education.

13 (6) “Respondent” means the person against whom the temporary
14 restraining order and injunction are sought and, if the petition is
15 granted, the restrained person.

16 (7) “Student” means an adult currently enrolled in or applying
17 for admission to a postsecondary educational institution.

18 (8) “Temporary restraining order” and “injunction” mean orders
19 that include any of the following restraining orders, whether issued
20 ex parte, or after notice and hearing:

21 (A) An order enjoining a party from harassing, intimidating,
22 molesting, attacking, striking, stalking, threatening, sexually
23 assaulting, battering, abusing, telephoning, including, but not
24 limited to, making annoying telephone calls as described in Section
25 653m of the Penal Code, destroying personal property, contacting,
26 either directly or indirectly, by mail or otherwise, or coming within
27 a specified distance of, or disturbing the peace of the student.

28 (B) An order enjoining a party from specified behavior that the
29 court determines is necessary to effectuate orders described in
30 subparagraph (A).

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

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

38 (d) In the discretion of the court, on a showing of good cause,
39 a temporary restraining order or injunction issued under this section

1 may include other named family or household members of the
2 student, or other students at the campus or facility.

3 (e) Upon filing a petition for an injunction under this section,
4 the petitioner may obtain a temporary restraining order in
5 accordance with subdivision (a) of Section 527, if the petitioner
6 also files a declaration that, to the satisfaction of the court, shows
7 reasonable proof that a student has suffered a credible threat of
8 violence made off the school campus or facility by the respondent,
9 and that great or irreparable harm would result to the student. The
10 temporary restraining order may include any of the protective
11 orders described in paragraph (8) of subdivision (b).

12 (f) A request for the issuance of a temporary restraining order
13 without notice under this section shall be granted or denied on the
14 same day that the petition is submitted to the court, unless the
15 petition is filed too late in the day to permit effective review, in
16 which case the order shall be granted or denied on the next day of
17 judicial business in sufficient time for the order to be filed that day
18 with the clerk of the court.

19 (g) A temporary restraining order granted under this section
20 shall remain in effect, at the court's discretion, for a period not to
21 exceed 21 days, or if the court extends the time for hearing under
22 subdivision (h), not to exceed 25 days, unless otherwise modified
23 or terminated by the court.

24 (h) Within 21 days, or if good cause appears to the court, within
25 25 days, from the date that a petition for a temporary order is
26 granted or denied, a hearing shall be held on the petition for the
27 injunction. If no request for temporary orders is made, the hearing
28 shall be held within 21 days, or if good cause appears to the court,
29 25 days, from the date the petition is filed.

30 (i) The respondent may file a response that explains, excuses,
31 justifies, or denies the alleged credible threats of violence.

32 (j) At the hearing, the judge shall receive any testimony that is
33 relevant and may make an independent inquiry. Moreover, if the
34 respondent is a current student of the entity requesting the
35 injunction, the judge shall receive evidence concerning the decision
36 of the postsecondary educational institution decision to retain,
37 terminate, or otherwise discipline the respondent. If the judge finds
38 by clear and convincing evidence that the respondent made a
39 credible threat of violence off the school campus or facility, an
40 injunction shall be issued prohibiting further threats of violence.

1 (k) (1) In the discretion of the court, an order issued after notice
2 and hearing under this section may have a duration of not more
3 than three years, subject to termination or modification by further
4 order of the court either on written stipulation filed with the court
5 or on the motion of a party. These orders may be renewed, upon
6 the request of a party, for a duration of not more than three years,
7 without a showing of any further violence or threats of violence
8 since the issuance of the original order, subject to termination or
9 modification by further order of the court either on written
10 stipulation filed with the court or on the motion of a party. The
11 request for renewal may be brought at any time within the three
12 months before the expiration of the order.

13 (2) The failure to state the expiration date on the face of the
14 form creates an order with a duration of three years from the date
15 of issuance.

16 (3) *If an action is filed for the purpose of terminating or*
17 *modifying a protective order prior to the expiration date specified*
18 *in the order by a party other than the protected party, the party*
19 *who is protected by the order shall be given notice of the*
20 *proceeding to hear that action prior to the hearing either by*
21 *personal service or by mail with return receipt required. If the*
22 *party who is protected by the order cannot be notified prior to the*
23 *hearing for modification or termination of the protective order,*
24 *the court shall deny the motion to modify or terminate the order*
25 *without prejudice or continue the hearing until the party who is*
26 *protected can be properly noticed. The protected party may waive*
27 *his or her right to notice if he or she is physically present in court*
28 *and requests that the court take action on the termination or*
29 *modification request.*

30 (l) This section does not preclude either party from
31 representation by private counsel or from appearing on his or her
32 own behalf.

33 (m) Upon filing of a petition for an injunction under this section,
34 the respondent shall be personally served with a copy of the
35 petition, temporary restraining order, if any, and notice of hearing
36 of the petition. Service shall be made at least five days before the
37 hearing. The court may, for good cause, on motion of the petitioner
38 or on its own motion, shorten the time for service on the
39 respondent.

1 (n) A notice of hearing under this section shall notify the
2 respondent that if he or she does not attend the hearing, the court
3 may make orders against him or her that could last up to three
4 years.

5 (o) (1) The court may, upon the filing of a declaration by the
6 petitioner that the respondent could not be served within the time
7 required by statute, reissue an order previously issued and dissolved
8 by the court for failure to serve the respondent. The reissued order
9 shall remain in effect until the date set for the hearing.

10 (2) The reissued order shall state on its face the date of
11 expiration of the order.

12 (p) (1) If a respondent, named in an order issued under this
13 section after a hearing, has not been served personally with the
14 order but has received actual notice of the existence and substance
15 of the order through personal appearance in court to hear the terms
16 of the order from the court, no additional proof of service is
17 required for enforcement of the order.

18 (2) If the respondent named in a temporary restraining order is
19 personally served with the order and notice of hearing with respect
20 to a restraining order or protective order based on the temporary
21 restraining order, but the respondent does not appear at the hearing,
22 either personally or by an attorney, and the terms and conditions
23 of the restraining order or protective order issued at the hearing
24 are identical to the temporary restraining order, except for the
25 duration of the order, then the restraining order or protective order
26 issued at the hearing may be served on the respondent by first-class
27 mail sent to that person at the most current address for the
28 respondent available to the court.

29 (3) The Judicial Council form for temporary orders issued
30 pursuant to this subdivision shall contain a statement in
31 substantially the following form:

32
33 “If you have been personally served with a temporary restraining
34 order and notice of hearing, but you do not appear at the hearing
35 either in person or by a lawyer, and a restraining order that is the
36 same as this temporary restraining order except for the expiration
37 date is issued at the hearing, a copy of the order will be served on
38 you by mail at the following address:_____.

39 If that address is not correct or you wish to verify that the
40 temporary restraining order was converted to a restraining order

1 at the hearing without substantive change and to find out the
2 duration of that order, contact the clerk of the court.”

3
4 (q) (1) Information on any temporary restraining order or
5 injunction relating to school site violence issued by a court pursuant
6 to this section shall be transmitted to the Department of Justice in
7 accordance with either paragraph (2) or (3).

8 (2) The court shall order the petitioner or the attorney for the
9 petitioner to deliver a copy of any order issued under this section,
10 or a reissuance, extension, modification, or termination of the
11 order, and any subsequent proof of service, by the close of the
12 business day on which the order, reissuance, or termination of the
13 order, and any proof of service, was made, to each law enforcement
14 agency having jurisdiction over the residence of the petition and
15 to any additional law enforcement agencies within the court’s
16 discretion as are requested by the petitioner.

17 (3) Alternatively, the court or its designee shall transmit, within
18 one business day, to law enforcement personnel all information
19 required under subdivision (b) of Section 6380 of the Family Code
20 regarding any order issued under this section, or a reissuance,
21 extension, modification, or termination of the order, and any
22 subsequent proof of service, by either one of the following
23 methods:

24 (A) Transmitting a physical copy of the order or proof of service
25 to a local law enforcement agency authorized by the Department
26 of Justice to enter orders into the California Law Enforcement
27 Telecommunications System (CLETS).

28 (B) With the approval of the Department of Justice, entering
29 the order of proof of service into CLETS directly.

30 (4) Each appropriate law enforcement agency shall make
31 available information as to the existence and current status of these
32 orders to law enforcement officers responding to the scene of
33 reported unlawful violence or a credible threat of violence.

34 (5) At the request of the petitioner, an order issued under this
35 section shall be served on the respondent, regardless of whether
36 the respondent has been taken into custody, by any law
37 enforcement officer who is present at the scene of reported
38 unlawful violence or a credible threat of violence involving the
39 parties to the proceedings. The petitioner shall provide the officer

1 with an endorsed copy of the order and proof of service that the
2 officer shall complete and send to the issuing court.

3 (6) Upon receiving information at the scene of an incident of
4 unlawful violence or a credible threat of violence that a protective
5 order has been issued under this section, or that a person who has
6 been taken into custody is the subject of an order, if the petitioner
7 or the protected person cannot produce an endorsed copy of the
8 order, a law enforcement officer shall immediately attempt to
9 verify the existence of the order.

10 (7) If the law enforcement officer determines that a protective
11 order has been issued, but not served, the officer shall immediately
12 notify the respondent of the terms of the order and obtain the
13 respondent's address. The law enforcement officer shall at that
14 time also enforce the order, but may not arrest or take the
15 respondent into custody for acts in violation of the order that were
16 committed prior to the verbal notice of the terms and conditions
17 of the order. The law enforcement officer's verbal notice of the
18 terms of the order shall constitute service of the order and
19 constitutes sufficient notice for the purposes of this section, and
20 Section 273.6 and subdivision (g) of Section 12021 of the Penal
21 Code. The petitioner shall mail an endorsed copy of the order to
22 the respondent's mailing address provided to the law enforcement
23 officer within one business day of the reported incident of unlawful
24 violence or a credible threat of violence at which a verbal notice
25 of the terms of the order was provided by a law enforcement
26 officer.

27 (r) (1) A person subject to a protective order issued under this
28 section shall not own, possess, purchase, receive, or attempt to
29 purchase or receive a firearm or ammunition while the protective
30 order is in effect.

31 (2) The court shall order a person subject to a protective order
32 issued under this section to relinquish any firearms he or she owns
33 or possesses pursuant to Section 527.9.

34 (3) Every person who owns, possesses, purchases, or receives,
35 or attempts to purchase or receive a firearm or ammunition while
36 the protective order is in effect is punishable pursuant to
37 subdivision (g) of Section 12021 of the Penal Code.

38 (s) Any intentional disobedience of any temporary restraining
39 order or injunction granted under this section is punishable pursuant
40 to Section 273.6 of the Penal Code.

1 (t) Nothing in this section may be construed as expanding,
2 diminishing, altering, or modifying the duty, if any, of a
3 postsecondary educational institution to provide a safe environment
4 for students and other persons.

5 (u) (1) The Judicial Council shall develop forms, instructions,
6 and rules relating to matters governed by this section. The forms
7 for the petition and response shall be simple and concise, and their
8 use by parties in actions brought pursuant to this section shall be
9 mandatory.

10 (2) A temporary restraining order or injunction relating to
11 unlawful violence or a credible threat of violence issued by a court
12 pursuant to this section shall be issued on forms adopted by the
13 Judicial Council and that have been approved by the Department
14 of Justice pursuant to subdivision (i) of Section 6380 of the Family
15 Code. However, the fact that an order issued by a court pursuant
16 to this section was not issued on forms adopted by the Judicial
17 Council and approved by the Department of Justice shall not, in
18 and of itself, make the order unenforceable.

19 (v) There is no filing fee for a petition that alleges that a person
20 has threatened violence against a student of the petitioner, or
21 stalked the student, or acted or spoken in any other manner that
22 has placed the student in reasonable fear of violence, and that seeks
23 a protective or restraining order or injunction restraining stalking
24 or future threats of violence, in any action brought pursuant to this
25 section. No fee shall be paid for a subpoena filed in connection
26 with a petition alleging these acts. No fee shall be paid for filing
27 a response to a petition alleging these acts.

28 (w) (1) Subject to paragraph (4) of subdivision (b) of Section
29 6103.2 of the Government Code, there shall be no fee for the
30 service of process by a sheriff or marshal of a temporary restraining
31 order or injunction to be issued pursuant to this section if either
32 of the following conditions apply:

33 (A) The temporary restraining order or injunction issued
34 pursuant to this section is based upon stalking, as prohibited by
35 Section 646.9 of the Penal Code.

36 (B) The temporary restraining order or injunction issued
37 pursuant to this section is based upon a credible threat of violence.

38 (2) The Judicial Council shall prepare and develop forms for
39 persons who wish to avail themselves of the services described in
40 this subdivision.

1 SECTION 1.

2 SEC. 4. Section 6345 of the Family Code, as amended by
3 Section 19 of Chapter 572 of the Statutes of 2010, is amended to
4 read:

5 6345. (a) In the discretion of the court, the personal conduct,
6 stay-away, and residence exclusion orders contained in a court
7 order issued after notice and a hearing under this article may have
8 a duration of not more than five years, subject to termination or
9 modification by further order of the court either on written
10 stipulation filed with the court or on the motion of a party. These
11 orders may be renewed, upon the request of a party, either for five
12 years or permanently, without a showing of any further abuse since
13 the issuance of the original order, subject to termination or
14 modification by further order of the court either on written
15 stipulation filed with the court or on the motion of a party. The
16 request for renewal may be brought at any time within the three
17 months before the expiration of the orders.

18 (b) Notwithstanding subdivision (a), the duration of any orders,
19 other than the protective orders described in subdivision (a), that
20 are also contained in a court order issued after notice and a hearing
21 under this article, including, but not limited to, orders for custody,
22 visitation, support, and disposition of property, shall be governed
23 by the law relating to those specific subjects.

24 (c) The failure to state the expiration date on the face of the
25 form creates an order with a duration of three years from the date
26 of issuance.

27 (d) ~~If a court proceeding is set~~ *an action is filed* for the purpose
28 of terminating or modifying a protective order prior to the
29 expiration date specified in the order *by a party other than the*
30 *protected party*, the party who is protected by the order shall be
31 given notice of the proceeding *to hear that action* prior to the
32 hearing either by personal service or by mail with return receipt
33 required. If the party who is protected by the order cannot be
34 notified prior to the hearing for modification or termination of the
35 protective order, the court shall deny the motion to modify or
36 terminate the order without prejudice or continue the hearing until
37 the party who is protected can be properly noticed. *The protected*
38 *party may waive his or her right to notice if he or she is physically*
39 *present in court and request that the court take action on the*
40 *termination or modification request.*

1 *SEC. 5. Section 213.5 of the Welfare and Institutions Code, as*
2 *amended by Section 25 of Chapter 572 of the Statutes of 2010, is*
3 *amended to read:*

4 213.5. (a) After a petition has been filed pursuant to Section
5 311 to declare a child a dependent child of the juvenile court, and
6 until the time that the petition is dismissed or dependency is
7 terminated, upon application in the manner provided by Section
8 527 of the Code of Civil Procedure or in the manner provided by
9 Section 6300 of the Family Code, if related to domestic violence,
10 the juvenile court has exclusive jurisdiction to issue ex parte orders
11 (1) enjoining any person from molesting, attacking, striking,
12 stalking, threatening, sexually assaulting, battering, harassing,
13 telephoning, including, but not limited to, making annoying
14 telephone calls as described in Section 653m of the Penal Code,
15 destroying the personal property, contacting, either directly or
16 indirectly, by mail or otherwise, coming within a specified distance
17 of, or disturbing the peace of the child or any other child in the
18 household; and (2) excluding any person from the dwelling of the
19 person who has care, custody, and control of the child. A court
20 may also issue an ex parte order enjoining any person from
21 molesting, attacking, striking, stalking, threatening, sexually
22 assaulting, battering, harassing, telephoning, including, but not
23 limited to, making annoying telephone calls as described in Section
24 635m of the Penal Code, destroying the personal property,
25 contacting, either directly or indirectly, by mail or otherwise,
26 coming within a specified distance of, or disturbing the peace of
27 any parent, legal guardian, or current caretaker of the child,
28 regardless of whether the child resides with that parent, legal
29 guardian, or current caretaker, upon application in the manner
30 provided by Section 527 of the Code of Civil Procedure or, if
31 related to domestic violence, in the manner provided by Section
32 6300 of the Family Code. A court may also issue an ex parte order
33 enjoining any person from molesting, attacking, striking, stalking,
34 threatening, sexually assaulting, battering, harassing, telephoning,
35 including, but not limited to, making annoying telephone calls as
36 described in Section 635m of the Penal Code, destroying the
37 personal property, contacting, either directly or indirectly, by mail
38 or otherwise, coming within a specified distance of, or disturbing
39 the peace of the child's current or former social worker or court

1 appointed special advocate, upon application in the manner
2 provided by Section 527 of the Code of Civil Procedure.

3 (b) After a petition has been filed pursuant to Section 601 or
4 602 to declare a child a ward of the juvenile court, and until the
5 time that the petition is dismissed or wardship is terminated, upon
6 application in the manner provided by Section 527 of the Code of
7 Civil Procedure or, if related to domestic violence, in the manner
8 provided by Section 6300 of the Family Code, the juvenile court
9 may issue ex parte orders (1) enjoining any person from molesting,
10 attacking, striking, stalking, threatening, sexually assaulting,
11 battering, harassing, telephoning, including, but not limited to,
12 making annoying telephone calls as described in Section 653m of
13 the Penal Code, destroying the personal property, contacting, either
14 directly or indirectly, by mail or otherwise, coming within a
15 specified distance of, or disturbing the peace of the child or any
16 other child in the household; (2) excluding any person from the
17 dwelling of the person who has care, custody, and control of the
18 child; or (3) enjoining the child from contacting, threatening,
19 stalking, or disturbing the peace of any person the court finds to
20 be at risk from the conduct of the child, or with whom association
21 would be detrimental to the child. A court may also issue an ex
22 parte order enjoining any person from molesting, attacking,
23 striking, stalking, threatening, sexually assaulting, battering,
24 harassing, telephoning, including, but not limited to, making
25 annoying telephone calls as described in Section 635m of the Penal
26 Code, destroying the personal property, contacting, either directly
27 or indirectly, by mail or otherwise, coming within a specified
28 distance of, or disturbing the peace of any parent, legal guardian,
29 or current caretaker of the child, regardless of whether the child
30 resides with that parent, legal guardian, or current caretaker, upon
31 application in the manner provided by Section 527 of the Code of
32 Civil Procedure or, if related to domestic violence, in the manner
33 provided by Section 6300 of the Family Code. A court may also
34 issue an ex parte order enjoining any person from molesting,
35 attacking, striking, stalking, threatening, sexually assaulting,
36 battering, harassing, telephoning, including, but not limited to,
37 making annoying telephone calls as described in Section 635m of
38 the Penal Code, destroying the personal property, contacting, either
39 directly or indirectly, by mail or otherwise, coming within a
40 specified distance of, or disturbing the peace of the child's current

1 or former probation officer or court appointed special advocate,
2 upon application in the manner provided by Section 527 of the
3 Code of Civil Procedure.

4 (c) If a temporary restraining order is granted without notice,
5 the matter shall be made returnable on an order requiring cause to
6 be shown why the order should not be granted, on the earliest day
7 that the business of the court will permit, but not later than 21 days
8 or, if good cause appears to the court, 25 days from the date the
9 temporary restraining order is granted. The court may, on the
10 motion of the person seeking the restraining order, or on its own
11 motion, shorten the time for service of the order to show cause on
12 the person to be restrained. The court may, upon its own motion
13 or the filing of a declaration by the person seeking the restraining
14 order, find that the person to be restrained could not be served
15 within the time required by law and reissue an order previously
16 issued and dissolved by the court for failure to serve the person to
17 be restrained. The reissued order shall remain in effect until the
18 date set for the hearing. The reissued order shall state on its face
19 the date of expiration of the order. Any hearing pursuant to this
20 section may be held simultaneously with any regularly scheduled
21 hearings held in proceedings to declare a child a dependent child
22 or ward of the juvenile court pursuant to Section 300, 601, or 602,
23 or subsequent hearings regarding the dependent child or ward.

24 (d) (1) The juvenile court may issue, upon notice and a hearing,
25 any of the orders set forth in subdivisions (a), (b), and (c). Any
26 restraining order granted pursuant to this subdivision shall remain
27 in effect, in the discretion of the court, no more than three years,
28 unless otherwise terminated by the court, extended by mutual
29 consent of all parties to the restraining order, or extended by further
30 order of the court on the motion of any party to the restraining
31 order.

32 (2) *If an action is filed for the purpose of terminating or*
33 *modifying a protective order prior to the expiration date specified*
34 *in the order by a party other than the protected party, the party*
35 *who is protected by the order shall be given notice of the*
36 *proceeding to hear that action prior to the hearing either by*
37 *personal service or by mail with return receipt required. If the*
38 *party who is protected by the order cannot be notified prior to the*
39 *hearing for modification or termination of the protective order,*
40 *the juvenile court shall deny the motion to modify or terminate the*

1 *order without prejudice or continue the hearing until the party*
2 *who is protected can be properly noticed. The protected party may*
3 *waive his or her right to notice if he or she is physically present*
4 *in court and requests that the court take action on the termination*
5 *or modification request.*

6 (e) (1) The juvenile court may issue an order made pursuant to
7 subdivision (a), (b), or (d) excluding a person from a residence or
8 dwelling. This order may be issued for the time and on the
9 conditions that the court determines, regardless of which party
10 holds legal or equitable title or is the lessee of the residence or
11 dwelling.

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

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

17 (B) That the party to be excluded has assaulted or threatens to
18 assault the other party or any other person under the care, custody,
19 and control of the other party, or any minor child of the parties or
20 of the other party.

21 (C) That physical or emotional harm would otherwise result to
22 the other party, to any person under the care, custody, and control
23 of the other party, or to any minor child of the parties or of the
24 other party.

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

27 (g) All data with respect to a juvenile court protective order, or
28 extension, modification, or termination thereof, granted pursuant
29 to subdivision (a), (b), (c), or (d), shall be transmitted by the court
30 or its designee, within one business day, to law enforcement
31 personnel by either one of the following methods:

32 (1) Transmitting a physical copy of the order to a local law
33 enforcement agency authorized by the Department of Justice to
34 enter orders into the California Law Enforcement
35 Telecommunications System (CLETS).

36 (2) With the approval of the Department of Justice, entering the
37 order into CLETS directly.

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

1 (i) A juvenile court restraining order related to domestic violence
2 issued by a court pursuant to this section shall be issued on forms
3 adopted by the Judicial Council of California and that have been
4 approved by the Department of Justice pursuant to subdivision (i)
5 of Section 6380 of the Family Code. However, the fact that an
6 order issued by a court pursuant to this section was not issued on
7 forms adopted by the Judicial Council and approved by the
8 Department of Justice shall not, in and of itself, make the order
9 unenforceable.

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

13 (2) Prior to deciding whether to issue an order under this part,
14 the court shall consider the following information obtained pursuant
15 to a search conducted under paragraph (1): any conviction for a
16 violent felony specified in Section 667.5 of the Penal Code or a
17 serious felony specified in Section 1192.7 of the Penal Code; any
18 misdemeanor conviction involving domestic violence, weapons,
19 or other violence; any outstanding warrant; parole or probation
20 status; any prior restraining order; and any violation of a prior
21 restraining order.

22 (3) (A) If the results of the search conducted pursuant to
23 paragraph (1) indicate that an outstanding warrant exists against
24 the subject of the search, the court shall order the clerk of the court
25 to immediately notify, by the most effective means available,
26 appropriate law enforcement officials of any information obtained
27 through the search that the court determines is appropriate. The
28 law enforcement officials notified shall take all actions necessary
29 to execute any outstanding warrants or any other actions, as
30 appropriate and as soon as practicable.

31 (B) If the results of the search conducted pursuant to paragraph
32 (1) indicate that the subject of the search is currently on parole or
33 probation, the court shall order the clerk of the court to immediately
34 notify, by the most effective means available, the appropriate parole
35 or probation officer of any information obtained through the search
36 that the court determines is appropriate. The parole or probation
37 officer notified shall take all actions necessary to revoke any parole
38 or probation, or any other actions, with respect to the subject
39 person, as appropriate and as soon as practicable.

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

4 *SEC. 6. Section 15657.03 of the Welfare and Institutions Code,*
5 *as amended by Section 26 of Chapter 572 of the Statutes of 2010,*
6 *is amended to read:*

7 15657.03. (a) (1) An elder or dependent adult who has suffered
8 abuse as defined in Section 15610.07 may seek protective orders
9 as provided in this section.

10 (2) A petition may be brought on behalf of an abused elder or
11 dependent adult by a conservator or a trustee of the elder or
12 dependent adult, an attorney-in-fact of an elder or dependent adult
13 who acts within the authority of the power of attorney, a person
14 appointed as a guardian ad litem for the elder or dependent adult,
15 or other person legally authorized to seek such relief.

16 (b) For the purposes of this section:

17 (1) "Conservator" means the legally appointed conservator of
18 the person or estate of the petitioner, or both.

19 (2) "Petitioner" means the elder or dependent adult to be
20 protected by the protective orders and, if the court grants the
21 petition, the protected person.

22 (3) "Protective order" means an order that includes any of the
23 following restraining orders, whether issued ex parte, after notice
24 and hearing, or in a judgment:

25 (A) An order enjoining a party from abusing, intimidating,
26 molesting, attacking, striking, stalking, threatening, sexually
27 assaulting, battering, harassing, telephoning, including, but not
28 limited to, making annoying telephone calls as described in Section
29 653m of the Penal Code, destroying personal property, contacting,
30 either directly or indirectly, by mail or otherwise, or coming within
31 a specified distance of, or disturbing the peace of the petitioner,
32 and, in the discretion of the court, on a showing of good cause, of
33 other named family or household members or a conservator, if
34 any, of the petitioner.

35 (B) An order excluding a party from the petitioner's residence
36 or dwelling, except that this order shall not be issued if legal or
37 equitable title to, or lease of, the residence or dwelling is in the
38 sole name of the party to be excluded, or is in the name of the party
39 to be excluded and any other party besides the petitioner.

1 (C) An order enjoining a party from specified behavior that the
2 court determines is necessary to effectuate orders described in
3 subparagraph (A) or (B).

4 (4) “Respondent” means the person against whom the protective
5 orders are sought and, if the petition is granted, the restrained
6 person.

7 (c) An order may be issued under this section, with or without
8 notice, to restrain any person for the purpose of preventing a
9 recurrence of abuse, if a declaration shows, to the satisfaction of
10 the court, reasonable proof of a past act or acts of abuse of the
11 petitioning elder or dependent adult.

12 (d) Upon filing a petition for protective orders under this section,
13 the petitioner may obtain a temporary restraining order in
14 accordance with Section 527 of the Code of Civil Procedure, except
15 to the extent this section provides a rule that is inconsistent. The
16 temporary restraining order may include any of the protective
17 orders described in paragraph (3) of subdivision (b). However, the
18 court may issue an ex parte order excluding a party from the
19 petitioner’s residence or dwelling only on a showing of all of the
20 following:

21 (1) Facts sufficient for the court to ascertain that the party who
22 will stay in the dwelling has a right under color of law to possession
23 of the premises.

24 (2) That the party to be excluded has assaulted or threatens to
25 assault the petitioner, other named family or household member
26 of the petitioner, or a conservator of the petitioner.

27 (3) That physical or emotional harm would otherwise result to
28 the petitioner, other named family or household member of the
29 petitioner, or a conservator of the petitioner.

30 (e) A request for the issuance of a temporary restraining order
31 without notice under this section shall be granted or denied on the
32 same day that the petition is submitted to the court, unless the
33 petition is filed too late in the day to permit effective review, in
34 which case the order shall be granted or denied on the next day of
35 judicial business in sufficient time for the order to be filed that day
36 with the clerk of the court.

37 (f) Within 21 days, or, if good cause appears to the court, 25
38 days, from the date that a request for a temporary restraining order
39 is granted or denied, a hearing shall be held on the petition. If no
40 request for temporary orders is made, the hearing shall be held

1 within 21 days, or, if good cause appears to the court, 25 days,
2 from the date that the petition is filed.

3 (g) The respondent may file a response that explains or denies
4 the alleged abuse.

5 (h) The court may issue, upon notice and a hearing, any of the
6 orders set forth in paragraph (3) of subdivision (b). The court may
7 issue, after notice and hearing, an order excluding a person from
8 a residence or dwelling if the court finds that physical or emotional
9 harm would otherwise result to the petitioner, other named family
10 or household member of the petitioner, or conservator of the
11 petitioner.

12 (i) (1) In the discretion of the court, an order issued after notice
13 and a hearing under this section may have a duration of not more
14 than five years, subject to termination or modification by further
15 order of the court either on written stipulation filed with the court
16 or on the motion of a party. These orders may be renewed upon
17 the request of a party, either for five years or permanently, without
18 a showing of any further abuse since the issuance of the original
19 order, subject to termination or modification by further order of
20 the court either on written stipulation filed with the court or on the
21 motion of a party. The request for renewal may be brought at any
22 time within the three months before the expiration of the order.

23 (2) The failure to state the expiration date on the face of the
24 form creates an order with a duration of three years from the date
25 of issuance.

26 (3) *If an action is filed for the purpose of terminating or*
27 *modifying a protective order prior to the expiration date specified*
28 *in the order by a party other than the protected party, the party*
29 *who is protected by the order shall be given notice of the*
30 *proceeding to hear that action prior to the hearing either by*
31 *personal service or by mail with return receipt required. If the*
32 *party who is protected by the order cannot be notified prior to the*
33 *hearing for modification or termination of the protective order,*
34 *the court shall deny the motion to modify or terminate the order*
35 *without prejudice or continue the hearing until the party who is*
36 *protected can be properly noticed. The protected party may waive*
37 *his or her right to notice if he or she is physically present in court*
38 *and requests that the court take action on the termination or*
39 *modification request.*

1 (j) In a proceeding under this section, a support person may
2 accompany a party in court and, if the party is not represented by
3 an attorney, may sit with the party at the table that is generally
4 reserved for the party and the party's attorney. The support person
5 is present to provide moral and emotional support for a person
6 who alleges he or she is a victim of abuse. The support person is
7 not present as a legal adviser and may not provide legal advice.
8 The support person may assist the person who alleges he or she is
9 a victim of abuse in feeling more confident that he or she will not
10 be injured or threatened by the other party during the proceedings
11 if the person who alleges he or she is a victim of abuse and the
12 other party are required to be present in close proximity. This
13 subdivision does not preclude the court from exercising its
14 discretion to remove the support person from the courtroom if the
15 court believes the support person is prompting, swaying, or
16 influencing the party assisted by the support person.

17 (k) Upon the filing of a petition for protective orders under this
18 section, the respondent shall be personally served with a copy of
19 the petition, notice of the hearing or order to show cause, temporary
20 restraining order, if any, and any declarations in support of the
21 petition. Service shall be made at least five days before the hearing.
22 The court may, on motion of the petitioner or on its own motion,
23 shorten the time for service on the respondent.

24 (l) A notice of hearing under this section shall notify the
25 respondent that if he or she does not attend the hearing, the court
26 may make orders against him or her that could last up to five years.

27 (m) (1) The court may, upon the filing of a declaration by the
28 petitioner that the respondent could not be served within the time
29 required by statute, reissue an order previously issued and dissolved
30 by the court for failure to serve the respondent. The reissued order
31 shall remain in effect until the date set for the hearing.

32 (2) The reissued order shall state on its face the date of
33 expiration of the order.

34 (n) (1) If a respondent, named in an order issued under this
35 section after a hearing, has not been served personally with the
36 order but has received actual notice of the existence and substance
37 of the order through personal appearance in court to hear the terms
38 of the order from the court, no additional proof of service is
39 required for enforcement of the order.

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

12 (3) The Judicial Council form for temporary orders issued
13 pursuant to this subdivision shall contain a statement in
14 substantially the following form:

15
16 “If you have been personally served with a temporary restraining
17 order and notice of hearing, but you do not appear at the hearing
18 either in person or by a lawyer, and a restraining order that is the
19 same as this temporary restraining order except for the expiration
20 date is issued at the hearing, a copy of the order will be served on
21 you by mail at the following address: ____.

22 If that address is not correct or you wish to verify that the
23 temporary restraining order was converted to a restraining order
24 at the hearing without substantive change and to find out the
25 duration of that order, contact the clerk of the court.”

26
27 (o) (1) Information on any protective order relating to elder or
28 dependent adult abuse issued by a court pursuant to this section
29 shall be transmitted to the Department of Justice in accordance
30 with either paragraph (2) or (3).

31 (2) The court shall order the petitioner or the attorney for the
32 petitioner to deliver a copy of an order issued under this section,
33 or a reissuance, extension, modification, or termination of the
34 order, and any subsequent proof of service, by the close of the
35 business day on which the order, reissuance, extension,
36 modification, or termination was made, to each law enforcement
37 agency having jurisdiction over the residence of the petitioner, and
38 to any additional law enforcement agencies within the court’s
39 discretion as are requested by the petitioner.

1 (3) Alternatively, the court or its designee shall transmit, within
2 one business day, to law enforcement personnel all information
3 required under subdivision (b) of Section 6380 of the Family Code
4 regarding any order issued under this section, or a reissuance,
5 extension, modification, or termination of the order, and any
6 subsequent proof of service, by either one of the following
7 methods:

8 (A) Transmitting a physical copy of the order or proof of service
9 to a local law enforcement agency authorized by the Department
10 of Justice to enter orders into the California Law Enforcement
11 Telecommunications System (CLETS).

12 (B) With the approval of the Department of Justice, entering
13 the order or proof of service into CLETS directly.

14 (4) Each appropriate law enforcement agency shall make
15 available information as to the existence and current status of these
16 orders to law enforcement officers responding to the scene of
17 reported abuse.

18 (5) An order issued under this section shall, on request of the
19 petitioner, be served on the respondent, whether or not the
20 respondent has been taken into custody, by any law enforcement
21 officer who is present at the scene of reported abuse involving the
22 parties to the proceeding. The petitioner shall provide the officer
23 with an endorsed copy of the order and a proof of service, which
24 the officer shall complete and send to the issuing court.

25 (6) Upon receiving information at the scene of an incident of
26 abuse that a protective order has been issued under this section,
27 or that a person who has been taken into custody is the respondent
28 to that order, if the protected person cannot produce an endorsed
29 copy of the order, a law enforcement officer shall immediately
30 attempt to verify the existence of the order.

31 (7) If the law enforcement officer determines that a protective
32 order has been issued, but not served, the officer shall immediately
33 notify the respondent of the terms of the order and where a written
34 copy of the order can be obtained, and the officer shall at that time
35 also enforce the order. The law enforcement officer's verbal notice
36 of the terms of the order shall constitute service of the order and
37 is sufficient notice for the purposes of this section and for the
38 purposes of Section 273.6 of the Penal Code.

1 (p) Nothing in this section shall preclude either party from
2 representation by private counsel or from appearing on the party's
3 own behalf.

4 (q) There is no filing fee for a petition, response, or paper
5 seeking the reissuance, modification, or enforcement of a protective
6 order filed in a proceeding brought pursuant to this section.

7 (r) Pursuant to paragraph (4) of subdivision (b) of Section 6103.2
8 of the Government Code, a petitioner shall not be required to pay
9 a fee for law enforcement to serve an order issued under this
10 section.

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

13 (t) (1) A person subject to a protective order under this section
14 shall not own, possess, purchase, receive, or attempt to receive a
15 firearm or ammunition while the protective order is in effect.

16 (2) The court shall order a person subject to a protective order
17 issued under this section to relinquish any firearms he or she owns
18 or possesses pursuant to Section 527.9 of the Code of Civil
19 Procedure.

20 (3) Every person who owns, possesses, purchases, or receives,
21 or attempts to purchase or receive a firearm or ammunition while
22 subject to a protective order issued under this section is punishable
23 pursuant to subdivision (g) of Section 12021 of the Penal Code.

24 (4) This subdivision shall not apply in a case in which the
25 protective order issued under this section was made solely on the
26 basis of financial abuse unaccompanied by force, threat,
27 harassment, intimidation, or any other form of abuse.

28 (u) Any willful disobedience of any temporary restraining order
29 or restraining order after hearing granted under this section is
30 punishable pursuant to Section 273.6 of the Penal Code.

31 (v) This section does not apply to any action or proceeding
32 governed by Title 1.6C (commencing with Section 1788) of Part
33 4 of Division 3 of the Civil Code, by Chapter 3 (commencing with
34 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure,
35 or by Division 10 (commencing with Section 6200) of the Family
36 Code. Nothing in this section shall preclude a petitioner's right to
37 use other existing civil remedies.

38 (w) The Judicial Council shall develop forms, instructions, and
39 rules relating to matters governed by this section. The petition and

- 1 response forms shall be simple and concise, and their use by parties
- 2 in actions brought pursuant to this section shall be mandatory.

O