

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Policy Coordination and Liaison Committee  
Hon. Marvin R. Baxter, Chair  
Civil and Small Claims Advisory Committee  
Hon. Elihu M. Berle, Chair  
Case Management Subcommittee  
Hon. Robert B. Freedman, Chair  
Patrick O'Donnell, Committee Counsel, 415-865-7665,  
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Tracy Kenny, Legislative Advocate, Office of Governmental Affairs,  
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DATE: October 27, 2005

SUBJECT: Establish Consistent Times for Firearms Relinquishment in Civil Harassment and Workplace Violence Cases and for Service of Papers Before a Hearing in Elder and Dependent Adult Abuse Cases (Code Civ. Proc., § 527.9, and Welf. & Inst. Code, § 15657.03) (Action Required)

Issue Statement

In 2004, the statutory provisions requiring firearms relinquishment by a restrained person under a criminal domestic violence, Domestic Violence Prevention Act (DVPA), civil harassment, workplace violence, or elder and dependent adult abuse protective order were similar. The DVPA relinquishment provision was contained in Family Code section 6389, and all of the other orders were subject to Code of Civil Procedure section 527.9. However, the Legislature in 2004 amended Family Code section 6389 to provide that all persons subject to a DVPA order are required to relinquish any firearms within 24 hours of being served with the order. (See Senate Bill 1391 [Romero], Stats. 2004, ch. 250.)

When Family Code section 6389 was changed to make the relinquishment provision clearer and easier for the court to enforce, the Legislature, through an oversight, neglected to change Code of Civil Procedure section 527.9 to achieve the same objective for all other types of protective orders. As a result, the statutes now provide a different time for relinquishment of firearms after service in domestic violence prevention cases than in civil harassment, workplace violence, and elder and dependent adult abuse

prevention cases. As a result, there is the potential for confusion for the parties, law enforcement agencies, and the courts regarding the time for firearms relinquishment in a particular case. This problem would be remedied by legislation that restores the parallels between Family Code section 6389 and Code of Civil Procedure section 527.9.

In addition, under current law, the time for service of papers if a party is requesting a protective order in civil harassment and workplace violence is different than the time for service if a party is requesting an elder and dependent adult abuse protective order. In the former service must be five days before the hearing, while in the latter the deadline is two days before the hearing. This difference can be confusing for the parties, the courts, and law enforcement agencies and can leave the court with insufficient time to review papers filed in response in an elder and dependent adult abuse protective order proceeding.

### Recommendation

The Policy Coordination and Liaison Committee and the Civil and Small Claims Advisory Committee recommend that the Judicial Council sponsor legislation to:

1. Amend Code of Civil Procedure section 527.9 to provide the same time for relinquishment of firearms after service of orders in criminal domestic violence, civil harassment, workplace violence, and elder and dependent adult abuse cases as provided under Family Code section 6389(c) after service of orders in DVPA cases; and
2. Amend Welfare and Institutions Code section 15657.03(g) to provide the same time for service of papers before the hearing in elder and dependent adult abuse prevention cases as provided under Code of Civil Procedure sections 527.6(g) and 527.8(h) for service of papers in civil harassment and workplace violence prevention cases.

The text of the proposed statutes is attached at pages 5–10.

### Rationale for Recommendation

#### *Time for Firearms Relinquishment After Service of Orders*

Because of a recent amendment in the Family Code, in domestic violence prevention cases the deadline for relinquishment of firearms is within 24 hours of being served with the protective order. (See SB 1391; (Romero) Family Code, § 6389(c).) However, that legislation did not change the time for relinquishment of firearms in civil harassment, workplace violence, and elder and dependent adult abuse cases. As a result, in those cases, if the person subject to a protective order is present at the hearing, he or she must relinquish firearms within 24 hours of the order, but if the person is not present at the hearing, the person must relinquish the firearms within 48 hours after being served with the order. (See Code Civ. Proc., § 527.9(b).) Thus, there is an inconsistency between the different firearms relinquishment statutes.

The proposed amendment of Code of Civil Procedure section 527.9(b) would require a person subject to a protective order to relinquish firearms within 24 hours after service of the order in civil harassment, workplace violence, and elder and dependent adult abuse cases. This would make the firearms requirement provisions for these types of cases the same as for domestic violence cases.

Because of the similarity of the types of cases discussed here, the procedures, and the issues involved, uniform procedures and requirements are desirable. Such uniformity will make it easier for the parties, the courts, and law enforcement agencies to handle such cases.

#### *Time for Service of Papers in Elder and Dependent Adult Abuse Cases*

The time for service of papers if a party is requesting a protective order in civil harassment and workplace violence cases is five days before the hearing. (See Code Civ. Proc., §§ 527.6(g) and 527.8(h).) However, the time for service of papers requesting a protective order in elder and dependent adult abuse cases is two days before the hearing. (Welf. & Inst. Code, § 15657.03(g).)

The proposed legislation would amend Welfare and Institutions Code section 15657.03(g) to provide for service five days before the hearing in elder and dependent adult abuse cases. This would make the time for service in elder and dependent adult abuse proceedings the same as for civil harassment and workplace violence prevention cases. The five-day period currently used in the civil harassment and workplace violence cases provides more time for the respondent to prepare and file papers and for the courts to review the papers. This five-day service requirement also protects the abused individual by resulting in the notice of the temporary restraining order being given sooner to the respondent. If the petitioner in such cases needs more time to complete service or for some other reason does not believe that the five-day service is appropriate, the statute allows the petitioner to request an order shortening time for service on the respondent.

#### Alternative Actions Considered

The committee considered two comments on the proposal that recommended leaving the time for service unchanged in elder and dependent adult abuse cases. But it disagreed with those comments for the reasons explained below.

#### Comments From Interested Parties

This legislative proposal was circulated for public comment in the spring of 2005. Six comments were received on the proposal. The commentators include a judge, a local bar association, and several court administrators. A chart summarizing the comments and the committee's responses is attached at pages 11–12. Four of the six commentators agreed with both proposals, without specific comments.

Two commentators agreed with the proposed changes in the time for firearms relinquishment but believed that the time for service of elder abuse prevention petitions and orders should not be changed from two to five days before the hearing. They thought that the earlier service would be detrimental to abused persons. The committee disagreed.

The proposed legislation would make the time for service of papers requesting a protective order the same for elder and dependent adult abuse cases as for civil harassment and workplace violence cases. This change would protect abused elderly and dependent persons by assuring that restrained persons are notified promptly and earlier than at present that a temporary restraining order has been issued against them. The committee thought that earlier notification about the protective orders would better protect abused persons than the later notice supported by the two commentators. But if a petitioner believes that the temporary protective order should not be served until closer to the hearing or needs more time to serve the papers, the statute allows the petitioner to ask the court to shorten the time for service of the order and other papers as in similar types of petitions. (See Welf. & Instit. Code, § 15657.03(g).)

In addition, the proposed uniform service requirement should make elder and dependent adult abuse cases simpler to handle for the parties, the courts, and law enforcement agencies. It will give the courts more opportunity to review the papers filed, including those submitted by respondents. So the overall benefits of requiring earlier service of papers in elder and dependent adult abuse prevention cases outweighs the problems that might arise from such service.

#### Implementation Requirements and Costs

The Judicial Council forms for prevention of civil harassment, workplace violence, and elder and dependent adult abuse would need to be modified if this proposed legislation is enacted. In general, the proposed legislation should simplify the procedures for the courts, the litigants, and law enforcement agencies by creating more uniform times for firearms relinquishment and service of papers for different types of cases.

Attachments

Code of Civil Procedure section 527.9 would be amended as follows:

1 **§ 527.9.**

- 2 (a) A person subject to a temporary restraining order or injunction issued pursuant to  
3 Section 527.6 or 527.8 of the Code of Civil Procedure, or subject to a restraining  
4 order issued pursuant to Section 136.2 of the Penal Code, or Section 15657.03 of  
5 the Welfare and Institutions Code, shall relinquish the firearm pursuant to this  
6 section.
- 7 (b) ~~If the person subject to the order or injunction is present in court at a duly noticed~~  
8 ~~hearing~~ Upon issuance of a protective order under subdivision (a), the court shall  
9 order the person to relinquish any firearm in that person's immediate possession or  
10 control, or subject to that person's immediate possession or control, within 24  
11 hours of being served with the order, ~~by either by~~ surrendering the firearm to the  
12 control of local law enforcement officials, or by selling the firearm to a licensed  
13 gun dealer, as specified in Section 12071 of the Penal Code. ~~If the respondent is~~  
14 ~~not present at the hearing, the respondent shall relinquish the firearm within 48~~  
15 ~~hours after being served with the order.~~ A person ordered to relinquish any firearm  
16 pursuant to this subdivision shall file with the court a receipt showing the firearm  
17 was surrendered to the local law enforcement agency or sold to a licensed gun  
18 dealer within 72 hours after receiving the order. In the event that it is necessary to  
19 continue the date of any hearing due to a request for a relinquishment order  
20 pursuant to this section, the court shall ensure that all applicable protective orders  
21 described in Section 6218 of the Family Code remain in effect or bifurcate the  
22 issues and grant the permanent restraining order pending the date of the hearing.
- 23 (c) A local law enforcement agency may charge the person subject to the order or  
24 injunction a fee for the storage of any firearm relinquished pursuant to this section.  
25 The fee shall not exceed the actual cost incurred by the local law enforcement  
26 agency for the storage of the firearm. For purposes of this subdivision, "actual  
27 cost" means expenses directly related to taking possession of a firearm, storing the  
28 firearm, and surrendering possession of the firearm to a licensed dealer as defined  
29 in Section 12071 of the Penal Code or to the person relinquishing the firearm.
- 30 (d) The restraining order requiring a person to relinquish a firearm pursuant to  
31 subdivision (b) shall state on its face that the respondent is prohibited from  
32 owning, possessing, purchasing, or receiving a firearm while the protective order  
33 is in effect and that the firearm shall be relinquished to the local law enforcement  
34 agency for that jurisdiction or sold to a licensed gun dealer, and that proof of  
35 surrender or sale shall be filed with the court within a specified period of receipt of  
36 the order. The order shall also state on its face the expiration date for  
37 relinquishment. Nothing in this section shall limit a respondent's right under  
38 existing law to petition the court at a later date for modification of the order.
- 39 (e) The restraining order requiring a person to relinquish a firearm pursuant to  
40 subdivision (b) shall prohibit the person from possessing or controlling any  
41 firearm for the duration of the order. At the expiration of the order, the local law

1 enforcement agency shall return possession of any surrendered firearm to the  
2 respondent, within five days after the expiration of the relinquishment order,  
3 unless the local law enforcement agency determines that (1) the firearm has been  
4 stolen, (2) the respondent is prohibited from possessing a firearm because the  
5 respondent is in any prohibited class for the possession of firearms, as defined in  
6 Sections 12021 and 12021.1 of the Penal Code and Sections 8100 and 8103 of the  
7 Welfare and Institutions Code, or (3) another successive restraining order is used  
8 against the respondent under this section. If the local law enforcement agency  
9 determines that the respondent is the legal owner of any firearm deposited with the  
10 local law enforcement agency and is prohibited from possessing any firearm, the  
11 respondent shall be entitled to sell or transfer the firearm to a licensed dealer as  
12 defined in Section 12071 of the Penal Code. If the firearm has been stolen, the  
13 firearm shall be restored to the lawful owner upon his or her identification of the  
14 firearm and proof of ownership.

15 (f) The court may, as part of the relinquishment order, grant an exemption from the  
16 relinquishment requirements of this section for a particular firearm if the  
17 respondent can show that a particular firearm is necessary as a condition of  
18 continued employment and that the current employer is unable to reassign the  
19 respondent to another position where a firearm is unnecessary. If an exemption is  
20 granted pursuant to this subdivision, the order shall provide that the firearm shall  
21 be in the physical possession of the respondent only during scheduled work hours  
22 and during travel to and from his or her place of employment. In any case  
23 involving a peace officer who as a condition of employment and whose personal  
24 safety depends on the ability to carry a firearm, a court may allow the peace  
25 officer to continue to carry a firearm, either on duty or off duty, if the court finds  
26 by a preponderance of the evidence that the officer does not pose a threat of harm.  
27 Prior to making this finding, the court shall require a mandatory psychological  
28 evaluation of the peace officer and may require the peace officer to enter into  
29 counseling or other remedial treatment program to deal with any propensity for  
30 domestic violence.

31 (g) During the period of the relinquishment order, a respondent is entitled to make one  
32 sale of all firearms that are in the possession of a local law enforcement agency  
33 pursuant to this section. A licensed gun dealer, who presents a local law  
34 enforcement agency with a bill of sale indicating that all firearms owned by the  
35 respondent that are in the possession of the local law enforcement agency have  
36 been sold by the respondent to the licensed gun dealer, shall be given possession  
37 of those firearms, at the location where a respondent's firearms are stored, within  
38 five days of presenting the local law enforcement agency with a bill of sale.

Welfare and Institutions Code section 15657.03 would be amended as follows:

1 **§ 15657.03.**

- 2 (a) An elder and dependent adult who has suffered abuse as defined in Section  
3 15610.07 may seek protective orders as provided in this section.  
4
- 5 (b) For the purposes of this section, “protective order” means an order that includes  
6 any of the following restraining orders, whether issued ex parte, after notice and  
7 hearing, or in a judgment:
- 8 (1) An order enjoining a party from abusing, intimidating, molesting, attacking,  
9 striking, stalking, threatening, sexually assaulting, battering, harassing,  
10 telephoning, including, but not limited to, annoying telephone calls as  
11 described in Section 653m of the Penal Code, destroying personal property,  
12 contacting, either directly or indirectly, by mail or otherwise, or coming  
13 within a specified distance of, or disturbing the peace of the petitioner.
- 14 (2) An order excluding a party from the petitioner’s residence or dwelling,  
15 except that this order shall not be issued if legal or equitable title to, or lease  
16 of, the residence or dwelling is in the sole name of the party to be excluded or  
17 is in the name of the party to be excluded and any other party besides the  
18 petitioner.
- 19 (3) An order enjoining a party from specified behavior that the court determines  
20 is necessary to effectuate orders described in paragraph (1) or (2).
- 21 (c) An order may be issued under this section, with or without notice, to restrain any  
22 person for the purpose of preventing a recurrence of abuse, if an affidavit shows,  
23 to the satisfaction of the court, reasonable proof of a past act or acts of abuse of the  
24 petitioning elder and dependent adult.
- 25 (d) (1) Upon filing a petition for protective orders under this section, the petitioner  
26 may obtain a temporary restraining order in accordance with Section 527 of  
27 the Code of Civil Procedure, except to the extent this section provides a rule  
28 that is inconsistent. The temporary restraining order may include any of the  
29 protective orders described in subdivision (b). However, the court may issue  
30 an ex parte order excluding a party from the petitioner’s residence or  
31 dwelling only on a showing of all of the following:
- 32 (A) Facts sufficient for the court to ascertain that the party who will stay in  
33 the dwelling has a right under color of law to possession of the  
34 premises.
- 35 (B) That the party to be excluded has assaulted or threatens to assault the  
36 petitioner.
- 37 (C) That physical or emotional harm would otherwise result to the  
38 petitioner.
- 39 (2) If a temporary restraining order is granted without notice, the matter shall be  
40 made returnable on an order requiring cause to be shown why a permanent  
41 order should not be granted, on the earliest day that the business of the court

1 will permit, but not later than 20 days or, if good cause appears to the court,  
2 25 days from the date the temporary restraining order is granted, unless the  
3 order is otherwise modified or terminated by the court.

4 (e) The court may issue, upon notice and a hearing, any of the orders set forth in  
5 subdivision (b). The court may issue, after notice and hearing, an order excluding  
6 a person from a residence or dwelling if the court finds that physical or emotional  
7 harm would otherwise result to the other party.

8 (f) In the discretion of the court, an order issued after notice and a hearing under this  
9 section may have a duration of not more than three years, subject to termination or  
10 modification by further order of the court either on written stipulation filed with  
11 the court or on the motion of a party. These orders may be renewed upon the  
12 request of a party, either for three years or permanently, without a showing of any  
13 further abuse since the issuance of the original order, subject to termination or  
14 modification by further order of the court either on written stipulation filed with  
15 the court or on the motion of a party. The failure to state the expiration date on the  
16 face of the form creates an order with a duration of three years from the date of  
17 issuance.

18 (g) Upon the filing of a petition for protective orders under this section, the  
19 respondent shall be personally served with a copy of the petition, notice of the  
20 hearing or order to show cause, temporary restraining order, if any, and any  
21 affidavits in support of the petition. Service shall be made at least ~~two~~ five days  
22 before the hearing. The court may, on motion of the petitioner or on its own  
23 motion, shorten the time for service on the respondent.

24 (h) The court may, upon the filing of an affidavit by the applicant that the respondent  
25 could not be served within the time required by statute, reissue an order previously  
26 issued and dissolved by the court for failure to serve the respondent. The reissued  
27 order shall be made returnable on the earliest day that the business of the court  
28 will permit, but not later than 20 days or, if good cause appears to the court, 25  
29 days from the date of reissuance. The reissued order shall state on its face the date  
30 of expiration of the order.

31 (i) (1) If the person named in a temporary restraining order is personally served  
32 with the order and notice of hearing with respect to a restraining order or  
33 protective order based thereon, but the person does not appear at the hearing,  
34 either personally or by counsel, and the terms and conditions of the  
35 restraining order or protective order are identical to the temporary restraining  
36 order, except for the duration of the order, then the restraining order or  
37 protective order may be served on the person by first-class mail sent to that  
38 person at the most current address for the person available to the court.

39 (2) The judicial form for orders issued pursuant to this subdivision shall contain  
40 a statement in substantially the following form:

41 “NO ADDITIONAL PROOF OF SERVICE IS REQUIRED IF THE FACE OF THIS  
42 FORM INDICATES THAT BOTH PARTIES WERE PERSONALLY PRESENT AT  
43 THE HEARING WHERE THE ORDER WAS ISSUED. IF YOU HAVE BEEN



1 PERSONALLY SERVED WITH A TEMPORARY RESTRAINING ORDER OR  
2 EMERGENCY PROTECTIVE ORDER AND NOTICE OF HEARING, BUT YOU DO  
3 NOT APPEAR AT THE HEARING EITHER IN PERSON OR BY COUNSEL, AND A  
4 RESTRAINING ORDER OR PROTECTIVE ORDER IS ISSUED AT THE HEARING  
5 THAT DOES NOT DIFFER FROM THE PRIOR TEMPORARY RESTRAINING  
6 ORDER OR EMERGENCY PROTECTIVE ORDER, A COPY OF THE ORDER WILL  
7 BE SERVED UPON YOU BY MAIL AT THE FOLLOWING ADDRESS \_\_\_\_\_. IF  
8 THAT ADDRESS IS NOT CORRECT OR YOU WISH TO VERIFY THAT THE  
9 TEMPORARY OR EMERGENCY ORDER WAS MADE PERMANENT WITHOUT  
10 SUBSTANTIVE CHANGE, CALL THE CLERK OF THE COURT AT \_\_\_\_\_.”

11 (j) (1) The court shall order the petitioner or the attorney for the petitioner to  
12 deliver, or the clerk of the court to mail, a copy of an order issued under this  
13 section, or a reissuance, extension, modification, or termination of the order,  
14 and any subsequent proof of service, by the close of the business day on  
15 which the order, reissuance, extension, modification, or termination was  
16 made, to each local law enforcement agency designated by the petitioner or  
17 the attorney for the petitioner having jurisdiction over the residence of the  
18 petitioner, and to any additional law enforcement agencies within the court’s  
19 discretion as are requested by the petitioner. Each appropriate law  
20 enforcement agency shall make available information as to the existence and  
21 current status of these orders to law enforcement officers responding to the  
22 scene of reported abuse.

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

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

34 (4) If the law enforcement officer determines that a protective order has been  
35 issued, but not served, the officer shall immediately notify the respondent of  
36 the terms of the order and shall at that time also enforce the order. Verbal  
37 notice of the terms of the order shall constitute service of the order and is  
38 sufficient notice for the purposes of this section and for the purposes of  
39 Section 273.6 of the Penal Code.

40 (k) Nothing in this section shall preclude either party from representation by private  
41 counsel or from appearing on the party’s own behalf.

- 1 (l) There is no filing fee for a petition, response, or paper seeking the reissuance,  
2 modification, or enforcement of a protective order filed in a proceeding brought  
3 pursuant to this section.
- 4 (m) (1) Fees otherwise payable by a petitioner to a law enforcement agency for  
5 serving an order issued under this section may be waived in any case in  
6 which the petitioner has requested a fee waiver on the initiating petition and  
7 has filed a declaration that demonstrates, to the satisfaction of the court, the  
8 financial need of the petitioner for the fee waiver. The declaration required  
9 by this subdivision shall be on one of the following forms:
- 10 (A) The form formulated and adopted by the Judicial Council for litigants  
11 proceeding in forma pauperis pursuant to Section 68511.3 of the  
12 Government Code, but the petitioner is not subject to any other  
13 requirements of litigants proceeding in forma pauperis.
- 14 (B) Any other form that the Judicial Council may adopt for this purpose  
15 pursuant to subdivision (r).
- 16 (2) In conjunction with a hearing pursuant to this section, the court may make an  
17 order for the waiver of fees otherwise payable by the petitioner to a law  
18 enforcement agency for serving an order issued under this section.
- 19 (n) The prevailing party in any action brought under this section may be awarded  
20 court costs and attorney's fees, if any.
- 21 (o) (1) An order issued pursuant to this section shall prohibit the person subject to it  
22 from owning, possessing, purchasing, receiving, or attempting to purchase or  
23 receive, a firearm.
- 24 (2) Paragraph (1) shall not apply to a case consisting solely of financial abuse  
25 unaccompanied by force, threat, harassment, intimidation, or any other form  
26 of abuse.
- 27 (3) The court shall order a person subject to a protective order issued under this  
28 section to relinquish any firearms he or she owns or possesses pursuant to  
29 Section 527.9 of the Code of Civil Procedure.
- 30 (4) Every person who owns, possesses, purchases, or receives, or attempts to  
31 purchase or receive a firearm while the protective order is in effect is  
32 punishable pursuant to subdivision (g) of Section 12021 of the Penal Code.
- 33 (p) Any willful disobedience of any temporary restraining order or restraining order  
34 after hearing granted under this section is punishable pursuant to Section 273.6 of  
35 the Penal Code.
- 36 (q) This section does not apply to any action or proceeding covered by Title 1.6C  
37 (commencing with Section 1788) of the Civil Code, by Chapter 3 (commencing  
38 with Section 525) of the Code of Civil Procedure, or by Division 10 (commencing  
39 with Section 6200) of the Family Code. Nothing in this section shall preclude a  
40 petitioner's right to use other existing civil remedies.
- 41 (r) The Judicial Council shall promulgate forms and instructions therefor, rules for  
42 service of process, scheduling of hearings, and any other matters required by this  
43 section. The petition and response forms shall be simple and concise.

LEG 05-06

Legislative Proposal: Establish Consistent Times for Service  
(amend Welf. & Inst. Code, § 15657.03 and Code Civ. Proc., § 527.9)

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Ms. Grace Andres Program Manager Superior Court of California, County of Solano	A	N	No specific comment.	No response required.
2.	Ms. Keri Griffith Court Program Manager Superior Court of California, County of Ventura	A	N	No specific comment.	No response required.
3.	Superior Court of California, County of Los Angeles	A	Y	No specific comment.	No response required.
4.	Mr. Stephen V. Love Executive Officer Superior Court of California, County of San Diego	A	N	No specific comment.	No response required.
5.	Hon. Kathleen R. O'Connor Judge Superior Court of California, County of Yuba	N	N	The problem is how to protect the elderly and the service time is greater. I do NOT agree.	The committee disagreed. (See response to comment 6, item 2 below.)
6.	Mr. Dean Zipser President Orange County Bar Association	N	Y	<p>1. In connection with amending Code of Civil Procedure section 527.9, we agree with this change .... This change would give more protection and not less to elder and dependent adults, and thus, is an appropriate change.</p> <p>2. In connection with amending Welfare and Institutions Code section 15657.03(g), we disagree with changing the time for service of papers requesting a protective order in elder abuse and dependent adult abuse cases to five days instead of the present two-day requirement. The only reason for doing so it appears is to provide for more consistent procedures for similar kinds of proceedings. (The service requirement for civil harassment and workplace violence prevention cases is five days.) There is an increased danger to</p>	<p>1. The committee agreed that the change should be made.</p> <p>2. The committee disagreed. The proposed change would make the time for service of the papers requesting a protective order the same for elder and dependent adult abuse cases as for civil harassment and workplace violence cases. The proposed change for service that is required would protect abused elderly and dependent persons by assuring that restrained persons are</p>

				<p>the elder or dependent adult once the alleged abuser has notice. Three additional days should not be given unless there is a better reason for doing so.</p>	<p>notified promptly and generally earlier than at present that there is a restraining order against them. The uniform service requirement will make such cases easier to handle for parties, courts, and law enforcement, and it will give the courts more opportunity to review the papers filed, including those by respondents. If a protected person needs more time to serve the papers requesting a restraining order, the statute allows the court to shorten the time for service as in other similar types of petitions. (See Welf. &amp; Instit. Code, § 15657.03(g).)</p>
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Positions: A = Agree; AM = Agree only if modified; N = Do not agree.