

AMENDED IN SENATE MAY 27, 2011

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, *as specified*, 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

1 conduct must be such as would cause a reasonable person to suffer
2 substantial emotional distress, and must actually cause substantial
3 emotional distress to the petitioner.

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

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

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

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

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

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

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

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

39 (e) A request for the issuance of a temporary restraining order
40 without notice under this section shall be granted or denied on the

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

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

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

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

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

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

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

39 (3) If an action is filed for the purpose of terminating or
40 modifying a protective order prior to the expiration date specified

1 in the order by a party other than the protected party, the party
2 who is protected by the order shall be given notice, *pursuant to*
3 *subdivision (b) of Section 1005*, of the proceeding by personal
4 service or, if the protected party has satisfied the requirements of
5 Chapter 3.1 (commencing with Section 6205) of Division 7 of
6 Title 1 of the Government Code, by service on the Secretary of
7 State. If the party who is protected by the order cannot be notified
8 prior to the hearing for modification or termination of the protective
9 order, the court shall deny the motion to modify or terminate the
10 order without prejudice or continue the hearing until the party who
11 is protected can be properly noticed and may, upon a showing of
12 good cause, specify another method for service of process that is
13 reasonably designed to afford actual notice to the protected party.
14 The protected party may waive his or her right to notice if he or
15 she is physically present in court and does not challenge the
16 sufficiency of the notice.

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

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

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

1 before the hearing. The court may for good cause, on motion of
2 the petitioner or on its own motion, shorten the time for service
3 on the respondent.

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

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

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

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

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

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

35
36 “If you have been personally served with this temporary
37 restraining order and notice of hearing, but you do not appear at
38 the hearing either in person or by a lawyer, and a restraining order
39 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, *pursuant to*
38 *subdivision (b) of Section 1005*, of the proceeding by personal
39 service or, if the protected party has satisfied the requirements of
40 Chapter 3.1 (commencing with Section 6205) of Division 7 of

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

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

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

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

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

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

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

39 (2) If the respondent named in a temporary restraining order is
40 personally served with the order and notice of hearing with respect

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

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

13
 14 “If you have been personally served with this temporary
 15 restraining order and notice of hearing, but you do not appear at
 16 the hearing either in person or by a lawyer, and a restraining order
 17 that is the same as this restraining order except for the expiration
 18 date is issued at the hearing, a copy of the order will be served on
 19 you by mail at the following address: ____.

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

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

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

38 (3) Alternatively, the court or its designee shall transmit, within
 39 one business day, to law enforcement personnel all information
 40 required under subdivision (b) of Section 6380 of the Family Code

1 regarding any order issued under this section, or a reissuance,
2 extension, modification, or termination of the order, and any
3 subsequent proof of service, by either one of the following
4 methods:

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

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

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

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

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

30 (7) If the law enforcement officer determines that a protective
31 order has been issued, but not served, the officer shall immediately
32 notify the respondent of the terms of the order and obtain the
33 respondent's address. The law enforcement officer shall at that
34 time also enforce the order, but may not arrest or take the
35 respondent into custody for acts in violation of the order that were
36 committed prior to the verbal notice of the terms and conditions
37 of the order. The law enforcement officer's verbal notice of the
38 terms of the order shall constitute service of the order and
39 constitutes sufficient notice for the purposes of this section and
40 for the purposes of Section 273.6 and subdivision (g) of Section

1 12021 of the Penal Code. The petitioner shall mail an endorsed
2 copy of the order to the respondent's mailing address provided to
3 the law enforcement officer within one business day of the reported
4 incident of unlawful violence or a credible threat of violence at
5 which a verbal notice of the terms of the order was provided by a
6 law enforcement officer.

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

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

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

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

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

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

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

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

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

8 (w) (1) Subject to paragraph (4) of subdivision (b) of Section
9 6103.2 of the Government Code, there shall be no fee for the
10 service of process by a sheriff or marshal of a temporary restraining
11 order or injunction to be issued pursuant to this section if either
12 of the following conditions apply:

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

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

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

22 SEC. 3. Section 527.85 of the Code of Civil Procedure, as
23 amended by Section 4 of Chapter 572 of the Statutes of 2010, is
24 amended to read:

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

36 (b) For the purposes of this section, the following definitions
37 shall apply:

38 (1) "Chief administrative officer" means the principal, president,
39 or highest ranking official of the postsecondary educational
40 institution.

- 1 (2) “Course of conduct” means a pattern of conduct composed
2 of a series of acts over a period of time, however short, evidencing
3 a continuity of purpose, including any of the following:
- 4 (A) Following or stalking a student to or from school.
 - 5 (B) Entering the school campus or facility.
 - 6 (C) Following a student during school hours.
 - 7 (D) Making telephone calls to a student.
 - 8 (E) Sending correspondence to a student by any means,
9 including, but not limited to, the use of the public or private mails,
10 interoffice mail, fax, or computer e-mail.
- 11 (3) “Credible threat of violence” means a knowing and willful
12 statement or course of conduct that would place a reasonable person
13 in fear for his or her safety, or the safety of his or her immediate
14 family, and that serves no legitimate purpose.
- 15 (4) “Petitioner” means the chief administrative officer, or his
16 or her designee, who petitions under subdivision (a) for a temporary
17 restraining order and injunction.
- 18 (5) “Postsecondary educational institution” means a private
19 institution of vocational, professional, or postsecondary education.
- 20 (6) “Respondent” means the person against whom the temporary
21 restraining order and injunction are sought and, if the petition is
22 granted, the restrained person.
- 23 (7) “Student” means an adult currently enrolled in or applying
24 for admission to a postsecondary educational institution.
- 25 (8) “Temporary restraining order” and “injunction” mean orders
26 that include any of the following restraining orders, whether issued
27 ex parte, or after notice and hearing:
- 28 (A) An order enjoining a party from harassing, intimidating,
29 molesting, attacking, striking, stalking, threatening, sexually
30 assaulting, battering, abusing, telephoning, including, but not
31 limited to, making annoying telephone calls as described in Section
32 653m of the Penal Code, destroying personal property, contacting,
33 either directly or indirectly, by mail or otherwise, or coming within
34 a specified distance of, or disturbing the peace of the student.
 - 35 (B) An order enjoining a party from specified behavior that the
36 court determines is necessary to effectuate orders described in
37 subparagraph (A).
- 38 (9) “Unlawful violence” means any assault or battery, or stalking
39 as prohibited in Section 646.9 of the Penal Code, but shall not
40 include lawful acts of self-defense or defense of others.

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

5 (d) In the discretion of the court, on a showing of good cause,
6 a temporary restraining order or injunction issued under this section
7 may include other named family or household members of the
8 student, or other students at the campus or facility.

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

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

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

30 (h) Within 21 days, or if good cause appears to the court, within
31 25 days, from the date that a petition for a temporary order is
32 granted or denied, a hearing shall be held on the petition for the
33 injunction. If no request for temporary orders is made, the hearing
34 shall be held within 21 days, or if good cause appears to the court,
35 25 days, from the date the petition is filed.

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

38 (j) At the hearing, the judge shall receive any testimony that is
39 relevant and may make an independent inquiry. Moreover, if the
40 respondent is a current student of the entity requesting the

1 injunction, the judge shall receive evidence concerning the decision
2 of the postsecondary educational institution decision to retain,
3 terminate, or otherwise discipline the respondent. If the judge finds
4 by clear and convincing evidence that the respondent made a
5 credible threat of violence off the school campus or facility, an
6 injunction shall be issued prohibiting further threats of violence.

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

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

22 (3) If an action is filed for the purpose of terminating or
23 modifying a protective order prior to the expiration date specified
24 in the order by a party other than the protected party, the party
25 who is protected by the order shall be given notice, *pursuant to*
26 *subdivision (b) of Section 1005*, of the proceeding by personal
27 service or, if the protected party has satisfied the requirements of
28 Chapter 3.1 (commencing with Section 6205) of Division 7 of
29 Title 1 of the Government Code, by service on the Secretary of
30 State. If the party who is protected by the order cannot be notified
31 prior to the hearing for modification or termination of the protective
32 order, the court shall deny the motion to modify or terminate the
33 order without prejudice or continue the hearing until the party who
34 is protected can be properly noticed and may, upon a showing of
35 good cause, specify another method for service of process that is
36 reasonably designed to afford actual notice to the protected party.
37 The protected party may waive his or her right to notice if he or
38 she is physically present in court and does not challenge the
39 sufficiency of the notice.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 6345. (a) In the discretion of the court, the personal conduct,
18 stay-away, and residence exclusion orders contained in a court
19 order issued after notice and a hearing under this article may have
20 a duration of not more than five years, subject to termination or
21 modification by further order of the court either on written
22 stipulation filed with the court or on the motion of a party. These
23 orders may be renewed, upon the request of a party, either for five
24 years or permanently, without a showing of any further abuse since
25 the issuance of the original order, subject to termination or
26 modification by further order of the court either on written
27 stipulation filed with the court or on the motion of a party. The
28 request for renewal may be brought at any time within the three
29 months before the expiration of the orders.

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

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

39 (d) If an action is filed for the purpose of terminating or
40 modifying a protective order prior to the expiration date specified

1 in the order by a party other than the protected party, the party
2 who is protected by the order shall be given notice, *pursuant to*
3 *subdivision (b) of Section 1005 of the Code of Civil Procedure*, of
4 the proceeding by personal service or, if the protected party has
5 satisfied the requirements of Chapter 3.1 (commencing with
6 Section 6205) of Division 7 of Title 1 of the Government Code,
7 by service on the Secretary of State. If the party who is protected
8 by the order cannot be notified prior to the hearing for modification
9 or termination of the protective order, the court shall deny the
10 motion to modify or terminate the order without prejudice or
11 continue the hearing until the party who is protected can be
12 properly noticed and may, upon a showing of good cause, specify
13 another method for service of process that is reasonably designed
14 to afford actual notice to the protected party. The protected party
15 may waive his or her right to notice if he or she is physically
16 present in court and does not challenge the sufficiency of the notice.

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

20 213.5. (a) After a petition has been filed pursuant to Section
21 311 to declare a child a dependent child of the juvenile court, and
22 until the time that the petition is dismissed or dependency is
23 terminated, upon application in the manner provided by Section
24 527 of the Code of Civil Procedure or in the manner provided by
25 Section 6300 of the Family Code, if related to domestic violence,
26 the juvenile court has exclusive jurisdiction to issue ex parte orders
27 (1) enjoining any person from molesting, attacking, striking,
28 stalking, threatening, sexually assaulting, battering, harassing,
29 telephoning, including, but not limited to, making annoying
30 telephone calls as described in Section 653m of the Penal Code,
31 destroying the personal property, contacting, either directly or
32 indirectly, by mail or otherwise, coming within a specified distance
33 of, or disturbing the peace of the child or any other child in the
34 household; and (2) excluding any person from the dwelling of the
35 person who has care, custody, and control of the child. A court
36 may also issue an ex parte order enjoining any person from
37 molesting, attacking, striking, stalking, threatening, sexually
38 assaulting, battering, harassing, telephoning, including, but not
39 limited to, making annoying telephone calls as described in Section
40 635m of the Penal Code, destroying the personal property,

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

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

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

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

39 (d) (1) The juvenile court may issue, upon notice and a hearing,
40 any of the orders set forth in subdivisions (a), (b), and (c). Any

1 restraining order granted pursuant to this subdivision shall remain
2 in effect, in the discretion of the court, no more than three years,
3 unless otherwise terminated by the court, extended by mutual
4 consent of all parties to the restraining order, or extended by further
5 order of the court on the motion of any party to the restraining
6 order.

7 (2) If an action is filed for the purpose of terminating or
8 modifying a protective order prior to the expiration date specified
9 in the order by a party other than the protected party, the party
10 who is protected by the order shall be given notice, *pursuant to*
11 *subdivision (b) of Section 1005 of the Code of Civil Procedure*, of
12 the proceeding by personal service or, if the protected party has
13 satisfied the requirements of Chapter 3.1 (commencing with
14 Section 6205) of Division 7 of Title 1 of the Government Code,
15 by service on the Secretary of State. If the party who is protected
16 by the order cannot be notified prior to the hearing for modification
17 or termination of the protective order, the juvenile court shall deny
18 the motion to modify or terminate the order without prejudice or
19 continue the hearing until the party who is protected can be
20 properly noticed and may, upon a showing of good cause, specify
21 another method for service of process that is reasonably designed
22 to afford actual notice to the protected party. The protected party
23 may waive his or her right to notice if he or she is physically
24 present and does not challenge the sufficiency of the notice.

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

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

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

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

1 (C) That physical or emotional harm would otherwise result to
2 the other party, to any person under the care, custody, and control
3 of the other party, or to any minor child of the parties or of the
4 other party.

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

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

12 (1) Transmitting a physical copy of the order to a local law
13 enforcement agency authorized by the Department of Justice to
14 enter orders into the California Law Enforcement
15 Telecommunications System (CLETS).

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

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

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

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

33 (2) Prior to deciding whether to issue an order under this part,
34 the court shall consider the following information obtained pursuant
35 to a search conducted under paragraph (1): any conviction for a
36 violent felony specified in Section 667.5 of the Penal Code or a
37 serious felony specified in Section 1192.7 of the Penal Code; any
38 misdemeanor conviction involving domestic violence, weapons,
39 or other violence; any outstanding warrant; parole or probation

1 status; any prior restraining order; and any violation of a prior
2 restraining order.

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

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

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

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

27 15657.03. (a) (1) An elder or dependent adult who has suffered
28 abuse as defined in Section 15610.07 may seek protective orders
29 as provided in this section.

30 (2) A petition may be brought on behalf of an abused elder or
31 dependent adult by a conservator or a trustee of the elder or
32 dependent adult, an attorney-in-fact of an elder or dependent adult
33 who acts within the authority of the power of attorney, a person
34 appointed as a guardian ad litem for the elder or dependent adult,
35 or other person legally authorized to seek such relief.

36 (b) For the purposes of this section:

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

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

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

7 (A) An order enjoining a party from abusing, intimidating,
8 molesting, attacking, striking, stalking, threatening, sexually
9 assaulting, battering, harassing, telephoning, including, but not
10 limited to, making annoying telephone calls as described in Section
11 653m of the Penal Code, destroying personal property, contacting,
12 either directly or indirectly, by mail or otherwise, or coming within
13 a specified distance of, or disturbing the peace of the petitioner,
14 and, in the discretion of the court, on a showing of good cause, of
15 other named family or household members or a conservator, if
16 any, of the petitioner.

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

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

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

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

33 (d) Upon filing a petition for protective orders under this section,
34 the petitioner may obtain a temporary restraining order in
35 accordance with Section 527 of the Code of Civil Procedure, except
36 to the extent this section provides a rule that is inconsistent. The
37 temporary restraining order may include any of the protective
38 orders described in paragraph (3) of subdivision (b). However, the
39 court may issue an ex parte order excluding a party from the

1 petitioner's residence or dwelling only on a showing of all of the
2 following:

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

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

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

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

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

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

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

34 (i) (1) In the discretion of the court, an order issued after notice
35 and a hearing under this section may have a duration of not more
36 than five years, subject to termination or modification by further
37 order of the court either on written stipulation filed with the court
38 or on the motion of a party. These orders may be renewed upon
39 the request of a party, either for five years or permanently, without
40 a showing of any further abuse since the issuance of the original

1 order, subject to termination or modification by further order of
2 the court either on written stipulation filed with the court or on the
3 motion of a party. The request for renewal may be brought at any
4 time within the three months before the expiration of the order.

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

8 (3) If an action is filed for the purpose of terminating or
9 modifying a protective order prior to the expiration date specified
10 in the order by a party other than the protected party, the party
11 who is protected by the order shall be given notice, *pursuant to*
12 *subdivision (b) of Section 1005 of the Code of Civil Procedure*, of
13 the proceeding by personal service or, if the protected party has
14 satisfied the requirements of Chapter 3.1 (commencing with
15 Section 6205) of Division 7 of Title 1 of the Government Code,
16 by service on the Secretary of State. If the party who is protected
17 by the order cannot be notified prior to the hearing for modification
18 or termination of the protective order, the court shall deny the
19 motion to modify or terminate the order without prejudice or
20 continue the hearing until the party who is protected can be
21 properly noticed and may, upon a showing of good cause, specify
22 another method for service of process that is reasonably designed
23 to afford actual notice to the protected party. The protected party
24 may waive his or her right to notice if he or she is physically
25 present in court and does not challenge the sufficiency of the notice.

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

1 court believes the support person is prompting, swaying, or
2 influencing the party assisted by the support person.

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

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

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

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

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

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

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

40

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

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

11
12 (o) (1) Information on any protective order relating to elder or
13 dependent adult abuse issued by a court pursuant to this section
14 shall be transmitted to the Department of Justice in accordance
15 with either paragraph (2) or (3).

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

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

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

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

38 (4) Each appropriate law enforcement agency shall make
39 available information as to the existence and current status of these

1 orders to law enforcement officers responding to the scene of
2 reported abuse.

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

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

16 (7) If the law enforcement officer determines that a protective
17 order has been issued, but not served, the officer shall immediately
18 notify the respondent of the terms of the order and where a written
19 copy of the order can be obtained, and the officer shall at that time
20 also enforce the order. The law enforcement officer's verbal notice
21 of the terms of the order shall constitute service of the order and
22 is sufficient notice for the purposes of this section and for the
23 purposes of Section 273.6 of the Penal Code.

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

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

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

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

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

39 (2) The court shall order a person subject to a protective order
40 issued under this section to relinquish any firearms he or she owns

1 or possesses pursuant to Section 527.9 of the Code of Civil
2 Procedure.

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

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

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

14 (v) This section does not apply to any action or proceeding
15 governed by Title 1.6C (commencing with Section 1788) of Part
16 4 of Division 3 of the Civil Code, by Chapter 3 (commencing with
17 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure,
18 or by Division 10 (commencing with Section 6200) of the Family
19 Code. Nothing in this section shall preclude a petitioner’s right to
20 use other existing civil remedies.

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

O