

AMENDED IN SENATE APRIL 23, 2015

AMENDED IN SENATE MARCH 19, 2015

SENATE BILL

No. 196

**Introduced by Senator Hancock
(Coauthor: Senator Stone)**

February 10, 2015

An act to amend, repeal, and add ~~Sections 15610.07 and Section 15657.03~~ of the Welfare and Institutions Code, relating to elder abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 196, as amended, Hancock. Elder abuse: protective orders.

Existing law authorizes a court to issue a protective order to restrain any person for the purpose of preventing the abuse of an elder or dependent adult, including financial abuse. *adult*. Under existing law, certain persons are authorized to file a petition for these protective orders on behalf of the elder or dependent adult, including a conservator or trustee, an attorney-in-fact, a person appointed as a guardian ad litem, or other person legally authorized to seek the order.

This bill would, commencing July 1, 2016, additionally authorize a county adult protective services agency *and a public conservator* to file a petition for a protective order on behalf of an elder or dependent adult if the elder or dependent adult has been identified as lacking capacity and a conservatorship is being sought. ~~The bill would also recast and clarify the definition of "abuse."~~ *The bill would require the adult protective services agency or public conservator to provide a copy of the petition, a notice of the hearing, and any supportive declarations to the elder or dependent adult at least 5 days before the hearing, and to make reasonable efforts to assist the elder or dependent adult to attend the hearing and provide testimony to 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 15610.07 of the Welfare and Institutions~~
2 ~~Code is amended to read:~~
3 ~~15610.07. “Abuse of an elder or a dependent adult” means~~
4 ~~either of the following:~~
5 ~~(a) Physical abuse, neglect, financial abuse, abandonment,~~
6 ~~isolation, abduction, or other treatment with resulting physical~~
7 ~~harm or pain or mental suffering.~~
8 ~~(b) The deprivation by a care custodian of goods or services~~
9 ~~that are necessary to avoid physical harm or mental suffering.~~
10 ~~(c) This section shall become inoperative on July 1, 2016, and,~~
11 ~~as of January 1, 2017, is repealed, unless a later enacted statute,~~
12 ~~that becomes operative on or before January 1, 2017, deletes or~~
13 ~~extends the dates on which it becomes inoperative and is repealed.~~
14 ~~SEC. 2. Section 15610.07 is added to the Welfare and~~
15 ~~Institutions Code, to read:~~
16 ~~15610.07. “Abuse of an elder or a dependent adult” means any~~
17 ~~of the following:~~
18 ~~(a) Physical abuse, neglect, abandonment, isolation, abduction,~~
19 ~~or other treatment with resulting physical harm or pain or mental~~
20 ~~suffering.~~
21 ~~(b) The deprivation by a care custodian of goods or services~~
22 ~~that are necessary to avoid physical harm or mental suffering.~~
23 ~~(c) Financial abuse, as defined in Section 15610.30.~~
24 ~~(d) This section shall become operative on July 1, 2016.~~
25 ~~SEC. 3.~~
26 ~~SECTION 1. Section 15657.03 of the Welfare and Institutions~~
27 ~~Code is amended to read:~~
28 ~~15657.03. (a) (1) An elder or dependent adult who has suffered~~
29 ~~abuse as defined in Section 15610.07 may seek protective orders~~
30 ~~as provided in this section.~~
31 ~~(2) A petition may be brought on behalf of an abused elder or~~
32 ~~dependent adult by a conservator or a trustee of the elder or~~
33 ~~dependent adult, an attorney-in-fact of an elder or dependent adult~~
34 ~~who acts within the authority of the power of attorney, a person~~

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

3 (b) For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 other party are required to be present in close proximity. This
2 subdivision does not preclude the court from exercising its
3 discretion to remove the support person from the courtroom if the
4 court believes the support person is prompting, swaying, or
5 influencing the party assisted by the support person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (v) This section does not apply to any action or proceeding
20 governed by Title 1.6C (commencing with Section 1788) of Part
21 4 of Division 3 of the Civil Code, Chapter 3 (commencing with
22 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure,
23 or Division 10 (commencing with Section 6200) of the Family
24 Code. Nothing in this section shall preclude a petitioner's right to
25 use other existing civil remedies.

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

30 (x) This section shall become inoperative on July 1, 2016, and,
31 as of January 1, 2017, is repealed, unless a later enacted statute,
32 that becomes operative on or before January 1, 2017, deletes or
33 extends the dates on which it becomes inoperative and is repealed.

34 ~~SEC. 4.~~

35 *SEC. 2.* Section 15657.03 is added to the Welfare and
36 Institutions Code, to read:

37 15657.03. (a) (1) An elder or dependent adult who has suffered
38 abuse may seek protective orders as provided in this section.

39 (2) A petition may be brought on behalf of an abused elder or
40 dependent adult by a conservator or a trustee of the elder or

1 dependent adult, a county adult protective services agency *or public*
2 *conservator* in a case in which an elder or dependent adult has
3 been identified as lacking capacity and a conservatorship is being
4 sought, an attorney-in-fact of an elder or dependent adult who acts
5 within the authority of the power of attorney, a person appointed
6 as a guardian ad litem for the elder or dependent adult, or other
7 person legally authorized to seek the relief.

8 (b) For the purposes of this section:

9 (1) “Abuse” has the meaning set forth in Section 15610.07.

10 (2) “Conservator” means the legally appointed conservator of
11 the person or estate of the petitioner, or both.

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

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

18 (A) An order enjoining a party from abusing, intimidating,
19 molesting, attacking, striking, stalking, threatening, sexually
20 assaulting, battering, harassing, telephoning, including, but not
21 limited to, making annoying telephone calls as described in Section
22 653m of the Penal Code, destroying personal property, contacting,
23 either directly or indirectly, by mail or otherwise, or coming within
24 a specified distance of, or disturbing the peace of, the petitioner,
25 and, in the discretion of the court, on a showing of good cause, of
26 other named family or household members or a conservator, if
27 any, of the petitioner.

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

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

36 (5) “Respondent” means the person against whom the protective
37 orders are sought and, if the petition is granted, the restrained
38 person.

39 (c) An order may be issued under this section, with or without
40 notice, to restrain any person for the purpose of preventing a

1 recurrence of abuse, if a declaration shows, to the satisfaction of
2 the court, reasonable proof of a past act or acts of abuse of the
3 petitioning elder or dependent adult.

4 (d) Upon filing a petition for protective orders under this section,
5 the petitioner may obtain a temporary restraining order in
6 accordance with Section 527 of the Code of Civil Procedure, except
7 to the extent this section provides a rule that is inconsistent. The
8 temporary restraining order may include any of the protective
9 orders described in paragraph (4) of subdivision (b). However, the
10 court may issue an ex parte order excluding a party from the
11 petitioner's residence or dwelling only on a showing of all of the
12 following:

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

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

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

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

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

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

37 (h) The court may issue, upon notice and a hearing, any of the
38 orders set forth in paragraph (4) of subdivision (b). The court may
39 issue, after notice and hearing, an order excluding a person from
40 a residence or dwelling if the court finds that physical or emotional

1 harm would otherwise result to the petitioner, other named family
2 or household member of the petitioner, or conservator of the
3 petitioner.

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

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

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

36 (j) In a proceeding under this section, a support person may
37 accompany a party in court and, if the party is not represented by
38 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 abuse. The support person is
2 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 abuse in feeling more confident that he or she will not
5 be injured or threatened by the other party during the proceedings
6 if the person who alleges he or she is a victim of abuse and the
7 other party are required to be present in close proximity. This
8 subdivision does not preclude the court from exercising its
9 discretion to remove the support person from the courtroom if the
10 court believes the support person is prompting, swaying, or
11 influencing the party assisted by the support person.

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

19 (l) 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 five years.

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

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

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

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

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

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

9

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

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

20

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

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

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

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

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

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

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

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

24 (7) If the law enforcement officer determines that a protective
25 order has been issued, but not served, the officer shall immediately
26 notify the respondent of the terms of the order and where a written
27 copy of the order can be obtained, and the officer shall at that time
28 also enforce the order. The law enforcement officer's verbal notice
29 of the terms of the order shall constitute service of the order and
30 is sufficient notice for the purposes of this section and for the
31 purposes of Section 273.6 of the Penal Code.

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

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

38 (r) Pursuant to paragraph (4) of subdivision (b) of Section 6103.2
39 of the Government Code, a petitioner shall not be required to pay

1 a fee for law enforcement to serve an order issued under this
2 section.

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

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

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

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

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

20 (u) *In a proceeding based on a filing of a petition by a county
21 adult protective services agency or public conservator in a case
22 in which an elder or dependent adult has been identified as lacking
23 capacity and a conservatorship is sought, all of the following
24 apply:*

25 (1) *Upon the filing of a petition for a protective order, the elder
26 or dependent adult on whose behalf the petition has been filed
27 shall receive a copy of the petition, a notice of the hearing, and
28 any declarations submitted in support of the petition. The elder or
29 dependent adult shall receive this information at least five days
30 before the hearing. The court may, on motion of the petitioner or
31 on its own motion, shorten the time for provision of this information
32 to the elder or dependent adult.*

33 (2) *The adult protective services agency or public conservator
34 shall make reasonable efforts to assist the elder or dependent adult
35 to attend the hearing and provide testimony to the court, if he or
36 she wishes to do so. If the elder or dependent adult does not attend
37 the hearing, the agency or public conservator shall provide
38 information to the court at the hearing regarding the reasons why
39 the elder or dependent adult is not in attendance.*

40 (tt)

1 (v) Any willful disobedience of any temporary restraining order
2 or restraining order after hearing granted under this section is
3 punishable pursuant to Section 273.6 of the Penal Code.

4 ~~(v)~~

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

12 ~~(w)~~

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

18 ~~(x)~~

19 (y) This section shall become operative on July 1, 2016.