

AMENDED IN SENATE MAY 18, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 494**

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**Introduced by Assembly Member Maienschein**  
**(Coauthors: Assembly Members Achadjian, Chávez, *Cristina Garcia,***  
**and McCarty)**

(Coauthor: Senator Bates)

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 amended, 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, on a showing of good cause, to include in restraining orders or protective orders an order granting the petitioner or applicant exclusive care, possession, or control of an animal that is held by the petitioner or a person protected by a

restraining order or that resides in the same residence or household that is held by the petitioner or a person protected by a restraining order or that resides in the same residence or household and an order for the respondent or restrained person to stay away ~~from the animal~~ *from*, and refrain from taking or ~~harming the~~ *harming, that* animal, 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

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

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

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

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

13 (A) An order enjoining a party from harassing, intimidating,  
14 molesting, attacking, striking, stalking, threatening, sexually  
15 assaulting, battering, abusing, telephoning, including, but not  
16 limited to, making annoying telephone calls, as described in Section  
17 653m of the Penal Code, destroying personal property, contacting,  
18 either directly or indirectly, by mail or otherwise, or coming within  
19 a specified distance of, or disturbing the peace of, the petitioner.  
20 On a showing of good cause, in an order issued pursuant to this  
21 subparagraph *in connection with an animal owned, possessed,*  
22 *leased, kept, or held by the petitioner, or residing in the residence*  
23 *or household of the petitioner,* the court may do either or both of  
24 the following:

25 (i) Grant the petitioner exclusive care, possession, or control of  
26 ~~an *the* animal-owned, possessed, leased, kept, or held by the~~  
27 ~~petitioner, or residing in the residence or household of the~~  
28 ~~petitioner.~~

29 (ii) Order the respondent to stay away from the animal and  
30 refrain from taking, transferring, encumbering, concealing,  
31 molesting, attacking, striking, threatening, harming, or otherwise  
32 disposing of the animal.

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

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

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

4 (d) Upon filing a petition for an injunction under this section,  
5 the petitioner may obtain a temporary restraining order in  
6 accordance with Section 527, except to the extent this section  
7 provides a rule that is inconsistent. The temporary restraining order  
8 may include any of the restraining orders described in paragraph  
9 (6) of subdivision (b). A temporary restraining order may be issued  
10 with or without notice, based on a declaration that, to the  
11 satisfaction of the court, shows reasonable proof of harassment of  
12 the petitioner by the respondent, and that great or irreparable harm  
13 would result to the petitioner.

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

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

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

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

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

39 (j) (1) In the discretion of the court, an order issued after notice  
40 and hearing under this section may have a duration of not more

1 than five years, subject to termination or modification by further  
2 order of the court either on written stipulation filed with the court  
3 or on the motion of a party. The order may be renewed, upon the  
4 request of a party, for a duration of not more than five additional  
5 years, without a showing of any further harassment since the  
6 issuance of the original order, subject to termination or  
7 modification by further order of the court either on written  
8 stipulation filed with the court or on the motion of a party. A  
9 request for renewal may be brought at any time within the three  
10 months before the expiration of the order.

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

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

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

35 (l) In a proceeding under this section if there are allegations of  
36 unlawful violence or credible threats of violence, a support person  
37 may accompany a party in court and, if the party is not represented  
38 by an attorney, may sit with the party at the table that is generally  
39 reserved for the party and the party's attorney. The support person  
40 is present to provide moral and emotional support for a person

1 who alleges he or she is a victim of violence. The support person  
2 is not present as a legal adviser and may not provide legal advice.  
3 The support person may assist the person who alleges he or she is  
4 a victim of violence in feeling more confident that he or she will  
5 not be injured or threatened by the other party during the  
6 proceedings if the person who alleges he or she is a victim of  
7 violence and the other party are required to be present in close  
8 proximity. This subdivision does not preclude the court from  
9 exercising its discretion to remove the support person from the  
10 courtroom if the court believes the support person is prompting,  
11 swaying, or influencing the party assisted by the support person.

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

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

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

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

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

36 (2) If the respondent named in a temporary restraining order is  
37 personally served with the order and notice of hearing with respect  
38 to a restraining order or protective order based on the temporary  
39 restraining order, but the respondent does not appear at the hearing,  
40 either personally or by an attorney, and the terms and conditions

1 of the restraining order or protective order issued at the hearing  
2 are identical to the temporary restraining order, except for the  
3 duration of the order, then the restraining order or protective order  
4 issued at the hearing may be served on the respondent by first-class  
5 mail sent to the respondent at the most current address for the  
6 respondent available to the court.

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

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

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

21  
22 (q) (1) Information on any temporary restraining order or  
23 injunction relating to civil harassment issued by a court pursuant  
24 to this section shall be transmitted to the Department of Justice in  
25 accordance with either paragraph (2) or (3).

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

35 (3) Alternatively, the court or its designee shall transmit, within  
36 one business day, to law enforcement personnel all information  
37 required under subdivision (b) of Section 6380 of the Family Code  
38 regarding any order issued under this section, or a reissuance,  
39 extension, modification, or termination of the order, and any

1 subsequent proof of service, by either one of the following  
2 methods:

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

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

9 (4) Each appropriate law enforcement agency shall make  
10 available information as to the existence and current status of these  
11 orders to law enforcement officers responding to the scene of  
12 reported harassment.

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

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

26 (7) If the law enforcement officer determines that a protective  
27 order has been issued, but not served, the officer shall immediately  
28 notify the respondent of the terms of the order and shall at that  
29 time also enforce the order. Verbal notice of the terms of the order  
30 shall constitute service of the order and is sufficient notice for the  
31 purposes of this section and for the purposes of Section 29825 of  
32 the Penal Code.

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

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

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

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

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

6 (3) Every person who owns, possesses, purchases, or receives,  
7 or attempts to purchase or receive, a firearm or ammunition while  
8 the protective order is in effect is punishable pursuant to Section  
9 29825 of the Penal Code.

10 (u) This section does not apply to any action or proceeding  
11 covered by Title 1.6C (commencing with Section 1788) of Part 4  
12 of Division 3 of the Civil Code or by Division 10 (commencing  
13 with Section 6200) of the Family Code. This section does not  
14 preclude a petitioner from using other existing civil remedies.

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

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

29 (w) There is no filing fee for a petition that alleges that a person  
30 has inflicted or threatened violence against the petitioner, or stalked  
31 the petitioner, or acted or spoken in any other manner that has  
32 placed the petitioner in reasonable fear of violence, and that seeks  
33 a protective or restraining order or injunction restraining stalking  
34 or future violence or threats of violence, in any action brought  
35 pursuant to this section. A fee shall not be paid for a subpoena  
36 filed in connection with a petition alleging these acts. A fee shall  
37 not be paid for filing a response to a petition alleging these acts.

38 (x) (1) Subject to paragraph (4) of subdivision (b) of Section  
39 6103.2 of the Government Code, there shall not be a fee for the  
40 service of process by a sheriff or marshal of a protective order,

1 restraining order, or injunction to be issued, if either of the  
2 following conditions applies:

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

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

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

12 (y) This section shall become operative on July 1, 2014.

13 SEC. 2. Section 213.5 of the Welfare and Institutions Code is  
14 amended to read:

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

1 provided by Section 527 of the Code of Civil Procedure or, if  
2 related to domestic violence, in the manner provided by Section  
3 6300 of the Family Code. A court may also issue an ex parte order  
4 enjoining any person from molesting, attacking, striking, stalking,  
5 threatening, sexually assaulting, battering, harassing, telephoning,  
6 including, but not limited to, making annoying telephone calls as  
7 described in Section 653m of the Penal Code, destroying the  
8 personal property, contacting, either directly or indirectly, by mail  
9 or otherwise, coming within a specified distance of, or disturbing  
10 the peace of the child's current or former social worker or court  
11 appointed special advocate, upon application in the manner  
12 provided by Section 527 of the Code of Civil Procedure. On a  
13 showing of good cause, in an ex parte order issued pursuant to this  
14 subdivision *in connection with an animal owned, possessed, leased,*  
15 *kept, or held by a person protected by the restraining order, or*  
16 *residing in the residence or household of a person protected by*  
17 *the restraining order, the court may do either or both of the*  
18 *following:*

19 (1) Grant the applicant exclusive care, possession, or control of  
20 ~~an animal owned, possessed, leased, kept, or held by a person~~  
21 ~~protected by the restraining order, or residing in the residence or~~  
22 ~~household of a person protected by the restraining order.~~ *the*  
23 *animal.*

24 (2) Order the restrained person to stay away from the animal  
25 and refrain from taking, transferring, encumbering, concealing,  
26 molesting, attacking, striking, threatening, harming, or otherwise  
27 disposing of the animal.

28 (b) After a petition has been filed pursuant to Section 601 or  
29 602 to declare a child a ward of the juvenile court, and until the  
30 time that the petition is dismissed or wardship is terminated, 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, the juvenile court  
34 may issue ex parte orders (1) 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 or any

1 other child in the household; (2) excluding any person from the  
2 dwelling of the person who has care, custody, and control of the  
3 child; or (3) enjoining the child from contacting, threatening,  
4 stalking, or disturbing the peace of any person the court finds to  
5 be at risk from the conduct of the child, or with whom association  
6 would be detrimental to the child. A court may also issue an ex  
7 parte order enjoining any person from molesting, attacking,  
8 striking, stalking, threatening, sexually assaulting, battering,  
9 harassing, telephoning, including, but not limited to, making  
10 annoying telephone calls as described in Section 653m of the Penal  
11 Code, destroying the personal property, contacting, either directly  
12 or indirectly, by mail or otherwise, coming within a specified  
13 distance of, or disturbing the peace of any parent, legal guardian,  
14 or current caretaker of the child, regardless of whether the child  
15 resides with that parent, legal guardian, or current caretaker, upon  
16 application in the manner provided by Section 527 of the Code of  
17 Civil Procedure or, if related to domestic violence, in the manner  
18 provided by Section 6300 of the Family Code. A court may also  
19 issue an ex parte order enjoining any person from molesting,  
20 attacking, striking, stalking, threatening, sexually assaulting,  
21 battering, harassing, telephoning, including, but not limited to,  
22 making annoying telephone calls as described in Section 653m of  
23 the Penal Code, destroying the personal property, contacting, either  
24 directly or indirectly, by mail or otherwise, coming within a  
25 specified distance of, or disturbing the peace of the child's current  
26 or former probation officer or court appointed special advocate,  
27 upon application in the manner provided by Section 527 of the  
28 Code of Civil Procedure. On a showing of good cause, in an ex  
29 parte order issued pursuant to this subdivision *in connection with*  
30 *an animal owned, possessed, leased, kept, or held by a person*  
31 *protected by the restraining order, or residing in the residence or*  
32 *household of a person protected by the restraining order, the court*  
33 *may do either or both of the following:*

34 (1) Grant the applicant exclusive care, possession, or control of  
35 ~~an the animal-owned, possessed, leased, kept, or held by a person~~  
36 ~~protected by the restraining order, or residing in the residence or~~  
37 ~~household of a person protected by the restraining order.~~

38 (2) Order the respondent to stay away from the animal and  
39 refrain from taking, transferring, encumbering, concealing,

1 molesting, attacking, striking, threatening, harming, or otherwise  
2 disposing of the animal.

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

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

31 (2) If an action is filed for the purpose of terminating or  
32 modifying a protective order prior to the expiration date specified  
33 in the order by a party other than the protected party, the party  
34 who is protected by the order shall be given notice, pursuant to  
35 subdivision (b) of Section 1005 of the Code of Civil Procedure,  
36 of the proceeding by personal service or, if the protected party has  
37 satisfied the requirements of Chapter 3.1 (commencing with  
38 Section 6205) of Division 7 of Title 1 of the Government Code,  
39 by service on the Secretary of State. If the party who is protected  
40 by the order cannot be notified prior to the hearing for modification

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 or probation, or any other actions, with respect to the subject  
2 person, as appropriate and as soon as practicable.

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

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

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

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

17 (b) For the purposes of this section:

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

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

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

26 (A) An order enjoining a party from abusing, intimidating,  
27 molesting, attacking, striking, stalking, threatening, sexually  
28 assaulting, battering, harassing, telephoning, including, but not  
29 limited to, making annoying telephone calls as described in Section  
30 653m of the Penal Code, destroying personal property, contacting,  
31 either directly or indirectly, by mail or otherwise, or coming within  
32 a specified distance of, or disturbing the peace of, the petitioner,  
33 and, in the discretion of the court, on a showing of good cause, of  
34 other named family or household members or a conservator, if  
35 any, of the petitioner. On a showing of good cause, in an order  
36 issued pursuant to this subparagraph *in connection with an animal*  
37 *owned, possessed, leased, kept, or held by the petitioner, or*  
38 *residing in the residence or household of the petitioner,* the court  
39 may do either or both of the following:

1 (i) Grant the petitioner exclusive care, possession, or control of  
2 ~~an animal owned, possessed, leased, kept, or held by the petitioner,~~  
3 ~~or residing in the residence or household of the petitioner.~~ *the*  
4 *animal.*

5 (ii) Order the respondent to stay away from the animal and  
6 refrain from taking, transferring, encumbering, concealing,  
7 molesting, attacking, striking, threatening, harming, or otherwise  
8 disposing of the animal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (k) Upon the filing of a petition for protective orders under this  
36 section, the respondent shall be personally served with a copy of  
37 the petition, notice of the hearing or order to show cause, temporary  
38 restraining order, if any, and any declarations in support of the  
39 petition. Service shall be made at least five days before the hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (5) An order issued under this section shall, on request of the  
37 petitioner, be served on the respondent, whether or not the  
38 respondent has been taken into custody, by any law enforcement  
39 officer who is present at the scene of reported abuse involving the  
40 parties to the proceeding. The petitioner shall provide the officer

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

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

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

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

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

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

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

29 (t) (1) A person subject to a protective order under this section  
30 shall not own, possess, purchase, receive, or attempt to receive a  
31 firearm or ammunition while the protective 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 of the Code of Civil  
35 Procedure.

36 (3) Every person who owns, possesses, purchases, or receives,  
37 or attempts to purchase or receive a firearm or ammunition while  
38 subject to a protective order issued under this section is punishable  
39 pursuant to Section 29825 of the Penal Code.

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

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

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

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

O