

AMENDED IN SENATE SEPTEMBER 1, 2005

AMENDED IN SENATE JUNE 13, 2005

AMENDED IN SENATE MAY 25, 2005

AMENDED IN ASSEMBLY MARCH 29, 2005

AMENDED IN ASSEMBLY MARCH 9, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 118

Introduced by Assembly Member Cohn
(Principal coauthor: Senator Alquist)
(Coauthor: Assembly Member Spitzer)

January 13, 2005

An act to amend Section 3100 of the Family Code, and to amend Section 136.2 of the Penal Code, relating to protective orders.

LEGISLATIVE COUNSEL'S DIGEST

AB 118, as amended, Cohn. Protective orders: minor children.

Existing law authorizes the court to grant reasonable visitation rights to a parent unless it is shown that the visitation would be detrimental to the best interest of the child.

Existing law also authorizes any court with jurisdiction over a criminal matter to issue protective orders.

This bill would require that if a criminal protective order has been issued, as specified, a visitation order or a specified custody and visitation order shall make reference to, and acknowledge the precedence of enforcement of, any appropriate criminal protective order. The bill would require the Judicial Council to modify criminal

and civil court forms consistent with this provision, on or before July 1, 2006.

This bill would incorporate additional changes in Section 136.2 of the Penal Code proposed by AB 112, AB 1288, and SB 720, to become operative only if any or all of those bills and this bill are chaptered and become effective January 1, 2006, and this bill is chaptered last.

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

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

1 SECTION 1. Section 3100 of the Family Code is amended to
2 read:

3 3100. (a) In making an order pursuant to Chapter 4
4 (commencing with Section 3080), the court shall grant
5 reasonable visitation rights to a parent unless it is shown that the
6 visitation would be detrimental to the best interest of the child. In
7 the discretion of the court, reasonable visitation rights may be
8 granted to any other person having an interest in the welfare of
9 the child.

10 (b) If a protective order, as defined in Section 6218, has been
11 directed to a parent, the court shall consider whether the best
12 interest of the child requires that any visitation by that parent
13 shall be limited to situations in which a third person, specified by
14 the court, is present, or whether visitation shall be suspended or
15 denied. The court shall include in its deliberations a
16 consideration of the nature of the acts from which the parent was
17 enjoined and the period of time that has elapsed since that order.
18 A parent may submit to the court the name of a person that the
19 parent deems suitable to be present during visitation.

20 (c) If visitation is ordered in a case in which domestic
21 violence is alleged and an emergency protective order, protective
22 order, or other restraining order has been issued, the visitation
23 order shall specify the time, day, place, and manner of transfer of
24 the child, so as to limit the child's exposure to potential domestic
25 conflict or violence and to ensure the safety of all family
26 members. If a criminal protective order has been issued pursuant
27 to Section 136.2 of the Penal Code, the visitation order shall
28 make reference to, and acknowledge the precedence of
29 enforcement of, any appropriate criminal protective order.

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

7 SEC. 2 Section 136.2 of the Penal Code is amended to read:

8 136.2. (a) Upon a good cause belief that harm to, or
9 intimidation or dissuasion of, a victim or witness has occurred or
10 is reasonably likely to occur, any court with jurisdiction over a
11 criminal matter may issue orders including, but not limited to, the
12 following:

13 (1) Any order issued pursuant to Section 6320 of the Family
14 Code.

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

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

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

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

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

38 For purposes of this paragraph, “immediate family members”
39 include the spouse, children, or parents of the victim or witness.

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

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

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

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

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

1 (3) Every person who owns, possesses, purchases or receives,
2 or attempts to purchase or receive a firearm while the protective
3 order is in effect is punishable pursuant to subdivision (g) of
4 Section 12021 of the Penal Code.

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

12 (2) In those cases in which a complaint, information, or
13 indictment charging a crime of domestic violence, as defined in
14 Section 13700, has been issued, a restraining order or protective
15 order against the defendant issued by the criminal court in that
16 case has precedence in enforcement over any civil court order
17 against the defendant.

18 (3) Custody and visitation with respect to the defendant and
19 his or her minor children may be ordered by a family or juvenile
20 court consistent with the protocol established pursuant to
21 subdivision (e), but if ordered after a criminal protective order
22 has been issued pursuant to this section, the custody and
23 visitation order shall make reference to, and acknowledge the
24 precedence of enforcement of, any appropriate criminal
25 protective order. On or before July 1, 2006, the Judicial Council
26 shall modify the criminal and civil court forms consistent with
27 this subdivision.

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

39 (1) Any order that permits contact between the restrained
40 person and his or her children shall provide for the safe exchange

1 of the children and shall not contain language either printed or
 2 handwritten that violates a “no contact order” issued by a
 3 criminal court.

4 (2) Safety of all parties shall be the courts’ paramount
 5 concern. The family or juvenile court shall specify the time, day,
 6 place, and manner of transfer of the child, as provided in Section
 7 3100 of the Family Code.

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

11 *SEC. 2.1. Section 136.2 of the Penal Code is amended to*
 12 *read:*

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

18 (a)

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

21 (b)

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

24 (c)

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

29 (d)

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

34 (e)

35 (5) An order calling for a hearing to determine if an order as
 36 described in ~~subdivisions (a) to (d)~~ paragraphs (1) to (4),
 37 inclusive, should be issued.

38 (f)

39 (6) An order that a particular law enforcement agency within
 40 the jurisdiction of the court provide protection for a victim or a

1 witness, or both, or for immediate family members of a victim or
2 a witness who reside in the same household as the victim or
3 witness or within reasonable proximity of the victim's or
4 witness' household, as determined by the court. The order shall
5 not be made without the consent of the law enforcement agency
6 except for limited and specified periods of time and upon an
7 express finding by the court of a clear and present danger of
8 harm to the victim or witness or immediate family members of
9 the victim or witness.

10 For purposes of this ~~subdivision~~ *paragraph*, "immediate family
11 members" include the spouse, children, or parents of the victim
12 or witness.

13 ~~(g)~~

14 (7) (A) Any order protecting victims of violent crime from
15 contact, with the intent to annoy, harass, threaten, or commit acts
16 of violence, by the defendant. The court or its designee shall
17 transmit orders made under this ~~subdivision~~ *paragraph* to law
18 enforcement personnel within one business day of the issuance,
19 modification, extension, or termination of the order, pursuant to
20 subdivision (a) of Section 6380 of the Family Code. It is the
21 responsibility of the court to transmit the modification, extension,
22 or termination orders made under this ~~subdivision~~ *paragraph* to
23 the same agency that entered the original protective order into the
24 Domestic Violence Restraining Order System.

25 (B) Any order issued, modified, extended, or terminated by a
26 court pursuant to this ~~subdivision~~ *paragraph* shall be issued on
27 forms adopted by the Judicial Council of California and that have
28 been approved by the Department of Justice pursuant to
29 subdivision (i) of Section 6380 of the Family Code. However, the
30 fact that an order issued by a court pursuant to this section was
31 not issued on forms adopted by the Judicial Council and
32 approved by the Department of Justice shall not, in and of itself,
33 make the order unenforceable.

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

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

6 ~~(h)~~

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

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

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

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

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

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

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

37 *(3) Every person who owns, possesses, purchases or receives,*
38 *or attempts to purchase or receive a firearm while the protective*
39 *order is in effect is punishable pursuant to subdivision (g) of*
40 *Section 12021 of the Penal Code.*

1 ~~(i)~~

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

9 (2) In those cases in which a complaint, information, or
10 indictment charging a crime of domestic violence, as defined in
11 Section 13700, has been issued, a restraining order or protective
12 order against the defendant issued by the criminal court in that
13 case has precedence in enforcement over any civil court order
14 against the defendant, *unless a court issues an emergency*
15 *protective order pursuant to Chapter 2 (commencing with*
16 *Section 6250) of Part 3 of Division 10 of the Family Code or*
17 *Section 646.91 of the Penal Code, in which case the emergency*
18 *protective order shall have precedence in enforcement over any*
19 *other restraining or protective order, provided the emergency*
20 *protective order meets the following requirements:*

21 (A) *The emergency protective order is issued to protect one or*
22 *more individuals who are already protected persons under*
23 *another restraining or protective order.*

24 (B) *The emergency protective order restrains the individual*
25 *who is the restrained person in the other restraining or*
26 *protective order specified in subparagraph (A).*

27 (C) *The provisions of the emergency protective order are more*
28 *restrictive in relation to the restrained person than are the*
29 *provisions of the other restraining or protective order specified*
30 *in subparagraph (A).*

31 (3) Custody and visitation with respect to the defendant and
32 his or her minor children may be ordered by a family or juvenile
33 court consistent with the protocol established pursuant to
34 subdivision ~~(i)~~ (f), *but if ordered after a criminal protective order*
35 *has been issued pursuant to this section, the custody and*
36 *visitation order shall make reference to, and acknowledge the*
37 *precedence of enforcement of, any appropriate criminal*
38 *protective order. On or before July 1, 2006, the Judicial Council*
39 *shall modify the criminal and civil court forms consistent with*
40 *this subdivision.*

1 ~~(j)~~
 2 (f) On or before January 1, 2003, the Judicial Council shall
 3 promulgate a protocol, for adoption by each local court in
 4 substantially similar terms, to provide for the timely coordination
 5 of all orders against the same defendant and in favor of the same
 6 named victim or victims. The protocol shall include, but shall not
 7 be limited to, mechanisms for assuring appropriate
 8 communication and information sharing between criminal,
 9 family, and juvenile courts concerning orders and cases that
 10 involve the same parties, and shall permit a family or juvenile
 11 court order to coexist with a criminal court protective order
 12 subject to the following conditions:

13 (1) Any order that permits contact between the restrained
 14 person and his or her children shall provide for the safe exchange
 15 of the children and shall not contain language either printed or
 16 handwritten that violates a “no contact order” issued by a
 17 criminal court.

18 (2) Safety of all parties shall be the courts’ paramount
 19 concern. The family or juvenile court shall specify the time, day,
 20 place, and manner of transfer of the child, as provided in Section
 21 3100 of the Family Code.

22 ~~(k)~~
 23 (g) On or before January 1, 2003, the Judicial Council shall
 24 modify the criminal and civil court protective order forms
 25 consistent with this section.

26 *SEC. 2.2. Section 136.2 of the Penal Code is amended to*
 27 *read:*

28 136.2. (a) Upon a good cause belief that harm to, or
 29 intimidation or dissuasion of, a victim or witness has occurred or
 30 is reasonably likely to occur, any court with jurisdiction over a
 31 criminal matter may issue orders including, but not limited to, the
 32 following:

33 ~~(a)~~
 34 (1) Any order issued pursuant to Section 6320 of the Family
 35 Code.

36 ~~(b)~~
 37 (2) An order that a defendant shall not violate any provision of
 38 Section 136.1.

39 ~~(e)~~

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

5 ~~(d)~~

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

10 ~~(e)~~

11 (5) An order calling for a hearing to determine if an order as
12 described in ~~subdivisions (a) to (d)~~ *paragraphs (1) to (4)*,
13 inclusive, should be issued.

14 ~~(f)~~

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

26 For purposes of this ~~subdivision~~ *paragraph*, "immediate family
27 members" include the spouse, children, or parents of the victim
28 or witness.

29 ~~(g)~~

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

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

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

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

14 (ii) Every person who owns, possesses, purchases, or receives,
15 or attempts to purchase or receive, a firearm while this
16 protective order is in effect is punishable pursuant to subdivision
17 (g) of Section 12021.

18 (C) Any order issued, modified, extended, or terminated by a
19 court pursuant to this ~~subdivision~~ paragraph shall be issued on
20 forms adopted by the Judicial Council of California and that have
21 been approved by the Department of Justice pursuant to
22 subdivision (i) of Section 6380 of the Family Code. However, the
23 fact that an order issued by a court pursuant to this section was
24 not issued on forms adopted by the Judicial Council and
25 approved by the Department of Justice shall not, in and of itself,
26 make the order unenforceable.

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

38 ~~(h)~~

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

1 purchase or receive a firearm while the protective order is in
2 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
5 owns or possesses pursuant to Section 527.9 of the Code of Civil
6 Procedure.

7 (3) Every person who owns, possesses, purchases or receives,
8 or attempts to purchase or receive a firearm while the protective
9 order is in effect is punishable pursuant to subdivision (g) of
10 Section 12021 of the Penal Code.

11 (i)

12 (d) (1) In all cases where the defendant is charged with a
13 crime of domestic violence, as defined in Section 13700, the
14 court shall consider issuing the above-described orders on its
15 own motion. All interested parties shall receive a copy of those
16 orders. In order to facilitate this, the court's records of all
17 criminal cases involving domestic violence shall be marked to
18 clearly alert the court to this issue.

19 (2) In those cases in which a complaint, information, or
20 indictment charging a crime of domestic violence, as defined in
21 Section 13700, has been issued, a restraining order or protective
22 order against the defendant issued by the criminal court in that
23 case has precedence in enforcement over any civil court order
24 against the defendant.

25 (3) Custody and visitation with respect to the defendant and
26 his or her minor children may be ordered by a family or juvenile
27 court consistent with the protocol established pursuant to
28 subdivision ~~(i)~~ (e), *but if ordered after a criminal protective*
29 *order has been issued pursuant to this section, the custody and*
30 *visitation order shall make reference to, and acknowledge the*
31 *precedence of enforcement of, any appropriate criminal*
32 *protective order. On or before July 1, 2006, the Judicial Council*
33 *shall modify the criminal and civil court forms consistent with*
34 *this subdivision.*

35 (j)

36 (e) On or before January 1, 2003, the Judicial Council shall
37 promulgate a protocol, for adoption by each local court in
38 substantially similar terms, to provide for the timely coordination
39 of all orders against the same defendant and in favor of the same
40 named victim or victims. The protocol shall include, but shall not

1 be limited to, mechanisms for assuring appropriate
2 communication and information sharing between criminal,
3 family, and juvenile courts concerning orders and cases that
4 involve the same parties, and shall permit a family or juvenile
5 court order to coexist with a criminal court protective order
6 subject to the following conditions:

7 (1) Any order that permits contact between the restrained
8 person and his or her children shall provide for the safe exchange
9 of the children and shall not contain language either printed or
10 handwritten that violates a “no contact order” issued by a
11 criminal court.

12 (2) Safety of all parties shall be the courts’ paramount
13 concern. The family or juvenile court shall specify the time, day,
14 place, and manner of transfer of the child, as provided in Section
15 3100 of the Family Code.

16 ~~(k)~~

17 (f) On or before January 1, 2003, the Judicial Council shall
18 modify the criminal and civil court protective order forms
19 consistent with this section.

20 *SEC. 2.3. Section 136.2 of the Penal Code is amended to*
21 *read:*

22 136.2. (a) Upon a good cause belief that harm to, or
23 intimidation or dissuasion of, a victim or witness has occurred or
24 is reasonably likely to occur, any court with jurisdiction over a
25 criminal matter may issue orders including, but not limited to, the
26 following:

27 ~~(a)~~

28 (1) Any order issued pursuant to Section 6320 of the Family
29 Code.

30 ~~(b)~~

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

33 ~~(c)~~

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

38 ~~(d)~~

39 (4) An order that any person described in this section shall
40 have no communication whatsoever with any specified witness

1 or any victim, except through an attorney under any reasonable
2 restrictions that the court may impose.

3 ~~(e)~~

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

7 ~~(f)~~

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

19 For purposes of this ~~subdivision~~ *paragraph*, "immediate family
20 members" include the spouse, children, or parents of the victim
21 or witness.

22 ~~(g)~~

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

35 (B) Any order issued, modified, extended, or terminated by a
36 court pursuant to this ~~subdivision~~ *paragraph* shall be issued on
37 forms adopted by the Judicial Council of California and that have
38 been approved by the Department of Justice pursuant to
39 subdivision (i) of Section 6380 of the Family Code. However, the
40 fact that an order issued by a court pursuant to this section was

1 not issued on forms adopted by the Judicial Council and
2 approved by the Department of Justice shall not, in and of itself,
3 make the order unenforceable.

4 (b) Any person violating any order made pursuant to
5 ~~subdivisions subdivision (a) to (g), inclusive,~~ may be punished
6 for any substantive offense described in Section 136.1, or for a
7 contempt of the court making the order. A finding of contempt
8 shall not be a bar to prosecution for a violation of Section 136.1.
9 However, any person so held in contempt shall be entitled to
10 credit for any punishment imposed therein against any sentence
11 imposed upon conviction of an offense described in Section
12 136.1. Any conviction or acquittal for any substantive offense
13 under Section 136.1 shall be a bar to a subsequent punishment
14 for contempt arising out of the same act.

15 ~~(h)~~

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

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

24 (3) Every person who owns, possesses, purchases or receives,
25 or attempts to purchase or receive a firearm while the protective
26 order is in effect is punishable pursuant to subdivision (g) of
27 Section 12021 of the Penal Code.

28 ~~(i)~~

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

36 (2) In those cases in which a complaint, information, or
37 indictment charging a crime of domestic violence, as defined in
38 Section 13700, has been issued, a restraining order or protective
39 order against the defendant issued by the criminal court in that

1 case has precedence in enforcement over any civil court order
2 against the defendant.

3 (3) Custody and visitation with respect to the defendant and
4 his or her minor children may be ordered by a family or juvenile
5 court consistent with the protocol established pursuant to
6 subdivision ~~(i)~~ (e), but if ordered after a criminal protective
7 order has been issued pursuant to this section, the custody and
8 visitation order shall make reference to, and acknowledge the
9 precedence of enforcement of, any appropriate criminal
10 protective order. On or before July 1, 2006, the Judicial Council
11 shall modify the criminal and civil court forms consistent with
12 this subdivision.

13 ~~(j)~~

14 (e) On or before January 1, 2003, the Judicial Council shall
15 promulgate a protocol, for adoption by each local court in
16 substantially similar terms, to provide for the timely coordination
17 of all orders against the same defendant and in favor of the same
18 named victim or victims. The protocol shall include, but shall not
19 be limited to, mechanisms for assuring appropriate
20 communication and information sharing between criminal,
21 family, and juvenile courts concerning orders and cases that
22 involve the same parties, and shall permit a family or juvenile
23 court order to coexist with a criminal court protective order
24 subject to the following conditions:

25 (1) Any order that permits contact between the restrained
26 person and his or her children shall provide for the safe exchange
27 of the children and shall not contain language either printed or
28 handwritten that violates a “no contact order” issued by a
29 criminal court.

30 (2) Safety of all parties shall be the courts’ paramount
31 concern. The family or juvenile court shall specify the time, day,
32 place, and manner of transfer of the child, as provided in Section
33 3100 of the Family Code.

34 ~~(k)~~

35 (f) On or before January 1, 2003, the Judicial Council shall
36 modify the criminal and civil court protective order forms
37 consistent with this section.

38 *SEC. 2.4. Section 136.2 of the Penal Code is amended to*
39 *read:*

1 136.2. Upon ~~(a)~~ *Except as provided in subdivision (c), upon*
 2 a good cause belief that harm to, or intimidation or dissuasion of,
 3 a victim or witness has occurred or is reasonably likely to occur,
 4 any court with jurisdiction over a criminal matter may issue
 5 orders including, but not limited to, the following:

6 ~~(a)~~
 7 *(1) Any order issued pursuant to Section 6320 of the Family*
 8 *Code.*

9 ~~(b)~~
 10 *(2) An order that a defendant shall not violate any provision of*
 11 *Section 136.1.*

12 ~~(c)~~
 13 *(3) An order that a person before the court other than a*
 14 *defendant, including, but not limited to, a subpoenaed witness or*
 15 *other person entering the courtroom of the court, shall not violate*
 16 *any provisions of Section 136.1.*

17 ~~(d)~~
 18 *(4) An order that any person described in this section shall*
 19 *have no communication whatsoever with any specified witness*
 20 *or any victim, except through an attorney under any reasonable*
 21 *restrictions that the court may impose.*

22 ~~(e)~~
 23 *(5) An order calling for a hearing to determine if an order as*
 24 *described in ~~subdivisions (a) to (d)~~ paragraphs (1) to (4),*
 25 *inclusive, should be issued.*

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

38 For purposes of this ~~subdivision~~ *paragraph*, "immediate family
 39 members" include the spouse, children, or parents of the victim
 40 or witness.

1 ~~(g)~~

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

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

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

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

26 (ii) *Every person who owns, possesses, purchases, or receives,*
27 *or attempts to purchase or receive, a firearm while this*
28 *protective order is in effect is punishable pursuant to subdivision*
29 *(g) of Section 12021.*

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

39 (b) Any person violating any order made pursuant to
40 ~~subdivisions (a) to (g) paragraphs (1) to (7), inclusive, of~~

1 *subdivision (a)* may be punished for any substantive offense
2 described in Section 136.1, or for a contempt of the court making
3 the order. A finding of contempt shall not be a bar to prosecution
4 for a violation of Section 136.1. However, any person so held in
5 contempt shall be entitled to credit for any punishment imposed
6 therein against any sentence imposed upon conviction of an
7 offense described in Section 136.1. Any conviction or acquittal
8 for any substantive offense under Section 136.1 shall be a bar to
9 a subsequent punishment for contempt arising out of the same
10 act.

11 ~~(h)~~

12 *(c) (1) Notwithstanding subdivisions (a) and (e), an*
13 *emergency protective order issued pursuant to Chapter 2*
14 *(commencing with Section 6250) of Part 3 of Division 10 of the*
15 *Family Code or Section 646.91 of the Penal Code shall have*
16 *precedence in enforcement over any other restraining or*
17 *protective order, provided the emergency protective order meets*
18 *all of the following requirements:*

19 *(A) The emergency protective order is issued to protect one or*
20 *more individuals who are already protected persons under*
21 *another restraining or protective order.*

22 *(B) The emergency protective order restrains the individual*
23 *who is the restrained person in the other restraining or*
24 *protective order specified in subparagraph (A).*

25 *(C) The provisions of the emergency protective order are more*
26 *restrictive in relation to the restrained person than are the*
27 *provisions of the other restraining or protective order specified*
28 *in subparagraph (A).*

29 *(2) An emergency protective order that meets the requirements*
30 *of paragraph (1) shall have precedence in enforcement over the*
31 *provisions of any other restraining or protective order only with*
32 *respect to those provisions of the emergency protective order that*
33 *are more restrictive in relation to the restrained person.*

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

38 *(2) The court shall order a person subject to a protective order*
39 *issued under this section to relinquish any firearms he or she*

1 owns or possesses pursuant to Section 527.9 of the Code of Civil
2 Procedure.

3 (3) Every person who owns, possesses, purchases or receives,
4 or attempts to purchase or receive a firearm while the protective
5 order is in effect is punishable pursuant to subdivision (g) of
6 Section 12021 of the Penal Code.

7 (†)

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

15 (2) In those cases in which a complaint, information, or
16 indictment charging a crime of domestic violence, as defined in
17 Section 13700, has been issued, a restraining order or protective
18 order against the defendant issued by the criminal court in that
19 case has precedence in enforcement over any civil court order
20 against the defendant, *unless a court issues an emergency*
21 *protective order pursuant to Chapter 2 (commencing with*
22 *Section 6250) of Part 3 of Division 10 of the Family Code or*
23 *Section 646.91 of the Penal Code, in which case the emergency*
24 *protective order shall have precedence in enforcement over any*
25 *other restraining or protective order, provided the emergency*
26 *protective order meets the following requirements:*

27 (A) *The emergency protective order is issued to protect one or*
28 *more individuals who are already protected persons under*
29 *another restraining or protective order.*

30 (B) *The emergency protective order restrains the individual*
31 *who is the restrained person in the other restraining or*
32 *protective order specified in subparagraph (A).*

33 (C) *The provisions of the emergency protective order are more*
34 *restrictive in relation to the restrained person than are the*
35 *provisions of the other restraining or protective order specified*
36 *in subparagraph (A).*

37 (3) Custody and visitation with respect to the defendant and
38 his or her minor children may be ordered by a family or juvenile
39 court consistent with the protocol established pursuant to
40 subdivision-† (f), *but if ordered after a criminal protective order*

1 *has been issued pursuant to this section, the custody and*
 2 *visitation order shall make reference to, and acknowledge the*
 3 *precedence of enforcement of, any appropriate criminal*
 4 *protective order. On or before July 1, 2006, the Judicial Council*
 5 *shall modify the criminal and civil court forms consistent with*
 6 *this subdivision.*

7 ~~(j)~~

8 (f) On or before January 1, 2003, the Judicial Council shall
 9 promulgate a protocol, for adoption by each local court in
 10 substantially similar terms, to provide for the timely coordination
 11 of all orders against the same defendant and in favor of the same
 12 named victim or victims. The protocol shall include, but shall not
 13 be limited to, mechanisms for assuring appropriate
 14 communication and information sharing between criminal,
 15 family, and juvenile courts concerning orders and cases that
 16 involve the same parties, and shall permit a family or juvenile
 17 court order to coexist with a criminal court protective order
 18 subject to the following conditions:

19 (1) Any order that permits contact between the restrained
 20 person and his or her children shall provide for the safe exchange
 21 of the children and shall not contain language either printed or
 22 handwritten that violates a “no contact order” issued by a
 23 criminal court.

24 (2) Safety of all parties shall be the courts’ paramount
 25 concern. The family or juvenile court shall specify the time, day,
 26 place, and manner of transfer of the child, as provided in Section
 27 3100 of the Family Code.

28 ~~(k)~~

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

32 *SEC. 2.5. Section 136.2 of the Penal Code is amended to*
 33 *read:*

34 136.2. ~~Upon~~ (a) *Except as provided in subdivision (b), upon*
 35 *a good cause belief that harm to, or intimidation or dissuasion of,*
 36 *a victim or witness has occurred or is reasonably likely to occur,*
 37 *any court with jurisdiction over a criminal matter may issue*
 38 *orders including, but not limited to, the following:*

39 ~~(a)~~

1 (1) Any order issued pursuant to Section 6320 of the Family
2 Code.

3 ~~(b)~~

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

6 ~~(c)~~

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

11 ~~(d)~~

12 (4) An order that any person described in this section shall
13 have no communication whatsoever with any specified witness
14 or any victim, except through an attorney under any reasonable
15 restrictions that the court may impose.

16 ~~(e)~~

17 (5) An order calling for a hearing to determine if an order as
18 described in ~~subdivisions (a) paragraphs (1) to (d) (4)~~, inclusive,
19 should be issued.

20 ~~(f)~~

21 (6) An order that a particular law enforcement agency within
22 the jurisdiction of the court provide protection for a victim or a
23 witness, or both, or for immediate family members of a victim or
24 a witness who reside in the same household as the victim or
25 witness or within reasonable proximity of the victim's or
26 witness' household, as determined by the court. The order shall
27 not be made without the consent of the law enforcement agency
28 except for limited and specified periods of time and upon an
29 express finding by the court of a clear and present danger of
30 harm to the victim or witness or immediate family members of
31 the victim or witness.

32 For purposes of this ~~subdivision~~ *paragraph*, "immediate family
33 members" include the spouse, children, or parents of the victim
34 or witness.

35 ~~(g)~~

36 (7) (A) Any order protecting victims of violent crime from *all*
37 *contact by the defendant, or* contact, with the intent to annoy,
38 harass, threaten, or commit acts of violence, by the defendant.
39 The court or its designee shall transmit orders made under this
40 ~~subdivision~~ *paragraph* to law enforcement personnel within one

1 business day of the issuance, modification, extension, or
2 termination of the order, pursuant to subdivision (a) of Section
3 6380 of the Family Code. It is the responsibility of the court to
4 transmit the modification, extension, or termination orders made
5 under this ~~subdivision~~ *paragraph* to the same agency that entered
6 the original protective order into the Domestic Violence
7 Restraining Order System.

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

17 (b) (1) *Notwithstanding subdivisions (a) and (e), an*
18 *emergency protective order issued pursuant to Chapter 2*
19 *(commencing with Section 6250) of Part 3 of Division 10 of the*
20 *Family Code or Section 646.91 of the Penal Code shall have*
21 *precedence in enforcement over any other restraining or*
22 *protective order, provided the emergency protective order meets*
23 *all of the following requirements:*

24 (A) *The emergency protective order is issued to protect one or*
25 *more individuals who are already protected persons under*
26 *another restraining or protective order.*

27 (B) *The emergency protective order restrains the individual*
28 *who is the restrained person in the other restraining or*
29 *protective order specified in subparagraph (A).*

30 (C) *The provisions of the emergency protective order are more*
31 *restrictive in relation to the restrained person than are the*
32 *provisions of the other restraining or protective order specified*
33 *in subparagraph (A).*

34 (2) *An emergency protective order that meets the requirements*
35 *of paragraph (1) shall have precedence in enforcement over the*
36 *provisions of any other restraining or protective order only with*
37 *respect to those provisions of the emergency protective order that*
38 *are more restrictive in relation to the restrained person.*

39 (c) Any person violating any order made pursuant to
40 ~~subdivisions (a) paragraphs (1) to (g) (7), inclusive, of~~

1 *subdivision (a)* may be punished for any substantive offense
2 described in Section 136.1, or for a contempt of the court making
3 the order. A finding of contempt shall not be a bar to prosecution
4 for a violation of Section 136.1. However, any person so held in
5 contempt shall be entitled to credit for any punishment imposed
6 therein against any sentence imposed upon conviction of an
7 offense described in Section 136.1. Any conviction or acquittal
8 for any substantive offense under Section 136.1 shall be a bar to
9 a subsequent punishment for contempt arising out of the same
10 act.

11 ~~(h)~~

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

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

20 (3) Every person who owns, possesses, purchases or receives,
21 or attempts to purchase or receive a firearm while the protective
22 order is in effect is punishable pursuant to subdivision (g) of
23 Section 12021 of the Penal Code.

24 ~~(i)~~

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

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

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

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

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

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

14 (3) Custody and visitation with respect to the defendant and
15 his or her minor children may be ordered by a family or juvenile
16 court consistent with the protocol established pursuant to
17 subdivision ~~(i)~~ (f), *but if ordered after a criminal protective order*
18 *has been issued pursuant to this section, the custody and*
19 *visitation order shall make reference to, and acknowledge the*
20 *precedence of enforcement of, any appropriate criminal*
21 *protective order. On or before July 1, 2006, the Judicial Council*
22 *shall modify the criminal and civil court forms consistent with*
23 *this subdivision.*

24 ~~(j)~~

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

36 (1) Any order that permits contact between the restrained
37 person and his or her children shall provide for the safe exchange
38 of the children and shall not contain language either printed or
39 handwritten that violates a “no contact order” issued by a
40 criminal court.

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

5 ~~(k)~~

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

9 *SEC. 2.6. Section 136.2 of the Penal Code is amended to*
10 *read:*

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

16 ~~(a)~~

17 (1) Any order issued pursuant to Section 6320 of the Family
18 Code.

19 ~~(b)~~

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

22 ~~(c)~~

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

27 ~~(d)~~

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

32 ~~(e)~~

33 (5) An order calling for a hearing to determine if an order as
34 described in ~~subdivisions (a) to (d)~~ paragraphs (1) to (4),
35 inclusive, should be issued.

36 ~~(f)~~

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

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

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

11 ~~(g)~~
 12 (7) (A) Any order protecting victims of violent crime from *all*
 13 *contact by the defendant, or contact*, with the intent to annoy,
 14 harass, threaten, or commit acts of violence, by the defendant.
 15 The court or its designee shall transmit orders made under this
 16 ~~subdivision~~ *paragraph* to law enforcement personnel within one
 17 business day of the issuance, modification, extension, or
 18 termination of the order, pursuant to subdivision (a) of Section
 19 6380 of the Family Code. It is the responsibility of the court to
 20 transmit the modification, extension, or termination orders made
 21 under this ~~subdivision~~ *paragraph* to the same agency that entered
 22 the original protective order into the Domestic Violence
 23 Restraining Order System.

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

31 (I) *The defendant shall not own, possess, purchase, receive, or*
 32 *attempt to purchase or receive, a firearm while the protective*
 33 *order is in effect.*

34 (II) *The defendant shall relinquish any firearms that he or she*
 35 *owns or possesses pursuant to Section 527.9 of the Code of Civil*
 36 *Procedure.*

37 (ii) *Every person who owns, possesses, purchases, or receives,*
 38 *or attempts to purchase or receive, a firearm while this*
 39 *protective order is in effect is punishable pursuant to subdivision*
 40 *(g) of Section 12021.*

1 (C) Any order issued, modified, extended, or terminated by a
2 court pursuant to this ~~subdivision~~ *paragraph* shall be issued on
3 forms adopted by the Judicial Council of California and that have
4 been approved by the Department of Justice pursuant to
5 subdivision (i) of Section 6380 of the Family Code. However, the
6 fact that an order issued by a court pursuant to this section was
7 not issued on forms adopted by the Judicial Council and
8 approved by the Department of Justice shall not, in and of itself,
9 make the order unenforceable.

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

21 ~~(h)~~

22 (c) (1) A person subject to a protective order issued under this
23 section shall not own, possess, purchase, receive, or attempt to
24 purchase or receive a firearm while the protective order is in
25 effect.

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

30 (3) Every person who owns, possesses, purchases or receives,
31 or attempts to purchase or receive a firearm while the protective
32 order is in effect is punishable pursuant to subdivision (g) of
33 Section 12021 of the Penal Code.

34 ~~(i)~~

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

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

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

9 (3) Custody and visitation with respect to the defendant and
10 his or her minor children may be ordered by a family or juvenile
11 court consistent with the protocol established pursuant to
12 subdivision ~~(f)~~ (e), *but if ordered after a criminal protective*
13 *order has been issued pursuant to this section, the custody and*
14 *visitation order shall make reference to, and acknowledge the*
15 *precedence of enforcement of, any appropriate criminal*
16 *protective order. On or before July 1, 2006, the Judicial Council*
17 *shall modify the criminal and civil court forms consistent with*
18 *this subdivision.*

19 ~~(j)~~

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

31 (1) Any order that permits contact between the restrained
32 person and his or her children shall provide for the safe exchange
33 of the children and shall not contain language either printed or
34 handwritten that violates a “no contact order” issued by a
35 criminal court.

36 (2) Safety of all parties shall be the courts’ paramount
37 concern. The family or juvenile court shall specify the time, day,
38 place, and manner of transfer of the child, as provided in Section
39 3100 of the Family Code.

40 ~~(k)~~

1 (f) On or before January 1, 2003, the Judicial Council shall
2 modify the criminal and civil court protective order forms
3 consistent with this section.

4 SEC. 2.7. Section 136.2 of the Penal Code is amended to
5 read:

6 136.2. ~~Upon~~ (a) Except as provided in subdivision (c), upon
7 a good cause belief that harm to, or intimidation or dissuasion of,
8 a victim or witness has occurred or is reasonably likely to occur,
9 any court with jurisdiction over a criminal matter may issue
10 orders including, but not limited to, the following:

11 ~~(a)~~

12 (1) Any order issued pursuant to Section 6320 of the Family
13 Code.

14 ~~(b)~~

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

17 ~~(c)~~

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

22 ~~(d)~~

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

27 ~~(e)~~

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

31 ~~(f)~~

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

1 harm to the victim or witness or immediate family members of
2 the victim or witness.

3 For purposes of this ~~subdivision~~ *paragraph*, “immediate family
4 members” include the spouse, children, or parents of the victim
5 or witness.

6 ~~(g)~~

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

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

26 (I) *The defendant shall not own, possess, purchase, receive, or*
27 *attempt to purchase or receive, a firearm while the protective*
28 *order is in effect.*

29 (II) *The defendant shall relinquish any firearms that he or she*
30 *owns or possesses pursuant to Section 527.9 of the Code of Civil*
31 *Procedure.*

32 (ii) *Every person who owns, possesses, purchases, or receives,*
33 *or attempts to purchase or receive, a firearm while this*
34 *protective order is in effect is punishable pursuant to subdivision*
35 *(g) of Section 12021.*

36 (C) Any order issued, modified, extended, or terminated by a
37 court pursuant to this ~~subdivision~~ *paragraph* shall be issued on
38 forms adopted by the Judicial Council of California and that have
39 been approved by the Department of Justice pursuant to
40 subdivision (i) of Section 6380 of the Family Code. However, the

1 fact that an order issued by a court pursuant to this section was
2 not issued on forms adopted by the Judicial Council and
3 approved by the Department of Justice shall not, in and of itself,
4 make the order unenforceable.

5 (b) Any person violating any order made pursuant to
6 ~~subdivisions (a) to (g)~~ paragraphs (1) to (7), inclusive, of
7 subdivision (a) may be punished for any substantive offense
8 described in Section 136.1, or for a contempt of the court making
9 the order. A finding of contempt shall not be a bar to prosecution
10 for a violation of Section 136.1. However, any person so held in
11 contempt shall be entitled to credit for any punishment imposed
12 therein against any sentence imposed upon conviction of an
13 offense described in Section 136.1. Any conviction or acquittal
14 for any substantive offense under Section 136.1 shall be a bar to
15 a subsequent punishment for contempt arising out of the same
16 act.

17 ~~(h)~~

18 (c) (1) *Notwithstanding subdivisions (a) and (e), an*
19 *emergency protective order issued pursuant to Chapter 2*
20 *(commencing with Section 6250) of Part 3 of Division 10 of the*
21 *Family Code or Section 646.91 of the Penal Code shall have*
22 *precedence in enforcement over any other restraining or*
23 *protective order, provided the emergency protective order meets*
24 *all of the following requirements:*

25 (A) *The emergency protective order is issued to protect one or*
26 *more individuals who are already protected persons under*
27 *another restraining or protective order.*

28 (B) *The emergency protective order restrains the individual*
29 *who is the restrained person in the other restraining or*
30 *protective order specified in subparagraph (A).*

31 (C) *The provisions of the emergency protective order are more*
32 *restrictive in relation to the restrained person than are the*
33 *provisions of the other restraining or protective order specified*
34 *in subparagraph (A).*

35 (2) *An emergency protective order that meets the requirements*
36 *of paragraph (1) shall have precedence in enforcement over the*
37 *provisions of any other restraining or protective order only with*
38 *respect to those provisions of the emergency protective order that*
39 *are more restrictive in relation to the restrained person.*

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

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

9 (3) Every person who owns, possesses, purchases or receives,
10 or attempts to purchase or receive a firearm while the protective
11 order is in effect is punishable pursuant to subdivision (g) of
12 Section 12021 of the Penal Code.

13 (†)

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

21 (2) In those cases in which a complaint, information, or
22 indictment charging a crime of domestic violence, as defined in
23 Section 13700, has been issued, a restraining order or protective
24 order against the defendant issued by the criminal court in that
25 case has precedence in enforcement over any civil court order
26 against the defendant, *unless a court issues an emergency*
27 *protective order pursuant to Chapter 2 (commencing with*
28 *Section 6250) of Part 3 of Division 10 of the Family Code or*
29 *Section 646.91 of the Penal Code, in which case the emergency*
30 *protective order shall have precedence in enforcement over any*
31 *other restraining or protective order, provided the emergency*
32 *protective order meets the following requirements:*

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

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

39 (C) *The provisions of the emergency protective order are more*
40 *restrictive in relation to the restrained person than are the*

1 *provisions of the other restraining or protective order specified*
2 *in subparagraph (A).*

3 (3) Custody and visitation with respect to the defendant and
4 his or her minor children may be ordered by a family or juvenile
5 court consistent with the protocol established pursuant to
6 subdivision~~(i)~~ (f), *but if ordered after a criminal protective order*
7 *has been issued pursuant to this section, the custody and*
8 *visitation order shall make reference to, and acknowledge the*
9 *precedence of enforcement of, any appropriate criminal*
10 *protective order. On or before July 1, 2006, the Judicial Council*
11 *shall modify the criminal and civil court forms consistent with*
12 *this subdivision.*

13 ~~(j)~~

14 (f) On or before January 1, 2003, the Judicial Council shall
15 promulgate a protocol, for adoption by each local court in
16 substantially similar terms, to provide for the timely coordination
17 of all orders against the same defendant and in favor of the same
18 named victim or victims. The protocol shall include, but shall not
19 be limited to, mechanisms for assuring appropriate
20 communication and information sharing between criminal,
21 family, and juvenile courts concerning orders and cases that
22 involve the same parties, and shall permit a family or juvenile
23 court order to coexist with a criminal court protective order
24 subject to the following conditions:

25 (1) Any order that permits contact between the restrained
26 person and his or her children shall provide for the safe exchange
27 of the children and shall not contain language either printed or
28 handwritten that violates a “no contact order” issued by a
29 criminal court.

30 (2) Safety of all parties shall be the courts’ paramount
31 concern. The family or juvenile court shall specify the time, day,
32 place, and manner of transfer of the child, as provided in Section
33 3100 of the Family Code.

34 ~~(k)~~

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

38 *SEC. 3. (a) Section 2.1 of this bill incorporates amendments*
39 *to Section 136.2 of the Penal Code proposed by both this bill and*
40 *AB 112. It shall only become operative if (1) both bills are*

1 enacted and become effective on or before January 1, 2006, (2)
2 each bill amends Section 136.2 of the Penal Code, (3) AB 1288
3 and SB 720 are not enacted or as enacted do not amend that
4 section, and (4) this bill is enacted after AB 112, in which case
5 Sections 2, 2.2, 2.3, 2.4, 2.5, 2.6, and 2.7 of this bill shall not
6 become operative.

7 (b) Section 2.2 of this bill incorporates amendments to Section
8 136.2 of the Penal Code proposed by both this bill and AB 1288.
9 It shall only become operative if (1) both bills are enacted and
10 become effective on or before January 1, 2006, (2) each bill
11 amends Section 136.2 of the Penal Code, (3) AB 112 and SB 720
12 are not enacted or as enacted do not amend that section, and (4)
13 this bill is enacted after AB 1288, in which case Sections 2, 2.1,
14 2.3, 2.4, 2.5, 2.6, and 2.7 of this bill shall not become operative.

15 (c) Section 2.3 of this bill incorporates amendments to Section
16 136.2 of the Penal Code proposed by both this bill and SB 720. It
17 shall only become operative if (1) both bills are enacted and
18 become effective on or before January 1, 2006, (2) each bill
19 amends Section 136.2 of the Penal Code, (3) AB 112 and AB
20 1288 are not enacted or as enacted do not amend that section,
21 and (4) this bill is enacted after SB 720, in which case Sections 2,
22 2.1, 2.2, 2.4, 2.5, 2.6, and 2.7 of this bill shall not become
23 operative.

24 (d) Section 2.4 of this bill incorporates amendments to Section
25 136.2 of the Penal Code proposed by this bill, AB 112, and AB
26 1288. It shall only become operative if (1) all three bills are
27 enacted and become effective on or before January 1, 2006, (2)
28 each bill amends Section 136.2 of the Penal Code, (3) SB 720 is
29 not enacted or as enacted does not amend that section, and (4)
30 this bill is enacted after AB 112 and AB 1288, in which case
31 Sections 2, 2.1, 2.2, 2.3, 2.5, 2.6, and 2.7 of this bill shall not
32 become operative.

33 (e) Section 2.5 of this bill incorporates amendments to Section
34 136.2 of the Penal Code proposed by this bill, AB 112, and SB
35 720. It shall only become operative if (1) all three bills are
36 enacted and become effective on or before January 1, 2006, (2)
37 each bill amends Section 136.2 of the Penal Code, (3) AB 1288 is
38 not enacted or as enacted does not amend that section, and (4)
39 this bill is enacted after AB 112 and SB 720, in which case

1 Sections 2., 2.1, 2.2, 2.3, 2.4, 2.6, and 2.7 of this bill shall not
2 become operative.

3 (f) Section 2.6 of this bill incorporates amendments to Section
4 136.2 of the Penal Code proposed by this bill, AB 1288 and SB
5 720. It shall only become operative if (1) all three bills are
6 enacted and become effective on or before January 1, 2006, (2)
7 each bill amends Section 136.2 of the Penal Code, (3) AB 112 is
8 not enacted or as enacted does not amend that section, and (4)
9 this bill is enacted after AB 1288 and SB 720, in which case
10 Sections 2, 2.1, 2.2, 2.3, 2.4, 2.5, and 2.7 of this bill shall not
11 become operative.

12 (g) Section 2.7 of this bill incorporates amendments to Section
13 136.2 of the Penal Code proposed by this bill, AB 112, AB 1288,
14 and SB 720. It shall only become operative if (1) all four bills are
15 enacted and become effective on or before January 1, 2006, (2)
16 all four bills amend Section 136.2 of the Penal Code, and (3) this
17 bill is enacted after AB 112, AB 1288, and SB 720, in which case
18 Sections 2, 2.1, 2.2, 2.3, 2.4, 2.5, and 2.6 of this bill shall not
19 become operative.