

AMENDED IN SENATE AUGUST 31, 2005

AMENDED IN SENATE JULY 12, 2005

AMENDED IN SENATE JUNE 21, 2005

AMENDED IN ASSEMBLY MAY 4, 2005

AMENDED IN ASSEMBLY APRIL 4, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1288

Introduced by Assembly Member Chu

(Principal coauthor: Senator Alquist)

(Coauthors: Assembly Members Cohn, Goldberg, and Leno)

February 22, 2005

An act to amend Sections 136.2 and 11106 of the Penal Code, relating to court orders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1288, as amended, Chu. Court orders.

(1) Existing law provides a mechanism whereby the court may issue a protective order.

This bill would require a court, under specified circumstances, to issue, or consider issuing, a protective order to a defendant charged with domestic violence that would require, among other things, the relinquishment of his or her firearms. A failure to comply with the provisions of that protective order would result in a misdemeanor.

By adding to the duties of local employees, this bill would impose a state-mandated local program. By imposing a crime for a violation of the above-described protective order, the bill would create a state-mandated local program.

(2) Existing law requires the Attorney General to maintain a registry of information reported to the Department of Justice regarding firearms, including, among other things, copies of licenses to carry firearms and applications for licenses to carry firearms. Existing law provides generally that information contained in the registry shall, upon proper application, be furnished to specified peace officers. However, information relating to firearms that are not handguns shall not generally be retained but shall instead be destroyed, as specified; a violation of this provision is a misdemeanor.

This bill would, as an exception to the above provisions, authorize specified peace officers to disseminate the name of the subject of the record, the number of firearms listed in the record, and the description of any firearm, including the make, model, and caliber from the record, relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to specified provisions, if the subject of the record has been arraigned for domestic violence and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a temporary restraining order, or an order after hearing, which is in effect and has been issued by a family court under the Domestic Violence Protection Act, and the record or information is disseminated only to the victim of the crime or to the person who has obtained the emergency protective order, the temporary restraining order, or the order after hearing issued by the family court. The bill would further provide that law enforcement shall provide the victim with a "Victims of Domestic Violence" card, as specified, and that the victim or person to whom the information is disseminated may disclose that information as he or she deems necessary to protect himself, herself, or another person from bodily harm by the person who is the subject of the record. By imposing new duties on local law enforcement officers, this bill would impose a state-mandated local program.

(3) *This bill would incorporate additional changes in Section 136.2 of the Penal Code proposed by AB 112, AB 118, 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.*

This bill would also incorporate additional changes in Section 11106 of the Penal Code proposed by AB 1060, to become operative

only if AB 1060 and this bill are chaptered and become effective January 1, 2006, and this bill is chaptered last.

(4) 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.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. Section 136.2 of the Penal Code is amended to
2 read:

3 136.2. Upon a good cause belief that harm to, or intimidation
4 or dissuasion of, a victim or witness has occurred or is
5 reasonably likely to occur, any court with jurisdiction over a
6 criminal matter may issue orders, including, but not limited to,
7 the following:

8 (a) Any order issued pursuant to Section 6320 of the Family
9 Code.

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

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

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

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

22 (f) An order that a particular law enforcement agency within
23 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, "immediate family members"
11 include the spouse, children, or parents of the victim or witness.

12 (g) (1) Any order protecting victims of violent crime from
13 contact, with the intent to annoy, harass, threaten, or commit acts
14 of violence, by the defendant. The court or its designee shall
15 transmit orders made under this subdivision to law enforcement
16 personnel within one business day of the issuance, modification,
17 extension, or termination of the order, pursuant to subdivision (a)
18 of Section 6380 of the Family Code. It is the responsibility of the
19 court to transmit the modification, extension, or termination
20 orders made under this subdivision to the same agency that
21 entered the original protective order into the Domestic Violence
22 Restraining Order System.

23 (2) (A) If a court does not issue an order pursuant to
24 paragraph (1) in a case in which the defendant is charged with a
25 crime of domestic violence as defined in Section 13700, the court
26 on its own motion shall consider issuing a protective order upon
27 a good cause belief that harm to, or intimidation or dissuasion of,
28 a victim or witness has occurred or is reasonably likely to occur,
29 that provides as follows:

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

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

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

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

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

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

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

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

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

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

7 (3) Custody and visitation with respect to the defendant and
8 his or her minor children may be ordered by a family or juvenile
9 court consistent with the protocol established pursuant to
10 subdivision ~~(i)~~ (j).

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

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

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

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

34 *SEC. 1.1. Section 136.2 of the Penal Code is amended to*
35 *read:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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-† (f).

35 (†)

36 (f) 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 (g) 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. 1.2. 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 of
32 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) to (d)~~ paragraphs (1) to (4),
6 inclusive, 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
24 contact, with the intent to annoy, harass, threaten, or commit acts
25 of violence, by the defendant. The court or its designee shall
26 transmit orders made under this ~~subdivision~~ paragraph to law
27 enforcement personnel within one business day of the issuance,
28 modification, extension, or termination of the order, pursuant to
29 subdivision (a) of Section 6380 of the Family Code. It is the
30 responsibility of the court to transmit the modification, extension,
31 or termination orders made under this ~~subdivision~~ paragraph to
32 the same agency that entered the original protective order into the
33 Domestic Violence Restraining Order System.

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

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

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

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

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

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

31 ~~(h)~~

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 ~~(i)~~

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

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

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

29 ~~(j)~~

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

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

6 (2) Safety of all parties shall be the courts’ paramount
7 concern. The family or juvenile court shall specify the time, day,
8 place, and manner of transfer of the child, as provided in Section
9 3100 of the Family Code.

10 ~~(k)~~

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

14 *SEC. 1.3. Section 136.2 of the Penal Code is amended to*
15 *read:*

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

21 (a) Any order issued pursuant to Section 6320 of the Family
22 Code.

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

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

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

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

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

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

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

20 (2) (A) *If a court does not issue an order pursuant to*
21 *paragraph (1) in a case in which the defendant is charged with a*
22 *crime of domestic violence as defined in Section 13700, the court*
23 *on its own motion shall consider issuing a protective order upon*
24 *a good cause belief that harm to, or intimidation or dissuasion*
25 *of, a victim or witness has occurred or is reasonably likely to*
26 *occur, that provides as follows:*

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

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

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

37 (3) Any order issued, modified, extended, or terminated by a
38 court pursuant to this subdivision shall be issued on forms
39 adopted by the Judicial Council of California and that have been
40 approved by the Department of Justice pursuant to subdivision (i)

1 of Section 6380 of the Family Code. However, the fact that an
2 order issued by a court pursuant to this section was not issued on
3 forms adopted by the Judicial Council and approved by the
4 Department of Justice shall not, in and of itself, make the order
5 unenforceable.

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

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

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

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

29 (i) (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)~~ (j).

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

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

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

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

30 *SEC. 1.4. Section 136.2 of the Penal Code is amended to*
31 *read:*

32 136.2. ~~Upon~~ (a) *Except as provided in subdivision (c), upon*
33 *a good cause belief that harm to, or intimidation or dissuasion of,*
34 *a victim or witness has occurred or is reasonably likely to occur,*
35 *any court with jurisdiction over a criminal matter may issue*
36 *orders including, but not limited to, the following:*

37 ~~(a)~~

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

40 ~~(b)~~

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

3 ~~(e)~~

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

8 ~~(d)~~

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

13 ~~(e)~~

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

17 ~~(f)~~

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

29 For purposes of this ~~subdivision~~ *paragraph*, "immediate family
30 members" include the spouse, children, or parents of the victim
31 or witness.

32 ~~(g)~~

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

1 or termination orders made under this ~~subdivision~~ *paragraph* to
2 the same agency that entered the original protective order into the
3 Domestic Violence Restraining Order System.

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

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

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

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

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

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

1 a subsequent punishment for contempt arising out of the same
2 act.

3 ~~(h)~~

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

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

14 *(B) The emergency protective order restrains the individual*
15 *who is the restrained person in the other restraining or*
16 *protective order specified in subparagraph (A).*

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

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

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

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

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

38 ~~(i)~~

39 *(e) (1) In all cases where the defendant is charged with a*
40 *crime of domestic violence, as defined in Section 13700, the*

1 court shall consider issuing the above-described orders on its
2 own motion. All interested parties shall receive a copy of those
3 orders. In order to facilitate this, the court's records of all
4 criminal cases involving domestic violence shall be marked to
5 clearly alert the court to this issue.

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

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

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

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

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

38 ~~(j)~~

39 (f) On or before January 1, 2003, the Judicial Council shall
40 promulgate a protocol, for adoption by each local court in

1 substantially similar terms, to provide for the timely coordination
2 of all orders against the same defendant and in favor of the same
3 named victim or victims. The protocol shall include, but shall not
4 be limited to, mechanisms for assuring appropriate
5 communication and information sharing between criminal,
6 family, and juvenile courts concerning orders and cases that
7 involve the same parties, and shall permit a family or juvenile
8 court order to coexist with a criminal court protective order
9 subject to the following conditions:

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

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

19 ~~(k)~~

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

23 *SEC. 1.5. Section 136.2 of the Penal Code is amended to*
24 *read:*

25 136.2. ~~Upon~~ (a) *Except as provided in subdivision (c), upon*
26 *a good cause belief that harm to, or intimidation or dissuasion of,*
27 *a victim or witness has occurred or is reasonably likely to occur,*
28 *any court with jurisdiction over a criminal matter may issue*
29 *orders including, but not limited to, the following:*

30 ~~(a)~~

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

33 ~~(b)~~

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

36 ~~(c)~~

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

1 ~~(d)~~
 2 (4) An order that any person described in this section shall
 3 have no communication whatsoever with any specified witness
 4 or any victim, except through an attorney under any reasonable
 5 restrictions that the court may impose.

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

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

22 For purposes of this ~~subdivision~~ paragraph, “immediate family
 23 members” include the spouse, children, or parents of the victim
 24 or witness.

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

38 (B) (i) *If a court does not issue an order pursuant to*
 39 *subparagraph (A) in a case in which the defendant is charged*
 40 *with a crime of domestic violence as defined in Section 13700,*

1 *the court on its own motion shall consider issuing a protective*
2 *order upon a good cause belief that harm to, or intimidation or*
3 *dissuasion of, a victim or witness has occurred or is reasonably*
4 *likely to occur, that provides as follows:*

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

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

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

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

24 *(b) Any person violating any order made pursuant to*
25 *subdivisions ~~(a) to (g)~~ paragraphs (1) to (7), inclusive, of*
26 *subdivision (a) may be punished for any substantive offense*
27 *described in Section 136.1, or for a contempt of the court making*
28 *the order. A finding of contempt shall not be a bar to prosecution*
29 *for a violation of Section 136.1. However, any person so held in*
30 *contempt shall be entitled to credit for any punishment imposed*
31 *therein against any sentence imposed upon conviction of an*
32 *offense described in Section 136.1. Any conviction or acquittal*
33 *for any substantive offense under Section 136.1 shall be a bar to*
34 *a subsequent punishment for contempt arising out of the same*
35 *act.*

36 ~~(h)~~
37 *(c) (1) Notwithstanding subdivisions (a) and (e), an*
38 *emergency protective order issued pursuant to Chapter 2*
39 *(commencing with Section 6250) of Part 3 of Division 10 of the*
40 *Family Code or Section 646.91 of the Penal Code shall have*

1 *precedence in enforcement over any other restraining or*
2 *protective order, provided the emergency protective order meets*
3 *all of 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 *(2) An emergency protective order that meets the requirements*
15 *of paragraph (1) shall have precedence in enforcement over the*
16 *provisions of any other restraining or protective order only with*
17 *respect to those provisions of the emergency protective order that*
18 *are more restrictive in relation to the restrained person.*

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

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

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

31 *(†)*

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

39 *(2) In those cases in which a complaint, information, or*
40 *indictment charging a crime of domestic violence, as defined in*

1 Section 13700, has been issued, a restraining order or protective
2 order against the defendant issued by the criminal court in that
3 case has precedence in enforcement over any civil court order
4 against the defendant, *unless a court issues an emergency*
5 *protective order pursuant to Chapter 2 (commencing with*
6 *Section 6250) of Part 3 of Division 10 of the Family Code or*
7 *Section 646.91 of the Penal Code, in which case the emergency*
8 *protective order shall have precedence in enforcement over any*
9 *other restraining or protective order, provided the emergency*
10 *protective order meets the following requirements:*

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

14 (B) *The emergency protective order restrains the individual*
15 *who is the restrained person in the other restraining or*
16 *protective order specified in subparagraph (A).*

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

21 (3) Custody and visitation with respect to the defendant and
22 his or her minor children may be ordered by a family or juvenile
23 court consistent with the protocol established pursuant to
24 subdivision-~~(i)~~ (f).

25 ~~(j)~~

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

37 (1) Any order that permits contact between the restrained
38 person and his or her children shall provide for the safe exchange
39 of the children and shall not contain language either printed or

1 handwritten that violates a “no contact order” issued by a
2 criminal court.

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

7 ~~(k)~~

8 (g) 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. 1.6. Section 136.2 of the Penal Code is amended to*
12 *read:*

13 136.2. (a) Upon a good cause belief that harm to, or
14 intimidation or dissuasion of, a victim or witness has occurred or
15 is reasonably likely to occur, any court with jurisdiction over a
16 criminal matter may issue orders including, but not limited to, the
17 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 *all*
15 *contact by the defendant, or contact, with the intent to annoy,*
16 *harass, threaten, or commit acts of violence, by the defendant.*
17 The court or its designee shall transmit orders made under this
18 ~~subdivision~~ *paragraph* to law enforcement personnel within one
19 business day of the issuance, modification, extension, or
20 termination of the order, pursuant to subdivision (a) of Section
21 6380 of the Family Code. It is the responsibility of the court to
22 transmit the modification, extension, or termination orders made
23 under this ~~subdivision~~ *paragraph* to the same agency that entered
24 the original protective order into the Domestic Violence
25 Restraining Order System.

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

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

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

39 (ii) *Every person who owns, possesses, purchases, or receives,*
40 *or attempts to purchase or receive, a firearm while this*

1 *protective order is in effect is punishable pursuant to subdivision*
2 *(g) of Section 12021.*

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

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

23 ~~(h)~~

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

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

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

36 ~~(i)~~

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

1 orders. In order to facilitate this, the court's records of all
2 criminal cases involving domestic violence shall be marked to
3 clearly alert the court to this issue.

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

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

20 ~~(j)~~

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

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

37 (2) Safety of all parties shall be the courts' paramount
38 concern. The family or juvenile court shall specify the time, day,
39 place, and manner of transfer of the child, as provided in Section
40 3100 of the Family Code.

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

5 SEC. 1.7. Section 136.2 of the Penal Code is amended to
 6 read:

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

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

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

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

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

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

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

1 express finding by the court of a clear and present danger of
2 harm to the victim or witness or immediate family members of
3 the victim or witness.

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

7 ~~(g)~~

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

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

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

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

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

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

1 subdivision (i) of Section 6380 of the Family Code. However, the
2 fact that an order issued by a court pursuant to this section was
3 not issued on forms adopted by the Judicial Council and
4 approved by the Department of Justice shall not, in and of itself,
5 make the order unenforceable.

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

18 ~~(h)~~

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

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

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

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

36 (2) *An emergency protective order that meets the requirements*
37 *of paragraph (1) shall have precedence in enforcement over the*
38 *provisions of any other restraining or protective order only with*
39 *respect to those provisions of the emergency protective order that*
40 *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. 2. Section 11106 of the Penal Code is amended to read:

39 11106. (a) In order to assist in the investigation of crime, the
40 prosecution of civil actions by city attorneys pursuant to

1 paragraph (3) of subdivision (c), the arrest and prosecution of
2 criminals, and the recovery of lost, stolen, or found property, the
3 Attorney General shall keep and properly file a complete record
4 of all copies of fingerprints, copies of licenses to carry firearms
5 issued pursuant to Section 12050, information reported to the
6 Department of Justice pursuant to Section 12053, dealers'
7 records of sales of firearms, reports provided pursuant to Section
8 12072 or 12078, forms provided pursuant to Section 12084,
9 reports provided pursuant to Section 12071 that are not dealers'
10 records of sales of firearms, and reports of stolen, lost, found,
11 pledged, or pawned property in any city or county of this state,
12 and shall, upon proper application therefor, furnish this
13 information to the officers referred to in Section 11105.

14 (b) (1) Except as provided in subdivision (d), the Attorney
15 General shall not retain or compile any information from reports
16 filed pursuant to subdivision (a) of Section 12078 for firearms
17 that are not handguns, from forms submitted pursuant to Section
18 12084 for firearms that are not handguns, or from dealers'
19 records of sales for firearms that are not handguns. All copies of
20 the forms submitted, or any information received in electronic
21 form, pursuant to Section 12084 for firearms that are not
22 handguns, or of the dealers' records of sales for firearms that are
23 not handguns shall be destroyed within five days of the clearance
24 by the Attorney General, unless the purchaser or transferor is
25 ineligible to take possession of the firearm. All copies of the
26 reports filed, or any information received in electronic form,
27 pursuant to subdivision (a) of Section 12078 for firearms that are
28 not handguns shall be destroyed within five days of the receipt by
29 the Attorney General, unless retention is necessary for use in a
30 criminal prosecution.

31 (2) A peace officer, the Attorney General, a Department of
32 Justice employee designated by the Attorney General, or any
33 authorized local law enforcement employee shall not retain or
34 compile any information from a firearms transaction record, as
35 defined in paragraph (5) of subdivision (c) of Section 12071, for
36 firearms that are not handguns unless retention or compilation is
37 necessary for use in a criminal prosecution or in a proceeding to
38 revoke a license issued pursuant to Section 12071.

39 (3) A violation of this subdivision is a misdemeanor.

1 (c) (1) The Attorney General shall permanently keep and
2 properly file and maintain all information reported to the
3 Department of Justice pursuant to Sections 12071, 12072, 12078,
4 12082, and 12084 or any other law, as to handguns and maintain
5 a registry thereof.

6 (2) The registry shall consist of all of the following:

7 (A) The name, address, identification of, place of birth (state
8 or country), complete telephone number, occupation, sex,
9 description, and all legal names and aliases ever used by the
10 owner or person being loaned the particular handgun as listed on
11 the information provided to the department on the Dealers'
12 Record of Sale, the Law Enforcement Firearms Transfer (LEFT),
13 as defined in Section 12084, or reports made to the department
14 pursuant to Section 12078 or any other law.

15 (B) The name and address of, and other information about, any
16 person (whether a dealer or a private party) from whom the
17 owner acquired or the person being loaned the particular handgun
18 and when the firearm was acquired or loaned as listed on the
19 information provided to the department on the Dealers' Record
20 of Sale, the LEFT, or reports made to the department pursuant to
21 Section 12078 or any other law.

22 (C) Any waiting period exemption applicable to the
23 transaction which resulted in the owner of or the person being
24 loaned the particular handgun acquiring or being loaned that
25 firearm.

26 (D) The manufacturer's name if stamped on the firearm,
27 model name or number if stamped on the firearm, and, if
28 applicable, the serial number, other number (if more than one
29 serial number is stamped on the firearm), caliber, type of firearm,
30 if the firearm is new or used, barrel length, and color of the
31 firearm.

32 (3) Information in the registry referred to in this subdivision
33 shall, upon proper application therefor, be furnished to the
34 officers referred to in Section 11105, to a city attorney
35 prosecuting a civil action, solely for use in prosecuting that civil
36 action and not for any other purpose, or to the person listed in the
37 registry as the owner or person who is listed as being loaned the
38 particular handgun.

39 (4) If any person is listed in the registry as the owner of a
40 firearm through a Dealers' Record of Sale prior to 1979, and the

1 person listed in the registry requests by letter that the Attorney
2 General store and keep the record electronically, as well as in the
3 record's existing photographic, photostatic, or nonerasable
4 optically stored form, the Attorney General shall do so within
5 three working days of receipt of the request. The Attorney
6 General shall, in writing, and as soon as practicable, notify the
7 person requesting electronic storage of the record that the request
8 has been honored as required by this paragraph.

9 (d) (1) Any officer referred to in paragraphs (1) to (6),
10 inclusive, of subdivision (b) of Section 11105 may disseminate
11 the name of the subject of the record, the number of the firearms
12 listed in the record, and the description of any firearm, including
13 the make, model, and caliber, from the record relating to any
14 firearm's sale, transfer, registration, or license record, or any
15 information reported to the Department of Justice pursuant to
16 Section 12021.3, 12053, 12071, 12072, 12077, 12078, 12082, or
17 12285, if the following conditions are met:

18 (A) The subject of the record has been arraigned for a crime in
19 which the victim is a person described in subdivisions (a) to (f),
20 inclusive, of Section 6211 of the Family Code and is being
21 prosecuted or is serving a sentence for the crime, or the subject of
22 the record is the subject of an emergency protective order, a
23 temporary restraining order, or an order after hearing, which is in
24 effect and has been issued by a family court under the Domestic
25 Violence Protection Act set forth in Division 10 (commencing
26 with Section 6200) of the Family Code.

27 (B) The information is disseminated only to the victim of the
28 crime or to the person who has obtained the emergency
29 protective order, the temporary restraining order, or the order
30 after hearing issued by the family court.

31 (C) Whenever a law enforcement officer disseminates the
32 information authorized by this subdivision, that officer or another
33 officer assigned to the case shall immediately provide the victim
34 of the crime with a "Victims of Domestic Violence" card, as
35 specified in subparagraph (G) of paragraph (9) of subdivision (c)
36 of Section 13701.

37 (2) The victim or person to whom such information is
38 disseminated may disclose it as he or she deems necessary to
39 protect himself or herself or another person from bodily harm by
40 the person who is the subject of the record.

1 *SEC. 2.5. Section 11106 of the Penal Code is amended to*
2 *read:*

3 11106. (a) In order to assist in the investigation of crime, the
4 prosecution of civil actions by city attorneys pursuant to
5 paragraph (3) of subdivision (c), the arrest and prosecution of
6 criminals, and the recovery of lost, stolen, or found property, the
7 Attorney General shall keep and properly file a complete record
8 of all copies of fingerprints, copies of licenses to carry firearms
9 issued pursuant to Section 12050, information reported to the
10 Department of Justice pursuant to Section 12053, dealers'
11 records of sales of firearms, reports provided pursuant to Section
12 12072 or 12078, forms provided pursuant to Section 12084, *as*
13 *that section read prior to being repealed by the act that amended*
14 *this section*, reports provided pursuant to Section 12071 that are
15 not dealers' records of sales of firearms, and reports of stolen,
16 lost, found, pledged, or pawned property in any city or county of
17 this state, and shall, upon proper application therefor, furnish this
18 information to the officers referred to in Section 11105.

19 (b) (1) ~~Notwithstanding~~ *Except as provided in subdivision (a)*
20 *(d)*, the Attorney General shall not retain or compile any
21 information from reports filed pursuant to subdivision (a) of
22 Section 12078 for firearms that are not handguns, from forms
23 submitted pursuant to Section 12084, *as that section read prior*
24 *to being repealed by the act that amended that section*, for
25 firearms that are not handguns, or from dealers' records of sales
26 for firearms that are not handguns. All copies of the forms
27 submitted, or any information received in electronic form,
28 pursuant to Section 12084, *as that section read prior to being*
29 *repealed by the act that amended that section*, for firearms that
30 are not handguns, or of the dealers' records of sales for firearms
31 that are not handguns shall be destroyed within five days of the
32 clearance by the Attorney General, unless the purchaser or
33 transferor is ineligible to take possession of the firearm. All
34 copies of the reports filed, or any information received in
35 electronic form, pursuant to subdivision (a) of Section 12078 for
36 firearms that are not handguns shall be destroyed within five
37 days of the receipt by the Attorney General, unless retention is
38 necessary for use in a criminal prosecution.

39 (2) A peace officer, the Attorney General, a Department of
40 Justice employee designated by the Attorney General, or any

1 authorized local law enforcement employee shall not retain or
2 compile any information from a firearms transaction record, as
3 defined in paragraph (5) of subdivision (c) of Section 12071, for
4 firearms that are not handguns unless retention or compilation is
5 necessary for use in a criminal prosecution or in a proceeding to
6 revoke a license issued pursuant to Section 12071.

7 (3) A violation of this subdivision is a misdemeanor.

8 (c) (1) The Attorney General shall permanently keep and
9 properly file and maintain all information reported to the
10 Department of Justice pursuant to Sections 12071, 12072, 12078,
11 12082, and *former Section* 12084 or any other law, as to
12 handguns and maintain a registry thereof.

13 (2) The registry shall consist of all of the following:

14 (A) The name, address, identification of, place of birth (state
15 or country), complete telephone number, occupation, sex,
16 description, and all legal names and aliases ever used by the
17 owner or person being loaned the particular handgun as listed on
18 the information provided to the department on the Dealers'
19 Record of Sale, the Law Enforcement Firearms Transfer (LEFT),
20 as defined in Section *former* 12084, or reports made to the
21 department pursuant to Section 12078 or any other law.

22 (B) The name and address of, and other information about, any
23 person (whether a dealer or a private party) from whom the
24 owner acquired or the person being loaned the particular handgun
25 and when the firearm was acquired or loaned as listed on the
26 information provided to the department on the Dealers' Record
27 of Sale, the LEFT, or reports made to the department pursuant to
28 Section 12078 or any other law.

29 (C) Any waiting period exemption applicable to the
30 transaction which resulted in the owner of or the person being
31 loaned the particular handgun acquiring or being loaned that
32 firearm.

33 (D) The manufacturer's name if stamped on the firearm,
34 model name or number if stamped on the firearm, and, if
35 applicable, the serial number, other number (if more than one
36 serial number is stamped on the firearm), caliber, type of firearm,
37 if the firearm is new or used, barrel length, and color of the
38 firearm.

39 (3) Information in the registry referred to in this subdivision
40 shall, upon proper application therefor, be furnished to the

1 officers referred to in Section 11105, to a city attorney
2 prosecuting a civil action, solely for use in prosecuting that civil
3 action and not for any other purpose, or to the person listed in the
4 registry as the owner or person who is listed as being loaned the
5 particular handgun.

6 (4) If any person is listed in the registry as the owner of a
7 firearm through a Dealers' Record of Sale prior to 1979, and the
8 person listed in the registry requests by letter that the Attorney
9 General store and keep the record electronically, as well as in the
10 record's existing photographic, photostatic, or nonerasable
11 optically stored form, the Attorney General shall do so within
12 three working days of receipt of the request. The Attorney
13 General shall, in writing, and as soon as practicable, notify the
14 person requesting electronic storage of the record that the request
15 has been honored as required by this paragraph.

16 *(d) (1) Any officer referred to in paragraphs (1) to (6),
17 inclusive, of subdivision (b) of Section 11105 may disseminate
18 the name of the subject of the record, the number of the firearms
19 listed in the record, and the description of any firearm, including
20 the make, model, and caliber, from the record relating to any
21 firearm's sale, transfer, registration, or license record, or any
22 information reported to the Department of Justice pursuant to
23 Section 12021.3, 12053, 12071, 12072, 12077, 12078, 12082, or
24 12285, if the following conditions are met:*

25 *(A) The subject of the record has been arraigned for a crime
26 in which the victim is a person described in subdivisions (a) to
27 (f), inclusive, of Section 6211 of the Family Code and is being
28 prosecuted or is serving a sentence for the crime, or the subject
29 of the record is the subject of an emergency protective order, a
30 temporary restraining order, or an order after hearing, which is
31 in effect and has been issued by a family court under the
32 Domestic Violence Protection Act set forth in Division 10
33 (commencing with Section 6200) of the Family Code.*

34 *(B) The information is disseminated only to the victim of the
35 crime or to the person who has obtained the emergency
36 protective order, the temporary restraining order, or the order
37 after hearing issued by the family court.*

38 *(C) Whenever a law enforcement officer disseminates the
39 information authorized by this subdivision, that officer or
40 another officer assigned to the case shall immediately provide*

1 *the victim of the crime with a “Victims of Domestic Violence”*
2 *card, as specified in subparagraph (G) of paragraph (9) of*
3 *subdivision (c) of Section 13701.*

4 *(2) The victim or person to whom such information is*
5 *disseminated may disclose it as he or she deems necessary to*
6 *protect himself or herself or another person from bodily harm by*
7 *the person who is the subject of the record.*

8 *SEC. 3. (a) Section 1.1 of this bill incorporates amendments*
9 *to Section 136.2 of the Penal Code proposed by both this bill and*
10 *AB 112. It shall become operative if (1) both bills are enacted*
11 *and become effective on or before January 1, 2006, (2) each bill*
12 *amends Section 136.2 of the Penal Code, (3) AB 118 and SB 720*
13 *are not enacted or as enacted do not amend that section, and (4)*
14 *this bill is enacted after AB 112, in which case Sections 1, 1.2,*
15 *1.3, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.*

16 *(b) Section 1.2 of this bill incorporates amendments to Section*
17 *136.2 of the Penal Code proposed by both this bill and AB 118. It*
18 *shall become operative if (1) both bills are enacted and become*
19 *effective on or before January 1, 2006, (2) each bill amends*
20 *Section 136.2 of the Penal Code, (3) AB 112 and SB 720 are not*
21 *enacted or as enacted do not amend that section, and (4) this bill*
22 *is enacted after AB 118, in which case Sections 1, 1.1, 1.3, 1.4,*
23 *1.5, 1.6, and 1.7 of this bill shall not become operative.*

24 *(c) Section 1.3 of this bill incorporates amendments to Section*
25 *136.2 of the Penal Code proposed by both this bill and SB 720. It*
26 *shall become operative if (1) both bills are enacted and become*
27 *effective on or before January 1, 2006, (2) each bill amends*
28 *Section 136.2 of the Penal Code, (3) AB 112 and AB 118 are not*
29 *enacted or as enacted do not amend that section, and (4) this bill*
30 *is enacted after SB 720, in which case Sections 1, 1.1, 1.2, 1.4,*
31 *1.5, 1.6, and 1.7 of this bill shall not become operative.*

32 *(d) Section 1.4 of this bill incorporates amendments to Section*
33 *136.2 of the Penal Code proposed by this bill, AB 112, and AB*
34 *118. It shall become operative if (1) all three bills are enacted*
35 *and become effective on or before January 1, 2006, (2) each bill*
36 *amends Section 136.2 of the Penal Code, (3) SB 720 is not*
37 *enacted or as enacted does not amend that section, and (4) this*
38 *bill is enacted after AB 112 and AB 118, in which case Sections*
39 *1, 1.1, 1.2, 1.3, 1.5, 1.6, and 1.7 of this bill shall not become*
40 *operative.*

1 (e) Section 1.5 of this bill incorporates amendments to Section
2 136.2 of the Penal Code proposed by this bill, AB 112, and SB
3 720. It shall become operative if (1) all three bills are enacted
4 and become effective on or before January 1, 2006, (2) each bill
5 amends Section 136.2 of the Penal Code, (3) AB 118 is not
6 enacted or as enacted does not amend that section, and (4) this
7 bill is enacted after AB 112 and SB 720, in which case Sections
8 1, 1.1, 1.2, 1.3, 1.4, 1.6, and 1.7 of this bill shall not become
9 operative.

10 (f) Section 1.6 of this bill incorporates amendments to Section
11 136.2 of the Penal Code proposed by this bill, AB 118, and SB
12 720. It shall become operative if (1) all three bills are enacted
13 and become effective on or before January 1, 2006, (2) each bill
14 amends Section 136.2 of the Penal Code, (3) AB 112 is not
15 enacted or as enacted does not amend that section, and (4) this
16 bill is enacted after AB 118 and SB 720, in which case Sections
17 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.7 of this bill shall not become
18 operative.

19 (g) Section 1.7 of this bill incorporates amendments to Section
20 136.2 of the Penal Code proposed by this bill, AB 112, AB 118,
21 and SB 720. It shall become operative if (1) all four bills are
22 enacted and become effective on or before January 1, 2006, (2)
23 each bill amends Section 136.2 of the Penal Code, and (3) this
24 bill is enacted after AB 112, AB 118, and SB 720, in which case
25 Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 of this bill shall not
26 become operative.

27 SEC. 4. Section 2.5 of this bill incorporates amendments to
28 Section 11106 of the Penal Code proposed by both this bill and
29 AB 1060. It shall only become operative if (1) both bills are
30 enacted and become effective on or before January 1, 2006, (2)
31 each bill amends Section 11106 of the Penal Code, and (3) this
32 bill is enacted after AB 1060, in which case Section 2 of this bill
33 shall not become operative.

34 ~~SEC. 3.~~

35 SEC. 5. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution for
37 certain costs that may be incurred by a local agency or school
38 district because, in that regard, this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the
40 penalty for a crime or infraction, within the meaning of Section

1 17556 of the Government Code, or changes the definition of a
2 crime within the meaning of Section 6 of Article XIII B of the
3 California Constitution.

4 However, if the Commission on State Mandates determines
5 that this act contains other costs mandated by the state,
6 reimbursement to local agencies and school districts for those
7 costs shall be made pursuant to Part 7 (commencing with Section
8 17500) of Division 4 of Title 2 of the Government Code.

O