

AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 825

Introduced by Assembly Member Keeley

February 24, 1999

An act to amend Sections 527.6 and 527.8 of the Code of Civil Procedure, to amend Sections 6221, 6380, 6380.5, 6381, and 6383 of the Family Code, to amend Section 136.2 of the Penal Code, and to amend Section 213.5 of the Welfare and Institutions Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 825, as amended, Keeley. Domestic violence: protective and restraining orders.

(1) Existing law requires the Department of Justice to maintain a Domestic Violence Protective Order Registry, as specified.

This bill would rename that registry the Domestic Violence Restraining Order System, and ~~make the system applicable only to protective and restraining orders issued on~~ *require forms for certain protective and restraining orders to be adopted by the Judicial Council and approved by the Department of Justice. The bill would provide that only protective and restraining orders on these forms may be transmitted to the Department of Justice, except as specified.*

The bill would impose a state-mandated local program by requiring specified protective and restraining orders to be issued only on these forms.

(2) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. *Section 527.6 of the Code of Civil*
2 *Procedure is amended to read:*

3 527.6. (a) A person who has suffered harassment as
4 defined in subdivision (b) may seek a temporary
5 restraining order and an injunction prohibiting
6 harassment as provided in this section.

7 (b) For the purposes of this section, “harassment” is
8 unlawful violence, a credible threat of violence, or a
9 knowing and willful course of conduct directed at a
10 specific person that seriously alarms, annoys, or harasses
11 the person, and that serves no legitimate purpose. The
12 course of conduct must be such as would cause a
13 reasonable person to suffer substantial emotional distress,
14 and must actually cause substantial emotional distress to
15 the plaintiff.

16 As used in this subdivision:

17 (1) “Unlawful violence” is any assault or battery, or
18 stalking as prohibited in Section 646.9 of the Penal Code,
19 but shall not include lawful acts of self-defense or defense
20 of others.

21 (2) “Credible threat of violence” is a knowing and
22 willful statement or course of conduct that would place
23 a reasonable person in fear for his or her safety, or the



1 safety of his or her immediate family, and that serves no
2 legitimate purpose.

3 (3) “Course of conduct” is a pattern of conduct
4 composed of a series of acts over a period of time,
5 however short, evidencing a continuity of purpose,
6 including following or stalking an individual, making
7 harassing telephone calls to an individual, or sending
8 harassing correspondence to an individual by any means
9 including, but not limited to, the use of public or private
10 mails, interoffice mail, fax, or computer e-mail.
11 Constitutionally protected activity is not included within
12 the meaning of “course of conduct.”

13 (c) Upon filing a petition for an injunction under this
14 section, the plaintiff may obtain a temporary restraining
15 order in accordance with Section 527, except to the extent
16 this section provides a rule that is inconsistent. A
17 temporary restraining order may be issued with or
18 without notice upon an affidavit that, to the satisfaction
19 of the court, shows reasonable proof of harassment of the
20 plaintiff by the defendant, and that great or irreparable
21 harm would result to the plaintiff. In the discretion of the
22 court, and on a showing of good cause, a temporary
23 restraining order issued under this section may include
24 other named family or household members who reside
25 with the plaintiff. A temporary restraining order issued
26 under this section shall remain in effect, at the court’s
27 discretion, for a period not to exceed 15 days, or, if the
28 court extends the time for hearing under subdivision (d),
29 not to exceed 22 days, unless otherwise modified or
30 terminated by the court.

31 (d) Within 15 days, or, if good cause appears to the
32 court, 22 days, from the date the temporary restraining
33 order is issued, a hearing shall be held on the petition for
34 the injunction. The defendant may file a response that
35 explains, excuses, justifies, or denies the alleged
36 harassment or may file a cross-complaint under this
37 section. At the hearing, the judge shall receive any
38 testimony that is relevant, and may make an independent
39 inquiry. If the judge finds by clear and convincing
40 evidence that unlawful harassment exists, an injunction



1 shall issue prohibiting the harassment. An injunction
2 issued pursuant to this section shall have a duration of not
3 more than three years. At any time within the three
4 months before the expiration of the injunction, the
5 plaintiff may apply for a renewal of the injunction by
6 filing a new petition for an injunction under this section.

7 (e) Nothing in this section shall preclude either party
8 from representation by private counsel or from
9 appearing on the party's own behalf.

10 (f) In a proceeding under this section where there are
11 allegations or threats of domestic violence, a support
12 person may accompany a party in court and, where the
13 party is not represented by an attorney, may sit with the
14 party at the table that is generally reserved for the party
15 and the party's attorney. The support person is present to
16 provide moral and emotional support for a person who
17 alleges he or she is a victim of domestic violence. The
18 support person is not present as a legal adviser and shall
19 not give legal advice. The support person shall assist the
20 person who alleges he or she is a victim of domestic
21 violence in feeling more confident that he or she will not
22 be injured or threatened by the other party during the
23 proceedings where the person who alleges he or she is a
24 victim of domestic violence and the other party must be
25 present in close proximity. Nothing in this subdivision
26 precludes the court from exercising its discretion to
27 remove the support person from the courtroom if the
28 court believes the support person is prompting, swaying,
29 or influencing the party assisted by the support person.

30 (g) Upon filing of a petition for an injunction under
31 this section, the defendant shall be personally served with
32 a copy of the petition, temporary restraining order, if any,
33 and notice of hearing of the petition. Service shall be
34 made at least five days before the hearing. The court may
35 for good cause, on motion of the plaintiff or on its own
36 motion, shorten the time for service on the defendant.

37 (h) The court shall order the plaintiff or the attorney
38 for the plaintiff to deliver a copy of each temporary
39 restraining order or injunction, or modification or
40 termination thereof, granted under this section, by the



1 close of the business day on which the order was granted,
2 to the law enforcement agencies within the court's
3 discretion as are requested by the plaintiff. Each
4 appropriate law enforcement agency shall make
5 available information as to the existence and current
6 status of these orders to law enforcement officers
7 responding to the scene of reported harassment.

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

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

23 If the law enforcement officer determines that a
24 protective order has been issued, but not served, the
25 officer shall immediately notify the defendant of the
26 terms of the order and shall at that time also enforce the
27 order. Verbal notice of the terms of the order shall
28 constitute service of the order and is sufficient notice for
29 the purposes of this section and for the purposes of
30 Section 273.6 and subdivision (g) of Section 12021 of the
31 Penal Code.

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

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

38 (k) This section does not apply to any action or
39 proceeding covered by Title 1.6C (commencing with
40 Section 1788) of the Civil Code or by Division 10



1 (commencing with Section 6200) of the Family Code.
2 Nothing in this section shall preclude a plaintiff's right to
3 use other existing civil remedies.

4 (l) The Judicial Council shall promulgate forms and
5 instructions therefor, and rules for service of process,
6 scheduling of hearings, and any other matters required
7 by this section. The petition and response forms shall be
8 simple and concise.

9 (m) *A temporary restraining order or injunction*
10 *relating to harassment or domestic violence issued by a*
11 *court pursuant to this section shall be issued on forms*
12 *adopted by the Judicial Council of California and that*
13 *have been approved by the Department of Justice*
14 *pursuant to subdivision (i) of Section 6380 of the Family*
15 *Code.*

16 *SEC. 2. Section 527.8 of the Code of Civil Procedure*
17 *is amended to read:*

18 527.8. (a) Any employer, whose employee has
19 suffered unlawful violence or a credible threat of violence
20 from any individual, that can reasonably be construed to
21 be carried out or to have been carried out at the
22 workplace, may seek a temporary restraining order and
23 an injunction on behalf of the employee prohibiting
24 further unlawful violence or threats of violence by that
25 individual.

26 (b) For the purposes of this section:

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

31 (2) "Credible threat of violence" is a knowing and
32 willful statement or course of conduct that would place
33 a reasonable person in fear for his or her safety, or the
34 safety of his or her immediate family, and that serves no
35 legitimate purpose.

36 (3) "Course of conduct" is a pattern of conduct
37 composed of a series of acts over a period of time,
38 however short, evidencing a continuity of purpose,
39 including following or stalking an employee to or from
40 the place of work; entering the workplace; following an



1 employee during hours of employment; making
2 telephone calls to an employee; or sending
3 correspondence to an employee by any means, including,
4 but not limited to, the use of the public or private mails,
5 interoffice mail, fax, or computer e-mail.

6 (c) Nothing in this section shall be construed to permit
7 a court to issue a temporary restraining order or
8 injunction prohibiting speech or other activities that are
9 constitutionally protected, or otherwise protected by
10 Section 527.3 or any other provision of law.

11 (d) For purposes of this section, the terms “employer”
12 and “employee” mean persons defined in Section 350 of
13 the Labor Code. The term “employer” also includes a
14 federal agency, the state, a state agency, a city, county, or
15 district, and a private, public, or quasi-public corporation,
16 or any public agency thereof or therein. The term
17 “employee” also includes the members of boards of
18 directors of private, public, and quasi-public corporations
19 and elected and appointed public officers. For purposes
20 of this section only, the term “employee” also includes a
21 volunteer or independent contractor who performs
22 services for the employer at the employer’s worksite.

23 (e) Upon filing a petition for an injunction under this
24 section, the plaintiff may obtain a temporary restraining
25 order in accordance with subdivision (a) of Section 527,
26 if the plaintiff also files an affidavit that, to the satisfaction
27 of the court, shows reasonable proof that an employee has
28 suffered unlawful violence or a credible threat of violence
29 by the defendant, and that great or irreparable harm
30 would result to an employee. In the discretion of the
31 court, and on a showing of good cause, a temporary
32 restraining order issued under this section may include
33 other named family or household members who reside
34 with the employee.

35 A temporary restraining order granted under this
36 section shall remain in effect, at the court’s discretion, for
37 a period not to exceed 15 days, unless otherwise modified
38 or terminated by the court.

39 (f) Within 15 days of the filing of the petition, a hearing
40 shall be held on the petition for the injunction. The



1 defendant may file a response that explains, excuses,
2 justifies, or denies the alleged unlawful violence or
3 credible threats of violence or may file a cross-complaint
4 under this section. At the hearing, the judge shall receive
5 any testimony that is relevant and may make an
6 independent inquiry. Moreover, if the defendant is a
7 current employee of the entity requesting the injunction,
8 the judge shall receive evidence concerning the
9 employer's decision to retain, terminate, or otherwise
10 discipline the defendant. If the judge finds by clear and
11 convincing evidence that the defendant engaged in
12 unlawful violence or made a credible threat of violence,
13 an injunction shall issue prohibiting further unlawful
14 violence or threats of violence. An injunction issued
15 pursuant to this section shall have a duration of not more
16 than three years. At any time within the three months
17 before the expiration of the injunction, the plaintiff may
18 apply for a renewal of the injunction by filing a new
19 petition for an injunction under this section.

20 (g) Nothing in this section shall preclude either party
21 from representation by private counsel or from
22 appearing on his or her own behalf.

23 (h) Upon filing of a petition for an injunction under
24 this section, the defendant shall be personally served with
25 a copy of the petition, temporary restraining order, if any,
26 and notice of hearing of the petition. Service shall be
27 made at least five days before the hearing. The court may,
28 for good cause, on motion of the plaintiff or on its own
29 motion, shorten the time for service on the defendant.

30 (i) The court shall order the plaintiff or the attorney
31 for the plaintiff to deliver a copy of each temporary
32 restraining order or injunction, or modification or
33 termination thereof, granted under this section, by the
34 close of the business day on which the order was granted,
35 to the law enforcement agencies within the court's
36 discretion as are requested by the plaintiff. Each
37 appropriate law enforcement agency shall make
38 available information as to the existence and current
39 status of these orders to law enforcement officers



1 responding to the scene of reported unlawful violence or
2 a credible threat of violence.

3 (j) Any intentional disobedience of any temporary
4 restraining order or injunction granted under this section
5 is punishable pursuant to Section 273.6 of the Penal Code.

6 (k) Nothing in this section shall be construed as
7 expanding, diminishing, altering, or modifying the duty,
8 if any, of an employer to provide a safe workplace for
9 employees and other persons.

10 (l) The Judicial Council shall develop forms,
11 instructions, and rules for scheduling of hearings and
12 other procedures established pursuant to this section. The
13 forms for the petition and response shall be simple and
14 concise.

15 (m) *A temporary restraining order or injunction*
16 *relating to harassment or domestic violence issued by a*
17 *court pursuant to this section shall be issued on forms*
18 *adopted by the Judicial Council of California and that*
19 *have been approved by the Department of Justice*
20 *pursuant to subdivision (i) of Section 6380 of the Family*
21 *Code.*

22 *SEC. 3. Section 6221 of the Family Code is amended*
23 *to read:*

24 6221. (a) Unless the provision or context otherwise
25 requires, this division applies to any order described in
26 this division, whether the order is issued in a proceeding
27 brought pursuant to this division, in an action brought
28 pursuant to the Uniform Parentage Act (Part 3
29 (commencing with Section 7600) of Division 12), or in a
30 proceeding for dissolution of marriage, for nullity of
31 marriage, or for legal separation of the parties.

32 (b) Nothing in this division affects the jurisdiction of
33 the juvenile court.

34 (c) *Any order issued by a court to which this division*
35 *applies shall be issued on forms adopted by the Judicial*
36 *Council of California and that have been approved by the*
37 *Department of Justice pursuant to subdivision (i) of*
38 *Section 6380.*

39 *SEC. 4. Section 6380 of the Family Code is amended*
40 *to read:*



1 6380. (a) Each county, with the approval of the
2 Department of Justice, shall, by July 1, 1996, develop a
3 procedure, using existing systems, for the electronic
4 transmission of data, as described in subdivision (b), to
5 the Department of Justice. The data shall be
6 electronically transmitted through the California Law
7 Enforcement Telecommunications System (CLETS) of
8 the Department of Justice by law enforcement personnel,
9 or with the approval of the Department of Justice, court
10 personnel, or another appropriate agency capable of
11 maintaining and preserving the integrity of both the
12 CLETS and the Domestic Violence Restraining Order
13 System, as described in subdivision (e). ~~Only protective~~
14 ~~and restraining orders issued on forms adopted by the~~
15 ~~Judicial Council of California and which have been~~
16 ~~approved by the Department of Justice may be~~
17 ~~transmitted to the Department of Justice.~~ Data entry is
18 required to be entered only once under the requirements
19 of this section, unless the order is served at a later time.
20 A portion of all fees payable to the Department of Justice
21 under subdivision (a) of Section 1203.097 of the Penal
22 Code for the entry of the information required under this
23 section, based upon the proportion of the costs incurred
24 by the local agency and those incurred by the
25 Department of Justice, shall be transferred to the local
26 agency actually providing the data. All data with respect
27 to criminal court protective orders issued under
28 subdivision (g) of Section 136.2 of the Penal Code shall be
29 transmitted by the court or its designee within one
30 business day to law enforcement personnel by either one
31 of the following methods:

32 (1) Transmitting a physical copy of the order to a local
33 law enforcement agency authorized by the Department
34 of Justice to enter orders into CLETS.

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

37 (b) Upon the issuance of a protective order to which
38 this division applies pursuant to Section 6221, or the
39 issuance of a temporary restraining order or injunction
40 relating to harassment or domestic violence pursuant to



1 Section 527.6 or 527.8 of the Code of Civil Procedure, or
2 the issuance of a criminal court protective order under
3 subdivision (g) of Section 136.2 of the Penal Code, or the
4 issuance of a juvenile court restraining order related to
5 domestic violence pursuant to Section 213.5, 304, or 362.4
6 of the Welfare and Institutions Code, or upon registration
7 with the court clerk of a domestic violence protective
8 order issued by the court of another state, tribe, or
9 territory, and including any of the foregoing orders issued
10 in connection with an order for modification of a custody
11 or visitation order issued pursuant to a dissolution, legal
12 separation, nullity, or paternity proceeding the
13 Department of Justice shall be immediately notified of
14 the contents of the order and the following information:

15 (1) The name, race, date of birth, and other personal
16 descriptive information of the respondent as required by
17 a form prescribed by the Department of Justice.

18 (2) The names of the protected persons.

19 (3) The date of issuance of the order.

20 (4) The duration or expiration date of the order.

21 (5) The terms and conditions of the protective order,
22 including stay-away, no-contact, residency exclusion,
23 custody, and visitation provisions of the order.

24 (6) The department or division number and the
25 address of the court.

26 (7) Whether or not the order was served upon the
27 respondent.

28 (8) The terms and conditions of any restrictions on the
29 ownership or possession of firearms.

30 All available information shall be included; however,
31 the inability to provide all categories of information shall
32 not delay the entry of the information available.

33 (c) The information conveyed to the Department of
34 Justice shall also indicate whether the respondent was
35 present in court to be informed of the contents of the
36 court order. The respondent's presence in court shall
37 provide proof of service of notice of the terms of the
38 protective order. The respondent's failure to appear shall
39 also be included in the information provided to the
40 Department of Justice.

1 (d) Immediately upon receipt of proof of service the
2 clerk of the court, and immediately after service any law
3 enforcement officer who served the protective order,
4 shall notify the Department of Justice, by electronic
5 transmission, of the service of the protective order,
6 including the name of the person who served the order
7 and, if that person is a law enforcement officer, the law
8 enforcement agency.

9 (e) The Department of Justice shall maintain a
10 Domestic Violence Restraining Order System and shall
11 make available to court clerks and law enforcement
12 personnel, through computer access, all information
13 regarding the protective and restraining orders and
14 injunctions described in subdivision (b), whether or not
15 served upon the respondent.

16 (f) If a court issues a modification, extension, or
17 termination of a protective order, it shall be on forms
18 adopted by the Judicial Council of California and which
19 have been approved by the Department of Justice, and
20 the transmitting agency for the county shall immediately
21 notify the Department of Justice, by electronic
22 transmission, of the terms of the modification, extension,
23 or termination.

24 (g) The Judicial Council shall assist local courts
25 charged with the responsibility for issuing protective
26 orders by developing informational packets describing
27 the general procedures for obtaining a domestic violence
28 restraining order and indicating the appropriate Judicial
29 Council forms, and shall include a design, that local courts
30 shall complete, that describes local court procedures and
31 maps to enable applicants to locate filing windows and
32 appropriate courts. The court clerk shall provide a fee
33 waiver form to all applicants for domestic violence
34 protective orders. The court clerk shall provide all
35 Judicial Council forms required by this chapter to
36 applicants free of charge. The informational packet shall
37 also contain a statement that the protective order is
38 enforceable in any state, territory, or reservation, and
39 general information about agencies in other jurisdictions



1 that may be contacted regarding enforcement of an order
2 issued by a court of this state.

3 (h) For the purposes of this part, “electronic
4 transmission” shall include computer access through the
5 California Law Enforcement Telecommunications
6 System (CLETS).

7 *(i) Only protective and restraining orders issued on*
8 *forms adopted by the Judicial Council of California and*
9 *that have been approved by the Department of Justice*
10 *shall be transmitted to the Department of Justice.*
11 *However, this provision shall not apply to a valid*
12 *protective or restraining order related to domestic or*
13 *family violence issued by a court of another state, tribe,*
14 *or territory. Such orders shall, upon request, be registered*
15 *pursuant to Section 6380.5.*

16 ~~SEC. 2.~~

17 SEC. 5. Section 6380.5 of the Family Code is amended
18 to read:

19 6380.5. (a) An out-of-state protective or restraining
20 order issued by a state, tribal, or territorial court related
21 to domestic or family violence shall be deemed valid if the
22 issuing court had jurisdiction over the parties and matter
23 under the law of the state, tribe, or territory. There shall
24 be a presumption of validity where an order appears
25 authentic on its face.

26 (b) Any valid protective or restraining order related
27 to domestic or family violence issued by a court of another
28 state, tribe, or territory shall, upon request of the person
29 in possession of the foreign protective order, be
30 registered with a court of this state in order to be entered
31 in the Domestic Violence Restraining Order System
32 established under this chapter. The Judicial Council shall
33 adopt rules of court to do the following:

34 (1) Set forth the process whereby a person in
35 possession of a valid foreign protective order may
36 voluntarily register the order with a court of this state for
37 entry into the Domestic Violence Restraining Order
38 System.

39 (2) Require the sealing of foreign protective orders
40 and provide access only to law enforcement, the person



1 who registered the order upon written request with proof
2 of identification, the defense after arraignment on
3 criminal charges involving an alleged violation of the
4 order, or upon further order of the court.

5 (c) Any valid protective or restraining order related to
6 domestic or family violence issued by a court of another
7 state, tribe, or territory shall be accorded full faith and
8 credit by the courts of this state, and shall be enforced as
9 set forth in Section 6381, as if it had been issued in this
10 state.

11 ~~SEC. 3.~~

12 SEC. 6. Section 6381 of the Family Code is amended
13 to read:

14 6381. (a) Notwithstanding Section 6380 and subject
15 to subdivision (b), an order issued under this part is
16 enforceable in any place in this state.

17 (b) An order issued under this part is not enforceable
18 by a law enforcement agency of a political subdivision
19 unless that law enforcement agency has received a copy
20 of the order, or the officer enforcing the order has been
21 shown a copy of the order or has obtained information,
22 through the Domestic Violence Restraining Order
23 System maintained by the Department of Justice, of the
24 contents of the order, as described in subdivision (b).

25 (c) The data contained in the Domestic Violence
26 Restraining Order System shall be deemed to be original,
27 self-authenticating, documentary evidence of the court
28 orders. Oral notification of the terms of the orders shall
29 be sufficient notice for enforcement under subdivision
30 (g) of Section 136.2 and Section 273.6 of the Penal Code.

31 ~~SEC. 4.~~

32 SEC. 7. Section 6383 of the Family Code is amended
33 to read:

34 6383. (a) A temporary restraining order or
35 emergency protective order issued under this part shall,
36 on request of the petitioner, be served on the respondent,
37 whether or not the respondent has been taken into
38 custody, by any law enforcement officer who is present
39 at the scene of reported domestic violence involving the
40 parties to the proceeding.



1 (b) The petitioner shall provide the officer with an
2 endorsed copy of the order and a proof of service which
3 the officer shall complete and transmit to the issuing
4 court.

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

7 (d) Upon receiving information at the scene of a
8 domestic violence incident that a protective order has
9 been issued under this part, or that a person who has been
10 taken into custody is the respondent to such an order, if
11 the protected person cannot produce a certified copy of
12 the order, a law enforcement officer shall immediately
13 inquire of the Department of Justice Domestic Violence
14 Restraining Order System to verify the existence of the
15 order.

16 (e) If the law enforcement officer determines that a
17 protective order has been issued, but not served, the
18 officer shall immediately notify the respondent of the
19 terms of the order. Verbal notice of the terms of the order
20 is sufficient notice for the purposes of this section and for
21 the purposes of Section 273.6 and subdivision (g) of
22 Section 12021 of the Penal Code.

23 (f) If a report is required under Section 13730 of the
24 Penal Code, or if no report is required, then in the daily
25 incident log, the officer shall provide the name and
26 assignment of the officer notifying the respondent
27 pursuant to subdivision (e) and the case number of the
28 order.

29 (g) Upon service of the order outside of the court, a
30 law enforcement officer shall advise the respondent to go
31 to the local court to obtain a copy of the order containing
32 the full terms and conditions of the order.

33 (h) There shall be no civil liability on the part of, and
34 no cause of action for, false arrest or false imprisonment
35 against any peace officer who makes an arrest pursuant
36 to a protective or restraining order which is regular upon
37 its face, if the peace officer in making the arrest acts in
38 good faith and has reasonable cause to believe that the
39 person against whom the order is issued has notice of the
40 order and has committed an act in violation of the order.



1 If there is more than one civil order regarding the same
2 parties, the peace officer shall enforce the order which
3 was issued last. If there are both civil and criminal orders
4 regarding the same parties, the peace officer shall enforce
5 the criminal order issued last. Nothing in this section shall
6 be deemed to exonerate a peace officer from liability for
7 the unreasonable use of force in the enforcement of the
8 order. The immunities afforded by this section shall not
9 affect the availability of any other immunity which may
10 apply, including, but not limited to, Sections 820.2 and
11 820.4 of the Government Code.

12 *SEC. 8. Section 136.2 of the Penal Code is amended to*
13 *read:*

14 136.2. Upon a good cause belief that harm to, or
15 intimidation or dissuasion of, a victim or witness has
16 occurred or is reasonably likely to occur, any court with
17 jurisdiction over a criminal matter may issue orders
18 including, but not limited to, the following:

19 (a) Any order issued pursuant to Section 6320 of the
20 Family Code.

21 (b) An order that a defendant shall not violate any
22 provision of Section 136.1.

23 (c) An order that a person before the court other than
24 a defendant, including, but not limited to, a subpoenaed
25 witness or other person entering the courtroom of the
26 court, shall not violate any provisions of Section 136.1.

27 (d) An order that any person described in this section
28 shall have no communication whatsoever with any
29 specified witness or any victim, except through an
30 attorney under any reasonable restrictions that the court
31 may impose.

32 (e) An order calling for a hearing to determine if an
33 order as described in subdivisions (a) to (d), inclusive,
34 should be issued.

35 (f) An order that a particular law enforcement agency
36 within the jurisdiction of the court provide protection for
37 a victim or a witness, or both, or for immediate family
38 members of a victim or a witness who reside in the same
39 household as the victim or witness or within reasonable
40 proximity of the victim's or witness's household, as



1 determined by the court. The order shall not be made
2 without the consent of the law enforcement agency
3 except for limited and specified periods of time and upon
4 an express finding by the court of a clear and present
5 danger of harm to the victim or witness or immediate
6 family members of the victim or witness.

7 For purposes of this subdivision, “immediate family
8 members” include the spouse, children, or parents of the
9 victim or witness.

10 (g) Any order protecting victims of violent crime from
11 contact, with the intent to annoy, harass, threaten, or
12 commit acts of violence, by the defendant. The court or
13 its designee shall transmit orders made under this
14 subdivision to law enforcement personnel within one
15 business day of the issuance of the order, pursuant to
16 subdivision (a) of Section 6380 of the Family Code.

17 *Any order issued by a court pursuant to this subdivision*
18 *shall be issued on forms adopted by the Judicial Council*
19 *of California and that have been approved by the*
20 *Department of Justice pursuant to subdivision (i) of*
21 *Section 6380 of the Family Code.*

22 Any person violating any order made pursuant to
23 subdivisions (a) to (g), inclusive, may be punished for any
24 substantive offense described in Section 136.1, or for a
25 contempt of the court making the order. A finding of
26 contempt shall not be a bar to prosecution for a violation
27 of Section 136.1. However, any person so held in
28 contempt shall be entitled to credit for any punishment
29 imposed therein against any sentence imposed upon
30 conviction of an offense described in Section 136.1. Any
31 conviction or acquittal for any substantive offense under
32 Section 136.1 shall be a bar to a subsequent punishment
33 for contempt arising out of the same act.

34 (h) (1) In all cases where the defendant is charged
35 with a crime of domestic violence, as defined in Section
36 13700, the court shall consider issuing the
37 above-described orders on its own motion. All interested
38 parties shall receive a copy of those orders. In order to
39 facilitate this, the court’s records of all criminal cases



1 involving domestic violence shall be marked to clearly
2 alert the court to this issue.

3 (2) In those cases in which a complaint, information,
4 or indictment charging a crime of domestic violence, as
5 defined in Section 13700, has been issued, a restraining
6 order or protective order against the defendant issued by
7 the criminal court in that case has precedence over any
8 other outstanding court order against the defendant.

9 (i) The Judicial Council shall adopt forms for orders
10 under this section.

11 *SEC. 9. Section 213.5 of the Welfare and Institutions*
12 *Code is amended to read:*

13 213.5. (a) After a petition has been filed pursuant to
14 Section 311 to declare a child a dependent child of the
15 juvenile court, and until the time that the petition is
16 dismissed or dependency is terminated, upon application
17 in the manner provided by Section 527 of the Code of
18 Civil Procedure, the juvenile court may issue ex parte
19 orders (1) enjoining any parent, guardian, or current or
20 former member of the child's household from molesting,
21 attacking, striking, sexually assaulting, stalking, or
22 battering the child or any other child in the household;
23 (2) excluding any parent, guardian, or current or former
24 member of the child's household from the dwelling of the
25 person who has care, custody, and control of the child; and
26 (3) enjoining a parent, guardian, or current or former
27 member of the child's household from behavior,
28 including contacting, threatening, or disturbing the
29 peace of the child, that the court determines is necessary
30 to effectuate orders under paragraph (1) or (2).

31 (b) After a petition has been filed pursuant to Section
32 601 or 602 to declare a child a ward of the juvenile court,
33 and until the time that the petition is dismissed or
34 wardship is terminated, upon application in the manner
35 provided by Section 527 of the Code of Civil Procedure,
36 the juvenile court may issue ex parte orders (1) enjoining
37 any parent, guardian or current or former member of the
38 child's household from molesting, attacking, threatening,
39 sexually assaulting, stalking, or battering the child; (2)
40 excluding any parent, guardian, or current or former



1 member of the child's household from the dwelling of the
2 person who has care, custody, and control of the child; or
3 (3) enjoining the child from contacting, threatening,
4 stalking, or disturbing the peace of any person the court
5 finds to be at risk from the conduct of the child, or with
6 whom association would be detrimental to the child.

7 (c) In the case in which a temporary restraining order
8 is granted without notice, the matter shall be made
9 returnable on an order requiring cause to be shown why
10 the order should not be granted, on the earliest day that
11 the business of the court will permit, but not later than 15
12 days or, if good cause appears to the court, 20 days from
13 the date the temporary restraining order is granted. The
14 court may, on the motion of the person seeking the
15 restraining order, or on its own motion, shorten the time
16 for service on the person to be restrained of the order to
17 show cause. Any hearing pursuant to this section may be
18 held simultaneously with any regularly scheduled
19 hearings held in proceedings to declare a child a
20 dependent child or ward of the juvenile court pursuant
21 to Section 300, 601, or 602, or subsequent hearings
22 regarding the dependent child or ward.

23 (d) The juvenile court may issue, upon notice and a
24 hearing, any of the orders set forth in subdivisions (a),
25 (b), and (c). Any restraining order granted pursuant to
26 this subdivision shall remain in effect, in the discretion of
27 the court, not to exceed one year, unless otherwise
28 terminated by the court, extended by mutual consent of
29 all parties to the restraining order, or extended by further
30 order of the court on the motion of any party to the
31 restraining order.

32 (e) (1) The juvenile court may issue an order made
33 pursuant to subdivision (a), (c), or (d) excluding a person
34 from a residence or dwelling. This order may be issued for
35 the time and on the conditions that the court determines,
36 regardless of which party holds legal or equitable title or
37 is the lessee of the residence or dwelling.

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



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

4 (B) That the party to be excluded has assaulted or
5 threatens to assault the other party or any other person
6 under the care, custody, and control of the other party, or
7 any minor child of the parties or of the other party.

8 (C) That physical or emotional harm would otherwise
9 result to the other party, to any person under the care,
10 custody, and control of the other party, or to any minor
11 child of the parties or of the other party.

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

15 (g) The juvenile court shall order any designated
16 person or attorney to mail a copy of any order, or
17 extension, modification, or termination thereof, granted
18 pursuant to subdivision (a), (b), (c), or (d), by the close
19 of the business day on which the order, extension,
20 modification, or termination was granted, and any
21 subsequent proof of service thereof, to each local law
22 enforcement agency designated by the person seeking
23 the restraining order or his or her attorney having
24 jurisdiction over the residence of the person who has care,
25 custody, and control of the child and other locations
26 where the court determines that acts of domestic
27 violence or abuse against the child or children are likely
28 to occur. Each appropriate law enforcement agency shall
29 make available through an existing system for
30 verification, information as to the existence, terms, and
31 current status of any order issued pursuant to subdivision
32 (a), (b), (c), or (d) to any law enforcement officer
33 responding to the scene of reported domestic violence or
34 abuse.

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

39 (i) *A juvenile court restraining order related to*
40 *domestic violence issued by a court pursuant to this*



1 *section shall be issued on forms adopted by the Judicial*
2 *Council of California and that have been approved by the*
3 *Department of Justice pursuant to subdivision (i) of*
4 *Section 6380 of the Family Code.*

5 *SEC. 10. Notwithstanding Section 17610 of the*
6 *Government Code, if the Commission on State Mandates*
7 *determines that this act contains costs mandated by the*
8 *state, reimbursement to local agencies and school*
9 *districts for those costs shall be made pursuant to Part 7*
10 *(commencing with Section 17500) of Division 4 of Title*
11 *2 of the Government Code. If the statewide cost of the*
12 *claim for reimbursement does not exceed one million*
13 *dollars (\$1,000,000), reimbursement shall be made from*
14 *the State Mandates Claims Fund.*

