

AMENDED IN SENATE MARCH 19, 2015

SENATE BILL

No. 196

Introduced by Senator Hancock
(Coauthor: Senator Stone)

February 10, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill would, *commencing July 1, 2016*, additionally authorize a county adult protective services agency to file a petition for a protective order on behalf of an elder or dependent adult if the elder or dependent adult has been identified as lacking capacity and a conservatorship is being sought. *The bill would also recast and clarify the definition of "abuse."*

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

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

1 *SECTION 1. Section 15610.07 of the Welfare and Institutions*
2 *Code is amended to read:*

3 15610.07. “Abuse of an elder or a dependent adult” means
4 either of the following:

5 (a) Physical abuse, neglect, financial abuse, abandonment,
6 isolation, abduction, or other treatment with resulting physical
7 harm or pain or mental suffering.

8 (b) The deprivation by a care custodian of goods or services
9 that are necessary to avoid physical harm or mental suffering.

10 (c) *This section shall become inoperative on July 1, 2016, and,*
11 *as of January 1, 2017, is repealed, unless a later enacted statute,*
12 *that becomes operative on or before January 1, 2017, deletes or*
13 *extends the dates on which it becomes inoperative and is repealed.*

14 *SEC. 2. Section 15610.07 is added to the Welfare and*
15 *Institutions Code, to read:*

16 15610.07. “Abuse of an elder or a dependent adult” means
17 any of the following:

18 (a) Physical abuse, neglect, abandonment, isolation, abduction,
19 or other treatment with resulting physical harm or pain or mental
20 suffering.

21 (b) The deprivation by a care custodian of goods or services
22 that are necessary to avoid physical harm or mental suffering.

23 (c) Financial abuse, as defined in Section 15610.30.

24 (d) *This section shall become operative on July 1, 2016.*

25 *SEC. 3. Section 15657.03 of the Welfare and Institutions Code*
26 *is amended to read:*

27 15657.03. (a) (1) An elder or dependent adult who has suffered
28 abuse as defined in Section 15610.07 may seek protective orders
29 as provided in this section.

30 (2) A petition may be brought on behalf of an abused elder or
31 dependent adult by a conservator or a trustee of the elder or
32 dependent adult, an attorney-in-fact of an elder or dependent adult
33 who acts within the authority of the power of attorney, a person
34 appointed as a guardian ad litem for the elder or dependent adult,
35 or other person legally authorized to seek such relief.

36 (b) For the purposes of this section:

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

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

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

7 (A) An order enjoining a party from abusing, intimidating,
8 molesting, attacking, striking, stalking, threatening, sexually
9 assaulting, battering, harassing, telephoning, including, but not
10 limited to, making annoying telephone calls as described in Section
11 653m of the Penal Code, destroying personal property, contacting,
12 either directly or indirectly, by mail or otherwise, or coming within
13 a specified distance of, or disturbing the peace of, the petitioner,
14 and, in the discretion of the court, on a showing of good cause, of
15 other named family or household members or a conservator, if
16 any, of the petitioner.

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

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

25 (4) “Respondent” means the person against whom the protective
26 orders are sought and, if the petition is granted, the restrained
27 person.

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

33 (d) Upon filing a petition for protective orders under this section,
34 the petitioner may obtain a temporary restraining order in
35 accordance with Section 527 of the Code of Civil Procedure, except
36 to the extent this section provides a rule that is inconsistent. The
37 temporary restraining order may include any of the protective
38 orders described in paragraph (3) of subdivision (b). However, the
39 court may issue an ex parte order excluding a party from the

1 petitioner's residence or dwelling only on a showing of all of the
2 following:

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

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

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

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

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

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

34 (i) (1) In the discretion of the court, an order issued after notice
35 and a hearing under this section may have a duration of not more
36 than five years, subject to termination or modification by further
37 order of the court either on written stipulation filed with the court
38 or on the motion of a party. These orders may be renewed upon
39 the request of a party, either for five years or permanently, without
40 a showing of any further abuse since the issuance of the original

1 order, subject to termination or modification by further order of
2 the court either on written stipulation filed with the court or on the
3 motion of a party. The request for renewal may be brought at any
4 time within the three months before the expiration of the order.

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

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

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

1 court believes the support person is prompting, swaying, or
2 influencing the party assisted by the support person.

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

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

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

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

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

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

37 (3) The Judicial Council form for temporary orders issued
38 pursuant to this subdivision shall contain a statement in
39 substantially the following form:
40

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

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

11
12 (o) (1) Information on any protective order relating to elder or
13 dependent adult abuse issued by a court pursuant to this section
14 shall be transmitted to the Department of Justice in accordance
15 with either paragraph (2) or (3).

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

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

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

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

38 (4) Each appropriate law enforcement agency shall make
39 available information as to the existence and current status of these

1 orders to law enforcement officers responding to the scene of
2 reported abuse.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (v) This section does not apply to any action or proceeding
15 governed by Title 1.6C (commencing with Section 1788) of Part
16 4 of Division 3 of the Civil Code, ~~by~~ Chapter 3 (commencing with
17 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure,
18 ~~or by~~ Division 10 (commencing with Section 6200) of the Family
19 Code. Nothing in this section shall preclude a petitioner's right to
20 use other existing civil remedies.

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

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

29 SEC. 4. Section 15657.03 is added to the Welfare and
30 Institutions Code, to read:

31 15657.03. (a) (1) *An elder or dependent adult who has*
32 *suffered abuse may seek protective orders as provided in this*
33 *section.*

34 (2) *A petition may be brought on behalf of an abused elder or*
35 *dependent adult by a conservator or a trustee of the elder or*
36 *dependent adult, a county adult protective services agency in a*
37 *case in which an elder or dependent adult has been identified as*
38 *lacking capacity and a conservatorship is being sought, an*
39 *attorney-in-fact of an elder or dependent adult who acts within*
40 *the authority of the power of attorney, a person appointed as a*

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

3 (b) For the purposes of this section:

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

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

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

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

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

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

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

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

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

39 (d) Upon filing a petition for protective orders under this
40 section, the petitioner may obtain a temporary restraining order

1 *in accordance with Section 527 of the Code of Civil Procedure,*
2 *except to the extent this section provides a rule that is inconsistent.*
3 *The temporary restraining order may include any of the protective*
4 *orders described in paragraph (4) of subdivision (b). However,*
5 *the court may issue an ex parte order excluding a party from the*
6 *petitioner's residence or dwelling only on a showing of all of the*
7 *following:*

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

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

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

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

24 *(f) Within 21 days, or, if good cause appears to the court, 25*
25 *days, from the date that a request for a temporary restraining*
26 *order is granted or denied, a hearing shall be held on the petition.*
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*
29 *days, from the date that the petition is filed.*

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

32 *(h) The court may issue, upon notice and a hearing, any of the*
33 *orders set forth in paragraph (4) of subdivision (b). The court may*
34 *issue, after notice and hearing, an order excluding a person from*
35 *a residence or dwelling if the court finds that physical or emotional*
36 *harm would otherwise result to the petitioner, other named family*
37 *or household member of the petitioner, or conservator of the*
38 *petitioner.*

39 *(i) (1) In the discretion of the court, an order issued after notice*
40 *and a hearing under this section may have a duration of not more*

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

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

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

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

1 *proceedings if the person who alleges he or she is a victim of abuse*
2 *and the other party are required to be present in close proximity.*
3 *This subdivision does not preclude the court from exercising its*
4 *discretion to remove the support person from the courtroom if the*
5 *court believes the support person is prompting, swaying, or*
6 *influencing the party assisted by the support person.*

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

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

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

23 *(2) The reissued order shall state on its face the date of*
24 *expiration of the order.*

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

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

1 respondent by first-class mail sent to the respondent at the most
2 current address for the respondent that is 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 a temporary restraining
8 order and notice of hearing, but you do not appear at the hearing
9 either in person or by a lawyer, and a restraining order that is the
10 same as this temporary 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 (o) (1) Information on any protective order relating to elder
19 or dependent adult abuse issued by a court pursuant to this section
20 shall be transmitted to the Department of Justice in accordance
21 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 an 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,
29 and 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 methods:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (x) *This section shall become operative on July 1, 2016.*

31 ~~SECTION 1. Section 15657.03 of the Welfare and Institutions~~
32 ~~Code is amended to read:~~

33 ~~15657.03. (a) (1) An elder or dependent adult who has suffered~~
34 ~~abuse may seek protective orders as provided in this section.~~

35 ~~(2) A petition may be brought on behalf of an abused elder or~~
36 ~~dependent adult by a conservator or a trustee of the elder or~~
37 ~~dependent adult, a county adult protective services agency in a~~
38 ~~case in which an elder or dependent adult has been identified as~~
39 ~~lacking capacity and a conservatorship is being sought, an~~
40 ~~attorney-in-fact of an elder or dependent adult who acts within the~~

1 authority of the power of attorney, a person appointed as a guardian
2 ad litem for the elder or dependent adult, or other person legally
3 authorized to seek the relief.

4 (b) For the purposes of this section:

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

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

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

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

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

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

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

32 (5) “Respondent” means the person against whom the protective
33 orders are sought and, if the petition is granted, the restrained
34 person.

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

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

10 ~~(1) Facts sufficient for the court to ascertain that the party who~~
11 ~~will stay in the dwelling has a right under color of law to possession~~
12 ~~of the premises.~~

13 ~~(2) That the party to be excluded has assaulted or threatens to~~
14 ~~assault the petitioner, other named family or household member~~
15 ~~of the petitioner, or a conservator of the petitioner.~~

16 ~~(3) That physical or emotional harm would otherwise result to~~
17 ~~the petitioner, other named family or household member of the~~
18 ~~petitioner, or a conservator of the petitioner.~~

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

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

32 ~~(g) The respondent may file a response that explains or denies~~
33 ~~the alleged abuse.~~

34 ~~(h) The court may issue, upon notice and a hearing, any of the~~
35 ~~orders set forth in paragraph (4) of subdivision (b). The court may~~
36 ~~issue, after notice and hearing, an order excluding a person from~~
37 ~~a residence or dwelling if the court finds that physical or emotional~~
38 ~~harm would otherwise result to the petitioner, other named family~~
39 ~~or household member of the petitioner, or conservator of the~~
40 ~~petitioner.~~

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

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

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

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

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

~~16 (l) 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 five years.~~

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

~~24 (2) The reissued order shall state on its face the date of
25 expiration of the order.~~

~~26 (n) (1) If a respondent, named in an order issued under this
27 section after a hearing, has not been served personally with the
28 order but has received actual notice of the existence and substance
29 of the order through personal appearance in court to hear the terms
30 of the order from the court, no additional proof of service is
31 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 respondent 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 respondent by first-class~~

1 mail sent to the respondent at the most current address for the
2 respondent that is 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 a temporary restraining
8 order and notice of hearing, but you do not appear at the hearing
9 either in person or by a lawyer, and a restraining order that is the
10 same as this temporary 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 ~~(e) (1) Information on any protective order relating to elder or~~
19 ~~dependent adult abuse issued by a court pursuant to this section~~
20 ~~shall be transmitted to the Department of Justice in accordance~~
21 ~~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 an 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 abuse.

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

16 (6) Upon receiving information at the scene of an incident of
17 abuse that a protective order has been issued under this section,
18 or that a person who has been taken into custody is the respondent
19 to that order, if the protected person cannot produce an endorsed
20 copy of the order, a law enforcement officer shall immediately
21 attempt to 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 where a written
25 copy of the order can be obtained, and the officer shall at that time
26 also enforce the order. The law enforcement officer's verbal notice
27 of the terms of the order shall constitute service of the order and
28 is sufficient notice for the purposes of this section and for the
29 purposes of Section 273.6 of the Penal Code.

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

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

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

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

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

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

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

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

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

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

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