

ASSEMBLY BILL

No. 1081

Introduced by Assembly Member Quirk

February 27, 2015

An act to amend Sections 527.6, 527.8, and 527.85 of the Code of Civil Procedure, and to amend Section 15657.03 of the Welfare and Institutions Code, relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1081, as introduced, Quirk. Protective orders.

(1) Existing law provides the procedure by which a temporary restraining order and an injunction prohibiting harassment or abuse may be sought by, or on behalf of, specified persons. Existing law requires the petitioner seeking the restraining order to personally serve the person against whom the temporary restraining order and injunction are sought, known as the respondent, with notice of hearing within 5 days of the hearing on the petition, as specified. If the petitioner files a declaration with the court that he or she could not serve the respondent within the time required, existing law authorizes the court to reissue an order that was dissolved by the court for failure to serve the respondent. Existing law provides that a reissued order will remain in effect until the date of the hearing, and requires that the reissued order state the date that the order expires.

This bill would permit either party to request a continuance of the hearing, which the court would be required to grant on a showing of good cause. The bill would permit the request to be made in writing before or at the hearing or orally at the hearing, and would additionally authorize the court to grant a continuance on its own motion. If the court grants a continuance, the bill would require that any temporary

restraining order that had previously been granted remain in effect until the conclusion of the continued hearing, and would authorize the court to modify or terminate any temporary restraining order.

(2) Existing law provides that a person who has suffered harassment, defined as unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose, may seek a temporary restraining order and an injunction prohibiting harassment. If issued, the injunction would be in effect for a period of up to 5 years and may be renewed for another period of up to 5 years. Under existing law, however, the notice of the hearing must notify the respondent that, if he or she does not attend the hearing on the petition, the court may make orders against him or her that could last up to 3 years.

This bill would modify the requirements for the notice to a respondent so that the respondent is warned that, if he or she does not attend the hearing, the court may make orders against him or her that could last up to 5 years.

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

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

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

3 527.6. (a) (1) A person who has suffered harassment as
4 defined in subdivision (b) may seek a temporary restraining order
5 and an injunction prohibiting harassment as provided in this
6 section.

7 (2) A minor, under 12 years of age, accompanied by a duly
8 appointed and acting guardian ad litem, shall be permitted to appear
9 in court without counsel for the limited purpose of requesting or
10 opposing a request for a temporary restraining order or injunction,
11 or both, under this section as provided in Section 374.

12 (b) For the purposes of this section:

13 (1) "Course of conduct" is a pattern of conduct composed of a
14 series of acts over a period of time, however short, evidencing a
15 continuity of purpose, including following or stalking an individual,
16 making harassing telephone calls to an individual, or sending
17 harassing correspondence to an individual by any means, including,

1 but not limited to, the use of public or private mails, interoffice
2 mail, facsimile, or computer email. Constitutionally protected
3 activity is not included within the meaning of “course of conduct.”

4 (2) “Credible threat of violence” is a knowing and willful
5 statement or course of conduct that would place a reasonable person
6 in fear for his or her safety, or the safety of his or her immediate
7 family, and that serves no legitimate purpose.

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

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

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

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

24 (A) An order enjoining a party from harassing, intimidating,
25 molesting, attacking, striking, stalking, threatening, sexually
26 assaulting, battering, abusing, telephoning, including, but not
27 limited to, making annoying telephone calls, as described in Section
28 653m of the Penal Code, destroying personal property, contacting,
29 either directly or indirectly, by mail or otherwise, or coming within
30 a specified distance of, or disturbing the peace of, the petitioner.

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

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

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

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

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

18 (f) A temporary restraining order issued under this section shall
19 remain in effect, at the court's discretion, for a period not to exceed
20 21 days, or, if the court extends the time for hearing under
21 subdivision (g), not to exceed 25 days, unless otherwise modified
22 or terminated by the court.

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

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

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

36 (j) (1) In the discretion of the court, an order issued after notice
37 and hearing under this section may have a duration of not more
38 than five years, subject to termination or modification by further
39 order of the court either on written stipulation filed with the court
40 or on the motion of a party. The order may be renewed, upon the

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

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

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

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

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

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

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

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

20 (o) ~~(1) The court may, upon the filing of a declaration by the~~
21 ~~petitioner that the respondent could not be served within the time~~
22 ~~required by statute, reissue an order previously issued and dissolved~~
23 ~~by the court for failure to serve the respondent. The reissued order~~
24 ~~shall remain in effect until the date set for the hearing. *Either party*~~
25 ~~*may request a continuance of the hearing, which the court shall*~~
26 ~~*grant on a showing of good cause. The request may be made in*~~
27 ~~*writing before or at the hearing or orally at the hearing. The court*~~
28 ~~*may also grant a continuance on its own motion.*~~

29 ~~(2) The reissued order shall state on its face the date of~~
30 ~~expiration of the order. *If the court, in its discretion, grants a*~~
31 ~~*continuance, any temporary restraining order that has been*~~
32 ~~*granted shall remain in effect until the end of the continued*~~
33 ~~*hearing, unless otherwise ordered by the court. In granting a*~~
34 ~~*continuance, the court may modify or terminate a temporary*~~
35 ~~*restraining order.*~~

36 (p) (1) If a respondent, named in a restraining order issued after
37 a hearing, has not been served personally with the order but has
38 received actual notice of the existence and substance of the order
39 through personal appearance in court to hear the terms of the order

1 from the court, no additional proof of service is required for
2 enforcement of the order.

3 (2) If the respondent named in a temporary restraining order is
4 personally served with the order and notice of hearing with respect
5 to a restraining order or protective order based on the temporary
6 restraining order, but the respondent does not appear at the hearing,
7 either personally or by an attorney, and the terms and conditions
8 of the restraining order or protective order issued at the hearing
9 are identical to the temporary restraining order, except for the
10 duration of the order, then the restraining order or protective order
11 issued at the hearing may be served on the respondent by first-class
12 mail sent to the respondent at the most current address for the
13 respondent available to the court.

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

17
18 “If you have been personally served with this temporary
19 restraining order and notice of hearing, but you do not appear at
20 the hearing either in person or by a lawyer, and a restraining order
21 that is the same as this temporary restraining order except for the
22 expiration date is issued at the hearing, a copy of the restraining
23 order will be served on you by mail at the following address: ____.

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

28
29 (q) (1) Information on ~~any~~ a temporary restraining order or
30 injunction relating to civil harassment issued by a court pursuant
31 to this section shall be transmitted to the Department of Justice in
32 accordance with either paragraph (2) or (3).

33 (2) The court shall order the petitioner or the attorney for the
34 petitioner to deliver a copy of an order issued under this section,
35 or reissuance, extension, modification, or termination of the order,
36 and any subsequent proof of service, by the close of the business
37 day on which the order, reissuance, extension, modification, or
38 termination was made, to a law enforcement agency having
39 jurisdiction over the residence of the petitioner and to any

1 additional law enforcement agencies within the court’s discretion
2 as are requested by the petitioner.

3 (3) Alternatively, the court or its designee shall transmit, within
4 one business day, to law enforcement personnel all information
5 required under subdivision (b) of Section 6380 of the Family Code
6 regarding any order issued under this section, or a reissuance,
7 extension, modification, or termination of the order, and any
8 subsequent proof of service, by either one of the following
9 methods:

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

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

16 (4) Each appropriate law enforcement agency shall make
17 available information as to the existence and current status of these
18 orders to law enforcement officers responding to the scene of
19 reported harassment.

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

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

33 (7) If the law enforcement officer determines that a protective
34 order has been issued; but not served, the officer shall immediately
35 notify the respondent of the terms of the order and shall at that
36 time also enforce the order. Verbal notice of the terms of the order
37 shall constitute service of the order and is sufficient notice for the
38 purposes of this section and for the purposes of Section 29825 of
39 the Penal Code.

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

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

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

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

13 (3) Every person who owns, possesses, purchases, or receives,
14 or attempts to purchase or receive, a firearm or ammunition while
15 the protective order is in effect is punishable pursuant to Section
16 29825 of the Penal Code.

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

22 (v) (1) The Judicial Council shall develop forms, instructions,
23 and rules relating to matters governed by this section. The petition
24 and response forms shall be simple and concise, and their use by
25 parties in actions brought pursuant to this section shall be
26 mandatory.

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

36 (w) There is no filing fee for a petition that alleges that a person
37 has inflicted or threatened violence against the petitioner, or stalked
38 the petitioner, or acted or spoken in any other manner that has
39 placed the petitioner in reasonable fear of violence, and that seeks
40 a protective or restraining order or injunction restraining stalking

1 or future violence or threats of violence, in any action brought
2 pursuant to this section. No fee shall be paid for a subpoena filed
3 in connection with a petition alleging these acts. No fee shall be
4 paid for filing a response to a petition alleging these acts.

5 (x) (1) Subject to paragraph (4) of subdivision (b) of Section
6 6103.2 of the Government Code, there shall be no fee for the
7 service of process by a sheriff or marshal of a protective order,
8 restraining order, or injunction to be issued, if either of the
9 following conditions applies:

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

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

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

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

20 SEC. 2. Section 527.8 of the Code of Civil Procedure is
21 amended to read:

22 527.8. (a) Any employer, whose employee has suffered
23 unlawful violence or a credible threat of violence from any
24 individual, that can reasonably be construed to be carried out or
25 to have been carried out at the workplace, may seek a temporary
26 restraining order and an injunction on behalf of the employee and,
27 at the discretion of the court, any number of other employees at
28 the workplace, and, if appropriate, other employees at other
29 workplaces of the employer.

30 (b) For the purposes of this section:

31 (1) "Course of conduct" is a pattern of conduct composed of a
32 series of acts over a period of time, however short, evidencing a
33 continuity of purpose, including following or stalking an employee
34 to or from the place of work; entering the workplace; following
35 an employee during hours of employment; making telephone calls
36 to an employee; or sending correspondence to an employee by any
37 means, including, but not limited to, the use of the public or private
38 mails, interoffice mail, facsimile, or computer email.

39 (2) "Credible threat of violence" is a knowing and willful
40 statement or course of conduct that would place a reasonable person

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

3 (3) “Employer” and “employee” mean persons defined in
4 Section 350 of the Labor Code. “Employer” also includes a federal
5 agency, the state, a state agency, a city, county, or district, and a
6 private, public, or quasi-public corporation, or any public agency
7 thereof or therein. “Employee” also includes the members of boards
8 of directors of private, public, and quasi-public corporations and
9 elected and appointed public officers. For purposes of this section
10 only, “employee” also includes a volunteer or independent
11 contractor who performs services for the employer at the
12 employer’s worksite.

13 (4) “Petitioner” means the employer that petitions under
14 subdivision (a) for a temporary restraining order and injunction.

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

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

21 (A) An order enjoining a party from harassing, intimidating,
22 molesting, attacking, striking, stalking, threatening, sexually
23 assaulting, battering, abusing, telephoning, including, but not
24 limited to, making annoying telephone calls as described in Section
25 653m of the Penal Code, destroying personal property, contacting,
26 either directly or indirectly, by mail or otherwise, or coming within
27 a specified distance of, or disturbing the peace of, the employee.

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

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

34 (c) This section does not permit a court to issue a temporary
35 restraining order or injunction prohibiting speech or other activities
36 that are constitutionally protected, or otherwise protected by
37 Section 527.3 or any other provision of law.

38 (d) In the discretion of the court, on a showing of good cause,
39 a temporary restraining order or injunction issued under this section

1 may include other named family or household members, or other
2 persons employed at the employee's workplace or workplaces.

3 (e) Upon filing a petition for an injunction under this section,
4 the petitioner may obtain a temporary restraining order in
5 accordance with subdivision (a) of Section 527, if the petitioner
6 also files a declaration that, to the satisfaction of the court, shows
7 reasonable proof that an employee has suffered unlawful violence
8 or a credible threat of violence by the respondent, and that great
9 or irreparable harm would result to an employee. The temporary
10 restraining order may include any of the protective orders described
11 in paragraph (6) of subdivision (b).

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

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

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

30 (i) The respondent may file a response that explains, excuses,
31 justifies, or denies the alleged unlawful violence or credible threats
32 of violence.

33 (j) At the hearing, the judge shall receive any testimony that is
34 relevant and may make an independent inquiry. Moreover, if the
35 respondent is a current employee of the entity requesting the
36 injunction, the judge shall receive evidence concerning the
37 employer's decision to retain, terminate, or otherwise discipline
38 the respondent. If the judge finds by clear and convincing evidence
39 that the respondent engaged in unlawful violence or made a

1 credible threat of violence, an injunction shall issue prohibiting
2 further unlawful violence or threats of violence.

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

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

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

36 (l) This section does not preclude either party from
37 representation by private counsel or from appearing on his or her
38 own behalf.

39 (m) Upon filing of a petition for an injunction under this section,
40 the respondent shall be personally served with a copy of the

1 petition, temporary restraining order, if any, and notice of hearing
2 of the petition. Service shall be made at least five days before the
3 hearing. The court may, for good cause, on motion of the petitioner
4 or on its own motion, shorten the time for service on the
5 respondent.

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

10 (o) (1) ~~The court may, upon the filing of a declaration by the~~
11 ~~petitioner that the respondent could not be served within the time~~
12 ~~required by statute, reissue an order previously issued and dissolved~~
13 ~~by the court for failure to serve the respondent. The reissued order~~
14 ~~shall remain in effect until the date set for the hearing. Either party~~
15 ~~may request a continuance of the hearing, which the court shall~~
16 ~~grant on a showing of good cause. The request may be made in~~
17 ~~writing before or at the hearing or orally at the hearing. The court~~
18 ~~may also grant a continuance on its own motion.~~

19 (2) ~~The reissued order shall state on its face the date of~~
20 ~~expiration of the order. If the court, in its discretion, grants a~~
21 ~~continuance, any temporary restraining order that has been~~
22 ~~granted shall remain in effect until the end of the continued~~
23 ~~hearing, unless otherwise ordered by the court. In granting a~~
24 ~~continuance, the court may modify or terminate a temporary~~
25 ~~restraining order.~~

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

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

1 mail sent to that person at the most current address for the person
2 available to the court.

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

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

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

17
18 (q) (1) Information on ~~any~~ a temporary restraining order or
19 injunction relating to workplace violence issued by a court pursuant
20 to this section shall be transmitted to the Department of Justice in
21 accordance with either paragraph (2) or (3).

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

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

38 (A) Transmitting a physical copy of the order or proof of service
39 to a local law enforcement agency authorized by the Department

1 of Justice to enter orders into the California Law Enforcement
2 Telecommunications System (CLETS).

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

5 (4) Each appropriate law enforcement agency shall make
6 available information as to the existence and current status of these
7 orders to law enforcement officers responding to the scene of
8 reported unlawful violence or a credible threat of violence.

9 (5) At the request of the petitioner, an order issued under this
10 section shall be served on the respondent, regardless of whether
11 the respondent has been taken into custody, by any law
12 enforcement officer who is present at the scene of reported
13 unlawful violence or a credible threat of violence involving the
14 parties to the proceedings. The petitioner shall provide the officer
15 with an endorsed copy of the order and proof of service that the
16 officer shall complete and send to the issuing court.

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

24 (7) If the law enforcement officer determines that a protective
25 order has been issued; but not served, the officer shall immediately
26 notify the respondent of the terms of the order and obtain the
27 respondent's address. The law enforcement officer shall at that
28 time also enforce the order, but may not arrest or take the
29 respondent into custody for acts in violation of the order that were
30 committed prior to the verbal notice of the terms and conditions
31 of the order. The law enforcement officer's verbal notice of the
32 terms of the order shall constitute service of the order and
33 constitutes sufficient notice for the purposes of this section and
34 for the purposes of Section 29825 of the Penal Code. The petitioner
35 shall mail an endorsed copy of the order to the respondent's mailing
36 address provided to the law enforcement officer within one
37 business day of the reported incident of unlawful violence or a
38 credible threat of violence at which a verbal notice of the terms of
39 the order was provided by a law enforcement officer.

1 (r) (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 or ammunition while the protective
4 order is in 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 owns
7 or possesses pursuant to Section 527.9.

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

12 (s) Any intentional disobedience of any temporary restraining
13 order or injunction granted under this section is punishable pursuant
14 to Section 273.6 of the Penal Code.

15 (t) ~~Nothing in this~~ *This section may shall not* be construed as
16 expanding, diminishing, altering, or modifying the duty, if any, of
17 an employer to provide a safe workplace for employees and other
18 persons.

19 (u) (1) The Judicial Council shall develop forms, instructions,
20 and rules for relating to matters governed by this section. The
21 forms for the petition and response shall be simple and concise,
22 and their use by parties in actions brought pursuant to this section
23 shall be mandatory.

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

33 (v) There is no filing fee for a petition that alleges that a person
34 has inflicted or threatened violence against an employee of the
35 petitioner, or stalked the employee, or acted or spoken in any other
36 manner that has placed the employee in reasonable fear of violence,
37 and that seeks a protective or restraining order or injunction
38 restraining stalking or future violence or threats of violence, in
39 any action brought pursuant to this section. No fee shall be paid
40 for a subpoena filed in connection with a petition alleging these

1 acts. No fee shall be paid for filing a response to a petition alleging
2 these acts.

3 (w) (1) Subject to paragraph (4) of subdivision (b) of Section
4 6103.2 of the Government Code, there shall be no fee for the
5 service of process by a sheriff or marshal of a temporary restraining
6 order or injunction to be issued pursuant to this section if either
7 of the following conditions applies:

8 (A) The temporary restraining order or injunction issued
9 pursuant to this section is based upon stalking, as prohibited by
10 Section 646.9 of the Penal Code.

11 (B) The temporary restraining order or injunction issued
12 pursuant to this section is based on unlawful violence or a credible
13 threat of violence.

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

17 SEC. 3. Section 527.85 of the Code of Civil Procedure is
18 amended to read:

19 527.85. (a) Any chief administrative officer of a postsecondary
20 educational institution, or an officer or employee designated by
21 the chief administrative officer to maintain order on the school
22 campus or facility, a student of which has suffered a credible threat
23 of violence made off the school campus or facility from any
24 individual; which can reasonably be construed to be carried out or
25 to have been carried out at the school campus or facility, may, with
26 the written consent of the student, seek a temporary restraining
27 order and an injunction; on behalf of the student and, at the
28 discretion of the court, any number of other students at the campus
29 or facility who are similarly situated.

30 (b) For ~~the~~ purposes of this section, the following definitions
31 shall apply:

32 (1) “Chief administrative officer” means the principal, president,
33 or highest ranking official of the postsecondary educational
34 institution.

35 (2) “Course of conduct” means a pattern of conduct composed
36 of a series of acts over a period of time, however short, evidencing
37 a continuity of purpose, including any of the following:

38 (A) Following or stalking a student to or from school.

39 (B) Entering the school campus or facility.

40 (C) Following a student during school hours.

1 (D) Making telephone calls to a student.

2 (E) Sending correspondence to a student by any means,
3 including, but not limited to, the use of the public or private mails,
4 interoffice mail, facsimile, or computer email.

5 (3) “Credible threat of violence” means a knowing and willful
6 statement or course of conduct that would place a reasonable person
7 in fear for his or her safety, or the safety of his or her immediate
8 family, and that serves no legitimate purpose.

9 (4) “Petitioner” means the chief administrative officer, or his
10 or her designee, who petitions under subdivision (a) for a temporary
11 restraining order and injunction.

12 (5) “Postsecondary educational institution” means a private
13 institution of vocational, professional, or postsecondary education.

14 (6) “Respondent” means the person against whom the temporary
15 restraining order and injunction are sought and, if the petition is
16 granted, the restrained person.

17 (7) “Student” means an adult currently enrolled in or applying
18 for admission to a postsecondary educational institution.

19 (8) “Temporary restraining order” and “injunction” mean orders
20 that include any of the following restraining orders, whether issued
21 ex parte, or after notice and hearing:

22 (A) An order enjoining a party from harassing, intimidating,
23 molesting, attacking, striking, stalking, threatening, sexually
24 assaulting, battering, abusing, telephoning, including, but not
25 limited to, making annoying telephone calls as described in Section
26 653m of the Penal Code, destroying personal property, contacting,
27 either directly or indirectly, by mail or otherwise, or coming within
28 a specified distance of, or disturbing the peace of, the student.

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

32 (9) “Unlawful violence” means any assault or battery, or stalking
33 as prohibited in Section 646.9 of the Penal Code, but shall not
34 include lawful acts of self-defense or defense of others.

35 (c) This section does not permit a court to issue a temporary
36 restraining order or injunction prohibiting speech or other activities
37 that are constitutionally protected, or otherwise protected by
38 Section 527.3 or any other provision of law.

39 (d) In the discretion of the court, on a showing of good cause,
40 a temporary restraining order or injunction issued under this section

1 may include other named family or household members of the
2 student, or other students at the campus or facility.

3 (e) Upon filing a petition for an injunction under this section,
4 the petitioner may obtain a temporary restraining order in
5 accordance with subdivision (a) of Section 527, if the petitioner
6 also files a declaration that, to the satisfaction of the court, shows
7 reasonable proof that a student has suffered a credible threat of
8 violence made off the school campus or facility by the respondent,
9 and that great or irreparable harm would result to the student. The
10 temporary restraining order may include any of the protective
11 orders described in paragraph (8) of subdivision (b).

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

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

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

30 (i) The respondent may file a response that explains, excuses,
31 justifies, or denies the alleged credible threats of violence.

32 (j) At the hearing, the judge shall receive any testimony that is
33 relevant and may make an independent inquiry. Moreover, if the
34 respondent is a current student of the entity requesting the
35 injunction, the judge shall receive evidence concerning the decision
36 of the postsecondary educational institution decision to retain,
37 terminate, or otherwise discipline the respondent. If the judge finds
38 by clear and convincing evidence that the respondent made a
39 credible threat of violence off the school campus or facility, an
40 injunction shall be issued prohibiting further threats of violence.

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

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

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

34 (l) This section does not preclude either party from
35 representation by private counsel or from appearing on his or her
36 own behalf.

37 (m) Upon filing of a petition for an injunction under this section,
38 the respondent shall be personally served with a copy of the
39 petition, temporary restraining order, if any, and notice of hearing
40 of the petition. Service shall be made at least five days before the

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

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

8 (o) (1) ~~The court may, upon the filing of a declaration by the~~
 9 ~~petitioner that the respondent could not be served within the time~~
 10 ~~required by statute, reissue an order previously issued and dissolved~~
 11 ~~by the court for failure to serve the respondent. The reissued order~~
 12 ~~shall remain in effect until the date set for the hearing. Either party~~
 13 *may request a continuance of the hearing, which the court shall*
 14 *grant on a showing of good cause. The request may be made in*
 15 *writing before or at the hearing or orally at the hearing. The court*
 16 *may also grant a continuance on its own motion.*

17 (2) ~~The reissued order shall state on its face the date of~~
 18 ~~expiration of the order. If the court, in its discretion, grants a~~
 19 *continuance, any temporary restraining order that has been*
 20 *granted shall remain in effect until the end of the continued*
 21 *hearing, unless otherwise ordered by the court. In granting a*
 22 *continuance, the court may modify or terminate a temporary*
 23 *restraining order.*

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

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

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

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

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

15
16 (q) (1) Information on ~~any~~ a temporary restraining order or
17 injunction relating to schoolsite violence issued by a court pursuant
18 to this section shall be transmitted to the Department of Justice in
19 accordance with either paragraph (2) or (3).

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

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

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

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

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

7 (5) At the request of the petitioner, an order issued under this
8 section shall be served on the respondent, regardless of whether
9 the respondent has been taken into custody, by any law
10 enforcement officer who is present at the scene of reported
11 unlawful violence or a credible threat of violence involving the
12 parties to the proceedings. The petitioner shall provide the officer
13 with an endorsed copy of the order and proof of service that the
14 officer shall complete and send to the issuing court.

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

22 (7) If the law enforcement officer determines that a protective
23 order has been issued, but not served, the officer shall immediately
24 notify the respondent of the terms of the order and obtain the
25 respondent's address. The law enforcement officer shall at that
26 time also enforce the order, but may not arrest or take the
27 respondent into custody for acts in violation of the order that were
28 committed prior to the verbal notice of the terms and conditions
29 of the order. The law enforcement officer's verbal notice of the
30 terms of the order shall constitute service of the order and
31 constitutes sufficient notice for the purposes of this section, and
32 Section 29825 of the Penal Code. The petitioner shall mail an
33 endorsed copy of the order to the respondent's mailing address
34 provided to the law enforcement officer within one business day
35 of the reported incident of unlawful violence or a credible threat
36 of violence at which a verbal notice of the terms of the order was
37 provided by a law enforcement officer.

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

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

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

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

10 (s) Any intentional disobedience of any temporary restraining
11 order or injunction granted under this section is punishable pursuant
12 to Section 273.6 of the Penal Code.

13 (t) ~~Nothing in this~~ *This section may shall not* be construed as
14 expanding, diminishing, altering, or modifying the duty, if any, of
15 a postsecondary educational institution to provide a safe
16 environment for students and other persons.

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

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

31 (v) There is no filing fee for a petition that alleges that a person
32 has threatened violence against a student of the petitioner, or
33 stalked the student, or acted or spoken in any other manner that
34 has placed the student in reasonable fear of violence, and that seeks
35 a protective or restraining order or injunction restraining stalking
36 or future threats of violence, in any action brought pursuant to this
37 section. No fee shall be paid for a subpoena filed in connection
38 with a petition alleging these acts. No fee shall be paid for filing
39 a response to a petition alleging these acts.

1 (w) (1) Subject to paragraph (4) of subdivision (b) of Section
2 6103.2 of the Government Code, there shall be no fee for the
3 service of process by a sheriff or marshal of a temporary restraining
4 order or injunction to be issued pursuant to this section if either
5 of the following conditions applies:

6 (A) The temporary restraining order or injunction issued
7 pursuant to this section is based upon stalking, as prohibited by
8 Section 646.9 of the Penal Code.

9 (B) The temporary restraining order or injunction issued
10 pursuant to this section is based upon a credible threat of violence.

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

14 SEC. 4. Section 15657.03 of the Welfare and Institutions Code
15 is amended to read:

16 15657.03. (a) (1) An elder or dependent adult who has suffered
17 abuse, as defined in Section 15610.07, may seek protective orders
18 as provided in this section.

19 (2) A petition may be brought on behalf of an abused elder or
20 dependent adult by a conservator or a trustee of the elder or
21 dependent adult, an attorney-in-fact of an elder or dependent adult
22 who acts within the authority of ~~the~~ a power of attorney, a person
23 appointed as a guardian ad litem for the elder or dependent adult,
24 or other person legally authorized to seek such relief.

25 (b) For ~~the~~ purposes of this section:

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

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

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

34 (A) An order enjoining a party from abusing, intimidating,
35 molesting, attacking, striking, stalking, threatening, sexually
36 assaulting, battering, harassing, telephoning, including, but not
37 limited to, making annoying telephone calls as described in Section
38 653m of the Penal Code, destroying personal property, contacting,
39 either directly or indirectly, by mail or otherwise, or coming within
40 a specified distance of, or disturbing the peace of, the petitioner,

1 and, in the discretion of the court, on a showing of good cause, of
2 other named family or household members or a conservator, if
3 any, of the petitioner.

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

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

12 (4) “Respondent” means the person against whom the protective
13 orders are sought and, if the petition is granted, the restrained
14 person.

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

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

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

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

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

38 (e) A request for the issuance of a temporary restraining order
39 without notice under this section shall be granted or denied on the
40 same day that the petition is submitted to the court, unless the

1 petition is filed too late in the day to permit effective review, in
2 which case the order shall be granted or denied on the next day of
3 judicial business in sufficient time for the order to be filed that day
4 with the clerk of the court.

5 (f) Within 21 days, or, if good cause appears to the court, 25
6 days, from the date that a request for a temporary restraining order
7 is granted or denied, a hearing shall be held on the petition. If no
8 request for temporary orders is made, the hearing shall be held
9 within 21 days, or, if good cause appears to the court, 25 days,
10 from the date that the petition is filed.

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

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

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

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

34 (3) If an action is filed for the purpose of terminating or
35 modifying a protective order prior to the expiration date specified
36 in the order by a party other than the protected party, the party
37 who is protected by the order shall be given notice, pursuant to
38 subdivision (b) of Section 1005 of the Code of Civil Procedure,
39 of the proceeding by personal service or, if the protected party has
40 satisfied the requirements of Chapter 3.1 (commencing with

1 Section 6205) of Division 7 of Title 1 of the Government Code,
2 by service on the Secretary of State. If the party who is protected
3 by the order cannot be notified prior to the hearing for modification
4 or termination of the protective order, the court shall deny the
5 motion to modify or terminate the order without prejudice or
6 continue the hearing until the party who is protected can be
7 properly noticed and may, upon a showing of good cause, specify
8 another method for service of process that is reasonably designed
9 to afford actual notice to the protected party. The protected party
10 may waive his or her right to notice if he or she is physically
11 present in court and does not challenge the sufficiency of the notice.

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

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

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

38 (m) (1) ~~The court may, upon the filing of a declaration by the~~
39 ~~petitioner that the respondent could not be served within the time~~
40 ~~required by statute, reissue an order previously issued and dissolved~~

1 by the court for failure to serve the respondent. The reissued order
 2 shall remain in effect until the date set for the hearing. Either party
 3 may request a continuance of the hearing, which the court shall
 4 grant on a showing of good cause. The request may be made in
 5 writing before or at the hearing or orally at the hearing. The court
 6 may also grant a continuance on its own motion.

7 (2) ~~The reissued order shall state on its face the date of~~
 8 ~~expiration of the order.~~ If the court, in its discretion, grants a
 9 continuance, any temporary restraining order that has been
 10 granted shall remain in effect until the end of the continued
 11 hearing, unless otherwise ordered by the court. In granting a
 12 continuance, the court may modify or terminate a temporary
 13 restraining order.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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