

AMENDED IN SENATE MAY 10, 2011
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 these protective orders, 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 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, *provided that upon a showing of good cause, the bill would authorize a court to specify another method for service of process that is reasonably designed to afford actual notice to the protected party.* 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

1 substantial emotional distress, and must actually cause substantial
2 emotional distress to the petitioner.

3 (4) “Petitioner” means the person to be protected by the
4 temporary restraining order and injunction and, if the court grants
5 the petition, the protected person.

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

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

12 (A) An order enjoining a party from harassing, intimidating,
13 molesting, attacking, striking, stalking, threatening, sexually
14 assaulting, battering, abusing, telephoning, including, but not
15 limited to, making annoying telephone calls, as described in Section
16 653m of the Penal Code, destroying personal property, contacting,
17 either directly or indirectly, by mail or otherwise, or coming within
18 a specified distance of, or disturbing the peace of the petitioner.

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

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

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

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

38 (e) A request for the issuance of a temporary restraining order
39 without notice under this section shall be granted or denied on the
40 same day that the petition is submitted to the court, unless the

1 petition is filed too late in the day to permit effective review, in
2 which case the order shall be granted or denied on the next day of
3 judicial business in sufficient time for the order to be filed that day
4 with the clerk of the court.

5 (f) A temporary restraining order issued under this section shall
6 remain in effect, at the court's discretion, for a period not to exceed
7 21 days, or, if the court extends the time for hearing under
8 subdivision (g), not to exceed 25 days, unless otherwise modified
9 or terminated by the court.

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

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

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

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

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

38 (3) If an action is filed for the purpose of terminating or
39 modifying a protective order prior to the expiration date specified
40 in the order by a party other than the protected party, the party

1 who is protected by the order shall be given notice of the
2 ~~proceeding to hear that action prior to the hearing either by personal~~
3 ~~service or by mail with return receipt required. If the proceeding~~
4 ~~by personal service or, if the protected party has satisfied the~~
5 ~~requirements of Chapter 3.1 (commencing with Section 6205) of~~
6 ~~Division 7 of Title 1 of the Government Code, by service on the~~
7 ~~Secretary of State. If the party who is protected by the order cannot~~
8 ~~be notified prior to the hearing for modification or termination of~~
9 ~~the protective order, the court shall deny the motion to modify or~~
10 ~~terminate the order without prejudice or continue the hearing until~~
11 ~~the party who is protected can be properly noticed and may, upon~~
12 ~~a showing of good cause, specify another method for service of~~
13 ~~process that is reasonably designed to afford actual notice to the~~
14 ~~protected party. The protected party may waive his or her right to~~
15 ~~notice if he or she is physically present in court and requests that~~
16 ~~the court take action on the termination or modification request.~~
17 ~~and does not challenge the sufficiency of the notice.~~

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

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

38 (m) Upon the filing of a petition for an injunction under this
39 section, the respondent shall be personally served with a copy of
40 the petition, temporary restraining order, if any, and notice of

1 hearing of the petition. Service shall be made at least five days
2 before the hearing. The court may for good cause, on motion of
3 the petitioner or on its own motion, shorten the time for service
4 on the respondent.

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

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

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

16 (p) (1) If a respondent, named in a restraining order issued after
17 a hearing, has not been served personally with the order but has
18 received actual notice of the existence and substance of the order
19 through personal appearance in court to hear the terms of the order
20 from the court, no additional proof of service is required for
21 enforcement of the order.

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

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

36
37 “If you have been personally served with this temporary
38 restraining order and notice of hearing, but you do not appear at
39 the hearing either in person or by a lawyer, and a restraining order
40 that is the same as this temporary restraining order except for the

1 expiration date is issued at the hearing, a copy of the restraining
2 order will be served on you by mail at the following address: ____.
3 If that address is not correct or you wish to verify that the
4 temporary restraining order was converted to a restraining order
5 at the hearing without substantive change and to find out the
6 duration of that order, contact the clerk of the court.”

7

8 (q) (1) Information on any temporary restraining order or
9 injunction relating to civil harassment issued by a court pursuant
10 to this section shall be transmitted to the Department of Justice in
11 accordance with either paragraph (2) or (3).

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

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

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

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

34 (4) Each appropriate law enforcement agency shall make
35 available information as to the existence and current status of these
36 orders to law enforcement officers responding to the scene of
37 reported harassment.

38 (5) An order issued under this section shall, on request of the
39 petitioner, be served on the respondent, whether or not the
40 respondent has been taken into custody, by any law enforcement

1 officer who is present at the scene of reported harassment involving
2 the parties to the proceeding. The petitioner shall provide the
3 officer with an endorsed copy of the order and a proof of service
4 that the officer shall complete and send to the issuing court.

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

11 (7) If the law enforcement officer determines that a protective
12 order has been issued, but not served, the officer shall immediately
13 notify the respondent of the terms of the order and shall at that
14 time also enforce the order. Verbal notice of the terms of the order
15 shall constitute service of the order and is sufficient notice for the
16 purposes of this section and for the purposes of Section 273.6 and
17 subdivision (g) of Section 12021 of the Penal Code.

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

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

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

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

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

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

39 (v) (1) The Judicial Council shall develop forms, instructions,
40 and rules relating to matters governed by this section. The petition

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

4 (2) A temporary restraining order or injunction relating to civil
5 harassment issued by a court pursuant to this section shall be issued
6 on forms adopted by the Judicial Council of California and that
7 have been approved by the Department of Justice pursuant to
8 subdivision (i) of Section 6380 of the Family Code. However, the
9 fact that an order issued by a court pursuant to this section was not
10 issued on forms adopted by the Judicial Council and approved by
11 the Department of Justice shall not, in and of itself, make the order
12 unenforceable.

13 (w) There is no filing fee for a petition that alleges that a person
14 has inflicted or threatened violence against the petitioner, or stalked
15 the petitioner, or acted or spoken in any other manner that has
16 placed the petitioner in reasonable fear of violence, and that seeks
17 a protective or restraining order or injunction restraining stalking
18 or future violence or threats of violence, in any action brought
19 pursuant to this section. No fee shall be paid for a subpoena filed
20 in connection with a petition alleging these acts. No fee shall be
21 paid for filing a response to a petition alleging these acts.

22 (x) (1) Subject to paragraph (4) of subdivision (b) of Section
23 6103.2 of the Government Code, there shall be no fee for the
24 service of process by a sheriff or marshal of a protective order,
25 restraining order, or injunction to be issued, if either of the
26 following conditions apply:

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

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

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

36 SEC. 2. Section 527.8 of the Code of Civil Procedure, as
37 amended by Section 2 of Chapter 572 of the Statutes of 2010, is
38 amended to read:

39 527.8. (a) Any employer, whose employee has suffered
40 unlawful violence or a credible threat of violence from any

1 individual, that can reasonably be construed to be carried out or
2 to have been carried out at the workplace, may seek a temporary
3 restraining order and an injunction on behalf of the employee and,
4 at the discretion of the court, any number of other employees at
5 the workplace, and, if appropriate, other employees at other
6 workplaces of the employer.

7 (b) For the purposes of this section:

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

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

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

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

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

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

38 (A) An order enjoining a party from harassing, intimidating,
39 molesting, attacking, striking, stalking, threatening, sexually
40 assaulting, battering, abusing, telephoning, including, but not

1 limited to, making annoying telephone calls as described in Section
2 653m of the Penal Code, destroying personal property, contacting,
3 either directly or indirectly, by mail or otherwise, or coming within
4 a specified distance of, or disturbing the peace of the employee.

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

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

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

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

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

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

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

1 (h) Within 21 days, or if good cause appears to the court, 25
2 days from the date that a petition for a temporary order is granted
3 or denied, a hearing shall be held on the petition for the injunction.
4 If no request for temporary orders is made, the hearing shall be
5 held within 21 days, or, if good cause appears to the court, 25 days,
6 from the date that the petition is filed.

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

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

19 (k) (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 violence or threats of violence
26 since the issuance of the original order, subject to termination or
27 modification by further order of the court either on written
28 stipulation filed with the court or on the motion of a party. The
29 request for renewal may be brought at any time within the three
30 months before the expiration of the 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 personal~~
39 ~~service or by mail with return receipt required. If the proceeding~~
40 *by personal service or, if the protected party has satisfied the*

1 *requirements of Chapter 3.1 (commencing with Section 6205) of*
2 *Division 7 of Title 1 of the Government Code, by service on the*
3 *Secretary of State. If the party who is protected by the order cannot*
4 *be notified prior to the hearing for modification or termination of*
5 *the protective order, the court shall deny the motion to modify or*
6 *terminate the order without prejudice or continue the hearing until*
7 *the party who is protected can be properly noticed and may, upon*
8 *a showing of good cause, specify another method for service of*
9 *process that is reasonably designed to afford actual notice to the*
10 *protected party. The protected party may waive his or her right to*
11 *notice if he or she is physically present in court and requests that*
12 *the court take action on the termination or modification request.*
13 *and does not challenge the sufficiency of the notice.*

14 (l) This section does not preclude either party from
15 representation by private counsel or from appearing on his or her
16 own behalf.

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

24 (n) 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 three
27 years.

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

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

35 (p) (1) If a respondent, named in a restraining order issued
36 under this section after a hearing, has not been served personally
37 with the order but has received actual notice of the existence and
38 substance of the order through personal appearance in court to
39 hear the terms of the order from the court, no additional proof of
40 service is 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 person 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 person by first-class
10 mail sent to that person at the most current address for the person
11 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 this temporary
17 restraining order and notice of hearing, but you do not appear at
18 the hearing either in person or by a lawyer, and a restraining order
19 that is the same as this 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 (q) (1) Information on any temporary restraining order or
28 injunction relating to workplace violence issued by a court pursuant
29 to this section shall be transmitted to the Department of Justice in
30 accordance 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 any 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 unlawful violence or a credible threat of violence.

18 (5) At the request of the petitioner, an order issued under this
19 section shall be served on the respondent, regardless of whether
20 the respondent has been taken into custody, by any law
21 enforcement officer who is present at the scene of reported
22 unlawful violence or a credible threat of violence involving the
23 parties to the proceedings. The petitioner shall provide the officer
24 with an endorsed copy of the order and proof of service that the
25 officer shall complete and send to the issuing court.

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

33 (7) If the law enforcement officer determines that a protective
34 order has been issued, but not served, the officer shall immediately
35 notify the respondent of the terms of the order and obtain the
36 respondent's address. The law enforcement officer shall at that
37 time also enforce the order, but may not arrest or take the
38 respondent into custody for acts in violation of the order that were
39 committed prior to the verbal notice of the terms and conditions
40 of the order. The law enforcement officer's verbal notice of the

1 terms of the order shall constitute service of the order and
2 constitutes sufficient notice for the purposes of this section and
3 for the purposes of Section 273.6 and subdivision (g) of Section
4 12021 of the Penal Code. The petitioner shall mail an endorsed
5 copy of the order to the respondent's mailing address provided to
6 the law enforcement officer within one business day of the reported
7 incident of unlawful violence or a credible threat of violence at
8 which a verbal notice of the terms of the order was provided by a
9 law enforcement officer.

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

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

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

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

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

27 (u) (1) The Judicial Council shall develop forms, instructions,
28 and rules for relating to matters governed by this section. The
29 forms for the petition and response shall be simple and concise,
30 and their use by parties in actions brought pursuant to this section
31 shall be mandatory.

32 (2) A temporary restraining order or injunction relating to
33 unlawful violence or a credible threat of violence issued by a court
34 pursuant to this section shall be issued on forms adopted by the
35 Judicial Council of California and that have been approved by the
36 Department of Justice pursuant to subdivision (i) of Section 6380
37 of the Family Code. However, the fact that an order issued by a
38 court pursuant to this section was not issued on forms adopted by
39 the Judicial Council and approved by the Department of Justice
40 shall not, in and of itself, make the order unenforceable.

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

11 (w) (1) Subject to paragraph (4) of subdivision (b) of Section
12 6103.2 of the Government Code, there shall be no fee for the
13 service of process by a sheriff or marshal of a temporary restraining
14 order or injunction to be issued pursuant to this section if either
15 of the following conditions apply:

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

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

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

25 SEC. 3. Section 527.85 of the Code of Civil Procedure, as
26 amended by Section 4 of Chapter 572 of the Statutes of 2010, is
27 amended to read:

28 527.85. (a) Any chief administrative officer of a postsecondary
29 educational institution, or an officer or employee designated by
30 the chief administrative officer to maintain order on the school
31 campus or facility, a student of which has suffered a credible threat
32 of violence made off the school campus or facility from any
33 individual, which can reasonably be construed to be carried out or
34 to have been carried out at the school campus or facility, may, with
35 the written consent of the student, seek a temporary restraining
36 order and an injunction, on behalf of the student and, at the
37 discretion of the court, any number of other students at the campus
38 or facility who are similarly situated.

39 (b) For the purposes of this section, the following definitions
40 shall apply:

- 1 (1) “Chief administrative officer” means the principal, president,
2 or highest ranking official of the postsecondary educational
3 institution.
- 4 (2) “Course of conduct” means a pattern of conduct composed
5 of a series of acts over a period of time, however short, evidencing
6 a continuity of purpose, including any of the following:
- 7 (A) Following or stalking a student to or from school.
8 (B) Entering the school campus or facility.
9 (C) Following a student during school hours.
10 (D) Making telephone calls to a student.
11 (E) Sending correspondence to a student by any means,
12 including, but not limited to, the use of the public or private mails,
13 interoffice mail, fax, or computer e-mail.
- 14 (3) “Credible threat of violence” means a knowing and willful
15 statement or course of conduct that would place a reasonable person
16 in fear for his or her safety, or the safety of his or her immediate
17 family, and that serves no legitimate purpose.
- 18 (4) “Petitioner” means the chief administrative officer, or his
19 or her designee, who petitions under subdivision (a) for a temporary
20 restraining order and injunction.
- 21 (5) “Postsecondary educational institution” means a private
22 institution of vocational, professional, or postsecondary education.
- 23 (6) “Respondent” means the person against whom the temporary
24 restraining order and injunction are sought and, if the petition is
25 granted, the restrained person.
- 26 (7) “Student” means an adult currently enrolled in or applying
27 for admission to a postsecondary educational institution.
- 28 (8) “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 student.
- 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 (9) “Unlawful violence” means any assault or battery, or stalking
2 as prohibited in Section 646.9 of the Penal Code, but shall not
3 include 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 of the
11 student, or other students at the campus or facility.

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 a student has suffered a credible threat of
17 violence made off the school campus or facility by the respondent,
18 and that great or irreparable harm would result to the student. The
19 temporary restraining order may include any of the protective
20 orders described in paragraph (8) 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, within
34 25 days, from the date that a petition for a temporary order is
35 granted or denied, a hearing shall be held on the petition for the
36 injunction. If no request for temporary orders is made, the hearing
37 shall be held within 21 days, or if good cause appears to the court,
38 25 days, from the date the petition is filed.

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

1 (j) At the hearing, the judge shall receive any testimony that is
2 relevant and may make an independent inquiry. Moreover, if the
3 respondent is a current student of the entity requesting the
4 injunction, the judge shall receive evidence concerning the decision
5 of the postsecondary educational institution decision to retain,
6 terminate, or otherwise discipline the respondent. If the judge finds
7 by clear and convincing evidence that the respondent made a
8 credible threat of violence off the school campus or facility, an
9 injunction shall be issued prohibiting further threats of violence.

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

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

25 (3) If an action is filed for the purpose of terminating or
26 modifying a protective order prior to the expiration date specified
27 in the order by a party other than the protected party, the party
28 who is protected by the order shall be given notice of the
29 ~~proceeding to hear that action prior to the hearing either by personal~~
30 ~~service or by mail with return receipt required. If the proceeding~~
31 *by personal service or, if the protected party has satisfied the*
32 *requirements of Chapter 3.1 (commencing with Section 6205) of*
33 *Division 7 of Title 1 of the Government Code, by service on the*
34 *Secretary of State. If the party who is protected by the order cannot*
35 *be notified prior to the hearing for modification or termination of*
36 *the protective order, the court shall deny the motion to modify or*
37 *terminate the order without prejudice or continue the hearing until*
38 *the party who is protected can be properly noticed and may, upon*
39 *a showing of good cause, specify another method for service of*
40 *process that is reasonably designed to afford actual notice to the*

1 *protected party*. The protected party may waive his or her right to
2 notice if he or she is physically present in court ~~and requests that~~
3 ~~the court take action on the termination or modification request.~~
4 *and does not challenge the sufficiency of the notice.*

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

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

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

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

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

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

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

1 mail sent to that person at the most current address for the
2 respondent available to the court.

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

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

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

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

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

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

38 (A) Transmitting a physical copy of the order or proof of service
39 to a local law enforcement agency authorized by the Department

1 of Justice to enter orders into the California Law Enforcement
2 Telecommunications System (CLETS).

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

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

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

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

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

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

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

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

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

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

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

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

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

1 with a petition alleging these acts. No fee shall be paid for filing
2 a response to a petition alleging these acts.

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

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

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

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

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

19 6345. (a) In the discretion of the court, the personal conduct,
20 stay-away, and residence exclusion orders contained in a court
21 order issued after notice and a hearing under this article may have
22 a duration of not more than five years, subject to termination or
23 modification by further order of the court either on written
24 stipulation filed with the court or on the motion of a party. These
25 orders may be renewed, upon the request of a party, either for five
26 years or permanently, without a showing of any further abuse since
27 the issuance of the original order, subject to termination or
28 modification by further order of the court either on written
29 stipulation filed with the court or on the motion of a party. The
30 request for renewal may be brought at any time within the three
31 months before the expiration of the orders.

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

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

1 (d) If an action is filed for the purpose of terminating or
2 modifying a protective order prior to the expiration date specified
3 in the order by a party other than the protected party, the party
4 who is protected by the order shall be ~~given notice of the~~
5 ~~proceeding to hear that action prior to the hearing either by personal~~
6 ~~service or by mail with return receipt required~~ *given notice of the*
7 *proceeding by personal service or, if the protected party has*
8 *satisfied the requirements of Chapter 3.1 (commencing with Section*
9 *6205) of Division 7 of Title 1 of the Government Code, by service*
10 *on the Secretary of State. If the party who is protected by the order*
11 *cannot be notified prior to the hearing for modification or*
12 *termination of the protective order, the court shall deny the motion*
13 *to modify or terminate the order without prejudice or continue the*
14 *hearing until the party who is protected can be properly noticed*
15 *and may, upon a showing of good cause, specify another method*
16 *for service of process that is reasonably designed to afford actual*
17 *notice to the protected party. The protected party may waive his*
18 *or her right to notice if he or she is physically present in court and*
19 ~~request that the court take action on the termination or modification~~
20 ~~request. does not challenge the sufficiency of the notice.~~

21 SEC. 5. Section 213.5 of the Welfare and Institutions Code,
22 as amended by Section 25 of Chapter 572 of the Statutes of 2010,
23 is amended to read:

24 213.5. (a) After a petition has been filed pursuant to Section
25 311 to declare a child a dependent child of the juvenile court, and
26 until the time that the petition is dismissed or dependency is
27 terminated, upon application in the manner provided by Section
28 527 of the Code of Civil Procedure or in the manner provided by
29 Section 6300 of the Family Code, if related to domestic violence,
30 the juvenile court has exclusive jurisdiction to issue ex parte orders
31 (1) enjoining any person from molesting, attacking, striking,
32 stalking, threatening, sexually assaulting, battering, harassing,
33 telephoning, including, but not limited to, making annoying
34 telephone calls as described in Section 653m of the Penal Code,
35 destroying the personal property, contacting, either directly or
36 indirectly, by mail or otherwise, coming within a specified distance
37 of, or disturbing the peace of the child or any other child in the
38 household; and (2) excluding any person from the dwelling of the
39 person who has care, custody, and control of the child. A court
40 may also issue an ex parte order enjoining any person from

1 molesting, attacking, striking, stalking, threatening, sexually
2 assaulting, battering, harassing, telephoning, including, but not
3 limited to, making annoying telephone calls as described in Section
4 635m of the Penal Code, destroying the personal property,
5 contacting, either directly or indirectly, by mail or otherwise,
6 coming within a specified distance of, or disturbing the peace of
7 any parent, legal guardian, or current caretaker of the child,
8 regardless of whether the child resides with that parent, legal
9 guardian, or current caretaker, upon application in the manner
10 provided by Section 527 of the Code of Civil Procedure or, if
11 related to domestic violence, in the manner provided by Section
12 6300 of the Family Code. A court may also issue an ex parte order
13 enjoining any person from molesting, attacking, striking, stalking,
14 threatening, sexually assaulting, battering, harassing, telephoning,
15 including, but not limited to, making annoying telephone calls as
16 described in Section 635m of the Penal Code, destroying the
17 personal property, contacting, either directly or indirectly, by mail
18 or otherwise, coming within a specified distance of, or disturbing
19 the peace of the child's current or former social worker or court
20 appointed special advocate, upon application in the manner
21 provided by Section 527 of the Code of Civil Procedure.

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

1 parte order enjoining any person from molesting, attacking,
2 striking, stalking, threatening, sexually assaulting, battering,
3 harassing, telephoning, including, but not limited to, making
4 annoying telephone calls as described in Section 635m of the Penal
5 Code, destroying the personal property, contacting, either directly
6 or indirectly, by mail or otherwise, coming within a specified
7 distance of, or disturbing the peace of any parent, legal guardian,
8 or current caretaker of the child, regardless of whether the child
9 resides with that parent, legal guardian, or current caretaker, upon
10 application in the manner provided by Section 527 of the Code of
11 Civil Procedure or, if related to domestic violence, in the manner
12 provided by Section 6300 of the Family Code. A court may also
13 issue an ex parte order enjoining any person from molesting,
14 attacking, striking, stalking, threatening, sexually assaulting,
15 battering, harassing, telephoning, including, but not limited to,
16 making annoying telephone calls as described in Section 635m of
17 the Penal Code, destroying the personal property, contacting, either
18 directly or indirectly, by mail or otherwise, coming within a
19 specified distance of, or disturbing the peace of the child's current
20 or former probation officer or court appointed special advocate,
21 upon application in the manner provided by Section 527 of the
22 Code of Civil Procedure.

23 (c) If a temporary restraining order is granted without notice,
24 the matter shall be made returnable on an order requiring cause to
25 be shown why the order should not be granted, on the earliest day
26 that the business of the court will permit, but not later than 21 days
27 or, if good cause appears to the court, 25 days from the date the
28 temporary restraining order is granted. The court may, on the
29 motion of the person seeking the restraining order, or on its own
30 motion, shorten the time for service of the order to show cause on
31 the person to be restrained. The court may, upon its own motion
32 or the filing of a declaration by the person seeking the restraining
33 order, find that the person to be restrained could not be served
34 within the time required by law and reissue an order previously
35 issued and dissolved by the court for failure to serve the person to
36 be restrained. The reissued order shall remain in effect until the
37 date set for the hearing. The reissued order shall state on its face
38 the date of expiration of the order. Any hearing pursuant to this
39 section may be held simultaneously with any regularly scheduled
40 hearings held in proceedings to declare a child a dependent child

1 or ward of the juvenile court pursuant to Section 300, 601, or 602,
2 or subsequent hearings regarding the dependent child or ward.

3 (d) (1) The juvenile court may issue, upon notice and a hearing,
4 any of the orders set forth in subdivisions (a), (b), and (c). Any
5 restraining order granted pursuant to this subdivision shall remain
6 in effect, in the discretion of the court, no more than three years,
7 unless otherwise terminated by the court, extended by mutual
8 consent of all parties to the restraining order, or extended by further
9 order of the court on the motion of any party to the restraining
10 order.

11 (2) If an action is filed for the purpose of terminating or
12 modifying a protective order prior to the expiration date specified
13 in the order by a party other than the protected party, the party
14 who is protected by the order shall be given notice of the
15 ~~proceeding to hear that action prior to the hearing either by personal~~
16 ~~service or by mail with return receipt required. If the proceeding~~
17 ~~by personal service or, if the protected party has satisfied the~~
18 ~~requirements of Chapter 3.1 (commencing with Section 6205) of~~
19 ~~Division 7 of Title 1 of the Government Code, by service on the~~
20 ~~Secretary of State. If the party who is protected by the order cannot~~
21 ~~be notified prior to the hearing for modification or termination of~~
22 ~~the protective order, the juvenile court shall deny the motion to~~
23 ~~modify or terminate the order without prejudice or continue the~~
24 ~~hearing until the party who is protected can be properly noticed~~
25 ~~and may, upon a showing of good cause, specify another method~~
26 ~~for service of process that is reasonably designed to afford actual~~
27 ~~notice to the protected party. The protected party may waive his~~
28 ~~or her right to notice if he or she is physically present in court and~~
29 ~~requests that the court take action on the termination or~~
30 ~~modification request, and does not challenge the sufficiency of the~~
31 ~~notice.~~

32 (e) (1) The juvenile court may issue an order made pursuant to
33 subdivision (a), (b), or (d) excluding a person from a residence or
34 dwelling. This order may be issued for the time and on the
35 conditions that the court determines, regardless of which party
36 holds legal or equitable title or is the lessee of the residence or
37 dwelling.

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

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

4 (B) That the party to be excluded has assaulted or threatens to
5 assault the other party or any other person under the care, custody,
6 and control of the other party, or any minor child of the parties or
7 of the other party.

8 (C) That physical or emotional harm would otherwise result to
9 the other party, to any person under the care, custody, and control
10 of the other party, or to any minor child of the parties or of the
11 other party.

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

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

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

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

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

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

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

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

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

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

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

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

34 15657.03. (a) (1) An elder or dependent adult who has suffered
35 abuse as defined in Section 15610.07 may seek protective orders
36 as provided in this section.

37 (2) A petition may be brought on behalf of an abused elder or
38 dependent adult by a conservator or a trustee of the elder or
39 dependent adult, an attorney-in-fact of an elder or dependent adult
40 who acts within the authority of the power of attorney, a person

1 appointed as a guardian ad litem for the elder or dependent adult,
2 or other person legally authorized to seek such relief.

3 (b) For the purposes of this section:

4 (1) “Conservator” means the legally appointed conservator of
5 the person or estate of the petitioner, or both.

6 (2) “Petitioner” means the elder or dependent adult to be
7 protected by the protective orders and, if the court grants the
8 petition, the protected person.

9 (3) “Protective order” means an order that includes any of the
10 following restraining orders, whether issued ex parte, after notice
11 and hearing, or in a judgment:

12 (A) An order enjoining a party from abusing, intimidating,
13 molesting, attacking, striking, stalking, threatening, sexually
14 assaulting, battering, harassing, telephoning, including, but not
15 limited to, making annoying telephone calls as described in Section
16 653m of the Penal Code, destroying personal property, contacting,
17 either directly or indirectly, by mail or otherwise, or coming within
18 a specified distance of, or disturbing the peace of the petitioner,
19 and, in the discretion of the court, on a showing of good cause, of
20 other named family or household members or a conservator, if
21 any, of the petitioner.

22 (B) An order excluding a party from the petitioner’s residence
23 or dwelling, except that this order shall not be issued if legal or
24 equitable title to, or lease of, the residence or dwelling is in the
25 sole name of the party to be excluded, or is in the name of the party
26 to be excluded and any other party besides the petitioner.

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

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

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

38 (d) Upon filing a petition for protective orders under this section,
39 the petitioner may obtain a temporary restraining order in
40 accordance with Section 527 of the Code of Civil Procedure, except

1 to the extent this section provides a rule that is inconsistent. The
2 temporary restraining order may include any of the protective
3 orders described in paragraph (3) of subdivision (b). However, the
4 court may issue an ex parte order excluding a party from the
5 petitioner's residence or dwelling only on a showing of all of the
6 following:

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

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

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

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

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

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

31 (h) The court may issue, upon notice and a hearing, any of the
32 orders set forth in paragraph (3) of subdivision (b). The court may
33 issue, after notice and hearing, an order excluding a person from
34 a residence or dwelling if the court finds that physical or emotional
35 harm would otherwise result to the petitioner, other named family
36 or household member of the petitioner, or conservator of the
37 petitioner.

38 (i) (1) In the discretion of the court, an order issued after notice
39 and a hearing under this section may have a duration of not more
40 than five years, subject to termination or modification by further

1 order of the court either on written stipulation filed with the court
2 or on the motion of a party. These orders may be renewed upon
3 the request of a party, either for five years or permanently, without
4 a showing of any further abuse since the issuance of the original
5 order, subject to termination or modification by further order of
6 the court either on written stipulation filed with the court or on the
7 motion of a party. The request for renewal may be brought at any
8 time within the three months before the expiration of the order.

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

12 (3) If an action is filed for the purpose of terminating or
13 modifying a protective order prior to the expiration date specified
14 in the order by a party other than the protected party, the party
15 who is protected by the order shall be given notice of the
16 ~~proceeding to hear that action prior to the hearing either by personal~~
17 ~~service or by mail with return receipt required. If the proceeding~~
18 *by personal service or, if the protected party has satisfied the*
19 *requirements of Chapter 3.1 (commencing with Section 6205) of*
20 *Division 7 of Title 1 of the Government Code, by service on the*
21 *Secretary of State. If the party who is protected by the order cannot*
22 *be notified prior to the hearing for modification or termination of*
23 *the protective order, the court shall deny the motion to modify or*
24 *terminate the order without prejudice or continue the hearing until*
25 *the party who is protected can be properly noticed and may, upon*
26 *a showing of good cause, specify another method for service of*
27 *process that is reasonably designed to afford actual notice to the*
28 *protected party. The protected party may waive his or her right to*
29 *notice if he or she is physically present in court and requests that*
30 ~~the court take action on the termination or modification request.~~
31 *and does not challenge the sufficiency of the notice.*

32 (j) In a proceeding under this section, a support person may
33 accompany a party in court and, if the party is not represented by
34 an attorney, may sit with the party at the table that is generally
35 reserved for the party and the party's attorney. The support person
36 is present to provide moral and emotional support for a person
37 who alleges he or she is a victim of abuse. The support person is
38 not present as a legal adviser and may not provide legal advice.
39 The support person may assist the person who alleges he or she is
40 a victim of abuse in feeling more confident that he or she will not

1 be injured or threatened by the other party during the proceedings
2 if the person who alleges he or she is a victim of abuse and the
3 other party are required to be present in close proximity. This
4 subdivision does not preclude the court from exercising its
5 discretion to remove the support person from the courtroom if the
6 court believes the support person is prompting, swaying, or
7 influencing the party assisted by the support person.

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

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

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

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

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

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

1 mail sent to the respondent at the most current address for the
2 respondent that is available to the court.

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

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

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

17
18 (o) (1) Information on any protective order relating to elder or
19 dependent adult abuse issued by a court pursuant to this section
20 shall be transmitted to the Department of Justice in accordance
21 with either paragraph (2) or (3).

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

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

38 (A) Transmitting a physical copy of the order or proof of service
39 to a local law enforcement agency authorized by the Department

1 of Justice to enter orders into the California Law Enforcement
2 Telecommunications System (CLETS).

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

5 (4) Each appropriate law enforcement agency shall make
6 available information as to the existence and current status of these
7 orders to law enforcement officers responding to the scene of
8 reported abuse.

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

16 (6) Upon receiving information at the scene of an incident of
17 abuse that a protective order has been issued under this section,
18 or that a person who has been taken into custody is the respondent
19 to that order, if the protected person cannot produce an endorsed
20 copy of the order, a law enforcement officer shall immediately
21 attempt to 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 where a written
25 copy of the order can be obtained, and the officer shall at that time
26 also enforce the order. The law enforcement officer's verbal notice
27 of the terms of the order shall constitute service of the order and
28 is sufficient notice for the purposes of this section and for the
29 purposes of Section 273.6 of the Penal Code.

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

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

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

- 1 (s) The prevailing party in any action brought under this section
2 may be awarded court costs and attorney’s fees, if any.
- 3 (t) (1) A person subject to a protective order under this section
4 shall not own, possess, purchase, receive, or attempt to receive a
5 firearm or ammunition while the protective order is in effect.
6 (2) The court shall order a person subject to a protective order
7 issued under this section to relinquish any firearms he or she owns
8 or possesses pursuant to Section 527.9 of the Code of Civil
9 Procedure.
- 10 (3) Every person who owns, possesses, purchases, or receives,
11 or attempts to purchase or receive a firearm or ammunition while
12 subject to a protective order issued under this section is punishable
13 pursuant to subdivision (g) of Section 12021 of the Penal Code.
- 14 (4) This subdivision shall not apply in a case in which the
15 protective order issued under this section was made solely on the
16 basis of financial abuse unaccompanied by force, threat,
17 harassment, intimidation, or any other form of abuse.
- 18 (u) Any willful disobedience of any temporary restraining order
19 or restraining order after hearing granted under this section is
20 punishable pursuant to Section 273.6 of the Penal Code.
- 21 (v) This section does not apply to any action or proceeding
22 governed by Title 1.6C (commencing with Section 1788) of Part
23 4 of Division 3 of the Civil Code, by Chapter 3 (commencing with
24 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure,
25 or by Division 10 (commencing with Section 6200) of the Family
26 Code. Nothing in this section shall preclude a petitioner’s right to
27 use other existing civil remedies.
- 28 (w) The Judicial Council shall develop forms, instructions, and
29 rules relating to matters governed by this section. The petition and
30 response forms shall be simple and concise, and their use by parties
31 in actions brought pursuant to this section shall be mandatory.

O