

AMENDED IN SENATE AUGUST 14, 2013

AMENDED IN ASSEMBLY APRIL 8, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 176

Introduced by Assembly Member Campos

January 24, 2013

An act to amend Sections 3100, 6383, and 6405 of the Family Code, and to amend Section 136.2 of the Penal Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

AB 176, as amended, Campos. Family law: protective and restraining orders.

Existing law ~~requires, if~~ *requires that, subject to specified limitations, an emergency protective order be enforced before any other protective or restraining order that has been issued. If there is no emergency protective order that takes precedence in enforcement and there is more than one civil protective or restraining order regarding the same parties, existing law generally requires a peace officer to enforce the order issued last. If there is no emergency protective order that takes precedence in enforcement and both criminal and civil protective or restraining orders have been issued regarding the same parties, existing law generally requires an officer to enforce the criminal order issued last.*

~~This bill would instead,~~ *would, as of July 1, 2014, instead require that a no-contact order has precedence in enforcement if more than one protective or restraining order has been issued and issued, none of which is an emergency protective order that takes precedence in enforcement, and one of the orders that has been issued is a no-contact*

order, as ~~described~~, require an officer to enforce the no-contact order described. This bill would also make related, conforming changes.

This bill would also incorporate changes in Section 136.2 of the Penal Code proposed by AB 307, that would become operative on the date this bill becomes operative only if AB 307 and this bill are both chaptered and become effective on or before January 1, 2014, and this bill is chaptered last.

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

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

1 SECTION 1. Section 3100 of the Family Code is amended to
2 read:
3 3100. (a) In making an order pursuant to Chapter 4
4 (commencing with Section 3080), the court shall grant reasonable
5 visitation rights to a parent unless it is shown that the visitation
6 would be detrimental to the best interest of the child. In the
7 discretion of the court, reasonable visitation rights may be granted
8 to any other person having an interest in the welfare of the child.
9 (b) If a protective order, as defined in Section 6218, has been
10 directed to a parent, the court shall consider whether the best
11 interest of the child requires that any visitation by that parent be
12 limited to situations in which a third person, specified by the court,
13 is present, or whether visitation shall be suspended or denied. The
14 court shall include in its deliberations a consideration of the nature
15 of the acts from which the parent was enjoined and the period of
16 time that has elapsed since that order. A parent may submit to the
17 court the name of a person that the parent deems suitable to be
18 present during visitation.
19 (c) If visitation is ordered in a case in which domestic violence
20 is alleged and an emergency protective order, protective order, or
21 other restraining order has been issued, the visitation order shall
22 specify the time, day, place, and manner of transfer of the child,
23 so as to limit the child’s exposure to potential domestic conflict
24 or violence and to ensure the safety of all family members. If a
25 criminal protective order has been issued pursuant to Section 136.2
26 of the Penal Code, the visitation order shall make reference to, ~~and~~
27 *and*, unless there is *an emergency protective order that has*
28 *precedence in enforcement pursuant to paragraph (1) of*

1 *subdivision (c) of Section 136.2 of the Penal Code* or a no-contact
2 order, as described in Section 6320, acknowledge the precedence
3 of enforcement of, an appropriate criminal protective order.

4 (d) If the court finds a party is staying in a place designated as
5 a shelter for victims of domestic violence or other confidential
6 location, the court's order for time, day, place, and manner of
7 transfer of the child for visitation shall be designed to prevent
8 disclosure of the location of the shelter or other confidential
9 location.

10 SEC. 2. Section 6383 of the Family Code is amended to read:

11 6383. (a) A temporary restraining order or emergency
12 protective order issued under this part shall, on request of the
13 petitioner, be served on the respondent, whether or not the
14 respondent has been taken into custody, by a law enforcement
15 officer who is present at the scene of reported domestic violence
16 involving the parties to the proceeding.

17 (b) The petitioner shall provide the officer with an endorsed
18 copy of the order and a proof of service that the officer shall
19 complete and transmit to the issuing court.

20 (c) It is a rebuttable presumption that the proof of service was
21 signed on the date of service.

22 (d) Upon receiving information at the scene of a domestic
23 violence incident that a protective order has been issued under this
24 part, or that a person who has been taken into custody is the
25 respondent to that order, if the protected person cannot produce
26 an endorsed copy of the order, a law enforcement officer shall
27 immediately inquire of the Department of Justice Domestic
28 Violence Restraining Order System to verify the existence of the
29 order.

30 (e) 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 where a written
33 copy of the order can be obtained and the officer shall, at that time,
34 also enforce the order. The law enforcement officer's verbal notice
35 of the terms of the order shall constitute service of the order and
36 is sufficient notice for the purposes of this section and for the
37 purposes of Sections 273.6 and 29825 of the Penal Code.

38 (f) If a report is required under Section 13730 of the Penal Code,
39 or if no report is required, then in the daily incident log, the officer
40 shall provide the name and assignment of the officer notifying the

1 respondent pursuant to subdivision (e) and the case number of the
2 order.

3 (g) Upon service of the order outside of the court, a law
4 enforcement officer shall advise the respondent to go to the local
5 court to obtain a copy of the order containing the full terms and
6 conditions of the order.

7 (h) (1) There shall be no civil liability on the part of, and no
8 cause of action for, false arrest or false imprisonment against a
9 peace officer who makes an arrest pursuant to a protective or
10 restraining order that is regular upon its face, if the peace officer,
11 in making the arrest, acts in good faith and has reasonable cause
12 to believe that the person against whom the order is issued has
13 notice of the order and has committed an act in violation of the
14 order.

15 (2) *If there is more than one order issued and one of the orders*
16 *is an emergency protective order that has precedence in*
17 *enforcement pursuant to paragraph (1) of subdivision (c) of Section*
18 *136.2 of the Penal Code, the peace officer shall enforce the*
19 *emergency protective order. If there is more than one order issued*
20 *and issued, none of the orders issued is an emergency protective*
21 *order that has precedence in enforcement, and one of the orders*
22 *issued is a no-contact order, as described in Section 6320, the peace*
23 *officer shall enforce the no-contact order. If there is more than one*
24 *civil order regarding the same parties and neither an emergency*
25 *protective order that has precedence in enforcement nor a*
26 *no-contact order has not been issued, the peace officer shall enforce*
27 *the order that was issued last. If there are both civil and criminal*
28 *orders regarding the same parties and neither an emergency*
29 *protective order that has precedence in enforcement nor a*
30 *no-contact order has not been issued, the peace officer shall enforce*
31 *the criminal order issued last, subject to the provisions of*
32 *subdivisions (h) and (i) of Section 136.2 of the Penal Code.*
33 *Nothing in this section shall be deemed to exonerate a peace officer*
34 *from liability for the unreasonable use of force in the enforcement*
35 *of the order. The immunities afforded by this section shall not*
36 *affect the availability of any other immunity that may apply,*
37 *including, but not limited to, Sections 820.2 and 820.4 of the*
38 *Government Code.*

39 SEC. 3. Section 6405 of the Family Code is amended to read:

1 6405. (a) There shall be no civil liability on the part of, and
2 no cause of action for false arrest or false imprisonment against,
3 a peace officer who makes an arrest pursuant to a foreign protection
4 order that is regular upon its face, if the peace officer, in making
5 the arrest, acts in good faith and has reasonable cause to believe
6 that the person against whom the order is issued has notice of the
7 order and has committed an act in violation of the order.

8 (b) *If there is more than one order issued and one of the orders*
9 *is an emergency protective order that has precedence in*
10 *enforcement pursuant to paragraph (1) of subdivision (c) of Section*
11 *136.2 of the Penal Code, the peace officer shall enforce the*
12 *emergency protective order. If there is more than one order issued*
13 *and issued, none of the orders issued is an emergency protective*
14 *order that has precedence in enforcement, and one of the orders*
15 *issued is a no-contact order, as described in Section 6320, the peace*
16 *officer shall enforce the no-contact order. If there is more than one*
17 *civil order regarding the same parties and neither an emergency*
18 *protective order that has precedence in enforcement nor a*
19 *no-contact order has not been issued, the peace officer shall enforce*
20 *the order that was issued last. If there are both civil and criminal*
21 *orders regarding the same parties and neither an emergency*
22 *protective order that has precedence in enforcement nor a*
23 *no-contact order has not been issued, the peace officer shall enforce*
24 *the criminal order issued last. Nothing*

25 (c) *Nothing* in this section shall be deemed to exonerate a peace
26 officer from liability for the unreasonable use of force in the
27 enforcement of the order. The immunities afforded by this section
28 shall not affect the availability of any other immunity that may
29 apply, including, but not limited to, Sections 820.2 and 820.4 of
30 the Government Code.

31 SEC. 4. Section 136.2 of the Penal Code is amended to read:
32 136.2. (a) Upon a good cause belief that harm to, or
33 intimidation or dissuasion of, a victim or witness has occurred or
34 is reasonably likely to occur, a court with jurisdiction over a
35 criminal matter may issue ~~orders~~ orders, including, but not limited
36 to, the following:
37 (1) An order issued pursuant to Section 6320 of the Family
38 Code.
39 (2) An order that a defendant shall not violate any provision of
40 Section 136.1.

1 (3) An order that a person before the court other than a
2 defendant, including, but not limited to, a subpoenaed witness or
3 other person entering the courtroom of the court, shall not violate
4 any provisions of Section 136.1.

5 (4) An order that a person described in this section shall have
6 no communication whatsoever with a specified witness or a victim,
7 except through an attorney under reasonable restrictions that the
8 court may impose.

9 (5) An order calling for a hearing to determine if an order as
10 described in paragraphs (1) to (4), inclusive, should be issued.

11 (6) (A) An order that a particular law enforcement agency
12 within the jurisdiction of the court provide protection for a victim
13 or a witness, or both, or for immediate family members of a victim
14 or a witness who reside in the same household as the victim or
15 witness or within reasonable proximity of the victim's or witness'
16 household, as determined by the court. The order shall not be made
17 without the consent of the law enforcement agency except for
18 limited and specified periods of time and upon an express finding
19 by the court of a clear and present danger of harm to the victim or
20 witness or immediate family members of the victim or witness.

21 (B) For purposes of this paragraph, "immediate family
22 members" include the spouse, children, or parents of the victim
23 or witness.

24 (7) (A) An order protecting victims of violent crime from all
25 contact by the defendant, or contact, with the intent to annoy,
26 harass, threaten, or commit acts of violence, by the defendant. The
27 court or its designee shall transmit orders made under this
28 paragraph to law enforcement personnel within one business day
29 of the issuance, modification, extension, or termination of the
30 order, pursuant to subdivision (a) of Section 6380 of the Family
31 Code. It is the responsibility of the court to transmit the
32 modification, extension, or termination orders made under this
33 paragraph to the same agency that entered the original protective
34 order into the Domestic Violence Restraining Order System.

35 (B) (i) If a court does not issue an order pursuant to
36 subparagraph (A) in a case in which the defendant is charged with
37 a crime of domestic violence as defined in Section 13700, the court
38 on its own motion shall consider issuing a protective order upon
39 a good cause belief that harm to, or intimidation or dissuasion of,

1 a victim or witness has occurred or is reasonably likely to occur,
2 that provides as follows:

3 (I) The defendant shall not own, possess, purchase, receive, or
4 attempt to purchase or receive, a firearm while the protective order
5 is in effect.

6 (II) The defendant shall relinquish any firearms that he or she
7 owns or possesses pursuant to Section 527.9 of the Code of Civil
8 Procedure.

9 (ii) Every person who owns, possesses, purchases, or receives,
10 or attempts to purchase or receive, a firearm while this protective
11 order is in effect is punishable pursuant to Section 29825.

12 (C) An order issued, modified, extended, or terminated by a
13 court pursuant to this paragraph shall be issued on forms adopted
14 by the Judicial Council of California and that have been approved
15 by the Department of Justice pursuant to subdivision (i) of Section
16 6380 of the Family Code. However, the fact that an order issued
17 by a court pursuant to this section was not issued on forms adopted
18 by the Judicial Council and approved by the Department of Justice
19 shall not, in and of itself, make the order unenforceable.

20 (D) A protective order issued under this paragraph may require
21 the defendant to be placed on electronic monitoring if the local
22 government, with the concurrence of the county sheriff or the chief
23 probation officer with jurisdiction, adopts a policy to authorize
24 electronic monitoring of defendants and specifies the agency with
25 jurisdiction for this purpose. If the court determines that the
26 defendant has the ability to pay for the monitoring program, the
27 court shall order the defendant to pay for the monitoring. If the
28 court determines that the defendant does not have the ability to
29 pay for the electronic monitoring, the court may order electronic
30 monitoring to be paid for by the local government that adopted
31 the policy to authorize electronic monitoring. The duration of
32 electronic monitoring shall not exceed one year from the date the
33 order is issued. At no time shall the electronic monitoring be in
34 place if the protective order is not in place.

35 (b) A person violating an order made pursuant to paragraphs
36 (1) to (7), inclusive, of subdivision (a) may be punished for any
37 substantive offense described in Section 136.1, or for a contempt
38 of the court making the order. A finding of contempt shall not be
39 a bar to prosecution for a violation of Section 136.1. However, a
40 person so held in contempt shall be entitled to credit for punishment

1 imposed therein against a sentence imposed upon conviction of
2 an offense described in Section 136.1. A conviction or acquittal
3 for a substantive offense under Section 136.1 shall be a bar to a
4 subsequent punishment for contempt arising out of the same act.

5 ~~(e) A no-contact order, as described in Section 6320 of the~~
6 ~~Family Code, shall have precedence in enforcement over any other~~
7 ~~restraining or protective order.~~

8 (c) (1) (A) *Notwithstanding subdivision (e), an emergency*
9 *protective order issued pursuant to Chapter 2 (commencing with*
10 *Section 6250) of Part 3 of Division 10 of the Family Code or*
11 *Section 646.91 shall have precedence in enforcement over any*
12 *other restraining or protective order, provided the emergency*
13 *protective order meets all of the following requirements:*

14 (i) *The emergency protective order is issued to protect one or*
15 *more individuals who are already protected persons under another*
16 *restraining or protective order.*

17 (ii) *The emergency protective order restrains the individual*
18 *who is the restrained person in the other restraining or protective*
19 *order specified in subparagraph (A).*

20 (iii) *The provisions of the emergency protective order are more*
21 *restrictive in relation to the restrained person than are the*
22 *provisions of the other restraining or protective order specified*
23 *in subparagraph (A).*

24 (B) *An emergency protective order that meets the requirements*
25 *of paragraph (1) shall have precedence in enforcement over the*
26 *provisions of any other restraining or protective order only with*
27 *respect to those provisions of the emergency protective order that*
28 *are more restrictive in relation to the restrained person.*

29 (2) *Except as described in paragraph (1), a no-contact order,*
30 *as described in Section 6320 of the Family Code, shall have*
31 *precedence in enforcement over any other restraining or protective*
32 *order.*

33 (d) (1) A person subject to a protective order issued under this
34 section shall not own, possess, purchase, receive, or attempt to
35 purchase or receive a firearm while the protective order is in effect.

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

1 (3) A person who owns, possesses, purchases or receives, or
2 attempts to purchase or receive a firearm while the protective order
3 is in effect is punishable pursuant to Section 29825.

4 (e) (1) In all cases where the defendant is charged with a crime
5 of domestic violence, as defined in Section 13700, the court shall
6 consider issuing the above-described orders on its own motion.
7 All interested parties shall receive a copy of those orders. In order
8 to facilitate this, the court's records of all criminal cases involving
9 domestic violence shall be marked to clearly alert the court to this
10 issue.

11 (2) In those cases in which a complaint, information, or
12 indictment charging a crime of domestic violence, as defined in
13 Section 13700, has been issued, *except as described in subdivision*
14 *(c)*, a restraining order or protective order against the defendant
15 issued by the criminal court in that case has precedence in
16 enforcement over a civil court order against the defendant, ~~unless~~
17 ~~a court issues a no-contact order, as described in Section 6320 of~~
18 ~~the Family Code, in which case the no-contact order shall have~~
19 ~~precedence in enforcement over any other restraining or protective~~
20 ~~order.~~ *defendant.*

21 (3) Custody and visitation with respect to the defendant and his
22 or her minor children may be ordered by a family or juvenile court
23 consistent with the protocol established pursuant to subdivision
24 (f), but if ordered after a criminal protective order has been issued
25 pursuant to this section, the custody and visitation order shall make
26 reference to, ~~and~~ *and*, if there is not *an emergency protective order*
27 *that has precedence in enforcement pursuant to paragraph (1) of*
28 *subdivision (c)*, or a no-contact order, as described in Section 6320
29 *of the Family Code*, acknowledge the precedence of enforcement
30 of, an appropriate criminal protective order. On or before July 1,
31 2014, the Judicial Council shall modify the criminal and civil court
32 forms consistent with this subdivision.

33 (f) On or before January 1, 2003, the Judicial Council shall
34 promulgate a protocol, for adoption by each local court in
35 substantially similar terms, to provide for the timely coordination
36 of all orders against the same defendant and in favor of the same
37 named victim or victims. The protocol shall include, but shall not
38 be limited to, mechanisms for ensuring appropriate communication
39 and information sharing between criminal, family, and juvenile
40 courts concerning orders and cases that involve the same parties,

1 and shall permit a family or juvenile court order to coexist with a
2 criminal court protective order subject to the following conditions:

3 (1) An order that permits contact between the restrained person
4 and his or her children shall provide for the safe exchange of the
5 children and shall not contain language either printed or
6 handwritten that violates a ~~“no contact”~~ “no-contact order” issued
7 by a criminal court.

8 (2) Safety of all parties shall be the courts’ paramount concern.
9 The family or juvenile court shall specify the time, day, place, and
10 manner of transfer of the child, as provided in Section 3100 of the
11 Family Code.

12 (g) On or before January 1, 2003, the Judicial Council shall
13 modify the criminal and civil court protective order forms
14 consistent with this section.

15 (h) In any case in which a complaint, information, or indictment
16 charging a crime of domestic violence, as defined in Section 13700,
17 has been filed, the court may consider, in determining whether
18 good cause exists to issue an order under paragraph (1) of
19 subdivision (a), the underlying nature of the offense charged, and
20 the information provided to the court pursuant to Section 273.75.

21 (i) (1) In all cases in which a criminal defendant has been
22 convicted of a crime of domestic violence as defined in Section
23 13700, the court, at the time of sentencing, shall consider issuing
24 an order restraining the defendant from any contact with the victim.
25 The order may be valid for up to 10 years, as determined by the
26 court. This protective order may be issued by the court regardless
27 of whether the defendant is sentenced to the state prison or a county
28 jail, or whether imposition of sentence is suspended and the
29 defendant is placed on probation. It is the intent of the Legislature
30 in enacting this subdivision that the duration of any restraining
31 order issued by the court be based upon the seriousness of the facts
32 before the court, the probability of future violations, and the safety
33 of the victim and his or her immediate family.

34 (2) An order under this subdivision may include provisions for
35 electronic monitoring if the local government, upon receiving the
36 concurrence of the county sheriff or the chief probation officer
37 with jurisdiction, adopts a policy authorizing electronic monitoring
38 of defendants and specifies the agency with jurisdiction for this
39 purpose. If the court determines that the defendant has the ability
40 to pay for the monitoring program, the court shall order the

1 defendant to pay for the monitoring. If the court determines that
2 the defendant does not have the ability to pay for the electronic
3 monitoring, the court may order the electronic monitoring to be
4 paid for by the local government that adopted the policy authorizing
5 electronic monitoring. The duration of the electronic monitoring
6 shall not exceed one year from the date the order is issued.

7 (j) For purposes of this section, “local government” means the
8 county that has jurisdiction over the protective order.

9 *SEC. 4.5. Section 136.2 of the Penal Code is amended to read:*

10 136.2. (a) ~~Except as provided in subdivision (e), upon~~ Upon
11 a good cause belief that harm to, or intimidation or dissuasion of,
12 a victim or witness has occurred or is reasonably likely to occur,
13 a court with jurisdiction over a criminal matter may issue ~~orders~~
14 orders, including, but not limited to, the following:

15 (1) An order issued pursuant to Section 6320 of the Family
16 Code.

17 (2) An order that a defendant shall not violate any provision of
18 Section 136.1.

19 (3) An order that a person before the court other than a
20 defendant, including, but not limited to, a subpoenaed witness or
21 other person entering the courtroom of the court, shall not violate
22 any provisions of Section 136.1.

23 (4) An order that a person described in this section shall have
24 no communication whatsoever with a specified witness or a victim,
25 except through an attorney under reasonable restrictions that the
26 court may impose.

27 (5) An order calling for a hearing to determine if an order as
28 described in paragraphs (1) to (4), inclusive, should be issued.

29 (6) (A) An order that a particular law enforcement agency
30 within the jurisdiction of the court provide protection for a victim
31 or a witness, or both, or for immediate family members of a victim
32 or a witness who reside in the same household as the victim or
33 witness or within reasonable proximity of the victim’s or witness’
34 household, as determined by the court. The order shall not be made
35 without the consent of the law enforcement agency except for
36 limited and specified periods of time and upon an express finding
37 by the court of a clear and present danger of harm to the victim or
38 witness or immediate family members of the victim or witness.

1 (B) For purposes of this paragraph, “immediate family
2 members” include the spouse, children, or parents of the victim
3 or witness.

4 (7) (A) An order protecting victims of violent crime from all
5 contact by the defendant, or contact, with the intent to annoy,
6 harass, threaten, or commit acts of violence, by the defendant. The
7 court or its designee shall transmit orders made under this
8 paragraph to law enforcement personnel within one business day
9 of the issuance, modification, extension, or termination of the
10 order, pursuant to subdivision (a) of Section 6380 of the Family
11 Code. It is the responsibility of the court to transmit the
12 modification, extension, or termination orders made under this
13 paragraph to the same agency that entered the original protective
14 order into the Domestic Violence Restraining Order System.

15 (B) (i) If a court does not issue an order pursuant to
16 subparagraph (A) in a case in which the defendant is charged with
17 a crime of domestic violence as defined in Section 13700, the court
18 on its own motion shall consider issuing a protective order upon
19 a good cause belief that harm to, or intimidation or dissuasion of,
20 a victim or witness has occurred or is reasonably likely to occur,
21 that provides as follows:

22 (I) The defendant shall not own, possess, purchase, receive, or
23 attempt to purchase or receive, a firearm while the protective order
24 is in effect.

25 (II) The defendant shall relinquish any firearms that he or she
26 owns or possesses pursuant to Section 527.9 of the Code of Civil
27 Procedure.

28 (ii) Every person who owns, possesses, purchases, or receives,
29 or attempts to purchase or receive, a firearm while this protective
30 order is in effect is punishable pursuant to Section 29825.

31 (C) An order issued, modified, extended, or terminated by a
32 court pursuant to this paragraph shall be issued on forms adopted
33 by the Judicial Council of California and that have been approved
34 by the Department of Justice pursuant to subdivision (i) of Section
35 6380 of the Family Code. However, the fact that an order issued
36 by a court pursuant to this section was not issued on forms adopted
37 by the Judicial Council and approved by the Department of Justice
38 shall not, in and of itself, make the order unenforceable.

39 (D) A protective order *issued* under this paragraph may require
40 the defendant to be placed on electronic monitoring if the local

1 government, with the concurrence of the county sheriff or the chief
2 probation officer with jurisdiction, adopts a policy to authorize
3 electronic monitoring of defendants and specifies the agency with
4 jurisdiction for this purpose. If the court determines that the
5 defendant has the ability to pay for the monitoring program, the
6 court shall order the defendant to pay for the monitoring. If the
7 court determines that the defendant does not have the ability to
8 pay for the electronic monitoring, the court may order electronic
9 monitoring to be paid for by the local government that adopted
10 the policy to authorize electronic monitoring. The duration of
11 electronic monitoring shall not exceed one year from the date the
12 order is issued. At no time shall the electronic monitoring be in
13 place if the protective order is not in place.

14 (b) A person violating an order made pursuant to paragraphs
15 (1) to (7), inclusive, of subdivision (a) may be punished for any
16 substantive offense described in Section 136.1, or for a contempt
17 of the court making the order. A finding of contempt shall not be
18 a bar to prosecution for a violation of Section 136.1. However, a
19 person so held in contempt shall be entitled to credit for punishment
20 imposed therein against a sentence imposed upon conviction of
21 an offense described in Section 136.1. A conviction or acquittal
22 for a substantive offense under Section 136.1 shall be a bar to a
23 subsequent punishment for contempt arising out of the same act.

24 (c) (1) (A) Notwithstanding ~~subdivisions (a) and (e)~~,
25 *subdivision (e)*, an emergency protective order issued pursuant to
26 Chapter 2 (commencing with Section 6250) of Part 3 of Division
27 10 of the Family Code or Section 646.91 ~~of the Penal Code~~ shall
28 have precedence in enforcement over any other restraining or
29 protective order, provided the emergency protective order meets
30 all of the following requirements:

31 ~~(A)~~

32 (i) The emergency protective order is issued to protect one or
33 more individuals who are already protected persons under another
34 restraining or protective order.

35 ~~(B)~~

36 (ii) The emergency protective order restrains the individual who
37 is the restrained person in the other restraining or protective order
38 specified in subparagraph (A).

39 ~~(C)~~

1 (iii) The provisions of the emergency protective order are more
2 restrictive in relation to the restrained person than are the provisions
3 of the other restraining or protective order specified in
4 subparagraph (A).

5 ~~(2)~~

6 (B) An emergency protective order that meets the requirements
7 of paragraph (1) shall have precedence in enforcement over the
8 provisions of any other restraining or protective order only with
9 respect to those provisions of the emergency protective order that
10 are more restrictive in relation to the restrained person.

11 (2) *Except as described in paragraph (1), a no-contact order,*
12 *as described in Section 6320 of the Family Code, shall have*
13 *precedence in enforcement over any other restraining or protective*
14 *order.*

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

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

22 (3) A person who owns, possesses, purchases or receives, or
23 attempts to purchase or receive a firearm while the protective order
24 is in effect is punishable pursuant to Section 29825.

25 (e) (1) In all cases where the defendant is charged with a crime
26 of domestic violence, as defined in Section 13700, the court shall
27 consider issuing the above-described orders on its own motion.
28 All interested parties shall receive a copy of those orders. In order
29 to facilitate this, the court's records of all criminal cases involving
30 domestic violence shall be marked to clearly alert the court to this
31 issue.

32 (2) In those cases in which a complaint, information, or
33 indictment charging a crime of domestic violence, as defined in
34 Section 13700, has been issued, *except as described in subdivision*
35 *(c), a restraining order or protective order against the defendant*
36 *issued by the criminal court in that case has precedence in*
37 *enforcement over a civil court order against the defendant, unless*
38 *a court issues an emergency protective order pursuant to Chapter*
39 *2 (commencing with Section 6250) of Part 3 of Division 10 of the*
40 *Family Code or Section 646.91 of the Penal Code, in which case*

1 ~~the emergency protective order shall have precedence in~~
2 ~~enforcement over any other restraining or protective order, provided~~
3 ~~the emergency protective order meets the following requirements:~~
4 ~~defendant.~~

5 ~~(A) The emergency protective order is issued to protect one or~~
6 ~~more individuals who are already protected persons under another~~
7 ~~restraining or protective order.~~

8 ~~(B) The emergency protective order restrains the individual who~~
9 ~~is the restrained person in the other restraining or protective order~~
10 ~~specified in subparagraph (A).~~

11 ~~(C) The provisions of the emergency protective order are more~~
12 ~~restrictive in relation to the restrained person than are the provisions~~
13 ~~of the other restraining or protective order specified in~~
14 ~~subparagraph (A).~~

15 (3) Custody and visitation with respect to the defendant and his
16 or her minor children may be ordered by a family or juvenile court
17 consistent with the protocol established pursuant to subdivision
18 (f), but if ordered after a criminal protective order has been issued
19 pursuant to this section, the custody and visitation order shall make
20 reference to, ~~and~~ *and, if there is not an emergency protective order*
21 *that has precedence in enforcement pursuant to paragraph (1) of*
22 *subdivision (c), or a no-contact order, as described in Section*
23 *6320 of the Family Code, acknowledge the precedence of*
24 *enforcement of, an appropriate criminal protective order. On or*
25 *before July 1, 2006, 2014, the Judicial Council shall modify the*
26 *criminal and civil court forms consistent with this subdivision.*

27 (f) On or before January 1, 2003, the Judicial Council shall
28 promulgate a protocol, for adoption by each local court in
29 substantially similar terms, to provide for the timely coordination
30 of all orders against the same defendant and in favor of the same
31 named victim or victims. The protocol shall include, but shall not
32 be limited to, mechanisms for ~~assuring~~ *ensuring* appropriate
33 communication and information sharing between criminal, family,
34 and juvenile courts concerning orders and cases that involve the
35 same parties, and shall permit a family or juvenile court order to
36 coexist with a criminal court protective order subject to the
37 following conditions:

38 (1) An order that permits contact between the restrained person
39 and his or her children shall provide for the safe exchange of the
40 children and shall not contain language either printed or

1 handwritten that violates a ~~no-contact~~ “no-contact order” issued
 2 by a criminal court.

3 (2) Safety of all parties shall be the courts’ paramount concern.
 4 The family or juvenile court shall specify the time, day, place, and
 5 manner of transfer of the child, as provided in Section 3100 of the
 6 Family Code.

7 (g) On or before January 1, 2003, the Judicial Council shall
 8 modify the criminal and civil court protective order forms
 9 consistent with this section.

10 (h) In any case in which a complaint, information, or indictment
 11 charging a crime of domestic violence, as defined in Section 13700,
 12 has been filed, the court may consider, in determining whether
 13 good cause exists to issue an order under paragraph (1) of
 14 subdivision (a), the underlying nature of the offense charged, and
 15 the information provided to the court pursuant to Section 273.75.

16 (i) (1) In all cases in which a criminal defendant has been
 17 convicted of a crime of domestic violence as defined in Section
 18 13700, *a violation of Section 261, 261.5, or 262, or any crime that*
 19 *requires the defendant to register pursuant to subdivision (c) of*
 20 *Section 290*, the court, at the time of sentencing, shall consider
 21 issuing an order restraining the defendant from any contact with
 22 the victim. The order may be valid for up to 10 years, as determined
 23 by the court. This protective order may be issued by the court
 24 regardless of whether the defendant is sentenced to the state prison
 25 or a county jail, or whether imposition of sentence is suspended
 26 and the defendant is placed on probation. It is the intent of the
 27 Legislature in enacting this subdivision that the duration of any
 28 restraining order issued by the court be based upon the seriousness
 29 of the facts before the court, the probability of future violations,
 30 and the safety of the victim and his or her immediate family.

31 (2) An order under this subdivision may include provisions for
 32 electronic monitoring if the local government, upon receiving the
 33 concurrence of the county sheriff or the chief probation officer
 34 with jurisdiction, adopts a policy authorizing electronic monitoring
 35 of defendants and specifies the agency with jurisdiction for this
 36 purpose. If the court determines that the defendant has the ability
 37 to pay for the monitoring program, the court shall order the
 38 defendant to pay for the monitoring. If the court determines that
 39 the defendant does not have the ability to pay for the electronic
 40 monitoring, the court may order the electronic monitoring to be

1 paid for by the local government that adopted the policy authorizing
2 electronic monitoring. The duration of the electronic monitoring
3 shall not exceed one year from the date the order is issued.

4 (j) For purposes of this section, “local government” means the
5 county that has jurisdiction over the protective order.

6 SEC. 5. The provisions of this act shall become operative on
7 July 1, 2014.

8 *SEC. 6. Section 4.5 of this bill incorporates amendments to*
9 *Section 136.2 of the Penal Code proposed by this bill and Assembly*
10 *Bill 307. It shall only become operative if (1) both bills are enacted*
11 *and become effective on or before January 1, 2014, (2) each bill*
12 *amends Section 136.2 of the Penal Code, and (3) this bill is enacted*
13 *after Assembly Bill 307, in which case Section 136.2 of the Penal*
14 *Code, as amended by Assembly Bill 307, shall remain operative*
15 *only until the operative date of this bill, at which time Section 4.5*
16 *of this bill shall become operative, and Section 4 of this bill shall*
17 *not become operative.*