

# Judicial Council of California • Administrative Office of the Courts

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## INVITATION TO COMMENT SPR11-54

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Title	Action Requested
Juvenile Law: Restraining Orders	Review and submit comments by June 30, 2011
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend California Rules of Court, rule 5.630; revise Judicial Council forms JV-245, JV-248, and JV-250; revise and renumber form DV-810; and adopt forms JV-247 and JV-255	January 1, 2012
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Kerry Doyle, 415-865-8791
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Hon. Dean Stout, Cochair	

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### Summary

This proposal is for revised and new forms used to obtain and issue restraining orders in juvenile court cases, and an amendment to rule 5.360 of the California Rules of Court, which addresses restraining orders in juvenile court cases.

The proposal would harmonize and coordinate the juvenile forms with proposed revisions to the Domestic Violence Prevention Act (DVPA), Civil Harassment (CH), Elder Abuse (EA), Private Postsecondary School Violence (SV), and Workplace Violence (WV) forms.<sup>1</sup>

This proposal would also implement Assembly Bill 1596 (Stats. 2010, ch.572), which amends, effective January 1, 2012, Welfare and Institutions Code section 213.5.<sup>2</sup>

### Discussion

In 2007, the Judicial Council's Rules and Projects Committee requested formation of the Protective Orders Working Group (POWG)<sup>3</sup> to bring together members of the Family and

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<sup>1</sup> Proposed revisions to the DVPA forms are found in SPR11-55; proposed revisions to the CH forms, EA forms, SV forms and WV forms are found in SPR11-60.

<sup>2</sup> All further statutory references are to the Welfare and Institutions Code, unless otherwise noted.

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Juvenile Law, Civil and Small Claims, Criminal Law, and Probate and Mental Health Advisory Committees, as well as the Domestic Violence Practice and Procedure Task Force, to jointly address issues relating to the protective order forms. More specifically, the POWG considered challenges presented by inconsistencies among the current protective order forms and identified statutory impediments to uniformity among the forms.

There were two main results from the meetings. First, statutory differences were addressed and conformed through Judicial Council–sponsored legislation, Assembly Bill 1596, which was enacted and signed by the Governor in 2010.<sup>4</sup> It will become effective on January 1, 2012. The bill amends sections of the Code of Civil Procedure, Welfare and Institutions Code, Family Code, and Government Code that provide for protective orders relating to civil harassment, private postsecondary school violence, workplace violence, elder and dependent adult abuse, juvenile law, and domestic violence. The legislation will create greater consistency in procedures and practices, eliminate unnecessary statutory differences, fill in procedural gaps, clarify uncertain matters, and generally improve the statutes that relate to protective orders.

In addition, the POWG considered proposed revisions to the format and substance of the various civil and criminal protective order forms with the goal of eliminating unnecessary differences and promoting consistency where possible.

This proposal makes the changes to the California Rules of Court and Judicial Council forms necessitated by AB 1596, as well as changes recommended by the Protective Orders Working Group and the Family and Juvenile Law Advisory Committee.

### **Rule 5.630**

AB 1596 made several changes to Welfare and Institutions Code section 213.5, which will be effective January 1, 2012. Rather than amending rule 5.630 to conform to the changes in section 213.5, the committee recommends deleting all items in the rule that duplicate section 213.5. The portions of the rule that are not contained in section 213.5 would remain. The rule would be more concise, be easier to use, and remain consistent with section 213.5 if the statute were to be amended again.

This proposal would make various amendments to rule 5.630 as recommended by the POWG and the committee. These amendments are discussed below.

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<sup>3</sup> The Protective Orders Working Group comprises members from the Civil and Small Claims Advisory Committee, the Family and Juvenile Law Advisory Committee, the Criminal Law Advisory Committee, and the Domestic Violence Practice and Procedure Task Force.

<sup>4</sup>The text of AB 1596, as chaptered, may be viewed at [www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_1551-1600/ab\\_1596\\_bill\\_20100930\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1551-1600/ab_1596_bill_20100930_chaptered.pdf).

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**Definition of abuse.** Section 213.5 does not define abuse. The 2012 amendments to the section will clarify that a person can apply for a restraining order in the juvenile court in the manner provided by Family Code section 6300. That section states that “[a]n order may be issued... to restrain any person... if an affidavit... provided to the court, shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse.” In order for the juvenile court to determine if there is sufficient proof of abuse, there must be a definition of abuse for the court to apply. Rule 5.630 would be amended to include the definition of abuse in the Domestic Violence Prevention Act, Family Code section 6203. Since the 2012 amendments will allow a person to apply for a restraining order under Family Code section 6300, it is logical that the definition of abuse in that division of the code also apply.

**Notice of Temporary Restraining Orders.** Currently, rule 5.630(f) requires notice of a Temporary Restraining Order (TRO) under rule 3.1204. That rule requires notice to be given, or a declaration stating why notice does not need to be given, and requires the person to attempt to determine whether the opposing party will appear to oppose the application. This proposal would remove the reference to rule 3.1204 so that applications for temporary restraining orders can be made without notice. Allowing temporary restraining orders to be issued without notice in the juvenile court mirrors the requirements for protective orders issued under the DVPA, and provides safety to restraining order applicants.

**Service of restraining orders.** Family Code section 6389 prohibits a person subject to a restraining order from owning and possessing firearms. The court must order the restrained person to relinquish any firearms. This proposal would amend rule 5.630 to require that *Proof of Firearms Turned In or Sold* (form JV-252) and *What Do I Do With My Gun or Firearm?* (form JV-253) be served with any restraining order that requires service. In this way, the restrained person will receive the important information about how to relinquish firearms and provide proof to the court of this relinquishment. The rule would provide, however, that the failure to serve form JV-252 or JV-253 does not make the service of the restraining order invalid.

**Modification of restraining orders.** Currently, there is no form that can be used to modify restraining orders. These orders are often modified in juvenile court cases, such as when a parent is successfully engaging in services and the court wants to modify visitation, or when a ward is successfully following conditions of probation. Rule 5.630 would be amended to allow the court to modify restraining orders on its own motion or under section 388 and rule 5.560.<sup>5</sup> A new form, *Change to Restraining Order After Hearing* (form JV-255) would provide a simple way to record the modified order. This form would include directions regarding transmitting the data in the order to law enforcement.

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<sup>5</sup> Section 388 and Rule 5.560 provide the standards and procedures for any person having an interest in the child to petition the juvenile court to change, modify, or set aside any order of the court.

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### **Judicial Council forms**

Various revisions to the Judicial Council forms would be made to conform to the changes to section 213.5 and the recommendations of the POWG. The revisions to the forms necessary to conform to the changes in section 213.5 include allowing court-appointed special advocates (CASAs), social workers, and probation officers to use the request form to obtain a protective order for themselves; increasing the time interval the matter must return to court for an order to show cause why an ex parte temporary order should not be granted; amending the list of personal conduct orders; and adding information regarding the transmittal of data in the order to law enforcement.

**Application and Affidavit for Restraining Order (form JV-245).** This proposal would revise *Application and Affidavit for Restraining Order* (form JV-245) to conform to the changes in section 213.5 by deleting the words “self, parent, legal guardian, current caregiver,” which appear after “Relationship to child” in what is currently item 3, to allow the use of the form by social workers, probation officers, and CASAs.

Additional revisions include renaming the form *Request for Restraining Order—Juvenile* and; renumbering the items (1) so that the protected persons and person to be restrained appear at the top of the first page, (2) so that the expiration date appears on the first page, (3) to more closely reflect the order of items on other protective order forms, and (4) to more clearly ask for information regarding whether a criminal protective order is in effect.

**Answer to Request for Restraining Order—Juvenile (form JV-247)** This proposal would create a new form, *Answer to Request for Restraining Order—Juvenile* (form JV-247). Currently, there is no answer form to respond to a request for a restraining order. The POWG recommended creation of an optional answer form for use in juvenile restraining order hearings. The form would be particularly helpful for nonparties who are not represented in the juvenile court proceedings.

**Confidential CLETS Information (form JV-248).** Separate *Confidential CLETS Information* forms would be created for each of the six types of civil protective order proceedings.

When the Private Postsecondary School Violence forms were created last year, it was decided that having six separate identifier numbers on the CLETS form was unwieldy. Therefore, separate CLETS forms were made for the School Violence and Workplace Violence forms groups. In keeping with this style, DV-260 and JV-248 would become separate forms.

As an alternative to six separate forms, one single form with a universal designator (e.g., CLETS-001 or TRO-001) could be created for use in all types of protective order proceedings. The Administrative Office of the Courts (AOC) is able to include a universal form number in the

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form groups pertaining to each type of restraining order located on the California Courts website so that it is easily found. However, petitioners might find a universal form more difficult to locate and inadvertently not include it with their petitions if they are not using the California Courts website and their court does not create a forms packet.

The committee specifically seeks comment on whether there should be one universal *CLETS Information* form or six separate forms that are identical except for the form number.

**Restraining Order—Juvenile (form JV-250).** Form JV-250, *Restraining Order—Juvenile*, would be revised to conform to the changes in section 213.5 by amending the list of personal conduct orders with additional behaviors<sup>6</sup> and adding an item regarding the transmittal of the data in the order to law enforcement.<sup>7</sup>

The revisions would also clarify the different types of orders that can be made against children who are wards of the court and adults, based on a strict interpretation of section 213.5. Section 213.5(b)(3) states the delinquency court may enjoin the child from contacting, threatening, stalking or disturbing the peace of any person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child. The form revisions would list only the behaviors enjoined in section 213.5(b)(3) under one item specifically for restrained children (item 6), while listing orders such as stay away and move out orders under one item specifically for restrained adults (item 7). The Committee specifically invites comment on whether this is the most useful way to structure the form.

Additional revisions to the form include moving items identifying the protected persons, restrained person, and expiration date to page one of the form, making the order easier for law enforcement personnel to read and enforce; and renumbering items to more closely mirror the order of items on other protective order forms.

**How Do I Turn In My Gun or Firearm? (form DV-800-INFO/JV-252-INFO).** *How Do I Turn In My Gun or Firearm?* (form DV-810) would be amended by renumbering it as DV-800-INFO and adding an additional number, JV-252-INFO. This form is currently used in DVPA

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<sup>6</sup> AB 1596 amends the behaviors the court can enjoin, to be consistent with the behaviors listed in Family Code section 6320.

<sup>7</sup> The amendments to section 213.5 provide an updated process to submit the information on the forms to law enforcement. AB 1596 removed the requirement that copies of the orders be given to each local law enforcement agency and replaced it with the modern transmittal process—that the data on the protective order must be transmitted by the court or its designee to law enforcement personnel either by transmitting a copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS) or by entering the order into CLETS directly. Because entry into the CLETS system is a crucial step for law enforcement to be able to know the contents of the order, this proposal would add item 11 to *Restraining Order—Juvenile* (form JV-250) to allow the court to order entry into the CLETS system consistent with the new requirements in 213.5

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cases to explain to the restrained person what a firearm is and how they can surrender or sell their firearms. Since this is an information sheet rather than a form, this proposal would renumber it as DV-800-INFO Adding a JV number to this information sheet would allow its use in juvenile court proceedings as well.

**Change to Restraining Order After Hearing (form JV-255).** A new form, *Change to Restraining Order After Hearing* (form JV-255) would provide a tool for courts to modify or terminate restraining orders after hearing.

### **Specific Comments Requested**

In addition to inviting comment on all aspects of the proposal, the committee requests specific feedback on the following issues:

1. Whether there should be one universal *CLETS Information* form or six separate forms that are identical except for the form number.
2. Whether listing only the behaviors enjoined in section 213.5(b)(3) under one item specifically for restrained children, while listing orders such as stay away and move out orders under one item specifically for restrained adults is the most useful way to structure the restraining order form.

### **Attachments**

1. Cal. Rules of Court, rule 5.630, at pages 7-11.
2. Forms DV-800-INFO/JV-252-INFO, JV-245, JV-247, JV-248, JV-250, and JV-255, at pages 12- 23.
3. Attachment A: relevant portions of AB 1596, at pages 24-26.

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California Rules of Court Rule 5.630 of the would be amended, effective January 1, 2012, to read:

1 **Title 5. Family and Juvenile Rules**

2  
3 **Division 2. Rules Applicable in Family and Juvenile Proceedings**

4  
5 **Chapter 8. Restraining Orders, Custody Orders, and Guardianships General Court**  
6 **Authority**

7  
8 **Rule 5.630. Restraining orders**

9  
10 **(a) Court's authority (~~§ 213.5~~)**

11 \*\*\*

12  
13  
14 **(b) Application for restraining orders (~~§§ 213.5, 304~~)**

15  
16 (1) Application for restraining orders may be made orally at any scheduled  
17 hearing regarding the child who is the subject of a petition under section 300,  
18 601, or 602, or may be made by written application, or may be made on the  
19 court's own motion.

20  
21 (2) The written application must be submitted on *Application and Affidavit*  
22 *Request for Restraining Order—Juvenile* (form JV-245).

23  
24 (3) A person requesting a restraining order in writing must submit to the court  
25 with the request a completed *Confidential CLETS Information Form* (form  
26 JV-248) under rule 1.51.

27  
28 **(c) Definition of abuse**

29  
30 The definition of abuse in Family Code section 6203 applies to restraining orders  
31 issued under Welfare and Institutions Code section 213.5.

32  
33 **(~~e~~) ~~Protected children~~ (~~§ 213.5(a) and (b)~~)**

34  
35 ~~Restraining orders may be issued to protect any of the following children:~~

36  
37 ~~(1) A child who is the subject of the dependency petition or who is declared a~~  
38 ~~dependent;~~

39  
40 ~~(2) Another child in the household of the child named in (1); and~~

41  
42 ~~(3) A child who is the subject of a delinquency petition or who is declared a ward.~~

1  
2 ~~(d) — Other protected persons (§ 213.5(a))~~

3  
4 The court may also issue orders protecting any parent, legal guardian, or current  
5 caregiver of the child listed in (c)(1), whether or not that child resides with that  
6 parent, legal guardian, or current caregiver.

7  
8 ~~(e) — Available orders and restrained persons (§ 213.5(a), (b), and (d)–(f))~~

9  
10 The court may issue, either ex parte or after notice and hearing, restraining orders  
11 that:

12  
13 ~~(1) — Enjoin any person from molesting, attacking, striking, sexually assaulting,~~  
14 ~~stalking, or battering any of the persons listed in (c) or (d);~~

15  
16 ~~(2) — Exclude any person from the dwelling of the person who has care, custody,~~  
17 ~~and control of the child named in (c)(1) or (3). This order may be issued for~~  
18 ~~the time and on the conditions that the court determines, regardless of which~~  
19 ~~party holds legal or equitable title or is the lessee of the residence or dwelling,~~  
20 ~~on a showing that:~~

21  
22 ~~(A) — The party who will stay in the dwelling has a right under color of law to~~  
23 ~~possession of the premises;~~

24  
25 ~~(B) — The party to be excluded has assaulted or threatened to assault the other~~  
26 ~~party or any other person under the care, custody, and control of the~~  
27 ~~other party, or any minor child of the parties or of the other party; and~~

28  
29 ~~(C) — Physical or emotional harm would otherwise result to the other party, to~~  
30 ~~any person under the care, custody, and control of the other party, or to~~  
31 ~~any minor child of the parties or of the other party;~~

32  
33 ~~(3) — Enjoin any person from behavior, including contacting, threatening, or~~  
34 ~~disturbing the peace of the persons named in (c) or (d), as necessary to~~  
35 ~~effectuate orders under (e)(1) or (2); and~~

36  
37 ~~(4) — Enjoin any delinquent child or any child for whom a section 601 or 602~~  
38 ~~petition has been filed from contacting, threatening, stalking, or disturbing the~~  
39 ~~peace of any person:~~

40  
41 ~~(A) — Whom the court finds to be at risk from the conduct of the child; or~~

42  
43 ~~(B) — With whom association would be detrimental to the child.~~

1  
2 **(f)(d) Ex parte applications—procedure (~~§ 213.5(a)–(e) and (f)~~)**  
3

4 The application may be submitted ex parte, and the court may grant the petition and  
5 issue a temporary order. ~~The matter may be heard simultaneously with any~~  
6 ~~scheduled hearing regarding the child who is the subject of the section 300, 601, or~~  
7 ~~602 petition. Notice of the ex parte proceeding is required as stated under rule~~  
8 ~~3.1204.~~  
9

10 (1) In determining whether or not to issue the temporary restraining order ex  
11 parte, the court must consider all documents submitted with the application  
12 and may review the contents of the juvenile court file regarding the child.  
13

14 (2) The temporary restraining order must be prepared on *Restraining Order—*  
15 *Juvenile (CLETS—JUV)* (form JV-250) and must state on its face the date of  
16 expiration of the order.  
17

18 **~~(g)~~ Order to show cause and reissuance (~~§ 213.5(e)~~) (e) Reissuance**  
19

20 ~~When a temporary restraining order is granted without notice, the matter must be~~  
21 ~~made returnable on an order to show cause why the order should not be granted, no~~  
22 ~~later than 15 days or, on a showing of good cause, 20 days from the date the~~  
23 ~~temporary restraining order is granted.~~  
24

25 ~~(1) On the motion of the person seeking the restraining order or on its own~~  
26 ~~motion, the court may shorten the time for service of the order to show cause~~  
27 ~~on the person to be restrained.~~  
28

29 ~~(2)~~ The court may, on its own motion or the filing of an affidavit by the person  
30 seeking the restraining order, find that the person to be restrained could not be  
31 served within the time required by the law and reissue an order previously  
32 issued and dissolved by the court for failure to serve the person to be  
33 restrained.  
34

35 (1) The reissued order must state on its face the date of expiration of the order.  
36

37 (2) *Application and Order for Reissuance of Order to Show Cause* (form FL-  
38 306/JV-251) must be used for this purpose.  
39

40 **(h)(f) Hearing on application for restraining order (~~§ 213.5(d) and (f)~~)**  
41

1 The court may issue, after notice and hearing, any of the orders in (e). The  
2 restraining order must remain in effect for a period of time determined by the court,  
3 but in any case not more than three years.  
4

5 ~~(1)~~—The matter may be heard simultaneously with any scheduled hearing  
6 regarding the child who is the subject of the section 300, 601, or 602 petition.  
7

8 ~~(2)~~(1) Proof may be by the application and any attachments, additional  
9 declarations or documentary evidence, the contents of the juvenile court file,  
10 testimony, or any combination of these.  
11

12 ~~(3)~~(2) The order after hearing must be prepared on *Restraining Order—*  
13 *Juvenile (CLETS—JUV)* (form JV-250) and must state on its face the date of  
14 expiration of the order.  
15

16 **(g) Service of restraining order**  
17

18 If service of *Restraining Order—Juvenile* (form JV-250) is required, it must be  
19 served with *Proof of Firearms Turned In or Sold* (form DV-800/JV-252) and *How*  
20 *Do I Turn In or Sell Firearms?* (form DV-800-INFO/JV-252-INFO). Failure to  
21 serve form JV-252 or JV-252-INFO does not make service of form JV-250 invalid.  
22

23 **(h) Expiration of restraining order**  
24

25 The order remains in effect until it expires, regardless of whether the underlying  
26 juvenile case is dismissed.  
27

28 **(i) Criminal records search (§ 213.5(k) and Stats. 2001, ch. 572, § 7)**  
29

30 \*\*\*  
31

32 **~~(j) Termination or extension of restraining order (§ 213.5(d))~~**  
33

34 ~~(1)~~—The restraining order may be terminated by the court before the expiration  
35 date listed on its face.  
36

37 ~~(2)~~—The restraining order may be extended beyond the expiration date listed on its  
38 face by mutual consent of all parties to the order, or by further order of the  
39 court on motion of any party to the order.  
40

41 **(i) Modification of restraining order**  
42

1 (1) A restraining order may be modified on the court's own motion or in the  
2 manner provided for in section 388 and rule 5.560.

3  
4 (2) A termination or modification order must be made on *Change to Restraining*  
5 *Order After Hearing* (form JV-255).

6  
7 ~~(k) Violation (§ 213.5(h))~~

8  
9 ~~Any willful and knowing violation of any order, temporary order, or order after~~  
10 ~~hearing granted under section 213.5 is a misdemeanor, punishable under Penal~~  
11 ~~Code section 273.65.~~

12  
13 ~~(A)(k) Restraining orders issued by other courts (§ 304)~~

14  
15 (1) ~~If a A restraining order has been issued by the juvenile court under section~~  
16 ~~213.5, no court other than a criminal court may issue any order contrary to the~~  
17 ~~juvenile court's restraining order. takes precedence over any other court order~~  
18 ~~except the following:~~

19  
20 (A) a conflicting criminal court order; or

21  
22 (B) an Emergency Protective Order that is more restrictive than the juvenile  
23 court order.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  <hr/> <p style="text-align: center;">TELEPHONE NO.: _____ FAX NO. (Optional): _____</p> <p>E-MAIL ADDRESS (Optional): _____</p> <p>ATTORNEY FOR (Name): _____</p>	<b>FOR COURT USE ONLY</b>  <h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 0;">Not approved by the Judicial Council</h3>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	CASE NUMBER: JUVENILE: FAMILY:
<b>REQUEST FOR RESTRAINING ORDER—JUVENILE</b>	RELATED CASES (if any):

**1. Persons to be protected** (List full names and ages of all persons to be protected; also list relationship to child in item 1):

<u>Name</u>	<u>Age</u>	<u>Relationship to child</u>
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**2. a. Person to be restrained** (full name):

<b>b. DESCRIPTION:</b>  Sex: <input type="checkbox"/> M <input type="checkbox"/> F Ht.: _____ Wt.: _____ Hair color: _____ Eye color: _____ Race: _____ Age: _____ Date of birth: _____
---

**3. The child is**

- a.  a dependent of the court under Welfare and Institutions Code section 300; or
- b.  the subject of a petition that has been filed in this court under Welfare and Institutions Code section 300; or
- c.  a ward of the court under Welfare and Institutions Code section 601; or
- d.  a ward of the court under Welfare and Institutions Code section 602; or
- e.  the subject of a petition that has been filed in this court under Welfare and Institutions Code section 601; or
- f.  the subject of a petition that has been filed in this court under Welfare and Institutions Code section 602.

**4. Petitioner is the**

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>a. <input type="checkbox"/> mother</li> <li>b. <input type="checkbox"/> father</li> <li>c. <input type="checkbox"/> child</li> <li>d. <input type="checkbox"/> guardian</li> <li>e. <input type="checkbox"/> social worker</li> <li>f. <input type="checkbox"/> probation officer</li> </ul> | <ul style="list-style-type: none"> <li>g. <input type="checkbox"/> present caregiver of child</li> <li>h. <input type="checkbox"/> court-appointed special advocate</li> <li>i. <input type="checkbox"/> representative of Indian child's tribe</li> <li>j. <input type="checkbox"/> other (state interest or relationship to child):</li> </ul> |
|---|--|

**5. The person to be restrained has** (check at least one box):

- a.  assaulted or attempted to assault one or more of the persons to be protected
- b.  caused, threatened, or attempted bodily injury on one or more of the persons to be protected
- c.  caused one or more of the persons to be protected to fear physical or emotional harm
- d.  sexually assaulted or attempted to sexually assault one or more of the persons to be protected
- e.  stalked one or more of the persons to be protected
- f.  other (specify): \_\_\_\_\_

CHILD'S NAME:	CASE NUMBER:
	JUVENILE:
	FAMILY:

6. **Description of conduct** (describe in detail the most recent incidents supporting this application or attach copies of reports of law enforcement officers):

7.  A criminal protective order on form CR-160 is in effect against the person sought to be restrained:

a.  Case number: \_\_\_\_\_ expiration date: \_\_\_\_\_

b.  County (if known): \_\_\_\_\_

c.  Person protected by order: \_\_\_\_\_

d.  Person restrained by order: \_\_\_\_\_

8. **Requested personal conduct orders**

- a.  Restrained person must not harass, molest, attack, strike, stalk, threaten, sexually assault, batter, destroy the personal property of, or disturb the peace of any person or persons named in item 1.
- b.  Restrained person must not contact (either directly or indirectly), by mail or otherwise, any person named in item 1
- (1)  except for brief and peaceful contact as required for court-ordered visitation of children, unless a criminal protective order says otherwise
- (2)  except for peaceful written contact through a process server or another person to serve legal papers related to a court case
- c.  Restrained person must move immediately from (address): \_\_\_\_\_
- and take only personal clothing and effects.
- d.  Restrained person must stay at least (specify): \_\_\_\_\_ yards away from the following persons and places (the addresses of these places are optional and may be kept confidential):
- (1)  Protected persons named in item 1
- (2)  The residence of the person or people listed in item 1 (address optional): \_\_\_\_\_
- (3)  The workplace of the person or people listed in item 1 (address optional): \_\_\_\_\_
- (4)  Child's school or place of child care (address optional): \_\_\_\_\_
- (5)  The vehicle of the person or people listed in item 1 (description optional): \_\_\_\_\_
- (6)  Other (specify): \_\_\_\_\_  
(address optional): \_\_\_\_\_

CHILD NAME: _____	CASE NUMBER: JUVENILE: FAMILY:
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- e.  Restrained person must not take any action to get the address or location of any person named in item 1 or the addresses or locations of the family members, caregivers, or guardians of any persons named in item 1. *(If this box is not checked, the court has found good cause not to make this order.)* Peaceful written contact through a lawyer or through a process server or another person in order to serve legal papers is allowed and does not violate this order.
  
- f. Restrained person must sell or give up any firearms that he or she has or controls for a period not to exceed the duration of the restraining order. Describe in item 5 any use of or threat regarding use of firearms. Petitioner believes the restrained person has the following firearms *(specify)*:
  
- g.  The child is a ward or the subject of a petition under Welfare and Institutions Code section 601 or 602 and must not contact, threaten, stalk, or disturb the peace of *(list names)*:
  
- h.  Other requested orders:

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

▲  
\_\_\_\_\_  
(SIGNATURE OF PETITIONER)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>  <hr/> TELEPHONE NO. <i>(Optional):</i> _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b> <b>Not approved by the</b> <b>Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	CASE NUMBER: JUVENILE: FAMILY:
<b>ANSWER TO REQUEST FOR RESTRAINING ORDER—JUVENILE</b>	RELATED CASES <i>(if any):</i>

1. Name of person who asked for the order:
2. Your name:  
Your address *(skip this if you have a lawyer; if you want your address to be private, give a mailing address instead):*

3.  **Personal conduct order**  
 I  do  do not agree to the order requested.

4.  **Move-out order**  
 I  do  do not agree to the order requested.

5.  **Stay-away order**  
 I  do  do not agree to the order requested.

6. *If you were served with form JV-250, Temporary Restraining Order, you cannot own or possess any guns, firearms, or ammunition. You must turn in (surrender) to local law enforcement or sell to a licensed gun dealer all guns and firearms owned by you or subject to your immediate possession or control and file a receipt with the court from the law enforcement agency or the licensed gun dealer within 48 hours after you received form JV-250. (See item 8 on form JV-250.) You may use form JV-252, Proof of Firearms Turned in or Sold, for the receipt.*

- a.  I do not own or have any firearms.
- b. A copy of the receipt is  attached  has already been filed with the court.

7. The court should not make or issue a restraining order against me because *(list facts or reasons below):*

Check here if there is not enough space for your answer. Put your complete answer on an attached piece of paper and write "Attachment 7—Answer" as a title. Number of pages attached: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

\_\_\_\_\_ ▶ \_\_\_\_\_  
 (TYPE OR PRINT NAME) (SIGNATURE OF PETITIONER)

California Law Enforcement Telecommunications System (CLETS) Information Form

Important Notice: This form MUST NOT become part of the public court file. It is confidential and private.

Fill out as much of this form as you can and give it to the court clerk. If the court issues a restraining order, the information on this form will be sent by the court to a statewide restraining order database for law enforcement officers. The information helps them enforce the order.

Restraining order case number (if you know it): \_\_\_\_\_

1 Person to Be Protected (name): \_\_\_\_\_
Sex: [ ] M [ ] F Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Race: \_\_\_\_\_
Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_
(Mailing address listed on restraining order) (City, state, zip) (Telephone number [optional])
Vehicle (type, model, year): \_\_\_\_\_
Vehicle License Number and State: \_\_\_\_\_

2 Person to Be Restrained (name): \_\_\_\_\_
Sex: [ ] M [ ] F Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Race: \_\_\_\_\_
Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_
(Residence address) (City, state, zip) (Telephone number)
(Workplace) (Occupation/title) (Work hours)
(Business address) (City, state, zip) (Telephone number)
Driver's License Number and State: \_\_\_\_\_ Vehicle license number and state: \_\_\_\_\_
Vehicle (type, model, year): \_\_\_\_\_
Social Security Number: \_\_\_\_\_
Describe any marks, scars, or tattoos: \_\_\_\_\_
List any other names used by the restrained person: \_\_\_\_\_

3 Guns or Firearms
Describe any guns or firearms you believe the restrained person owns or has access to (number, types, and locations):
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

4 Other People to Be Protected
Name Date of Birth Sex Race
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

[ ] Additional persons to be protected are listed on Attachment 4.

This is not a Court Order—Do not file in court file.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):   TELEPHONE NO. (Optional): _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>   <b>DRAFT</b> <b>Not approved by the</b> <b>Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<b>RESTRAINING ORDER—JUVENILE</b> <input type="checkbox"/> Temporary Order <input type="checkbox"/> Order After Hearing	CASE NUMBER:

1. **Persons to be protected** (insert full names, sex, and age of **all** persons to be protected):

2. **Person to be restrained** (full name):

Sex:  M  F Ht.: \_\_\_\_\_ Wt.: \_\_\_\_\_ Hair color: \_\_\_\_\_ Eye color: \_\_\_\_\_ Race: \_\_\_\_\_ Age: \_\_\_\_\_ Date of birth: \_\_\_\_\_

3.  **Temporary order**
- a.  Person to be restrained received notice.
  - b.  Person to be restrained did not receive notice.
  - c.  This temporary order will expire at midnight on the date of the hearing listed below (*must be within 21 days of the temporary order or, upon a finding of good cause within 25 days*).

**TO THE PERSON RESTRAINED UNDER A TEMPORARY ORDER**

A court hearing has been set at the time and place indicated below. You may attend this hearing, with or without an attorney, to provide any legal reason that the orders above should not be extended. If you do not appear at this hearing, the court may extend or modify the orders for up to three years without further notice to you.

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

4. If at the hearing the judge makes a restraining order which has the same orders as in the Temporary Order, the restrained person will get a copy of that order by mail at his or her last known address (*write restrained persons address*):

**Note:** If this address is not correct or to determine whether the orders were made permanent, contact the clerk of this court.

5.  **Order after hearing**
- a. This order after hearing expires on (*specify date and time*):
    - If no end date is written, the restraining order ends 3 years after the date of the hearing, as indicated below.
    - If no time is written, the restraining order ends at midnight on the end date.
  - b. Date hearing held: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

CASE NAME:  	CASE NUMBER:  
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- c. Judicial officer (*name*):
- d. Persons and attorneys present (*names*):

- e.  Person to be restrained present. No further service needed.
- f.  Person to be restrained not present.
  - (1)  The judge's orders in this form are the same as in the prior temporary restraining order except for the end date, and the temporary order and notice of hearing was personally served on the restrained person. The restrained person can be served by mail.
  - (2)  The judge's orders are different from those in the prior temporary restraining order. An adult 18 years or older—not the person or persons to be protected—must personally serve a copy of this order on the restrained person.

**Warning to the Restrained Person**

The court has made the orders granted below. If you do not obey these orders, you can be arrested and charged with a crime. And you may have to go to jail, pay a fine of up to \$1,000 or both. Taking or hiding a child in violation of this order is subject to state and federal criminal penalties.

**THE COURT FINDS AND ORDERS**

6. **Restrained person (child)**  
 The restrained person is a ward of the court or the subject of a petition under Welfare and Institutions Code section 601 or 602 and must not contact, threaten, stalk, or disturb the peace of (*list names*):

7. **Restrained person (adult)**  
 a. **must not** molest, attack, strike, stalk, threaten, sexually assault, batter, harass, telephone, destroy the personal property of, contact, or disturb the peace of any person named in item 1.

- b.  **must stay away** at least (*specify*) \_\_\_\_\_ yards from the people listed in item 1 and the
  - (1)  home  vehicle  school of people in item 1
  - (2)  job or workplace of people in item 1
  - (3)  the children's school or child care
  - (4) other (*specify*):

c.  **must move** immediately from (*address*):

and take only personal clothing and belongings.

- d.  **has the right to visit the minor children** named in item 1 as follows:
  - (1)  None
  - (2)  Visitation according to the attached schedule (*form JV-205 must be attached if any visitation is ordered*)

e.  **must NOT take any action** to get the address or location of any person named in item 1 or the addresses or locations of the family members, caregivers, or guardians of any persons named in item 1. If this box is not checked, the court has found good cause not to make this order.

CASE NAME:	CASE NUMBER:
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8. **Firearms restriction prohibition.** Within 24 hours after receiving this order, the restrained person must turn in to law enforcement or sell to a licensed gun dealer any guns or firearms that he or she has or controls.

**Within 48 hours of receiving this order, the restrained person must provide the court with a receipt or with form DV-800/JV-252 (Proof of Firearms Turned In or Sold) to prove that guns or firearms have been turned in or sold.**

9.  A criminal protective order on form CR-160 is in effect:

Case number: \_\_\_\_\_ (expiration date): \_\_\_\_\_ County (if known): \_\_\_\_\_

**Conflicting orders.** If a criminal restraining order (form CR-160) conflicts with a juvenile restraining order (form JV-250), a law enforcement agency must enforce the criminal order. Even if the criminal order is older, the officer must still enforce it over the juvenile order. (Pen. Code, § 136.2(h).) Any nonconflicting terms of the juvenile custody or visitation order remain in full force. An Emergency Protective Order (form EPO-001) that is in effect between the same parties and that is more restrictive than other restraining orders takes precedence over all other restraining orders. (Pen. Code, § 136.2.)

10. **Other orders (specify):**

11. **Transmittal order.** The data in this order must be transmitted within one business day to law enforcement personnel.

- a.  The court will enter the order into the California Law Enforcement Telecommunications System (CLETS) directly.
- b.  The court will transmit a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into CLETS.
- c.  The court orders its designee (name): \_\_\_\_\_ to transmit a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into CLETS.

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER

CASE NAME:  _____	CASE NUMBER:  _____
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**Warning to Restrained Person—You cannot have guns or firearms**

Violations: Any person subject to a restraining order is prohibited from owning, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. Under federal law, the issuance of a restraining order after hearing will generally prohibit the restrained person from owning, accepting, transporting, or possessing firearms or ammunition. A violation of this prohibition is a separate federal crime.

**Instruction for Law Enforcement**

This order is effective when made. It is enforceable in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories and shall be enforced as if it were an order of that jurisdiction by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If proof of service on the restrained person has not been received and the restrained person was not present at the court hearing, the law enforcement agency shall advise the restrained person of the terms of the order and then shall enforce it.

**Certificate of Compliance With VAWA for Temporary Orders**

This temporary protective order meets all Full Faith and Credit requirements of the Violence Against Women Act (18 U.S.C. § 2265)(1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in all jurisdictions throughout the 50 United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

**Certificate of Compliance With VAWA for Orders After Hearing**

This protective order meets all Full Faith and Credit requirements of the Violence Against Women Act (18 U.S.C. § 2265) (1994) (VAWA). This court has jurisdiction over the parties and the subject matter; the restrained person has been afforded reasonable notice and an opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in all jurisdictions throughout the 50 United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

**CLERK'S CERTIFICATE**

[SEAL] I certify that the foregoing *Restraining Order—Juvenile* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**1 What is a firearm?**

A firearm is a

- Handgun
- Shotgun
- Rifle
- Assault Weapon



**2 If you own or have a firearm, you must:**

- Turn it in to local law enforcement *or*
- Sell it to a licensed gun dealer

**3 How do I sell my firearm?**

Find a licensed gun dealer in your area.

Look under “Firearms Dealers” in your local Yellow Pages or on the Internet. Make sure the dealer is licensed.

**4 How do I take my firearm to law enforcement?**

Call your local law enforcement agency to ask about their procedures. Take a copy of the restraining order with you. Go directly to the law enforcement agency. Do not go anywhere else with firearms in your vehicle!

**5 If I turn my firearm in to law enforcement, how long will they keep it?**

Ask the law enforcement agency.

**6 After I give my firearm to law enforcement, can I change my mind?**

Yes. You are allowed to make one sale through a licensed gun dealer. To do this, a licensed gun dealer must present a Bill of Sale to your local law enforcement agency. The law enforcement agency will give the licensed gun dealer the firearm you are selling.

**7 Do I have to pay the law enforcement agency to keep my firearm?**

You may have to pay the agency for keeping your firearm. Contact your local law enforcement agency and ask if a fee is charged. The agency will tell you how much you need to pay.

**8 Questions?**

Call your local law enforcement agency:  
*[insert local information here]*

**DO:**

- unload your firearm.
- put your firearm in the trunk.
- call ahead to the police department

**DO NOT:**

- bring a loaded firearm to the law enforcement agency.
- bring ammunition with the firearm when you turn it in.
- put your firearm in a locked glove compartment.
- bring a firearm to court.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>  TELEPHONE NO. <i>(Optional):</i> _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	<b>FOR COURT USE ONLY</b>   <b>DRAFT</b> <b>Not approved by the</b> <b>Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	CASE NUMBER: JUVENILE: FAMILY:
<b>CHANGE TO RESTRAINING ORDER AFTER HEARING</b>	RELATED CASES <i>(if any):</i>

*This form is used to notify the California Law Enforcement Telecommunications System (CLETS) of certain changes to Form JV-250.*

1. **Name of protected person:**
2. **Name of restrained person:**
3.  **Termination of Restraining Order After Hearing *(order must be attached)***
  - a.  The Restraining Order After Hearing on Form JV-250 was issued on *(date)*:
  - b.  The Restraining Order After Hearing was terminated on *(date)*:
4.  **Modified Child Custody or Visitation Order.** The modified Child Custody or Visitation Order is attached on Form JV-205.
5.  **Protected Persons**  
 The following person is no longer a protected person on the Restraining Order After Hearing:
 

<u>Full Name</u>	<u>Sex</u>	<u>Age</u>
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6.  **Other modifications:**

**7. Notices**

- a. This order does not require service of process to be effective.
- b. This order does not modify or terminate any other family, criminal, juvenile, civil or probate orders.

CHILD'S NAME:  	CASE NUMBER:  
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8. **Transmittal Order.** The data in this order must be transmitted to law enforcement personnel within one business day.

- a.  The court will enter the order into the CLETS directly.
- b.  The court will transmit a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into the CLETS.
- c.  The court orders its designee (*name*): \_\_\_\_\_ to transmit a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into the CLETS.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
JUDICIAL OFFICER

CALIFORNIA 2010 LEGISLATIVE SERVICE  
2010 Portion of 2009-2010 Regular Session

Additions are indicated by **Text**; deletions by  
~~\*\*\*~~.

CHAPTER 572  
A.B. No. 1596  
CRIMINAL PROCEDURE--PROTECTIVE ORDERS--ENFORCEMENT

AN ACT to amend Sections 527.6, 527.8, 527.10, 527.85, and 527.9 of the Code of Civil Procedure, to amend Sections 241, 242, 243, 244, 245, 246, 6304, 6320, 6320.5, 6322.7, 6345, 6380, 6384, 6387, and 6389 of, to add Section 6229 to, and to repeal and add Section 6302 of, the Family Code, to amend Section 6103.2 of the Government Code, and to amend Sections 213.5, 15657.03, and 15657.04 of the Welfare and Institutions Code, relating to protective orders.

[Filed with Secretary of State September 30, 2010.]

SEC. 25. Section 213.5 of the Welfare and Institutions Code is amended to read:

<< CA WEL & INST § 213.5 >>

213.5. (a) After a petition has been filed pursuant to Section 311 to declare a child a dependent child of the juvenile court, and until the time that the petition is dismissed or dependency is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure **or in the manner provided by Section 6300 of the Family Code, if related to domestic violence**, the juvenile court ~~\*\*\*~~**has exclusive jurisdiction to** issue ex parte orders (1) enjoining any person from molesting, attacking, striking, **stalking, threatening**, sexually assaulting, ~~\*\*\*~~**battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of** the child or any other child in the household; **and** (2) excluding any person from the dwelling of the person who has care, custody, and control of the child. ~~\*\*\*~~ A court may also issue an ex parte order enjoining any person from ~~\*\*\*~~**molesting, attacking, striking, \*\*\*-stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 635m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of** any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure **or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code. A court may also issue an ex parte order enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 635m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child's current or former social worker or court appointed special advocate, upon application in the manner provided by Section 527 of the Code of Civil Procedure.**

(b) After a petition has been filed pursuant to Section 601 or 602 to declare a child a ward of the juvenile court, and until the time that the petition is dismissed or wardship is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure **or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code**, the juvenile court may issue ex parte orders (1) enjoining any person from molesting, attacking, **striking, stalking, threatening**, sexually assaulting, ~~\*\*\*~~**battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of** the child or any other child in the household; (2)

excluding any person from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, threatening, stalking, or disturbing the peace of any person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child. **A court may also issue an ex parte order enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 635m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code. A court may also issue an ex parte order enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 635m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child's current or former probation officer or court appointed special advocate, upon application in the manner provided by Section 527 of the Code of Civil Procedure.**

(c) If a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than **21** days or, if good cause appears to the court, **25** days from the date the temporary restraining order is granted. The court may, on the motion of the person seeking the restraining order, or on its own motion, shorten the time for service of the order to show cause on the person to be restrained. The court may, upon its own motion or the filing of **\*\*\*a declaration** by the person seeking the restraining order, find that the person to be restrained could not be served within the time required by law and reissue an order previously issued and dissolved by the court for failure to serve the person to be restrained. **The reissued order shall remain in effect until the date set for the hearing.** The reissued order shall state on its face the date of expiration of the order. Any hearing pursuant to this section may be held simultaneously with any regularly scheduled hearings held in proceedings to declare a child a dependent child or ward of the juvenile court pursuant to Section 300, 601, or 602, or subsequent hearings regarding the dependent child or ward.

(d) The juvenile court may issue, upon notice and a hearing, any of the orders set forth in subdivisions (a), (b), and (c). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, no more than three years, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of any party to the restraining order.

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

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

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

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

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

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

(g) **\*\*\*All data with respect to a juvenile court \*\*\*protective order, or extension, modification, or termination**

thereof, granted pursuant to subdivision (a), (b), (c), or (d), ~~\*\*\*~~ shall be transmitted by the court or its designee, within one business day, to law enforcement personnel by either one of the following methods:

**(1) Transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).**

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

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

(i) A juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

~~\*\*\*~~

**(j)(1)** Prior to a hearing on the issuance or denial of an order under this part, a search shall be conducted as described in subdivision (a) of Section 6306 of the Family Code.

(2) Prior to deciding whether to issue an order under this part, the court shall consider the following information obtained pursuant to a search conducted under paragraph (1): any conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; any misdemeanor conviction involving domestic violence, weapons, or other violence; any outstanding warrant; parole or probation status; any prior restraining order; and any violation of a prior restraining order.

(3)(A) If the results of the search conducted pursuant to paragraph (1) indicate that an outstanding warrant exists against the subject of the search, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of any information obtained through the search that the court determines is appropriate. The law enforcement officials notified shall take all actions necessary to execute any outstanding warrants or any other actions, as appropriate and as soon as practicable.

(B) If the results of the search conducted pursuant to paragraph (1) indicate that the subject of the search is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of any information obtained through the search that the court determines is appropriate. The parole or probation officer notified shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the subject person, as appropriate and as soon as practicable.

**(k)** Upon making any order for custody or visitation pursuant to this section, the court shall follow the procedures specified in subdivisions (c) and (d) of Section 6323 of the Family Code.

## Item SPR11-54 Response Form

**Title:** **Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.630; revise forms DV-810, JV-245, JV-248, and JV-250; and adopt forms JV-247 and JV-255)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

- Commenting on behalf of an organization**

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

### **To Submit Comments**

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: [www.courts.ca.gov/policyadmin-invitationstocomment.htm](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

Email: [invitations@jud.ca.gov](mailto:invitations@jud.ca.gov)

Mail: Ms. Camilla Kieliger  
Judicial Council, 455 Golden Gate Avenue  
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

**DEADLINE FOR COMMENT: 5:00 p.m., Thursday, June 30, 2011**

*Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.*