

**ASSEMBLY BILL**

**No. 494**

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**Introduced by Assembly Member Maienschein**

February 23, 2015

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An act to amend Section 527.6 of the Code of Civil Procedure, and to amend Sections 213.5 and 15657.03 of the Welfare and Institutions Code, relating to civil procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 494, as introduced, Maienschein. Restraining orders: protection of animals.

Existing law authorizes the court to issue a restraining order or a protective order to enjoin a party from specified behavior, such as, among other things, enjoining a person from molesting, attacking, striking, threatening, sexually assaulting, battering, harassing, telephoning, destroying the personal property of, or contacting another person, upon the showing of good cause. Existing law authorizes the court to issue an ex parte order under specified circumstances related to the protection of a ward of the court.

This bill would additionally authorize the court to issue restraining orders or protective orders to enjoin a person to stay away from an animal or forbid a person from, among other things, threatening, harming, or otherwise disposing of an animal. The bill would authorize the court to issue an order granting a petitioner's request for the exclusive care, possession, or control of an animal held by the petitioner or respondent if residing in the same household, as specified. The bill would make conforming changes to related provisions, including the provision relating to the protection of a ward of the court.

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 is  
2 amended to read:  
3 527.6. (a) (1) A person who has suffered harassment as  
4 defined in subdivision (b) may seek a temporary restraining order  
5 and an injunction prohibiting harassment as provided in this  
6 section.  
7 (2) A minor, under 12 years of age, accompanied by a duly  
8 appointed and acting guardian ad litem, shall be permitted to appear  
9 in court without counsel for the limited purpose of requesting or  
10 opposing a request for a temporary restraining order or injunction,  
11 or both, under this section as provided in Section 374.  
12 (b) For the purposes of this section:  
13 (1) "Course of conduct" is a pattern of conduct composed of a  
14 series of acts over a period of time, however short, evidencing a  
15 continuity of purpose, including following or stalking an individual,  
16 making harassing telephone calls to an individual, or sending  
17 harassing correspondence to an individual by any means, including,  
18 but not limited to, the use of public or private mails, interoffice  
19 mail, facsimile, or computer email. Constitutionally protected  
20 activity is not included within the meaning of "course of conduct."  
21 (2) "Credible threat of violence" is a knowing and willful  
22 statement or course of conduct that would place a reasonable person  
23 in fear for his or her safety, or the safety of his or her immediate  
24 family, and that serves no legitimate purpose.  
25 (3) "Harassment" is unlawful violence, a credible threat of  
26 violence, or a knowing and willful course of conduct directed at  
27 a specific person that seriously alarms, annoys, or harasses the  
28 person, and that serves no legitimate purpose. The course of  
29 conduct must be such as would cause a reasonable person to suffer  
30 substantial emotional distress, and must actually cause substantial  
31 emotional distress to the petitioner.  
32 (4) "Petitioner" means the person to be protected by the  
33 temporary restraining order and injunction and, if the court grants  
34 the petition, the protected person.

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

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

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

14 (B) *An order granting petitioner’s request for exclusive care,*  
15 *possession, or control of any animal or animals owned, possessed,*  
16 *leased, kept, or held by the petitioner or another person residing*  
17 *in the residence or household of the petitioner. The court may*  
18 *order the respondent to stay away from the animal or animals and*  
19 *forbid the respondent from taking, transferring, encumbering,*  
20 *concealing, molesting, attacking, striking, threatening, harming,*  
21 *or otherwise disposing of that animal or animals.*

22 ~~(B)~~

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

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

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

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

1 the petitioner by the respondent, and that great or irreparable harm  
2 would result to the petitioner.

3 (e) A request for the issuance of a temporary restraining order  
4 without notice under this section shall be granted or denied on the  
5 same day that the petition is submitted to the court, unless the  
6 petition is filed too late in the day to permit effective review, in  
7 which case the order shall be granted or denied on the next day of  
8 judicial business in sufficient time for the order to be filed that day  
9 with the clerk of the court.

10 (f) A temporary restraining order issued under this section shall  
11 remain in effect, at the court’s discretion, for a period not to exceed  
12 21 days, or, if the court extends the time for hearing under  
13 subdivision (g), not to exceed 25 days, unless otherwise modified  
14 or terminated by the court.

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

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

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

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

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

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

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

25 (l) In a proceeding under this section if there are allegations of  
26 unlawful violence or credible threats of violence, a support person  
27 may accompany a party in court and, if the party is not represented  
28 by 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 violence. The support person  
32 is 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 violence in feeling more confident that he or she will  
35 not be injured or threatened by the other party during the  
36 proceedings if the person who alleges he or she is a victim of  
37 violence and the other party are required to be present in close  
38 proximity. This subdivision does not preclude the court from  
39 exercising its discretion to remove the support person from the

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

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

10 (n) 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 three  
13 years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 harassment involving  
7 the parties to the proceeding. The petitioner shall provide the  
8 officer with an endorsed copy of the order and a proof of service  
9 that the officer shall complete and send to the issuing court.

10 (6) Upon receiving information at the scene of an incident of  
11 harassment that a protective order has been issued under this  
12 section, or that a person who has been taken into custody is the  
13 subject of an order, if the protected person cannot produce a  
14 certified copy of the order, a law enforcement officer shall  
15 immediately 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 shall at that  
19 time also enforce the order. Verbal notice of the terms of the order  
20 shall constitute service of the order and is sufficient notice for the  
21 purposes of this section and for the purposes of Section 29825 of  
22 the Penal Code.

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

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

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

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

35 (3) Every person who owns, possesses, purchases, or receives,  
36 or attempts to purchase or receive, a firearm or ammunition while  
37 the protective order is in effect is punishable pursuant to Section  
38 29825 of the Penal Code.

39 (u) This section does not apply to any action or proceeding  
40 covered by Title 1.6C (commencing with Section 1788) of Part 4

1 of Division 3 of the Civil Code or by Division 10 (commencing  
2 with Section 6200) of the Family Code. This section does not  
3 preclude a petitioner from using other existing civil remedies.

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

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

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

27 (x) (1) Subject to paragraph (4) of subdivision (b) of Section  
28 6103.2 of the Government Code, there shall be no fee for the  
29 service of process by a sheriff or marshal of a protective order,  
30 restraining order, or injunction to be issued, if either of the  
31 following conditions applies:

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

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

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

1 (y) This section shall become operative on July 1, 2014.  
2 SEC. 2. Section 213.5 of the Welfare and Institutions Code is  
3 amended to read:  
4 213.5. (a) After a petition has been filed pursuant to Section  
5 311 to declare a child a dependent child of the juvenile court, and  
6 until the time that the petition is dismissed or dependency is  
7 terminated, upon application in the manner provided by Section  
8 527 of the Code of Civil Procedure or in the manner provided by  
9 Section 6300 of the Family Code, if related to domestic violence,  
10 the juvenile court has exclusive jurisdiction to issue ex parte orders  
11 (1) enjoining any person from molesting, attacking, striking,  
12 stalking, threatening, sexually assaulting, battering, harassing,  
13 telephoning, including, but not limited to, making annoying  
14 telephone calls as described in Section 653m of the Penal Code,  
15 destroying the personal property, contacting, either directly or  
16 indirectly, by mail or otherwise, coming within a specified distance  
17 of, or disturbing the peace of the child or any other child in the  
18 household; and (2) excluding any person from the dwelling of the  
19 person who has care, custody, and control of the child. A court  
20 may also issue an ex parte order enjoining any person from  
21 molesting, attacking, striking, stalking, threatening, sexually  
22 assaulting, battering, harassing, telephoning, including, but not  
23 limited to, making annoying telephone calls as described in Section  
24 653m of the Penal Code, destroying the personal property,  
25 contacting, either directly or indirectly, by mail or otherwise,  
26 coming within a specified distance of, or disturbing the peace of  
27 any parent, legal guardian, or current caretaker of the child,  
28 regardless of whether the child resides with that parent, legal  
29 guardian, or current caretaker, upon application in the manner  
30 provided by Section 527 of the Code of Civil Procedure or, if  
31 related to domestic violence, in the manner provided by Section  
32 6300 of the Family Code. A court may also issue an ex parte order  
33 enjoining any person from molesting, attacking, striking, stalking,  
34 threatening, sexually assaulting, battering, harassing, telephoning,  
35 including, but not limited to, making annoying telephone calls as  
36 described in Section 653m of the Penal Code, destroying the  
37 personal property, contacting, either directly or indirectly, by mail  
38 or otherwise, coming within a specified distance of, or disturbing  
39 the peace of the child's current or former social worker or court

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

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

1 or former probation officer or court appointed special advocate,  
2 upon application in the manner provided by Section 527 of the  
3 Code of Civil Procedure. *A court may also issue an ex parte order*  
4 *enjoining any person from taking, transferring, encumbering,*  
5 *concealing, molesting, attacking, striking, threatening, harming,*  
6 *or otherwise disposing of any animal or animals owned, possessed,*  
7 *leased, kept, or held by any person protected in a restraining order*  
8 *issued under this section. A court may also order any person to*  
9 *stay away from and grant a request for exclusive care, possession,*  
10 *or control of that animal or animals.*

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

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

39 (2) 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,  
4 of 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 juvenile court shall deny  
10 the 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 and does not challenge the sufficiency of the notice.

17 (e) (1) The juvenile court may issue an order made pursuant to  
18 subdivision (a), (b), or (d) excluding a person from a residence or  
19 dwelling. This order may be issued for the time and on the  
20 conditions that the court determines, regardless of which party  
21 holds legal or equitable title or is the lessee of the residence or  
22 dwelling.

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

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

28 (B) That the party to be excluded has assaulted or threatens to  
29 assault the other party or any other person under the care, custody,  
30 and control of the other party, or any minor child of the parties or  
31 of the other party.

32 (C) That physical or emotional harm would otherwise result to  
33 the other party, to any person under the care, custody, and control  
34 of the other party, or to any minor child of the parties or of the  
35 other party.

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

38 (g) All data with respect to a juvenile court protective order, or  
39 extension, modification, or termination thereof, granted pursuant  
40 to subdivision (a), (b), (c), or (d), shall be transmitted by the court

1 or its designee, within one business day, to law enforcement  
2 personnel by either one of the following methods:

3 (1) Transmitting a physical copy of the order to a local law  
4 enforcement agency authorized by the Department of Justice to  
5 enter orders into the California Law Enforcement  
6 Telecommunications System (CLETS).

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

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

12 (i) A juvenile court restraining order related to domestic violence  
13 issued by a court pursuant to this section shall be issued on forms  
14 adopted by the Judicial Council of California and that have been  
15 approved by the Department of Justice pursuant to subdivision (i)  
16 of Section 6380 of the Family Code. However, the fact that an  
17 order issued by a court pursuant to this section was not issued on  
18 forms adopted by the Judicial Council and approved by the  
19 Department of Justice shall not, in and of itself, make the order  
20 unenforceable.

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

24 (2) Prior to deciding whether to issue an order under this part,  
25 the court shall consider the following information obtained pursuant  
26 to a search conducted under paragraph (1): any conviction for a  
27 violent felony specified in Section 667.5 of the Penal Code or a  
28 serious felony specified in Section 1192.7 of the Penal Code; any  
29 misdemeanor conviction involving domestic violence, weapons,  
30 or other violence; any outstanding warrant; parole or probation  
31 status; any prior restraining order; and any violation of a prior  
32 restraining order.

33 (3) (A) If the results of the search conducted pursuant to  
34 paragraph (1) indicate that an outstanding warrant exists against  
35 the subject of the search, the court shall order the clerk of the court  
36 to immediately notify, by the most effective means available,  
37 appropriate law enforcement officials of any information obtained  
38 through the search that the court determines is appropriate. The  
39 law enforcement officials notified shall take all actions necessary

1 to execute any outstanding warrants or any other actions, as  
2 appropriate and as soon as practicable.

3 (B) If the results of the search conducted pursuant to paragraph  
4 (1) indicate that the subject of the search is currently on parole or  
5 probation, the court shall order the clerk of the court to immediately  
6 notify, by the most effective means available, the appropriate parole  
7 or probation officer of any information obtained through the search  
8 that the court determines is appropriate. The parole or probation  
9 officer notified shall take all actions necessary to revoke any parole  
10 or probation, or any other actions, with respect to the subject  
11 person, as appropriate and as soon as practicable.

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

15 SEC. 3. Section 15657.03 of the Welfare and Institutions Code  
16 is amended to read:

17 15657.03. (a) (1) An elder or dependent adult who has suffered  
18 abuse as defined in Section 15610.07 may seek protective orders  
19 as provided in this section.

20 (2) A petition may be brought on behalf of an abused elder or  
21 dependent adult by a conservator or a trustee of the elder or  
22 dependent adult, an attorney-in-fact of an elder or dependent adult  
23 who acts within the authority of the power of attorney, a person  
24 appointed as a guardian ad litem for the elder or dependent adult,  
25 or other person legally authorized to seek such relief.

26 (b) For the purposes of this section:

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

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

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

35 (A) An order enjoining a party from abusing, intimidating,  
36 molesting, attacking, striking, stalking, threatening, sexually  
37 assaulting, battering, harassing, telephoning, including, but not  
38 limited to, making annoying telephone calls as described in Section  
39 653m of the Penal Code, destroying personal property, contacting,  
40 either directly or indirectly, by mail or otherwise, or coming within

1 a specified distance of, or disturbing the peace of, the petitioner,  
2 and, in the discretion of the court, on a showing of good cause, of  
3 other named family or household members or a conservator, if  
4 any, of the petitioner.

5 *(B) An order granting petitioner's request for exclusive care,*  
6 *possession, or control of any animal or animals owned, possessed,*  
7 *leased, kept, or held by the petitioner or another person residing*  
8 *in the residence or household of the petitioner. The court may*  
9 *order the respondent to stay away from the animal or animals and*  
10 *forbid the respondent from taking, transferring, encumbering,*  
11 *concealing, molesting, attacking, striking, threatening, harming,*  
12 *or otherwise disposing of that animal or animals.*

13 ~~(B)~~

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

19 ~~(C)~~

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

23 (4) "Respondent" means the person against whom the protective  
24 orders are sought and, if the petition is granted, the restrained  
25 person.

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

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

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

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

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

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

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

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

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

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

1 motion of a party. The request for renewal may be brought at any  
2 time within the three months before the expiration of the order.

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

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

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

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

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

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

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

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

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

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

38

39 “If you have been personally served with a temporary restraining  
40 order and notice of hearing, but you do not appear at the hearing

1 either in person or by a lawyer, and a restraining order that is the  
2 same as this temporary restraining order except for the expiration  
3 date is issued at the hearing, a copy of the order will be served on  
4 you by mail at the following address: \_\_\_\_\_.

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

9

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (3) Every person who owns, possesses, purchases, or receives,  
2 or attempts to purchase or receive a firearm or ammunition while  
3 subject to a protective order issued under this section is punishable  
4 pursuant to Section 29825 of the Penal Code.
- 5 (4) This subdivision shall not apply in a case in which the  
6 protective order issued under this section was made solely on the  
7 basis of financial abuse unaccompanied by force, threat,  
8 harassment, intimidation, or any other form of abuse.
- 9 (u) Any willful disobedience of any temporary restraining order  
10 or restraining order after hearing granted under this section is  
11 punishable pursuant to Section 273.6 of the Penal Code.
- 12 (v) This section does not apply to any action or proceeding  
13 governed by Title 1.6C (commencing with Section 1788) of Part  
14 4 of Division 3 of the Civil Code, by Chapter 3 (commencing with  
15 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure,  
16 or by Division 10 (commencing with Section 6200) of the Family  
17 Code. Nothing in this section shall preclude a petitioner’s right to  
18 use other existing civil remedies.
- 19 (w) The Judicial Council shall develop forms, instructions, and  
20 rules relating to matters governed by this section. The petition and  
21 response forms shall be simple and concise, and their use by parties  
22 in actions brought pursuant to this section shall be mandatory.