

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** August 13, 2024

**Rules Committee action requested** [Choose from the drop-down menu below]:

**Recommend JC approval (has circulated for comment)**

**Title of proposal:** Jury Instructions: Criminal Jury Instructions (2024 Supplement)

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*

Nos. 320, 510, 520, 522, 562, 570, 640, 641, 642, 643, 736, 852A, 938, 960, 1191A, 1193, 1202, 1243, 1301, 1400, 1401, 2140, 2141, 2142, 2160, 2303, 2542, 2600, 2603, 2651, 2652, 2701, 3261, 3425, 3426, and 3427.

*Committee or other entity submitting the proposal:*

Advisory Committee on Criminal Jury Instructions

*Staff contact (name, phone and e-mail):* Kara Portnow, 415- kara.portnow@jud.ca.gov

*Identify project(s) on the committee's annual agenda that is the basis for this item:*

Annual agenda approved by Rules Committee on (date): 10/26/23

Project description from annual agenda: Maintenance--Case Law and Legislation; Maintenance--Comments from Users

**Out of Cycle:** *If requesting September 1 effective date or out of cycle, explain why:*

**Additional Information for Rules Committee:** (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was

☒ reviewed by EGG on (date) 6/28/24

☒ approved by Office Director (or Designee) (name) Francine Byrne  
on (date) 6/27/24

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **Form Translations** (check all that apply)

This proposal:

☐ includes forms that have been translated.

☐ includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)

☐ includes forms that staff will request be translated.

- **Form Descriptions** (for any report with new or revised forms)

☐ The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

(05/20/24)

☐ This proposal may require changes or additions to self-help web content.



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

Item No.: 24-099

For business meeting on September 20, 2024

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**Title**

Jury Instructions: Criminal Jury Instructions  
(2024 Supplement)

**Agenda Item Type**

Action Required

**Effective Date**

September 20, 2024

**Rules, Forms, Standards, or Statutes Affected**

*Judicial Council of California Criminal Jury  
Instructions*

**Date of Report**

July 23, 2024

**Recommended by**

Advisory Committee on Criminal Jury  
Instructions  
Hon. Jeffrey S. Ross, Chair

**Contact**

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### Executive Summary

Recent developments in the law necessitate revision of the criminal jury instructions to keep them current with statutory and case authority. To that end, the Advisory Committee on Criminal Jury Instructions recommends approving for publication the revised criminal jury instructions prepared by the committee under rule 2.1050 of the California Rules of Court. Once approved, the revised instructions will be published in the 2024 supplement of *Judicial Council of California Criminal Jury Instructions (CALCRIM)*.

### Recommendation

The Advisory Committee on Criminal Jury Instructions recommends that the Judicial Council, effective September 19, 2024, approve changes to the following the criminal jury instructions prepared by the committee:

CALCRIM Nos. 320, 510, 520, 522, 562, 570, 640, 641, 642, 643, 736, 852A, 938, 960, 1191A, 1193, 1202, 1243, 1301, 1400, 1401, 2140, 2141, 2142, 2160, 2303, 2542, 2600, 2603, 2651, 2652, 2701, 3261, 3425, 3426, and 3427.

The proposed revised jury instructions are attached at pages 11–171.

## **Relevant Previous Council Action**

At its meeting on July 16, 2003, the Judicial Council adopted what is now rule 10.59 of the California Rules of Court, which established the Advisory Committee on Criminal Jury Instructions and its charge.<sup>1</sup> In August 2005, the council voted to approve the *CALCRIM* instructions under what is now rule 2.1050 of the California Rules of Court.

Since that time, the committee has complied with both rules by regularly proposing to the council additions and changes to *CALCRIM*. The council approved the last *CALCRIM* release at its March 2024 meeting.

## **Analysis/Rationale**

The committee revised the instructions based on comments and suggestions from justices, judges, and attorneys; proposals by staff and committee members; and recent developments in the law.

Below is an overview of some of the proposed changes.

### **CALCRIM No. 510, *Excusable Homicide: Accident***

In March 2022, this instruction was revised to better harmonize it with Penal Code section 195(1), which provides that homicide is excusable “[w]hen committed by accident and misfortune, or in doing any other lawful act by lawful means, with usual and ordinary caution, and without any unlawful intent.”<sup>2</sup> In the March 2022 revision, the phrase “accident and misfortune” was moved out of the introductory paragraph and made into an independent element. Recently, a court administrator submitted a proposal suggesting that this revision went too far, arguing that the statutory words “any other” suggest that “accident and misfortune” is just a specific example of a “lawful act by lawful means” and not a separate, undefined category. The committee agreed and combined “accident and misfortune” with the more general category of “doing a lawful act in a lawful way.” The committee also changed the wording in element 3 to be more legally precise.

During the comment period, the committee received an internal suggestion to modify the grammatical structure so that the introductory language correctly segued into all three elements.

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<sup>1</sup> Rule 10.59(a) states: “The committee regularly reviews case law and statutes affecting jury instructions and makes recommendations to the Judicial Council for updating, amending, and adding topics to the council’s criminal jury instructions.”

<sup>2</sup> The 2022 revision also reflected the holding in *People v. Garnett* (1908) 9 Cal.App. 194, 203–204. *Garnett* had disapproved of a similarly worded jury instruction that “ignore[d] the question as to whether or not the discharge of the pistol was caused by an unlawful act of defendant.” The court criticized this instruction because it did not relieve the defendant “of responsibility for results from the accidental discharge of the pistol, if it were accidentally discharged, at the time he was engaged in doing an unlawful act, regardless of whether or not the unlawful act had any connection with the discharge other than in point of time.” (*Id.*)



In response, the committee removed “(he/she) killed someone” from the introduction and added “The defendant killed someone” to the beginning of element one.

**CALCRIM No. 520, *First or Second Degree Murder With Malice Aforethought***

*People v. Pittman* (2023) 96 Cal.App.5th 400, 416–418 [314 Cal.Rptr.3d 409] considered the role of youth in analyzing a resentencing petition under Penal Code section 1172.6 where the defendant, who was 21 years old at the time of the offense, was convicted of second degree murder as an aider and abettor. The court held that youth is a relevant consideration when assessing the conscious disregard for human life aspect of implied malice murder. In response to this case, the committee added a related issue note entitled *Youth as a Factor for Implied Malice*.

**CALCRIM No. 522, *Provocation: Effect on Degree of Murder***

*People v. Nunez* (2023) 97 Cal.App.5th 362, 370 [315 Cal.Rptr.3d 452] held that provocation to reduce first degree murder to second degree murder must be based on conduct by the victim, not by a third party. In reaching this holding, *Nunez* relied on *People v. Verdugo* (2010) 50 Cal.4th 263, 294 [113 Cal.Rptr.3d 803, 236 P.3d 1035], which held that to reduce murder to manslaughter, provocation must derive from the victim. Citing *Verdugo* and *Nunez*, the committee added an authority section entry, “Victim, Not Third Party, Must Be Reason for Provocation.” During the comment period, a commenter pointed out that the rule articulated in *Verdugo* also applies when the defendant reasonably believed that the victim engaged in conduct that was actually committed by a third party. In response to this comment, the committee clarified the entry to read: “Provocation Must Be Caused by Victim’s Conduct or Conduct Reasonably Believed by Defendant to Have Been Engaged In by Victim.”

**CALCRIM No. 562, *Transferred Intent***

*People v. Lopez* (2024) 99 Cal.App.5th 1242, 1247–1250 [318 Cal.Rptr.3d 625] held that Senate Bill 1437 (Stats. 2018, ch. 1015), which amended Penal Code sections 188 and 189 to limit accomplice liability in felony murder, did not abolish the doctrine of transferred intent. Specifically, the court stated: “Nothing in the language of this bill demonstrates or even reasonably suggests that, when eliminating the natural and probable consequences doctrine, the Legislature also intended to abolish the doctrine of transferred intent.” The committee added this case to the authority section.

**CALCRIM Nos. 736, 1400, 1401, and 2542**

Assembly Bill 333 (Stats. 2021, ch. 699) narrowed the definition of criminal street gang. The Penal Code now defines criminal street gang as:

[A]n ongoing, organized association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in subdivision (e), having a common name or common identifying sign or symbol, and whose members collectively engage in, or have engaged in, a pattern of criminal gang activity.

(Pen. Code, § 186.22(f).)

Several recent cases have examined this amended definition. *People v. Clark* (2024) 15 Cal.5th 743, 749 [318 Cal.Rptr.3d 152, 542 P.3d 1085] resolved a split in authority about whether “the statutory reference to ‘collective[ ]’ engagement in a pattern of criminal gang activity is properly read to mean that each of the two predicate offenses must be committed in concert with other gang members and cannot be committed by individual gang members acting alone.” Affirming that two or more members, not individual members, must commit the predicate offenses, *Clark* further considered the meaning of collective engagement and held:

[C]ollective engagement requires a nexus between the individual predicate offenses and the gang as an organized, collective enterprise. This organizational nexus requirement is satisfied by showing a connection between the predicate offenses and the organizational structure, primary activities, or common goals and principles of the gang.

(*Clark, supra*, 15 Cal.5th at p. 749.)

Meanwhile, *People v. Superior Court (Farley)* (2024) 100 Cal.App.5th 315, 326–333 [319 Cal.Rptr.3d 100] and *People v. Campbell* (2023) 98 Cal.App.5th 350, 380–381 [316 Cal.Rptr.3d 638] considered the meaning of “organized.” Finally, *People v. Rojas* (2023) 15 Cal.5th 561, 580 [316 Cal.Rptr.3d 61, 539 P.3d 468] determined that the Legislature’s amended definition of “criminal street gang” did not unconstitutionally amend Penal Code section 190.2(a)(22).<sup>3</sup>

In response to these cases, the committee added a definition for collective engagement to all four gang-related instructions<sup>4</sup>—Nos. 736, *Special Circumstances: Killing by Street Gang Member*; 1400, *Active Participation in Criminal Street Gang*; 1401, *Felony or Misdemeanor Committed for Benefit of Criminal Street Gang*; and 2542, *Carrying Firearm: Active Participant in Criminal Street Gang*—and removed the bench note describing the previous split in authority that *Clark* resolved. The committee also added *Clark*, *Farley*, and *Campbell* to the authority sections. Finally, the committee added *Rojas* to the authority section of No. 736.

During the comment period, a district attorney’s office objected to the proposed definition of collective engagement, arguing that *Clark* does not limit the scope of proof to the listed categories. In light of this comment, the committee reexamined *Clark* but ultimately determined that the holding requires a nexus with at least one of the following: the gang’s organizational structure, the gang’s primary activities, or the gang’s common goals and principles. In revisiting the proposed language, the committee made slight modifications to the final sentence, specifically to show that “organizational structure” and “manner of governance” are

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<sup>3</sup> In 2000, California voters passed the Gang Violence and Juvenile Crime Prevention Act of 1998 (Proposition 21), which added Penal Code section 190.2(a)(22), the gang-murder special circumstance.

<sup>4</sup> In the invitation to comment, the proposed definition appeared as: “As used here, members *collectively engage in or have engaged in* a pattern of criminal gang activity when the crimes that make up the pattern of criminal gang activity can be connected to the gang as a whole. Collective engagement requires a connection between the crimes and the gang’s organizational structure, manner of governance, primary activities, or common goals and principles.”

interchangeable terms and to clarify that “primary activities” and “common goals and principles” relate to the gang.

### **CALCRIM No. 938, *Sexual Battery: Misdemeanor***

This instruction contains a commentary that discusses *People v. White* (1986) 179 Cal.App.3d 193 [224 Cal.Rptr. 467], which addressed the meaning of sexual abuse in the context of Penal Code section 289. *White* held that “the term ‘abuse’ imports an intent to injure or hurt badly, not lewdness.” (*Id.* at p. 205.) An appellate defense attorney proposed removing this commentary, arguing that the application of *White* to sexual battery overlooks the specific intent element of this offense. The attorney pointed to *In re Shannon T.* (2006) 144 Cal.App.4th 618, 622 [50 Cal.Rptr.3d 564], which examined the meaning of sexual abuse in the context of Penal Code section 243.4(e)(1) and held that the term “includes the touching of a woman’s breast, without consent, for the purpose of insulting, humiliating, or intimidating the woman, even if the touching does not result in actual physical injury.” In doing so, *Shannon T.* distinguished *White*’s interpretation of sexual abuse, finding that “*White* cannot be read to require that the victim of battery for the purpose of sexual abuse must have been injured physically or ‘hurt badly.’ Indeed, the words of the sexual battery statute do not require that the harm inflicted be of a certain seriousness.” (*Id.* at 622, fn. 1.)

The committee agreed with the suggestion to remove the commentary. The committee also decided to add a definition of sexual abuse based on *In re Shannon T.* This new definition states in brackets: “*Sexual abuse* includes touching a person’s intimate part[s] (to insult, humiliate, or intimidate that person for a sexual purpose/ [or] to physically harm the person for a sexual purpose).” The committee also added *In re Shannon T.* to the authority section.

### **CALCRIM No. 960, *Simple Battery***

On behalf of a superior court, a court executive officer submitted a proposal to consider amending this instruction in light of *In re B.L.* (2015) 239 Cal.App.4th 1491, 1495–1497 [192 Cal.Rptr.3d 154], which held that knocking a walkie-talkie out of a person’s hand constituted a battery against that person. The committee agreed and expanded the bracketed explanation of how a touching can occur to include “by touching something held by or attached to the other person.”<sup>5</sup> The committee added this case, as well as *People v. Dealba* (2015) 242 Cal.App.4th 1142 [195 Cal.Rptr.3d 848], to the authority section.<sup>6</sup> Finally, the committee deleted the related issue entitled *Touching of Something Attached to or Closely Connected with Person*, which states that the principle is not included in the instruction because the committee could not locate any relevant authority.

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<sup>5</sup> Several additional CALCRIM instructions include similar language that describes how a touching can occur. The committee will consider recommending conforming changes to those instructions in the near future.

<sup>6</sup> *Dealba* found that a touching occurred when the defendant, while driving a car, intentionally struck the victim’s vehicle without making direct contact with the victim herself.

**CALCRIM No. 1202, *Kidnapping: For Ransom, Reward, Extortion, or to Exact From Another Person***

Several months ago, an appellate defense attorney submitted a proposal about kidnapping for extortion based on *People v. Martinez* (1984) 150 Cal.App.3d 579, disapproved on other grounds in *People v. Hayes* (1990) 52 Cal.3d 577, 628, fn. 10. The committee ultimately rejected the attorney’s proposal but, in reviewing the proposal, determined that *Martinez* contains an important caveat related to kidnapping for ransom.

*Martinez* examined *People v. Daniels* (1969) 71 Cal.2d 1119, 1139 [80 Cal.Rptr. 897, 459 P.2d 225], which held that a kidnap for robbery requires movement of the victim that is more than incidental to the commission of the robbery and that substantially increases the risk of harm over and above that necessarily present in the crime of robbery itself. “[T]o prevent the *Daniels* line of cases from being circumvented by charging what is essentially a multivictim robbery as a kidnapping for ransom,” *Martinez* applied the *Daniels* rationale to kidnap for ransom when multiple robbery victims were held. (*Martinez, supra*, 150 Cal.App.3d at p. 595.)

Several years after *Martinez*, the Legislature amended Penal Code section 209(b) to require that, for aggravated kidnapping for the purpose of robbery or specified sex offenses: “the movement of the victim is beyond that merely incidental to the commission of, and increases the risk of harm to the victim over and above that necessarily present in, the intended underlying offense.” In amending this statute, the Legislature intended to enact “the two-prong test of asportation for kidnapping, as set forth in *People v. Daniels*” but omitted the word “substantial.” (See *People v. Robertson* (2012) 208 Cal.App.4th 965, 979–980 [146 Cal.Rptr.3d 66] [describing the 1997 legislative changes to Penal Code section 209(b)(2) in holding that the increased risk of harm need not be substantial].) To alert users about the asportation requirement under the fact pattern presented in *Martinez*, as well as the legislative history of the statute post-*Martinez*, the committee added a related issue entitled *Kidnap for Ransom in Multiple Victim Robbery Case*.

During the comment period, two commenters made suggestions for additional changes. The committee agreed with one of the proposed changes and supplemented the new related issue with additional language.

**CALCRIM No. 1243, *Human Trafficking***

Penal Code section 236.1(h)(3) states:

Deprivation or violation of the personal liberty of another” includes substantial and sustained restriction of another’s liberty accomplished through force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.

A deputy district attorney pointed out that the instruction’s definition *Depriving or violating another person’s personal liberty* incorrectly applies the phrase “to the victim or to another

person under circumstances” to all the terms in the directional use notes, and not just to a threat of unlawful injury. In response, the committee deleted the directional use notes entirely and incorporated the statutory terms directly into the definition, with brackets so a user can choose the specific terms that apply in a given case. The committee also removed outdated references in the bench notes.

### **CALCRIM No. 1301, *Stalking***

*People v. Peterson* (2023) 95 Cal.App.5th 1061, 1064, 1066–1067 [314 Cal.Rptr.3d 137] reversed a conviction for stalking a politician and the politician’s family, finding that the defendant’s speech and speech-related acts, which occurred in a First Amendment context, did not constitute true threats of violence. Meanwhile, *People v. Frias* (2024) 98 Cal.App.5th 999, 1018–1019 [317 Cal.Rptr.3d 202] found substantial evidence of credible threats where the defendant had repeatedly posted messages on the victim’s Facebook account, watched her through her apartment window, and appeared at her apartment door, all over the victim’s express objections. In reaching this conclusion, the court reviewed two stalking cases with similar fact patterns: *People v. Lopez* (2015) 240 Cal.App.4th 436 [192 Cal.Rptr.3d 585] and *People v. Uecker* (2009) 172 Cal.App.4th 583 [91 Cal.Rptr.3d 355]. In response to these cases, the committee added *Peterson* to the bench notes about constitutionally protected activity and a new authority section entry, “Examples of Credible Threats,” which cites *Frias*, *Lopez*, and *Uecker*.

### **CALCRIM Nos. 2140, 2141, 2142, 2160, 3425, 3426, and 3427**

*People v. Suazo* (2023) 95 Cal.App.5th 681, 703–704 [313 Cal.Rptr.3d 649] analyzed Penal Code section 29.4 and held that a defendant charged with fleeing the scene under Vehicle Code section 20001(a) or (c) was not entitled to an instruction on voluntary intoxication because voluntary intoxication cannot be relied on to negate the knowledge-of-accident element. The court further held that “as with voluntary intoxication itself, unconsciousness caused by voluntary intoxication can negate specific intent, but is no defense to a general intent crime.” (*Id.* at p. 704.)

The work group added *Suazo* to the authority sections of Nos. 2140, *Failure to Perform Duty Following Accident: Death or Injury—Defendant Driver*; 2141, *Failure to Perform Duty Following Accident: Death or Injury—Defendant Nondriving Owner or Passenger in Control*; 2142, *Failure to Perform Duty Following Accident: Lesser Included Offense*; and 2160, *Fleeing the Scene Following Accident: Enhancement for Vehicular Manslaughter*, and to the existing related issues sections in Nos. 3425, *Unconsciousness*; 3426, *Voluntary Intoxication*; and 3427, *Involuntary Intoxication*. One commenter suggested clarifying the sentence that precedes the *Suazo* citation in Nos. 3426 and 3427. This sentence states, in relevant part, “Unconsciousness caused by voluntary intoxication [...] is only a partial defense to a crime.” The committee agreed and changed “is only a partial defense to a crime” to “may only be offered to negate specific intent.” For conformity, the committee also made the same change to No. 3425.

### **CALCRIM Nos. 2600, 2603, 2651, and 2652**

*People v. Hupp* (2023) 96 Cal.App.5th 946, 950–951 [314 Cal.Rptr.3d 842] held that the meaning of “executive officer” in Penal Code section 69 does not include judicial officers. The



court further observed: “CALCRIM No. 2651’s definition of ‘executive officer’ appears to be far broader than the plain meaning of the term . . . suggests that the instruction may need to be revised to convey that the term is limited to the executive branch.” (*Id.* at p. 953.) Meanwhile, *People v. Moyer* (2023) 94 Cal.App.5th 999, 1011–1012 [312 Cal.Rptr.3d 773] interpreted “bribe” as used in Penal Code section 67 “to include promises to give a thing of value to a third party or entity.”<sup>7</sup>

In response to these two cases, the committee inserted the phrase “within the executive branch” to the definition of “executive officer” and added *Hupp* to the authority sections of Nos. 2600, *Giving or Offering a Bribe to an Executive Officer*; 2603, *Requesting or Taking a Bribe*; 2651, *Trying to Prevent an Executive Officer From Performing Duty*; and 2652, *Resisting an Executive Officer in Performance of Duty*. The committee also added *Moyer* to the authority section of No. 2600, with the description: Promised Payment May Be to Third Party or Target of Bribe. Finally, in No. 2651, the committee changed “reasonable listener” to “reasonable person.”

### **CALCRIM No. 2701, *Violation of Court Order: Protective Order or Stay Away***

An attorney with the Los Angeles City Attorney’s Office pointed out that, although protective orders issued under Penal Code sections 166(c)(1) and 273.6 can be based on the broader definitions of domestic violence, abuse, and cohabitants found in the Family Code, this instruction lists only the Penal Code definitions. Initially, the committee considered adding the relevant Family Code definitions directly into the instructional text and providing a detailed explanation in the bench notes of when the Penal Code and/or Family Code definitions would apply. Ultimately, however, the committee realized that this approach was overly complicated and unnecessary because a jury needs to determine only whether a protective order or stay-away order was in effect, not the underlying factual basis for the order.

As a result, the committee shortened element 2 by removing the bracketed phrase “in a pending criminal proceeding involving domestic violence/as a condition of probation after a conviction for (domestic violence/elder abuse/dependent adult abuse)” and supplemented the directional use note. The committee also deleted the Penal Code definitions of domestic violence, abuse, and cohabitants, as well as the definitions of elder/dependent adult abuse, elder, and dependent adult. The committee clarified the bench notes about element 2 and removed the related instruction entry about elder or dependent adult abuse. In the authority section and simply for reference, the committee added the Family Code statutes that define domestic violence, abuse, and cohabitants.

Separately, the committee noted that this instruction includes the requirement of a “lawfully issued” order, which applies only to violations of Penal Code section 166(a)(4), an offense that is separately covered in CALCRIM No. 2700, *Violation of Court Order*. Because neither Penal Code section 166(c)(1) nor Penal Code section 273.6 contain the phrase “lawfully issued,” the

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<sup>7</sup> Penal Code section 67 itself does not define “bribe,” but Penal Code section 7(6) states: “The word ‘bribe’ signifies anything of value or advantage, present or prospective, or any promise or undertaking to give any, asked, given, or accepted, with a corrupt intent to influence, unlawfully, the person to whom it is given, in his or her action, vote, or opinion, in any public or official capacity.”

committee removed the bracketed word “lawfully” from element 1 and the bench note that discusses a lawfully issued order under Penal Code section 166(a)(4). The committee also deleted the authority section entry about a lawfully issued order and the commentary about *People v. Johnson* (1993) 20 Cal.App.4th 106, 109 [24 Cal.Rptr.2d 628], a case that discussed a violation of former Penal Code section 166(4), which is now codified as Penal Code section 166(a)(4).

Two commenters objected to the proposed removal of “lawfully issued” and the related commentaries. In response, the committee noted that this instruction covers violations for Penal Code sections 166(c)(1) and 273.6, whereas CALCRIM No. 2700, *Violation of Court Order*, addresses Penal Code section 166(a)(4) and contains the lawfully issued order requirement as well as the relevant case law discussions in the bench notes and related issues.

### **CALCRIM No. 3261, *While Committing a Felony: Defined—Escape Rule***

A superior court judge suggested adding *People v. Portillo* (2003) 107 Cal.App.4th 834, 841–846 [132 Cal.Rptr.2d 435] to the authority section of this instruction. *Portillo* holds that the escape rule applies to felony murder when the underlying felony is a sexual assault. The existing entry “Sexual Assault” in the authority section cites *People v. Hart* (1999) 20 Cal.4th 546, 611 [85 Cal.Rptr.2d 132, 976 P.2d 683], and *People v. Hernandez* (1988) 47 Cal.3d 315, 348 [253 Cal.Rptr. 199, 763 P.2d 1289], two cases that analyze whether homicides occurred “during commission of” the sexual assaults for purposes of the special circumstance allegation under Penal Code section 190.2(a)(17). The committee agreed with the suggestion and added *Portillo*.

### **Policy implications**

Rule 2.1050 of the California Rules of Court requires the Advisory Committee on Criminal Jury Instructions to regularly update, amend, and add topics to *CALCRIM* and to submit its recommendations to the council for approval. This proposal fulfills that requirement.

### **Comments**

The proposed revisions to *CALCRIM* circulated for public comment from May 20 through June 21, 2024. The committee received responses from three commenters: one district attorney’s office, one bar association, and two appellate attorneys from a Court of Appeal.

The Los Angeles District Attorney’s Office objected to the new proposed definition of collective engagement in the four gang-related instructions (CALCRIM Nos. 736, 1400, 1401, and 2542). The committee disagreed with this commenter’s interpretation of *Clark* and maintained the originally proposed definition, with some minor clarifications.

The Orange County Bar Association and the two appellate attorneys suggested clarifications to the proposed related issue about *Martinez* in CALCRIM No. 1202. The committee agreed with some, but not all, of these suggested changes. The same two commenters also objected to the proposed deletion of “lawfully” and the related bench note, as well as the commentary discussing *Johnson* from CALCRIM No. 2701. The committee pointed out that this instruction does not cover Penal Code section 166(a)(4), which contains the lawfully issued order requirement.

Finally, a comment from the two appellate attorneys suggested clarifying a sentence in the related issue about unconsciousness based on voluntary intoxication in Nos. 3426 and 3427. The committee agreed and changed the language in these two instructions, as well as in No. 3425.

The text of all comments received and the committee's responses are included in a chart of comments attached at pages 172–185.

### **Alternatives considered**

The proposed changes are necessary to ensure that the instructions remain clear, accurate, and complete; therefore, the advisory committee considered no alternative actions.

### **Fiscal and Operational Impacts**

No implementation costs are associated with this proposal.

### **Attachments and Links**

1. Full text of revised *CALCRIM* instructions, including table of contents, at pages 11–171
2. Chart of comments, at pages 172–185



# CALCRIM Proposed Changes:

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## 320. Exercise of Privilege by Witness

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*<Alternative A—Valid Exercise of Privilege>*

**[A witness may refuse to answer questions that call for privileged information. Under the law, \_\_\_\_\_ *<insert name of witness>* was justified in refusing to answer certain questions. Do not consider (his/her) refusal to answer for any reason at all and do not guess what (his/her) answer would have been.]**

*<Alternative B—Invalid Exercise of Privilege>*

**[\_\_\_\_\_ *<insert name of witness>* did not have the right to refuse to answer questions in this case. You may consider that refusal during your deliberations.]**

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*New January 2006; Revised August 2014, September 2024\**

*\* Denotes changes only to bench notes and other commentaries.*

### BENCH NOTES

#### ***Instructional Duty***

The court has no sua sponte duty to give an instruction on the exercise of privilege by witnesses; however, it must be given on request. (Evid. Code, § 913(b); see also *People v. Mincey* (1992) 2 Cal.4th 408, 440–441 [6 Cal.Rptr.2d 822, 827 P.2d 388].)

Give Alternative A when the court has sustained the exercise of privilege. -Give Alternative B when the witness’s exercise of privilege is invalid. -If the witness was not justified in refusing to answer a question, the jury may draw reasonable inferences regarding why the witness refused to testify. -(*People v. Morgain* (2009) 177 Cal.App.4th 454, 468 [99 Cal.Rptr.3d 301]; *People v. Lopez* (1999) 71 Cal.App.4th 1550, 1554 [84 Cal.Rptr.2d 655].)

#### ***Related Instructions***

See CALCRIM No. 355, *Defendant’s Right Not to Testify*.

### AUTHORITY

- Instructional Requirements. Evid. Code, § 913(b); *People v. Mincey* (1992) 2 Cal.4th 408, 440–441 [6 Cal.Rptr.2d 822, 827 P.2d 388].

- Valid Exercise of Privilege by Absent Witness Through Counsel. *People v. Brooks* (2024) 99 Cal.App.5th 323, 334–336 [317 Cal.Rptr.3d 780]; *People v. Apodaca* (1993) 16 Cal.App.4th 1706, 1713–1715 [21 Cal.Rptr.2d 14].

## SECONDARY SOURCES

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 80, *Defendant's Trial Rights*, § 80.06, Ch. 83, *Evidence*, § 83.09[2], [17], Ch. 85, *Submission to Jury and Verdict*, § 85.03[2][b] (Matthew Bender).

**321–329. Reserved for Future Use**

## 510. Excusable Homicide: Accident

The defendant is not guilty of (murder/ [or] manslaughter) if ~~(he/she) killed someone:~~

1. The defendant killed someone ~~B~~by accident and misfortune; or while doing a lawful act in a lawful way;

OR

- ~~1. If the defendant was doing a lawful act in a lawful~~
2. The defendant was acting with usual and ordinary caution;

AND

3. The defendant was acting without the necessary mental state ~~an unlawful intent to commit~~ for (murder/ [or] manslaughter).

A person acts with *usual and ordinary caution* if he or she acts in a way that a reasonably careful person would act in the same or similar situation.

The People have the burden of proving beyond a reasonable doubt that the killing was not excused. If the People have not met this burden, you must find the defendant not guilty of (murder/ [or] manslaughter).

*New January 2006; Revised August 2012, March 2022, September 2024*

## BENCH NOTES

### *Instructional Duty*

The court has no **sua sponte** duty to instruct on accident. (*People v. Anderson* (2011) 51 Cal.4th 989, 997-998 [125 Cal.Rptr.3d 408, 252 P.3d 968].)

When this instruction is given, it should always be given in conjunction with CALCRIM No. 581, *Involuntary Manslaughter: Murder Not Charged* or CALCRIM No. 580, *Involuntary Manslaughter: Lesser Included Offense*, unless vehicular manslaughter with ordinary negligence is charged. (*People v. Velez* (1983) 144 Cal.App.3d 558, 566–568 [192 Cal.Rptr. 686].) A lawful act can be the basis of involuntary manslaughter, but only if that act is committed with *criminal* negligence (“in an unlawful manner or without due caution and circumspection”). (Pen. Code, § 192(b).) The level of negligence described in this instruction, 510, is *ordinary* negligence. While proof of ordinary negligence is sufficient to prevent a killing from being excused under Penal Code section 195, ~~subd. (1)~~, proof of

ordinary negligence is not sufficient to find a defendant guilty of involuntary manslaughter under Penal Code section 192(b). (*People v. Penny* (1955) 44 Cal.2d 861, 879–880 [285 P.2d 926].)

### ***Related Instructions***

CALCRIM No. 3404, *Accident*.

## **AUTHORITY**

- Excusable Homicide. Pen. Code, § 195(~~subd. 1~~); *People v. Garnett* (1908) 9 Cal.App. 194, 203–204 [98 P. 247], disapproved on other grounds by *People v. Collup* (1946) 27 Cal.2d 829, 838–839 [167 P.2d 714] and *People v. Bouchard* (1957) 49 Cal.2d 438, 441–442 [317 P.2d 971].
- Burden of Proof. Pen. Code, § 189.5; *People v. Frye* (1992) 7 Cal.App.4th 1148, 1154–1155 [10 Cal.Rptr.2d 217].
- Instructing With Involuntary Manslaughter. *People v. Velez*, *supra*, ~~(1983)~~ 144 Cal.App.3d at pp. 558, 566–568 [~~192 Cal.Rptr. 686~~].

## **RELATED ISSUES**

### ***Traditional Self-Defense***

In *People v. Curtis* (1994) 30 Cal.App.4th 1337, 1358–1359 [37 Cal.Rptr.2d 304], the court held that the claim that a killing was accidental bars the defendant from relying on traditional self-defense not only as a defense, but also to negate implied malice. However, in *People v. Elize* (1999) 71 Cal.App.4th 605, 610–616 [84 Cal.Rptr.2d 35], the court reached the opposite conclusion, holding that the trial court erred in refusing to give self-defense instructions where the defendant testified that the gun discharged accidentally. *Elize* relies on two Supreme Court opinions, *People v. Barton* (1995) 12 Cal.4th 186 [47 Cal.Rptr.2d 569, 906 P.2d 531], and *People v. Breverman* (1998) 19 Cal.4th 142 [77 Cal.Rptr.2d 870, 960 P.2d 1094]. Because *Curtis* predates these opinions, *Elize* appears to be the more persuasive authority.

## **SECONDARY SOURCES**

- 1 Witkin & Epstein, California Criminal Law (4th ed. 2012) Defenses, § 274.
- 3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications*, §§ 73.01[5], 73.16 (Matthew Bender).
- 4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.04[1][c] (Matthew Bender).
- 6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.01[1][b] (Matthew Bender).

**520. First or Second Degree Murder With Malice Aforethought (Pen. Code, § 187)**

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The defendant is charged [in Count \_\_] with murder [in violation of Penal Code section 187].

To prove that the defendant is guilty of this crime, the People must prove that:

[1A. The defendant committed an act that caused the death of (another person/ [or] a fetus);]

[OR]

[1B. The defendant had a legal duty to (help/care for/rescue/warn/maintain the property of/ \_\_\_\_\_ <insert other required action[s]>) \_\_\_\_\_ <insert description of decedent/person to whom duty is owed> and the defendant failed to perform that duty and that failure caused the death of (another person/ [or] a fetus);]

[AND]

2. When the defendant (acted/ [or] failed to act), (he/she) had a state of mind called malice aforethought(;/.)

<Give element 3 when instructing on justifiable or excusable homicide.>

[AND]

3. (He/She) killed without lawful (excuse/ [or] justification).]

There are two kinds of malice aforethought, express malice and implied malice. Proof of either is sufficient to establish the state of mind required for murder.

The defendant had *express malice* if (he/she) unlawfully intended to kill.

The defendant had *implied malice* if:

1. (He/She) intentionally (committed the act/ [or] failed to act);

2. The natural and probable consequences of the (act/ [or] failure to act) were dangerous to human life in that the (act/ [or] failure to act) involved a high degree of probability that it would result in death;
3. At the time (he/she) (acted/ [or] failed to act), (he/she) knew (his/her) (act/ [or] failure to act) was dangerous to human life;

**AND**

4. (He/She) deliberately (acted/ [or] failed to act) with conscious disregard for (human/ [or] fetal) life.

**Malice aforethought does not require hatred or ill will toward the victim. It is a mental state that must be formed before the act that causes death is committed. It does not require deliberation or the passage of any particular period of time.**

**[It is not necessary that the defendant be aware of the existence of a fetus to be guilty of murdering that fetus.]**

**[A *fetus* is an unborn human being that has progressed beyond the embryonic stage after major structures have been outlined, which typically occurs at seven to eight weeks after fertilization.]**

**[(An act/ [or] (A/a) failure to act) causes death if the death is the direct, natural, and probable consequence of the (act/ [or] failure to act) and the death would not have happened without the (act/ [or] failure to act). A *natural and probable consequence* is one that a reasonable person would know is likely to happen if nothing unusual intervenes. In deciding whether a consequence is natural and probable, consider all of the circumstances established by the evidence.]**

**[There may be more than one cause of death. (An act/ [or] (A/a) failure to act) causes death only if it is a substantial factor in causing the death. A *substantial factor* is more than a trivial or remote factor. However, it does not need to be the only factor that causes the death.]**

**[(A/An) \_\_\_\_\_ <insert description of person owing duty> has a legal duty to (help/care for/rescue/warn/maintain the property of/ \_\_\_\_\_ <insert other required action[s]>) \_\_\_\_\_ <insert description of decedent/person to whom duty is owed>.]**



*<Give the following bracketed paragraph if the second degree is the only possible degree of the crime for which the jury may return a verdict.>*

**[If you find the defendant guilty of murder, it is murder of the second degree.]**

*<Give the following bracketed paragraph if there is substantial evidence of first degree murder>*

**[If you decide that the defendant committed murder, it is murder of the second degree, unless the People have proved beyond a reasonable doubt that it is murder of the first degree as defined in CALCRIM No. \_\_\_\_ *<insert number of appropriate first degree murder instruction>.*]**

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*New January 2006; Revised August 2009, October 2010, February 2013, August 2013, September 2017, March 2019, September 2019, March 2021, March 2024, September 2024\**

*\* Denotes changes only to bench notes and other commentaries.*

## **BENCH NOTES**

### ***Instructional Duty***

The court has a **sua sponte** duty to instruct on the first two elements of the crime. If there is sufficient evidence of excuse or justification, the court has a **sua sponte** duty to include the third, bracketed element in the instruction. (*People v. Frye* (1992) 7 Cal.App.4th 1148, 1155–1156 [10 Cal.Rptr.2d 217].) The court also has a **sua sponte** duty to give any other appropriate defense instructions. (See CALCRIM Nos. 505–627, and CALCRIM Nos. 3470–3477.)

If causation is at issue, the court has a **sua sponte** duty to instruct on proximate cause. (*People v. Bernhardt* (1963) 222 Cal.App.2d 567, 590–591 [35 Cal.Rptr. 401].) If the evidence indicates that there was only one cause of death, the court should give the “direct, natural, and probable” language in the first bracketed paragraph on causation. If there is evidence of multiple causes of death, the court should also give the “substantial factor” instruction and definition in the second bracketed causation paragraph. (See *People v. Carney* (2023) 14 Cal.5th 1130, 1138–1139 [310 Cal.Rptr.3d 685, 532 P.3d 696]; *People v. Autry* (1995) 37 Cal.App.4th 351, 363 [43 Cal.Rptr.2d 135]; *People v. Pike* (1988) 197 Cal.App.3d 732, 746–747 [243 Cal.Rptr. 54].) If there is an issue regarding a superseding or intervening cause, give the appropriate portion of CALCRIM No. 620, *Causation: Special Issues*.

If the prosecution’s theory of the case is that the defendant committed murder based on his or her failure to perform a legal duty, the court may give element 1B. Review the Bench Notes to CALCRIM No. 582, *Involuntary Manslaughter: Failure to Perform Legal Duty—Murder Not Charged*.

If the defendant is charged with first degree murder, give this instruction and CALCRIM No. 521, *First Degree Murder*. If the defendant is charged with second degree murder, no other instruction need be given.

If the defendant is also charged with first degree felony murder, instruct on that crime and give CALCRIM No. 548, *Murder: Alternative Theories*.

### AUTHORITY

- Elements. Pen. Code, § 187.
- Malice. Pen. Code, § 188; *People v. Dellinger* (1989) 49 Cal.3d 1212, 1217–1222 [264 Cal.Rptr. 841, 783 P.2d 200]; *People v. Nieto Benitez* (1992) 4 Cal.4th 91, 103–105 [13 Cal.Rptr.2d 864, 840 P.2d 969]; *People v. Blakeley* (2000) 23 Cal.4th 82, 87 [96 Cal.Rptr.2d 451, 999 P.2d 675].
- “Dangerous to Human Life” Defined. *People v. Reyes* (2023) 14 Cal.5th 981, 989 [309 Cal.Rptr.3d 832, 531 P.3d 357].
- Causation. *People v. Carney*, *supra*, (2023) 14 Cal.5th 1130, at pp. 1137–1139 [310 Cal.Rptr.3d 685, 532 P.3d 696] [concurrent causation]; *People v. Roberts* (1992) 2 Cal.4th 271, 315–321 [6 Cal.Rptr.2d 276, 826 P.2d 274] [successive causation].
- “Fetus” Defined. *People v. Davis* (1994) 7 Cal.4th 797, 814–815 [30 Cal.Rptr.2d 50, 872 P.2d 591]; *People v. Taylor* (2004) 32 Cal.4th 863, 867 [11 Cal.Rptr.3d 510, 86 P.3d 881].
- Ill Will Not Required for Malice. *People v. Seden* (1974) 10 Cal.3d 703, 722 [112 Cal.Rptr. 1, 518 P.2d 913], overruled on other grounds in *People v. Flannel* (1979) 25 Cal.3d 668, 684, fn. 12 [160 Cal.Rptr. 84, 603 P.2d 1]; *People v. Breverman* (1998) 19 Cal.4th 142, 163 [77 Cal.Rptr.2d 870, 960 P.2d 1094].
- Prior Version of This Instruction Upheld. *People v. Genovese* (2008) 168 Cal.App.4th 817, 831 [85 Cal.Rptr.3d 664].

### LESSER INCLUDED OFFENSES

- Voluntary Manslaughter. Pen. Code, § 192(a).
- Involuntary Manslaughter. Pen. Code, § 192(b).

- Attempted Murder. Pen. Code, §§ 663, 189.
- Sentence Enhancements and Special Circumstances Not Considered in Lesser Included Offense Analysis. *People v. Boswell* (2016) 4 Cal.App.5th 55, 59-60 [208 Cal.Rptr.3d 244].

Gross vehicular manslaughter while intoxicated (Pen. Code, § 191.5(a)) and vehicular manslaughter (Pen. Code, § 192(c)) are not lesser included offenses of murder. (*People v. Sanchez* (2001) 24 Cal.4th 983, 988–992 [103 Cal.Rptr.2d 698, 16 P.3d 118]; *People v. Bettasso* (2020) 49 Cal.App.5th 1050, 1059 [263 Cal.Rptr.3d 563].) Similarly, child abuse homicide (Pen. Code, § 273ab) is not a necessarily included offense of murder. (*People v. Malfavon* (2002) 102 Cal.App.4th 727, 744 [125 Cal.Rptr.2d 618].)

## RELATED ISSUES

### ***Causation—Foreseeability***

Authority is divided on whether a causation instruction should include the concept of foreseeability. (See *People v. Autry*, *supra*, 37 Cal.App.4th at pp. 362–363; *People v. Temple* (1993) 19 Cal.App.4th 1750, 1756 [24 Cal.Rptr.2d 228] [refusing defense-requested instruction on foreseeability in favor of standard causation instruction]; but see *People v. Gardner* (1995) 37 Cal.App.4th 473, 483 [43 Cal.Rptr.2d 603] [suggesting the following language be used in a causation instruction: “[t]he death of another person must be foreseeable in order to be the natural and probable consequence of the defendant’s act”].) It is clear, however, that it is error to instruct a jury that foreseeability is immaterial to causation. (*People v. Roberts*, *supra*, 2 Cal.4th at p. 315 [error to instruct a jury that when deciding causation it “[w]as immaterial that the defendant could not reasonably have foreseen the harmful result”].)

### ***Second Degree Murder of a Fetus***

The defendant does not need to know a woman is pregnant to be convicted of second degree murder of her fetus. (*People v. Taylor*, *supra*, ~~(2004)~~ 32 Cal.4th 863, at p. 868 [~~11 Cal.Rptr.3d 510, 86 P.3d 881~~] “[t]here is no requirement that the defendant specifically know of the existence of each victim”].) “[B]y engaging in the conduct he did, the defendant demonstrated a conscious disregard for all life, fetal or otherwise, and hence is liable for all deaths caused by his conduct.” (*Id.* at p. 870.)

### ***Youth as a Factor for Implied Malice***

In *People v. Pittman* (2023) 96 Cal.App.5th 400, 416–418 [314 Cal.Rptr.3d 409], the court considered the role of youth—commonly defined as 25 years of age or younger—in analyzing a resentencing petition under Penal Code section 1172.6 where the defendant was 21 years old at the time of the offense. The court

concluded that youth was a relevant factor and remanded the case for the trial court to consider whether the defendant's youth had impacted his ability to form the requisite mental state for implied malice second degree murder. (*People v. Pittman, supra*, 96 Cal.App.5th at p. 418.) In reaching this conclusion, *Pittman* relied on a series of cases that found youth relevant to reckless indifference determination in the felony murder context. That line of cases can be found in the authority section of No. 540B, *Felony Murder: First Degree—Coparticipant Allegedly Committed Fatal Act*.

## **SECONDARY SOURCES**

1 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against the Person, §§ 96-101, 112-113.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, § 140.04; Ch. 142, *Crimes Against the Person*, § 142.01 (Matthew Bender).

## 522. Provocation: Effect on Degree of Murder

**Provocation may reduce a murder from first degree to second degree [and may reduce a murder to manslaughter]. The weight and significance of the provocation, if any, are for you to decide.**

**If you conclude that the defendant committed murder but was provoked, consider the provocation in deciding whether the crime was first or second degree murder. [Also, consider the provocation in deciding whether the defendant committed murder or manslaughter.]**

**[Provocation does not apply to a prosecution under a theory of felony murder.]**

*New January 2006; Revised April 2011, March 2017, September 2023, September 2024\**

*\* Denotes changes only to bench notes and other commentaries.*

### BENCH NOTES

#### *Instructional Duty*

Provocation may reduce murder from first to second degree. (*People v. Thomas* (1945) 25 Cal.2d 880, 903 [156 P.2d 7] [provocation raised reasonable doubt about premeditation or deliberation, “leaving the homicide as murder of the second degree; i.e., an unlawful killing perpetrated with malice aforethought but without premeditation and deliberation”]; see also *People v. Cole* (2004) 33 Cal.4th 1158, 1211–1212 [17 Cal.Rptr.3d 532, 95 P.3d 811] [court adequately instructed on relevance of provocation to whether defendant acted with intent to torture for torture murder].) There is, however, no sua sponte duty to instruct the jury on this issue. (*People v. Rogers* (2006) 39 Cal.4th 826, 877-880 [48 Cal.Rptr.3d 1, 141 P.3d 135].) This is a pinpoint instruction, to be given on request where evidence supports the theory. (*People v. Thomas* (2023) 14 Cal.5th 327, 384 [304 Cal.Rptr.3d 1, 523 P.3d 323].)

This instruction may be given after CALCRIM No. 521, *First Degree Murder*.

If the court will be instructing on voluntary manslaughter, give both bracketed portions on manslaughter.

If the court will be instructing on felony murder, give the bracketed sentence stating that provocation does not apply to felony murder.

## AUTHORITY

- Provocation Reduces From First to Second Degree. *People v. Thomas, supra*, 25 Cal.2d at p. 903; see also *People v. Cole, supra*, 33 Cal.4th at pp. 1211–1212.
- Pinpoint Instruction. *People v. Rogers, supra*, 39 Cal.4th at pp. 877–878.
- This Instruction Upheld. *People v. Hernandez* (2010) 183 Cal.App.4th 1327, 1333-1335 [107 Cal.Rptr.3d 915].
- Provocation Must Be Caused by Victim’s Conduct or Conduct Reasonably Believed by Defendant to Have Been Engaged In by Victim. *People v. Verdugo* (2010) 50 Cal.4th 263, 294 [113 Cal.Rptr.3d 803, 236 P.3d 1035] [murder to manslaughter]; *People v. Nunez* (2023) 97 Cal.App.5th 362, 370 [315 Cal.Rptr.3d 452] [first degree to second degree murder].

## SECONDARY SOURCES

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications*, § 73.16 (Matthew Bender).

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.04[1][c] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, §§ 142.01, 142.02 (Matthew Bender).

## 562. Transferred Intent

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<A. Only unintended victim is killed.>

**[If the defendant intended to kill one person, but by mistake or accident killed someone else instead, then the crime, if any, is the same as if the intended person had been killed.]**

<B. Both intended and unintended victims are killed.>

**[If the defendant intended to kill one person, but by mistake or accident also killed someone else, then the crime, if any, is the same for the unintended killing as it is for the intended killing.]**

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*New January 2006; Revised September 2024\**

*\* Denotes changes only to bench notes and other commentaries.*

### BENCH NOTES

#### ***Instructional Duty***

The court has a **sua sponte** duty to give this instruction if transferred intent is one of the general principles of law relevant to the issues raised by the evidence. (*People v. Hood* (1969) 1 Cal.3d 444, 449 [82 Cal.Rptr. 618, 462 P.2d 370].)

Give optional paragraph A if only an unintended victim is killed. Give optional paragraph B if both the intended victim and an unintended victim or victims are killed. (See discussion in Commentary, below.)

Any defenses that apply to the intended killing apply to the unintended killing as well. (*People v. Mathews* (1979) 91 Cal.App.3d 1018, 1024 [154 Cal.Rptr. 628].) This includes defenses that decrease the level of culpable homicide such as heat of passion or imperfect self-defense.

Do not give this instruction for a charge of attempted murder. The transferred intent doctrine does not apply to attempted murder. A defendant's guilt of attempted murder must be judged separately for each alleged victim. (*People v. Bland* (2002) 28 Cal.4th 313, 327–328, 331 [121 Cal.Rptr.2d 546, 48 P.3d 1107]; see CALCRIM No. 600, *Attempted Murder*.)

#### ***Related Instructions***

Always give the appropriate related homicide instructions.



## AUTHORITY

- Common Law Doctrine of Transferred Intent. *People v. Mathews*, *supra*, ~~(1979)~~ 91 Cal.App.3d at p. ~~1018~~, 1024 ~~[154 Cal.Rptr. 628]~~.
- Senate Bill 1437 Revisions to Homicide Liability Did Not Abrogate Doctrine. *People v. Lopez* (2024) 99 Cal.App.5th 1242, 1247–1250 [318 Cal.Rptr.3d 625].

## COMMENTARY

### *Intent Transfers to Unintended Victim*

“[A] person’s intent to kill the intended target is not ‘used up’ once it is employed to convict the person of murdering that target. It can also be used to convict of the murder of others the person also killed. . . . [A]ssuming legal causation, a person maliciously intending to kill is guilty of the murder of all persons actually killed. If the intent is premeditated, the murder or murders are first degree. . . . Intent to kill transfers to an unintended homicide victim even if the intended target is killed.” (*People v. Bland*, *supra*, ~~(2002)~~ 28 Cal.4th ~~313~~, at pp. 322, 323–324, 326 ~~[121 Cal.Rptr.2d 546, 48 P.3d 1107]~~ [disapproving *People v. Birreuta* (1984) 162 Cal.App.3d 454, 458, 463 [208 Cal.Rptr. 635]].)

## SECONDARY SOURCES

- 1 Witkin & Epstein, California Criminal Law (4th ed. 2012) Elements, §§ 13–15.
- 6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, § 140.02[3][b], Ch. 142, *Crimes Against the Person*, § 142.01[2][b][vii] -(Matthew Bender).



**570. Voluntary Manslaughter: Heat of Passion—Lesser Included  
Offense (Pen. Code, § 192(a))**

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**A killing that would otherwise be murder is reduced to voluntary manslaughter if the defendant killed someone because of a sudden quarrel or in the heat of passion.**

**The defendant killed someone because of a sudden quarrel or in the heat of passion if:**

- 1. The defendant was provoked;**
- 2. As a result of the provocation, the defendant acted rashly and under the influence of intense emotion that obscured (his/her) reasoning or judgment;**

**AND**

- 3. The provocation would have caused a person of average disposition to act rashly and without due deliberation, that is, from passion rather than from judgment.**

**Heat of passion does not require anger, rage, or any specific emotion. It can be any violent or intense emotion that causes a person to act without due deliberation and reflection.**

**In order for heat of passion to reduce a murder to voluntary manslaughter, the defendant must have acted under the direct and immediate influence of provocation ~~as I have defined it~~. While no specific type of provocation is required, slight or remote provocation is not sufficient. Sufficient provocation may occur over a short or long period of time.**

**It is not enough that the defendant simply was provoked. The defendant is not allowed to set up (his/her) own standard of conduct. You must decide whether the defendant was provoked and whether the provocation was sufficient. In deciding whether the provocation was sufficient, consider whether a person of average disposition, in the same situation and knowing the same facts, would have reacted from passion rather than from judgment.**

[If enough time passed between the provocation and the killing for a person of average disposition to “cool off” and regain his or her clear reasoning and judgment, then the killing is not reduced to voluntary manslaughter on this basis.]

The People have the burden of proving beyond a reasonable doubt that the defendant did not kill as the result of a sudden quarrel or in the heat of passion. If the People have not met this burden, you must find the defendant not guilty of murder.

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*New January 2006; Revised December 2008, February 2014, August 2015, September 2024*

## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to instruct on voluntary manslaughter on either theory, heat of passion or imperfect self-defense, when evidence of either is “substantial enough to merit consideration” by the jury. (*People v. Breverman* (1998) 19 Cal.4th 142, 153–163 [77 Cal.Rptr.2d 870, 960 P.2d 1094]; *People v. Barton* (1995) 12 Cal.4th 186, 201 [47 Cal.Rptr.2d 569, 906 P.2d 531].)

If the victim’s gender identity or sexual orientation raises specific issues concerning whether provocation was objectively reasonable, give an instruction tailored to those issues on request. (Pen. Code, § 192(f), ~~amended effective January 1, 2015.~~)

### *Related Instructions*

CALCRIM No. 511, *Excusable Homicide: Accident in the Heat of Passion*.

## AUTHORITY

- Elements. Pen. Code, § 192(a).
- “Heat of Passion” Defined. *People v. Beltran* (2013) 56 Cal.4th 935, 938, 942, 957 [157 Cal.Rptr. 3d 503, 301 P.3d 1120]; *People v. Breverman*, *supra*, (1998) 19 Cal.4th 142, at p. 163 [~~77 Cal.Rptr.2d 870, 960 P.2d 1094~~]; *People v. Valentine* (1946) 28 Cal.2d 121, 139 [169 P.2d 1]; *People v. Lee* (1999) 20 Cal.4th 47, 59 [82 Cal.Rptr.2d 625, 971 P.2d 1001].
- “Average Person” Need Not Have Been Provoked to Kill, Just to Act Rashly and Without Deliberation. (*People v. Beltran*, *supra*, (2013) 56 Cal.4th 935, at pp. 938, 942, 957 [~~157 Cal.Rptr. 3d 503, 301 P.3d 1120~~]; *People v. Najera* (2006) 138 Cal.App.4th 212, 223 [41 Cal.Rptr.3d 244].

- Gender Identity and Sexual Orientation Not Proper Basis for Finding Provocation Objectively Reasonable. Pen. Code, § 192(f), ~~amended effective January 1, 2015.~~

## LESSER INCLUDED OFFENSES

- Attempted Voluntary Manslaughter. *People v. Van Ronk* (1985) 171 Cal.App.3d 818, 824–825 [217 Cal.Rptr. 581]; *People v. Williams* (1980) 102 Cal.App.3d 1018, 1024–1026 [162 Cal.Rptr. 748].

Involuntary manslaughter is *not* a lesser included offense of voluntary manslaughter. (*People v. Orr* (1994) 22 Cal.App.4th 780, 784 [27 Cal.Rptr.2d 553].)

## RELATED ISSUES

### *Heat of Passion: Sufficiency of Provocation—Examples*

In *People v. Breverman*, sufficient evidence of provocation existed where a mob of young men trespassed onto defendant's yard and attacked defendant's car with weapons. (*People v. Breverman*, ~~*supra*, (1998)~~ 19 Cal.4th ~~at pp. 142, 163–164~~ ~~[77 Cal.Rptr.2d 870, 960 P.2d 1094]~~.) Provocation has also been found sufficient based on the murder of a family member (*People v. Brooks* (1986) 185 Cal.App.3d 687, 694 [230 Cal.Rptr. 86]); a sudden and violent quarrel (*People v. Elmore* (1914) 167 Cal. 205, 211 [138 P. 989]); verbal taunts by an unfaithful wife (*People v. Berry* (1976) 18 Cal.3d 509, 515 [134 Cal.Rptr. 415, 556 P.2d 777]); and the infidelity of a lover (*People v. Borchers* (1958) 50 Cal.2d 321, 328–329 [325 P.2d 97]).

In the following cases, evidence has been found inadequate to warrant instruction on provocation: evidence of name calling, smirking, or staring and looking stone-faced (*People v. Lucas* (1997) 55 Cal.App.4th 721, 739 [64 Cal.Rptr.2d 282]); calling someone a particular epithet (*People v. Manriquez* (2005) 37 Cal.4th 547, 585–586 [36 Cal.Rptr.3d 340, 123 P.3d 614]); refusing to have sex in exchange for drugs (*People v. Michael Sims Dixon* (1995) 32 Cal.App.4th 1547, 1555–1556 [38 Cal.Rptr.2d 859]); a victim's resistance against a rape attempt (*People v. Rich* (1988) 45 Cal.3d 1036, 1112 [248 Cal.Rptr. 510, 755 P.2d 960]); the desire for revenge (*People v. Fenenbock* (1996) 46 Cal.App.4th 1688, 1704 [54 Cal.Rptr.2d 608]); and a long history of criticism, reproach, and ridicule where the defendant had not seen the victims for over two weeks prior to the killings (*People v. Kanawyer* (2003) 113 Cal.App.4th 1233, 1246–1247 [7 Cal.Rptr.3d 401]). In addition the Supreme Court has suggested that mere vandalism of an automobile is insufficient for provocation. (See *People v. Breverman*, ~~*supra*, (1998)~~ 19 Cal.4th

at p.142, 164, fn. 11 [~~77 Cal.Rptr.2d 870, 960 P.2d 1094~~]; *In re Christian S.* (1994) 7 Cal.4th 768, 779, fn. 3 [30 Cal.Rptr.2d 33, 872 P.2d 574].)

### ***Heat of Passion: Types of Provocation***

Heat of passion does not require anger or rage. It can be “any violent, intense, high-wrought or enthusiastic emotion.” (*People v. Breverman*, *supra*, (1998) 19 Cal.4th at pp.142, 163–164 [~~77 Cal.Rptr.2d 870, 960 P.2d 1094~~].)

### ***Heat of Passion: Verbal Provocation Sufficient***

The provocative conduct by the victim may be physical or verbal, but the conduct must be sufficiently provocative that it would cause an ordinary person of average disposition to act rashly or without due deliberation and reflection. (*People v. Lee*, *supra*, (1999) 20 Cal.4th 47, at p. 59 [~~82 Cal.Rptr.2d 625, 971 P.2d 1001~~]; *People v. Valentine*, *supra*, (1946) 28 Cal.2d at pp.121, 138–139 [~~169 P.2d 11~~].)

### ***Heat of Passion: Defendant Initial Aggressor***

“[A] defendant who provokes a physical encounter by rude challenges to another person to fight, coupled with threats of violence and death to that person and his entire family, is not entitled to claim that he was provoked into using deadly force when the challenged person responds without apparent (or actual) use of such force.” (*People v. Johnston* (2003) 113 Cal.App.4th 1299, 1303, 1312–1313 [7 Cal.Rptr.3d 161].)

### ***Heat of Passion: Defendant’s Own Standard***

Unrestrained and unprovoked rage does not constitute heat of passion and a person of extremely violent temperament cannot substitute his or her own subjective standard for heat of passion. (*People v. Valentine*, *supra*, (1946) 28 Cal.2d 121, at p. 139 [~~169 P.2d 11~~] [court approved admonishing jury on this point]; *People v. Danielly* (1949) 33 Cal.2d 362, 377 [202 P.2d 18]; *People v. Berry*, *supra*, (1976) 18 Cal.3d 509, at p. 515 [~~134 Cal.Rptr. 415, 556 P.2d 777~~].) The objective element of this form of voluntary manslaughter is not satisfied by evidence of a defendant’s “extraordinary character and environmental deficiencies.” (*People v. Steele* (2002) 27 Cal.4th 1230, 1253 [120 Cal.Rptr.2d 432, 47 P.3d 225] [evidence of intoxication, mental deficiencies, and psychological dysfunction due to traumatic experiences in Vietnam are not provocation by the victim].)

### ***Premeditation and Deliberation—Heat of Passion Provocation***

Provocation and heat of passion that is insufficient to reduce a murder to manslaughter may nonetheless reduce murder from first to second degree. (*People v. Thomas* (1945) 25 Cal.2d 880, 903 [156 P.2d 7] [provocation raised reasonable doubt about the idea of premeditation or deliberation].) There is, however, no sua sponte duty to instruct the jury on this issue because provocation in this context is a defense to the element of deliberation, not an element of the crime, as it is in the manslaughter context. (*People v. Middleton* (1997) 52 Cal.App.4th 19, 32–33 [60

Cal.Rptr.2d 366], disapproved on other grounds in *People v. Gonzalez* (2003) 31 Cal.4th 745, 752 [3 Cal.Rptr.3d 676, 74 P.3d 771].) On request, give CALCRIM No. 522, *Provocation: Effect on Degree of Murder*.

### ***Fetus***

Manslaughter does not apply to the death of a fetus. (*People v. Carlson* (1974) 37 Cal.App.3d 349, 355 [112 Cal.Rptr. 321].) While the Legislature has included the killing of a fetus, as well as a human being, within the definition of murder under Penal Code section 187, it has “left untouched the provisions of section 192, defining manslaughter [as] the ‘unlawful killing of a human being.’ ” (*Ibid.*)

## **SECONDARY SOURCES**

1 Witkin & Epstein, *California Criminal Law* (4th ed. 2012) Crimes Against the Person §§ 111, 224, 226-245.

4 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 85, *Submission to Jury and Verdict*, §§ 85.03[2][g], 85.04[1][c] (Matthew Bender).

6 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 142, *Crimes Against the Person*, §§ 142.01[3][e], 142.02[1][a], [e], [f], [2][a], [3][c] (Matthew Bender).

**640. Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With First Degree Murder and Jury Is Given Not Guilty Forms for Each Level of Homicide**

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[For each count charging murder,] (Y/y)ou (have been/will be) given verdict forms for guilty and not guilty of first degree murder (, /and) [second degree murder] [(, /and)] [voluntary manslaughter] [(, /and)] [involuntary manslaughter].

**It is up to you to decide the order in which you may consider these different kinds of homicide in whatever order you wish, and the relevant evidence. For example, you do not have to reach a verdict on the first degree murder charge[s] before considering the (second degree murder[,]/ [(and/or)] voluntary manslaughter[,]/ (and/or) involuntary manslaughter) charge[s]. However, but I can accept a verdict of guilty or not guilty of \_\_\_\_\_**  
*<insert second degree murder or, if the jury is not instructed on second degree murder as a lesser included offense, -each- form of manslaughter, voluntary and/or involuntary, on which the jury is instructed>* **only if all of you have found the defendant not guilty of first degree murder, [and I can accept a verdict of guilty or not guilty of (voluntary/involuntary/voluntary or involuntary) manslaughter only if all of you have found the defendant not guilty of both first and second degree murder].**

[As with all of the charges in this case,] (To/to) return a verdict of guilty or not guilty on a count, you must all agree on that decision.

Follow these directions before you give me any completed and signed final verdict form[s]. [Return the unused verdict form[s] to me, unsigned.]

1. If all of you agree that the People have proved beyond a reasonable doubt that the defendant is guilty of first degree murder, complete and sign that verdict form. Do not complete or sign any other verdict forms [for that count].
2. If all of you cannot agree whether the defendant is guilty of first degree murder, inform me that you cannot reach an agreement and do not complete or sign any verdict forms [for that count].

*<In addition to paragraphs 1-2, give the following if the jury is instructed on second degree murder as a lesser included offense.>*

- [3. If all of you agree that the defendant is not guilty of first degree murder but also agree that the defendant is guilty of second degree murder, complete and sign the form for not guilty of first degree murder and the form for guilty of second degree murder. Do not complete or sign any other verdict forms [for that count].
4. If all of you agree that the defendant is not guilty of first degree murder but cannot agree whether the defendant is guilty of second degree murder, complete and sign the form for not guilty of first degree murder and inform me that you cannot reach further agreement. -Do not complete or sign any other verdict forms [for that count].]

*<In addition to paragraphs 1–4, give the following if the jury is instructed on second degree murder as the only lesser included offense.->*

- [5. If all of you agree that the defendant is not guilty of first degree murder and not guilty of second degree murder, complete and sign the verdict forms for not guilty of both. Do not complete or sign any other verdict forms [for that count].]

*< In addition to paragraphs 1–4, give the following if the jury is instructed on second degree murder and only one form of manslaughter (voluntary or involuntary) as lesser included offenses.>*

- [5. If all of you agree that the defendant is not guilty of first degree murder and not guilty of second degree murder, but also agree that the defendant is guilty of (voluntary/involuntary) manslaughter, complete and sign the forms for not guilty of first degree murder and not guilty of second degree murder and the form for guilty of (voluntary/involuntary) manslaughter. Do not complete or sign any other verdict forms [for that count].
6. If all of you agree that the defendant is not guilty of first degree murder and not guilty of second degree murder, but cannot agree whether the defendant is guilty of (voluntary/involuntary) manslaughter, complete and sign the forms for not guilty of first degree murder and not guilty of second degree murder and



**inform me that you cannot reach further agreement. Do not complete or sign any other verdict forms [for that count].**

- 7. If all of you agree that the defendant is not guilty of first degree murder, not guilty of second degree murder, and not guilty of (voluntary/involuntary) manslaughter, complete and sign the verdict forms for not guilty of each crime. Do not complete or sign any other verdict forms [for that count].]**

*<In addition to paragraphs 1–4, give the following if the jury is instructed on second degree murder and both voluntary and involuntary manslaughter as lesser included offenses.>*

- [5. If all of you agree that the defendant is not guilty of first degree murder and not guilty of second degree murder, complete and sign the forms for not guilty of first degree murder and not guilty of second degree murder.**
- 6. If all of you agree on a verdict of guilty or not guilty of voluntary or involuntary manslaughter, complete and sign the appropriate verdict form for each charge on which you agree. You may not find the defendant guilty of both voluntary and involuntary manslaughter [as to any count]. Do not complete or sign any other verdict forms [for that count].**
- 7. If you cannot reach agreement as to voluntary manslaughter or involuntary manslaughter, inform me of your disagreement. Do not complete or sign any verdict form for any charge on which you cannot reach agreement.]**

*<In addition to paragraphs 1-2, give the following if the jury is not instructed on second degree murder and the jury is instructed on one form of manslaughter (voluntary or involuntary) as the only lesser included offense.>*

- [3. If all of you agree that the defendant is not guilty of first degree murder but also agree that the defendant is guilty of (voluntary/involuntary) manslaughter, complete and sign the form for not guilty of first degree murder and the form for guilty of (voluntary/involuntary) manslaughter. Do not complete or sign any other verdict forms [for that count].**



4. If all of you agree that the defendant is not guilty of first degree murder but cannot agree whether the defendant is guilty of (voluntary/involuntary) manslaughter, complete and sign the form for not guilty of first degree murder and inform me that you cannot reach further agreement. Do not complete or sign any other verdict forms [for that count].
5. If all of you agree that the defendant is not guilty of first degree murder or (voluntary/involuntary) manslaughter, complete and sign the verdict forms for not guilty of each crime. Do not complete or sign any other verdict forms [for that count].

*<In addition to paragraphs 1-2, give the following if the jury is instructed on both voluntary and involuntary manslaughter, but not second degree murder, as lesser included offenses.>*

- [3. If all of you agree that the defendant is not guilty of first degree murder, complete and sign the form for not guilty of first degree murder.
4. If all of you agree on a verdict of guilty or not guilty of voluntary or involuntary manslaughter, complete and sign the appropriate verdict form for each charge on which you agree. You may not find the defendant guilty of both voluntary and involuntary manslaughter [as to any count]. Do not complete or sign any other verdict forms [for that count].
5. If you cannot reach agreement as to voluntary manslaughter or involuntary manslaughter, inform me of your disagreement. Do not complete or sign any verdict form for any charge on which you cannot reach agreement.]

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New January 2006; Revised April 2008, August 2009, September 2024

## **BENCH NOTES**

### ***Instructional Duty***

In all homicide cases in which the defendant is charged with first degree murder and one or more lesser offense is submitted to the jury, the court has a **sua sponte** duty to give this instruction or CALCRIM No. 641, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With First Degree Murder and Jury Is Given Only One Not Guilty Verdict Form for Each Count; Not*

*to Be Used When Both Voluntary and Involuntary Manslaughter Are Lesser Included Offenses.* (See *People v. Avalos* (1984) 37 Cal.3d 216, 228 [207 Cal.Rptr. 549, 689 P.2d 121] [must instruct jury that it must be unanimous as to degree of murder]; *People v. Dixon* (1979) 24 Cal.3d 43, 52 [154 Cal.Rptr. 236, 592 P.2d 752] [jury must determine degree]; *People v. Breverman* (1998) 19 Cal.4th 142, 162 [77 Cal.Rptr.2d 870, 960 P.2d 1094] [duty to instruct on lesser included offenses]; *People v. Dewberry* (1959) 51 Cal.2d 548, 555–557 [334 P.2d 852] [duty to instruct that if jury has reasonable doubt of greater offense must acquit of that charge]; *People v. Fields* (1996) 13 Cal.4th 289, 309–310 [52 Cal.Rptr.2d 282, 914 P.2d 832] [duty to instruct that jury cannot convict of a lesser offense unless it has concluded that defendant is not guilty of the greater offense]; *Stone v. Superior Court* (1982) 31 Cal.3d 503, 519 [183 Cal.Rptr. 647, 646 P.2d 809] [duty to give jury opportunity to render a verdict of partial acquittal on a greater offense], clarified in *People v. Marshall* (1996) 13 Cal.4th 799, 826 [55 Cal.Rptr.2d 347, 919 P.2d 1280] [no duty to inquire about partial acquittal in absence of indication jury may have found defendant not guilty of greater offense].)

In *Stone v. Superior Court*, *supra*, 31 Cal.3d at p. 519, the Supreme Court suggested that the trial court provide the jury with verdict forms of guilty/not guilty on each of the charged and lesser offenses. The court later referred to this “as a judicially declared rule of criminal procedure.” (*People v. Kurtzman* (1988) 46 Cal.3d 322, 329 [250 Cal.Rptr. 244, 758 P.2d 572].) However, this is not a mandatory procedure. (*Ibid.*)

If the court chooses to follow the procedure suggested in *Stone*, the court may give this instruction or CALCRIM No. 642, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With Second Degree Murder and Jury Is Given Not Guilty Forms for Each Level of Homicide*, in place of this instruction.

The court should tell the jury it may not return a guilty verdict on a lesser included offense unless it has found the defendant not guilty of the greater offense. (*People v. Fields*, *supra*, 13 Cal.4th at pp. 310–311.) If the jury announces that it is deadlocked on the greater offense but, despite the court’s instructions, has returned a guilty verdict on the lesser included offense, the court should again instruct the jury that it may not convict of the lesser included offense unless it has found the defendant not guilty of the greater offense. (*Ibid.*) The court should direct the jury to reconsider the “lone verdict of conviction of the lesser included offense” in light of this instruction. (*Ibid.*; Pen. Code, § 1161.) If the jury is deadlocked on the greater offense but the court nevertheless records a guilty verdict on the lesser included offense and then discharges the jury, retrial on the greater offense will be barred. (*People v. Fields*, *supra*, 13 Cal.4th at p. 307; Pen. Code, § 1023.)

If, after following the procedures required by *Fields*, the jury declares that it is deadlocked on the greater offense, then the prosecution must elect one of the following options: (1) the prosecutor may request that the court declare a mistrial on the greater offense without recording the verdict on the lesser offense, allowing the prosecutor to retry the defendant for the greater offense; or (2) the prosecutor may ask the court to record the verdict on the lesser offense and to dismiss the greater offense, opting to accept the current conviction rather than retry the defendant on the greater offense. (*People v. Fields, supra*, 13 Cal.4th at p. 311.)

The court may not control the sequence in which the jury considers the various homicide offenses. (*People v. Kurtzman, supra*, 46 Cal.3d at pp. 330–331.)

Do not give this instruction if felony murder is the only theory for first degree murder. (*People v. Mendoza* (2000) 23 Cal.4th 896, 908–909 [98 Cal.Rptr.2d 431, 4 P.3d 265].)

## AUTHORITY

- Lesser Included Offenses—Duty to Instruct. Pen. Code, § 1159; *People v. Breverman, supra, (1998)* 19 Cal.4th at p.142, 162 [~~77 Cal.Rptr.2d 870, 960 P.2d 1094~~].
- Degree to Be Set by Jury. Pen. Code, § 1157; *People v. Avalos, supra, (1984)* 37 Cal.3d at p.216, 228 [~~207 Cal.Rptr. 549, 689 P.2d 121~~]; *People v. Dixon, supra, (1979)* 24 Cal.3d at p.43, 52 [~~154 Cal.Rptr. 236, 592 P.2d 752~~].
- Reasonable Doubt as to Degree. Pen. Code, § 1097; *People v. Morse* (1964) 60 Cal.2d 631, 657 [36 Cal.Rptr. 201, 388 P.2d 33]; *People v. Dewberry, supra, (1959)* 51 Cal.2d at pp.548, 555–557 [~~334 P.2d 852~~].
- Conviction of Lesser Precludes Re-trial on Greater. Pen. Code, § 1023; *People v. Fields, supra, (1996)* 13 Cal.4th at pp.289, 309–310 [~~52 Cal.Rptr.2d 282, 914 P.2d 832~~]; *People v. Kurtzman, supra, (1988)* 46 Cal.3d at p.322, 329 [~~250 Cal.Rptr. 244, 758 P.2d 572~~].
- Court May Ask Jury to Reconsider Conviction on Lesser Absent Finding on Greater. Pen. Code, § 1161; *People v. Fields, supra, (1996)* 13 Cal.4th at p.289, 310 [~~52 Cal.Rptr.2d 282, 914 P.2d 832~~].
- Must Permit Partial Verdict of Acquittal on Greater. *People v. Marshall, supra, (1996)* 13 Cal.4th at p.799, 826 [~~55 Cal.Rptr.2d 347, 919 P.2d 1280~~]; *Stone v. Superior Court, supra, (1982)* 31 Cal.3d at p.503, 519 [~~183 Cal.Rptr. 647, 646 P.2d 809~~].
- Involuntary Manslaughter Not a Lesser Included Offense of Voluntary Manslaughter. *People v. Orr* (1994) 22 Cal.App.4th 780, 784–785 [27 Cal.Rptr.2d 553].

## SECONDARY SOURCES

5 Witkin & Epstein, California Criminal Law (4th ed. 2012) Criminal Trial, § 713.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.20 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, §§ 142.01[3][e], 142.02[3][c] (Matthew Bender).

**641. Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With First Degree Murder and Jury Is Given Only One Not Guilty Verdict Form for Each Count; Not to Be Used When Both Voluntary and Involuntary Manslaughter Are Lesser Included Offenses**

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[For each count charging (murder/ manslaughter),] (Y/y)ou (have been/will be) given verdict forms for [guilty of first degree murder][,] [guilty of second degree murder][,] [guilty of voluntary manslaughter][,] [guilty of involuntary manslaughter][,] and not guilty.

**It is up to you to decide the order in which ~~Y~~you ~~may~~ consider these different kinds of homicide ~~in whatever order you wish, and the relevant evidence. For example, you do not have to reach a verdict on the first degree murder charge[s] before considering the (second degree murder[,]/ [(and/or)] voluntary/involuntary) manslaughter charge[s]. However, ~~but~~~~ I can accept a verdict of guilty of a lesser crime only if all of you have found the defendant not guilty of [all of] the greater crime[s].**

[As with all the charges in this case,] (To/to) return a verdict of guilty or not guilty on a count, you must all agree on that decision.

Follow these directions before you give me any completed and signed, final verdict form. You will complete and sign only one verdict form [per count]. [Return the unused verdict forms to me, unsigned.]

1. If all of you agree that the People have proved beyond a reasonable doubt that the defendant is guilty of first degree murder, complete and sign that verdict form. Do not complete or sign any other verdict forms [for that count].
2. If all of you cannot agree whether the defendant is guilty of first degree murder, inform me only that you cannot reach an agreement and do not complete or sign any verdict forms [for that count].

*<In addition to paragraphs 1-2, give the following if the jury is instructed on second degree murder as a lesser included offense.>*

3. If all of you agree that the defendant is not guilty of first degree murder but also agree that the defendant is guilty of second degree

**murder, complete and sign the form for guilty of second degree murder. Do not complete or sign any other verdict forms [for that count].]**

- 4. If all of you agree that the defendant is not guilty of first degree murder but cannot agree whether the defendant is guilty of second degree murder, inform me that you cannot reach agreement [on that count]. Do not complete or sign any verdict forms [for that count].**

*<In addition to paragraphs 1–4, give the following if the jury is instructed on second degree murder as the only lesser included offense.>*

**[5. If all of you agree that the defendant is not guilty of first degree murder and not guilty of second degree murder, complete and sign the not guilty verdict form.† Do not complete or sign any other verdict forms [for that count].]**

*< In addition to paragraphs 1–4, give the following if the jury is instructed on second degree murder and only one form of manslaughter (voluntary or involuntary) as lesser included offenses.->*

- [5. If all of you agree that the defendant is not guilty of first degree murder and not guilty of second degree murder, but also agree that the defendant is guilty of (voluntary/involuntary) manslaughter, complete and sign the form for guilty of (voluntary/involuntary) manslaughter. Do not complete or sign any other verdict forms [for that count].**
- 6. If all of you agree that the defendant is not guilty of first degree murder and not guilty of second degree murder, but cannot agree whether the defendant is guilty of (voluntary/involuntary) manslaughter, inform me that you cannot reach agreement [on that count]. Do not complete or sign any verdict forms [for that count].**
- 7. If all of you agree that the defendant is not guilty of first degree murder, not guilty of second degree murder, and not guilty of (voluntary/involuntary) manslaughter, complete and sign the verdict forms for not guilty. Do not complete or sign any other verdict forms [for that count].]**

*<In addition to paragraphs 1-2, give the following if the jury is not instructed on second degree murder and the jury is instructed on one form of manslaughter (voluntary or involuntary) as the only lesser included offense.>*

- [3. If all of you agree that the defendant is not guilty of first degree murder but also agree that the defendant is guilty of (voluntary/involuntary) manslaughter, complete and sign the form for guilty of (voluntary/involuntary) manslaughter. Do not complete or sign any other verdict forms [for that count].**
- 4. If all of you agree that the defendant is not guilty of first degree murder but cannot agree whether the defendant is guilty of (voluntary/involuntary) manslaughter, inform me that you cannot reach agreement [for that count]. Do not complete or sign any verdict forms [for that count].**
- 5. If all of you agree that the defendant is not guilty of first degree murder or (voluntary/involuntary) manslaughter, complete and sign the verdict form for not guilty. Do not complete or sign any other verdict forms [for that count].**

*<If the jury is instructed on both voluntary and involuntary manslaughter as lesser included offenses, whether the jury is instructed on second degree murder or not, the court must give the jury guilty and not guilty verdict forms as to first degree murder and all lesser crimes, and instruct pursuant to CALCRIM No. 640.>*

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*New January 2006; Revised April 2008, August 2009, September 2024*

## **BENCH NOTES**

### ***Instructional Duty***

In all homicide cases in which the defendant is charged with first degree murder and one or more lesser offense is submitted to the jury, the court has a **sua sponte** duty to give this instruction or CALCRIM No. 640, *Deliberations and Completion of Verdict Forms: For Use When the Defendant Is Charged With First Degree Murder and the Jury Is Given Not Guilty Forms for Each Level of Homicide*. (See *People v. Avalos* (1984) 37 Cal.3d 216, 228 [207 Cal.Rptr. 549, 689 P.2d 121] [must instruct jury that it must be unanimous as to degree of murder]; *People v. Dixon* (1979) 24 Cal.3d 43, 52 [154 Cal.Rptr. 236, 592 P.2d 752] [jury must determine degree]; *People v. Breverman* (1998) 19 Cal.4th 142, 162 [77 Cal.Rptr.2d 870, 960 P.2d 1094] [duty to instruct on lesser included offenses];



*People v. Dewberry* (1959) 51 Cal.2d 548, 555–557 [334 P.2d 852] [duty to instruct that if jury has reasonable doubt of greater offense must acquit of that charge]; *People v. Fields* (1996) 13 Cal.4th 289, 309–310 [52 Cal.Rptr.2d 282, 914 P.2d 832] [duty to instruct that jury cannot convict of a lesser offense unless it has concluded that defendant is not guilty of the greater offense]; *Stone v. Superior Court* (1982) 31 Cal.3d 503, 519 [183 Cal.Rptr. 647, 646 P.2d 809] [duty to give jury opportunity to render a verdict of partial acquittal on a greater offense], clarified in *People v. Marshall* (1996) 13 Cal.4th 799, 826 [55 Cal.Rptr.2d 347, 919 P.2d 1280] [no duty to inquire about partial acquittal in absence of indication jury may have found defendant not guilty of greater offense].)

In *Stone v. Superior Court*, *supra*, 31 Cal.3d at p. 519, the Supreme Court suggested that the trial court provide the jury with verdict forms of guilty/not guilty on each of the charged and lesser offenses. The court later referred to this “as a judicially declared rule of criminal procedure.” (*People v. Kurtzman* (1988) 46 Cal.3d 322, 329 [250 Cal.Rptr. 244, 758 P.2d 572].) However, this is not a mandatory procedure. (*Ibid.*) If the court chooses not to follow the procedure suggested in *Stone*, the court may give this instruction. If the jury later declares that it is unable to reach a verdict on a lesser offense, then the court must provide the jury an opportunity to acquit on the greater offense. (*People v. Marshall*, *supra*, 13 Cal.4th at p. 826; *Stone v. Superior Court*, *supra*, 31 Cal.3d at p. 519.) In such cases, the court must give CALCRIM No. 640 and must provide the jury with verdict forms of guilty/not guilty for each offense. (*People v. Marshall*, *supra*, 13 Cal.4th at p. 826; *Stone v. Superior Court*, *supra*, 31 Cal.3d at p. 519.)

If the greatest offense charged is second degree murder, the court should give CALCRIM [No. 643](#), *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With Second Degree Murder and Jury Is Given Only One Not Guilty Verdict Form for Each Count; Not to Be Used When Both Voluntary and Involuntary Manslaughter Are Lesser Included Offenses* instead of this instruction.

The court should tell the jury it may not return a guilty verdict on a lesser included offense unless it has found the defendant not guilty of the greater offense. (*People v. Fields*, *supra*, 13 Cal.4th at pp. 310–311.) If the jury announces that it is deadlocked on the greater offense but, despite the court’s instructions, has returned a guilty verdict on the lesser included offense, the court should again instruct the jury that it may not convict of the lesser included offense unless it has found the defendant not guilty of the greater offense. (*Ibid.*) The court should direct the jury to reconsider the “lone verdict of conviction of the lesser included offense” in light of this instruction. (*Ibid.*; Pen. Code, § 1161.) If the jury is deadlocked on the greater offense but the court nevertheless records a guilty verdict on the lesser included offense and then discharges the jury, retrial on the greater offense will be barred. (*People v. Fields*, *supra*, 13 Cal.4th at p. 307; Pen. Code, § 1023.)

If, after following the procedures required by *Fields*, the jury declares that it is deadlocked on the greater offense, then the prosecution must elect one of the following options: (1) the prosecutor may request that the court declare a mistrial on the greater offense without recording the verdict on the lesser offense, allowing the prosecutor to re-try the defendant for the greater offense; or (2) the prosecutor may ask the court to record the verdict on the lesser offense and to dismiss the greater offense, opting to accept the current conviction rather than re-try the defendant on the greater offense. (*People v. Fields, supra*, 13 Cal.4th at p. 311.)

The court may not control the sequence in which the jury considers the various homicide offenses. (*People v. Kurtzman, supra*, 46 Cal.3d at pp. 322, 330.)

Do not give this instruction if felony murder is the only theory for first degree murder. (*People v. Mendoza* (2000) 23 Cal.4th 896, 908–909 [98 Cal.Rptr.2d 431, 4 P.3d 265].)

## AUTHORITY

- Lesser Included Offenses—Duty to Instruct. Pen. Code, § 1159; *People v. Breverman, supra, (1998)* 19 Cal.4th at p.142, 162 [~~77 Cal.Rptr.2d 870, 960 P.2d 1094~~].
- Degree to Be Set by Jury. Pen. Code, § 1157; *People v. Avalos, supra, (1984)* 37 Cal.3d at p.216, 228 [~~207 Cal.Rptr. 549, 689 P.2d 121~~]; *People v. Dixon, supra, (1979)* 24 Cal.3d at p.43, 52 [~~154 Cal.Rptr. 236, 592 P.2d 752~~].
- Reasonable Doubt as to Degree. Pen. Code, § 1097; *People v. Morse* (1964) 60 Cal.2d 631, 657 [36 Cal.Rptr. 201, 388 P.2d 33]; *People v. Dewberry, supra, (1959)* 51 Cal.2d at pp.548, 555–557 [~~334 P.2d 852~~].
- Conviction of Lesser Precludes Re-trial on Greater. Pen. Code, § 1023; *People v. Fields, supra, (1996)* 13 Cal.4th at pp.289, 309–310 [~~52 Cal.Rptr.2d 282, 914 P.2d 832~~]; *People v. Kurtzman, supra, (1988)* 46 Cal.3d at p.322, 329 [~~250 Cal.Rptr. 244, 758 P.2d 572~~].
- Court May Ask Jury to Reconsider Conviction on Lesser Absent Finding on Greater. Pen. Code, § 1161; *People v. Fields, supra, (1996)* 13 Cal.4th at p.289, 310 [~~52 Cal.Rptr.2d 282, 914 P.2d 832~~].
- Must Permit Partial Verdict of Acquittal on Greater. *People v. Marshall, supra, (1996)* 13 Cal.4th at p.799, 826 [~~55 Cal.Rptr.2d 347, 919 P.2d 1280~~]; *Stone v. Superior Court, supra, (1982)* 31 Cal.3d at p.503, 519 [~~183 Cal.Rptr. 647, 646 P.2d 809~~].
- Involuntary Manslaughter Not a Lesser Included Offense of Voluntary Manslaughter. *People v. Orr* (1994) 22 Cal.App.4th 780, 784-785 [27 Cal.Rptr.2d 553].

## SECONDARY SOURCES

5 Witkin & Epstein, California Criminal Law (4th ed. 2012) Criminal Trial, § 713.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.20 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, §§ 142.01[3][e], 142.02[3][c] (Matthew Bender).

**642. Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With Second Degree Murder and Jury Is Given Not Guilty Forms for Each Level of Homicide**

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[For each count charging second degree murder,] (Y/y)ou (have been/will be) given verdict forms for guilty and not guilty of second degree murder (, /and) [voluntary manslaughter (, /and)] [involuntary manslaughter].

**It is up to you to decide the order in which y**~~You may~~ consider these different kinds of homicide ~~in whatever order you wish, and the relevant evidence. For example, you do not have to reach a verdict on the murder charge[s] before considering the (voluntary manslaughter/ [(and/or)] involuntary manslaughter) charge[s].~~ However, ~~but~~ I can accept a verdict of guilty or not guilty of [voluntary] [or] [involuntary] manslaughter only if all of you have found the defendant not guilty of second degree murder.

[As with all of the charges in this case,] (To/to) return a verdict of guilty or not guilty on a count, you must all agree on that decision.

Follow these directions before you give me any completed and signed final verdict form[s]. -[Return the unused verdict form[s] to me, unsigned.]

1. If all of you agree that the People have proved beyond a reasonable doubt that the defendant is guilty of second degree murder, complete and sign that verdict form. Do not complete or sign any other verdict forms [for that count].
2. If all of you cannot agree whether the defendant is guilty of second degree murder, inform me that you cannot reach an agreement and do not complete or sign any verdict forms [for that count].

*<In addition to paragraphs 1–2, give the following if the jury is instructed on only one form of manslaughter (voluntary or involuntary) as a lesser included offense.>*

- [3. If all of you agree that the defendant is not guilty of second degree murder but also agree that the defendant is guilty of (voluntary/involuntary) manslaughter, complete and sign the form for not guilty of second degree murder and the form for guilty of (voluntary/involuntary) manslaughter. Do not complete or sign any other verdict forms [for that count].**
- 4. If all of you agree that the defendant is not guilty of second degree murder but cannot agree whether the defendant is guilty of (voluntary/involuntary) manslaughter, complete and sign the form for not guilty of second degree murder and inform me that you cannot reach further agreement. Do not complete or sign any other verdict forms [for that count].**
- 5. If all of you agree that the defendant is not guilty of second degree murder and not guilty of (voluntary/involuntary) manslaughter, complete and sign the verdict forms for not guilty of both.]**

*<In addition to paragraphs 1–2, give the following if the jury is instructed on both voluntary and involuntary manslaughter as lesser included offenses.>*

- [3. If all of you agree that the defendant is not guilty of second degree murder, complete and sign the form for not guilty of second degree murder.**
- 4. If all of you agree on a verdict of guilty or not guilty of voluntary manslaughter or involuntary manslaughter, complete and sign the appropriate verdict form for each charge on which you agree. Do not complete or sign any other verdict forms [for that count]. You may not find the defendant guilty of both voluntary and involuntary manslaughter [as to any count].**
- 5. If you cannot reach agreement as to voluntary manslaughter or involuntary manslaughter, inform me of your disagreement. Do not complete or sign any verdict form for any charge on which you cannot reach agreement.]**

## BENCH NOTES

### *Instructional Duty*

In all homicide cases in which second degree murder is the greatest offense charged and one or more lesser offense is submitted to the jury, the court has a **sua sponte** duty to give this instruction. (See *People v. Avalos* (1984) 37 Cal.3d 216, 228 [207 Cal.Rptr. 549, 689 P.2d 121] [must instruct jury that it must be unanimous as to degree of murder]; *People v. Dixon* (1979) 24 Cal.3d 43, 52 [154 Cal.Rptr. 236, 592 P.2d 752] [jury must determine degree]; *People v. Breverman* (1998) 19 Cal.4th 142, 162 [77 Cal.Rptr.2d 870, 960 P.2d 1094] [duty to instruct on lesser included offenses]; *People v. Dewberry* (1959) 51 Cal.2d 548, 555–557 [334 P.2d 852] [duty to instruct that if jury has reasonable doubt of greater offense must acquit of that charge]; *People v. Fields* (1996) 13 Cal.4th 289, 309–310 [52 Cal.Rptr.2d 282, 914 P.2d 832] [duty to instruct that jury cannot convict of a lesser offense unless it has concluded that defendant is not guilty of the greater offense]; *Stone v. Superior Court* (1982) 31 Cal.3d 503, 519 [183 Cal.Rptr. 647, 646 P.2d 809] [duty to give jury opportunity to render a verdict of partial acquittal on a greater offense], clarified in *People v. Marshall* (1996) 13 Cal.4th 799, 826 [55 Cal.Rptr.2d 347, 919 P.2d 1280] [no duty to inquire about partial acquittal in absence of indication jury may have found defendant not guilty of greater offense].)

In *Stone v. Superior Court*, *supra*, 31 Cal.3d at p. 519, the Supreme Court suggested that the trial court provide the jury with verdict forms of guilty/not guilty on each of the charged and lesser offenses. The court later referred to this “as a judicially declared rule of criminal procedure.” (*People v. Kurtzman* (1988) 46 Cal.3d 322, 329 [250 Cal.Rptr. 244, 758 P.2d 572].) However, this is not a mandatory procedure. (*Ibid.*)

If the court chooses not to follow the procedure suggested in *Stone*, the court may give CALCRIM No. 643, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With Second Degree Murder and Jury Is Given Only One Not Guilty Verdict Form for Each Count; Not to Be Used When Both Voluntary and Involuntary Manslaughter Are Lesser Included Offenses*, in place of this instruction.

The court should tell the jury it may not return a guilty verdict on a lesser included offense unless it has found the defendant not guilty of the greater offense. (*People v. Fields*, *supra*, 13 Cal.4th at pp. 310–311.) If the jury announces that it is deadlocked on the greater offense but, despite the court’s instructions, has returned a guilty verdict on the lesser included offense, the court should again instruct the jury that it may not convict of the lesser included offense unless it has found the



defendant not guilty of the greater offense. (*Ibid.*) The court should direct the jury to reconsider the “lone verdict of conviction of the lesser included offense” in light of this instruction. (*Ibid.*; Pen. Code, § 1161.) If the jury is deadlocked on the greater offense but the court nevertheless records a guilty verdict on the lesser included offense and then discharges the jury, retrial on the greater offense will be barred. (*People v. Fields, supra*, 13 Cal.4th at p. 307; Pen. Code, § 1023.)

If, after following the procedures required by *Fields*, the jury declares that it is deadlocked on the greater offense, then the prosecution must elect one of the following options: (1) the prosecutor may request that the court declare a mistrial on the greater offense without recording the verdict on the lesser offense, allowing the prosecutor to retry the defendant for the greater offense; or (2) the prosecutor may ask the court to record the verdict on the lesser offense and to dismiss the greater offense, opting to accept the current conviction rather than retry the defendant on the greater offense. (*People v. Fields, supra*, 13 Cal.4th at p. 311.)

The court may not control the sequence in which the jury considers the various homicide offenses. (*People v. Kurtzman, supra*, 46 Cal.3d at pp. 330–331.)

## AUTHORITY

- Lesser Included Offenses-Duty to Instruct. Pen. Code, § 1159; *People v. Breverman, supra*, (1998) 19 Cal.4th at p.142, 162 [~~77 Cal.Rptr.2d 870, 960 P.2d 1094~~].
- Degree to Be Set by Jury. Pen. Code, § 1157; *People v. Avalos, supra*, (1984) 37 Cal.3d at p.216, 228 [~~207 Cal.Rptr. 549, 689 P.2d 121~~]; *People v. Dixon, supra*, (1979) 24 Cal.3d at p.43, 52 [~~154 Cal.Rptr. 236, 592 P.2d 752~~].
- Reasonable Doubt as to Degree. Pen. Code, § 1097; *People v. Morse* (1964) 60 Cal.2d 631, 657 [36 Cal.Rptr. 201, 388 P.2d 33]; *People v. Dewberry, supra*, (1959) 51 Cal.2d at pp.548, 555–557 [~~334 P.2d 852~~].
- Conviction of Lesser Precludes Re-trial on Greater. Pen. Code, § 1023; *People v. Fields, supra*, (1996) 13 Cal.4th at pp.289, 309–310 [~~52 Cal.Rptr.2d 282, 914 P.2d 832~~]; *People v. Kurtzman, supra*, (1988) 46 Cal.3d at p.322, 329 [~~250 Cal.Rptr. 244, 758 P.2d 572~~].
- Court May Ask Jury to Reconsider Conviction on Lesser Absent Finding on Greater. Pen. Code, § 1161; *People v. Fields, supra*, (1996) 13 Cal.4th at p.289, 310 [~~52 Cal.Rptr.2d 282, 914 P.2d 832~~].
- Must Permit Partial Verdict of Acquittal on Greater. *People v. Marshall, supra*, (1996) 13 Cal.4th at p.799, 826 [~~55 Cal.Rptr.2d 347, 919 P.2d 1280~~]; *Stone v. Superior Court, supra*, (1982) 31 Cal.3d at p.503, 519 [~~183 Cal.Rptr. 647, 646 P.2d 809~~].



- Involuntary Manslaughter Not a Lesser Included Offense of Voluntary Manslaughter. *People v. Orr* (1994) 22 Cal.App.4th 780, 784-785 [27 Cal.Rptr.2d 553].

## **SECONDARY SOURCES**

5 Witkin & Epstein, California Criminal Law (4th ed. 2012) Criminal Trial, § 713.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.20 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, §§ 142.01[3][e], 142.02[3][c] (Matthew Bender).

**643. Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With Second Degree Murder and Jury Is Given Only One Not Guilty Verdict Form for Each Count; Not to Be Used When Both Voluntary and Involuntary Manslaughter Are Lesser Included Offenses**

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[For each count charging second degree murder,] (Y/y)ou (have been/will be) given verdict forms for guilty of second degree murder, guilty of (voluntary /involuntary) manslaughter and not guilty.

**It is up to you to decide the order in which ~~Y~~you ~~may~~ consider these different kinds of homicide and the relevant evidence. in whatever order you wish, You do not have to reach a verdict on the murder charge[s] before considering the (voluntary/involuntary) manslaughter charge[s]. However, ~~but~~ I can accept a verdict of guilty of (voluntary/involuntary) manslaughter only if all of you have found the defendant not guilty of second degree murder.**

[As with all the charges in this case,] (To/to) return a verdict of guilty or not guilty on a count, you must all agree on that decision.

Follow these directions before you give me any completed and signed, final verdict form. You will complete and sign only one verdict form [per count]. [Return the unused verdict forms to me, unsigned.]

1. If all of you agree that the People have proved beyond a reasonable doubt that the defendant is guilty of second degree murder, complete and sign that verdict form. Do not complete or sign any other verdict forms [for that count].
2. If all of you cannot agree whether the defendant is guilty of second degree murder, inform me only that you cannot reach an agreement and do not complete or sign any verdict forms [for that count].
3. If all of you agree that the defendant is not guilty of second degree murder, but also agree that the defendant is guilty of (voluntary/involuntary) manslaughter, complete and sign the form for guilty of (voluntary/involuntary) manslaughter. Do not complete or sign any other verdict forms [for that count].

4. If all of you agree that the defendant is not guilty of second degree murder and cannot agree whether the defendant is guilty of (voluntary/involuntary) manslaughter, inform me that you cannot reach agreement [on that count]. Do not complete or sign any other verdict forms [for that count].
5. If all of you agree that the defendant is not guilty of second degree murder and not guilty of (voluntary/involuntary) manslaughter, complete and sign the verdict form for not guilty. Do not complete or sign any other verdict forms [for that count].

*<If the jury is instructed on both voluntary and involuntary manslaughter as lesser included offenses, this instruction may not be used. The court must give the jury guilty and not guilty verdict forms as to second degree murder and each form of manslaughter, and must instruct pursuant to CALCRIM No. 642.>*

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*New August 2009; Revised September 2024*

## BENCH NOTES

### ***Instructional Duty***

In all homicide cases in which the greatest offense charged is second degree murder and one or more lesser offense is submitted to the jury, the court has a **sua sponte** duty to give this instruction or CALCRIM No. 642, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With Second Degree Murder and Jury Is Given Not Guilty Forms for Each Level of Homicide*. (See *People v. Avalos* (1984) 37 Cal.3d 216, 228 [207 Cal.Rptr. 549, 689 P.2d 121] [must instruct jury that it must be unanimous as to degree of murder]; *People v. Dixon* (1979) 24 Cal.3d 43, 52 [154 Cal.Rptr. 236, 592 P.2d 752] [jury must determine degree]; *People v. Breverman* (1998) 19 Cal.4th 142, 162 [77 Cal.Rptr.2d 870, 960 P.2d 1094] [duty to instruct on lesser included offenses]; *People v. Dewberry* (1959) 51 Cal.2d 548, 555–557 [334 P.2d 852] [duty to instruct that if jury has reasonable doubt of greater offense must acquit of that charge]; *People v. Fields* (1996) 13 Cal.4th 289, 309–310 [52 Cal.Rptr.2d 282, 914 P.2d 832] [duty to instruct that jury cannot convict of a lesser offense unless it has concluded that defendant is not guilty of the greater offense]; *Stone v. Superior Court* (1982) 31 Cal.3d 503, 519 [183 Cal.Rptr. 647, 646 P.2d 809] [duty to give jury opportunity to render a verdict of partial acquittal on a greater offense], clarified in *People v. Marshall* (1996) 13 Cal.4th 799, 826 [55 Cal.Rptr.2d 347, 919 P.2d 1280] [no duty to inquire about partial acquittal in absence of indication jury may have found defendant not guilty of greater offense].)

In *Stone v. Superior Court*, *supra*, 31 Cal.3d at p. 519, the Supreme Court suggested that the trial court provide the jury with verdict forms of guilty/not guilty on each of the charged and lesser offenses. The court later referred to this “as a judicially declared rule of criminal procedure.” (*People v. Kurtzman* (1988) 46 Cal.3d 322, 329 [250 Cal.Rptr. 244, 758 P.2d 572].) However, this is not a mandatory procedure. (*Ibid.*) If the court chooses not to follow the procedure suggested in *Stone*, the court may give this instruction. If the jury later declares that it is unable to reach a verdict on a lesser offense, then the court must provide the jury an opportunity to acquit on the greater offense. (*People v. Marshall*, *supra*, 13 Cal.4th at p. 826; *Stone v. Superior Court*, *supra*, 31 Cal.3d at p. 519.) In such cases, the court must give CALCRIM No. 642 and must provide the jury with verdict forms of guilty/not guilty for each offense. (*People v. Marshall*, *supra*, 13 Cal.4th at p. 826; *Stone v. Superior Court*, *supra*, 31 Cal.3d at p. 519.)

The court should tell the jury it may not return a guilty verdict on a lesser included offense unless it has found the defendant not guilty of the greater offense. (*People v. Fields*, *supra*, 13 Cal.4th at pp. 310–311.) If the jury announces that it is deadlocked on the greater offense but, despite the court’s instructions, has returned a guilty verdict on the lesser included offense, the court should again instruct the jury that it may not convict of the lesser included offense unless it has found the defendant not guilty of the greater offense. (*Ibid.*) The court should direct the jury to reconsider the “lone verdict of conviction of the lesser included offense” in light of this instruction. (*Ibid.*; Pen. Code, § 1161.) If the jury is deadlocked on the greater offense but the court nevertheless records a guilty verdict on the lesser included offense and then discharges the jury, retrial on the greater offense will be barred. (*People v. Fields*, *supra*, 13 Cal.4th at p. 307; Pen. Code, § 1023.)

If, after following the procedures required by *Fields*, the jury declares that it is deadlocked on the greater offense, then the prosecution must elect one of the following options: (1) the prosecutor may request that the court declare a mistrial on the greater offense without recording the verdict on the lesser offense, allowing the prosecutor to re-try the defendant for the greater offense; or (2) the prosecutor may ask the court to record the verdict on the lesser offense and to dismiss the greater offense, opting to accept the current conviction rather than re-try the defendant on the greater offense. (*People v. Fields*, *supra*, 13 Cal.4th at p. 311.)

The court may not control the sequence in which the jury considers the various homicide offenses. (*People v. Kurtzman*, *supra*, 46 Cal.3d at pp. 322, 330.)

## AUTHORITY

- Lesser Included Offenses-Duty to Instruct. Pen. Code, § 1159; *People v. Breverman*, supra, ~~(1998)~~ 19 Cal.4th at p.142, 162 ~~[77 Cal.Rptr.2d 870, 960 P.2d 1094]~~.
- Degree to Be Set by Jury. Pen. Code, § 1157; *People v. Avalos*, supra, ~~(1984)~~ 37 Cal.3d at p.216, 228 ~~[207 Cal.Rptr. 549, 689 P.2d 121]~~; *People v. Dixon*, supra, ~~(1979)~~ 24 Cal.3d at p.43, 52 ~~[154 Cal.Rptr. 236, 592 P.2d 752]~~.
- Reasonable Doubt as to Degree. Pen. Code, § 1097; *People v. Morse* (1964) 60 Cal.2d 631, 657 [36 Cal.Rptr. 201, 388 P.2d 33]; *People v. Dewberry*, supra, ~~(1959)~~ 51 Cal.2d at pp.548, 555–557 ~~[334 P.2d 852]~~.
- Conviction of Lesser Precludes Re-trial on Greater. Pen. Code, § 1023; *People v. Fields*, supra, ~~(1996)~~ 13 Cal.4th at pp.289, 309–310 ~~[52 Cal.Rptr.2d 282, 914 P.2d 832]~~; *People v. Kurtzman*, supra, ~~(1988)~~ 46 Cal.3d at p.322, 329 ~~[250 Cal.Rptr. 244, 758 P.2d 572]~~.
- Court May Ask Jury to Reconsider Conviction on Lesser Absent Finding on Greater. Pen. Code, § 1161; *People v. Fields*, supra, ~~(1996)~~ 13 Cal.4th at p.289, 310 ~~[52 Cal.Rptr.2d 282, 914 P.2d 832]~~.
- Must Permit Partial Verdict of Acquittal on Greater. *People v. Marshall*, supra, ~~(1996)~~ 13 Cal.4th at p.799, 826 ~~[55 Cal.Rptr.2d 347, 919 P.2d 1280]~~; *Stone v. Superior Court*, supra, ~~(1982)~~ 31 Cal.3d at p.503, 519 ~~[183 Cal.Rptr. 647, 646 P.2d 809]~~.
- Involuntary Manslaughter Not a Lesser Included Offense of Voluntary Manslaughter. *People v. Orr* (1994) 22 Cal.App.4th 780, 784-785 [27 Cal.Rptr.2d 553].

## SECONDARY SOURCES

5 Witkin & Epstein, California Criminal Law (4th ed. 2012) Criminal Trial, § 713.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.20 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, §§ 142.01[3][e], 142.02[3][c] (Matthew Bender).

**736. Special Circumstances: Killing by Street Gang Member  
(Pen. Code, § 190.2(a)(22))**

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The defendant is charged with the special circumstance of committing murder while an active participant in a criminal street gang [in violation of Penal Code section 190.2(a)(22)].

To prove that this special circumstance is true, the People must prove that:

1. The defendant intentionally killed \_\_\_\_\_ *<insert name of victim>*;
2. At the time of the killing, the defendant was an active participant in a criminal street gang;
3. The defendant knew that members of the gang engage in or have engaged in a pattern of criminal gang activity;

**AND**

4. The murder was carried out to further the activities of the criminal street gang.

*Active participation* means involvement with a criminal street gang in a way that is more than passive or in name only.

[The People do not have to prove that the defendant devoted all or a substantial part of (his/her) time or efforts to the gang, or that (he/she) was an actual member of the gang.]

*<If criminal street gang has already been defined>*

[A criminal street gang is defined in another instruction to which you should refer.]

*<If criminal street gang has not already been defined in another instruction>*

[A *criminal street gang* is an ongoing organized association or group of three or more persons, whether formal or informal:

1. That has a common name or common identifying sign or symbol;

2. That has, as one or more of its primary activities, the commission of \_\_\_\_\_ *<insert one or more crimes listed in Pen. Code, § 186.22(e)(1)>*;

**AND**

3. Whose members collectively engage in or have engaged in a pattern of criminal gang activity.

**In order to qualify as a *primary* activity, the crime must be one of the group's chief or principal activities rather than an occasional act committed by one or more persons who happen to be members of the group.]**

***A pattern of criminal gang activity, as used here, means:***

1. [The] (commission of[,]/ [or] attempted commission of[,]/ [or] conspiracy to commit[,]/ [or] solicitation to commit[,]/ [or] conviction of[,]/ [or] (Having/having) a juvenile petition sustained for commission of)(any combination of two or more of the following crimes/[,][or] two or more occurrences of [one or more of the following crimes]:) \_\_\_\_\_ *<insert one or more crimes listed in Pen. Code, § 186.22(e)(1)>*;
2. At least one of those crimes was committed after September 26, 1988;
3. The most recent crime occurred within three years of one of the earlier crimes and within three years of the date of the charged offense;
4. The crimes were committed on separate occasions, or by two or more members;
5. The crimes commonly benefitted a criminal street gang;

**AND**

6. The common benefit from the crimes was more than reputational.

**Examples of a common benefit that are more than reputational may include, but are not limited to, financial gain or motivation, retaliation, targeting a perceived or actual gang rival, or intimidation or silencing of a potential current or previous witness or informant.**



As used here, members collectively engage in or have engaged in a pattern of criminal gang activity when the crimes that make up the pattern of criminal gang activity can be connected to the gang as a whole. Collective engagement requires a connection between the crimes and the gang’s organizational structure or manner of governance, its primary activities, or its common goals and principles.

[If you find the defendant guilty of a crime in this case, you may consider that crime in deciding whether one of the group’s primary activities was commission of that crime.]

[You may not consider evidence of the charged offense[s] in deciding whether a pattern of criminal gang activity has been established.]

[You may not find that there was a pattern of criminal gang activity unless all of you agree that two or more crimes that satisfy these requirements were committed, but you do not have to all agree on which crimes were committed.]

[Other instructions explain what is necessary for the People to prove that a member of the gang [or the defendant] committed \_\_\_\_\_ <insert crimes from Pen. Code, § 186.22(e)(1) inserted in definition of pattern of criminal gang activity>.]

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New January 2006; Revised August 2006, June 2007, February 2014, February 2016, March 2022, March 2023, September 2024

## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to instruct on the elements of the special circumstance. (See *People v. Williams* (1997) 16 Cal.4th 635, 689 [66 Cal.Rptr.2d 573, 941 P.2d 752].) The effective date of this special circumstance was March 8, 2000.

~~There is a split in authority over the meaning of “collectively.” (Compare *People v. Delgado* (2022) 74 Cal.App.5th 1067 [290 Cal.Rptr.3d 189] [two or more gang members must have committed each predicate offense]; *People v. Clark* (2022) 81 Cal.App.5th 133 [296 Cal.Rptr.3d 153] [pattern of criminal gang activity may be established either by (1) two gang members who separately committed crimes on different occasions, or (2) two gang members who committed a crime together on a single occasion], review granted October 19, 2022, S275746.)~~

On request, give the bracketed paragraph that begins with “The People do not need to prove that the defendant devoted all or a substantial part of . . . .” (See Pen. Code, § 186.22(j).)

On request, give the bracketed paragraph that begins with “If you find the defendant guilty of a crime in this case.” (*People v. Sengpadychith* (2001) 26 Cal.4th 316, 322–323 [109 Cal.Rptr.2d 851, 27 P.3d 739]; *People v. Duran* (2002) 97 Cal.App.4th 1448, 1464–1465 [119 Cal.Rptr.2d 272].)

On request, give the bracketed paragraph that begins with “You may not find that there was a pattern of criminal gang activity.” (*People v. Funes* (1994) 23 Cal.App.4th 1506, 1527–1528 [28 Cal.Rptr.2d 758]; see also Related Issues section to CALCRIM No. 1400, *Active Participation in Criminal Street Gang*.)

On request, the court must give a limiting instruction on the gang evidence. (*People v. Hernandez* (2004) 33 Cal.4th 1040, 1051–1052 [16 Cal.Rptr.3d 880, 94 P.3d 1080].) If requested, give CALCRIM No. 1403, *Limited Purpose of Evidence of Gang Activity*.

### ***Related Instructions***

CALCRIM No. 562, *Transferred Intent*.

CALCRIM No. 1400, *Active Participation in Criminal Street Gang*.

## **AUTHORITY**

- Special Circumstance. Pen. Code, § 190.2(a)(22).
- “Active Participation” Defined. *People v. Castenada* (2000) 23 Cal.4th 743, 747 [97 Cal.Rptr.2d 906, 3 P.3d 278].
- “Criminal Street Gang” Defined. Pen. Code, § 186.22(f).
- “Collectively Engage” Defined. *People v. Clark* (2024) 15 Cal.5th 743, 755–756 [318 Cal.Rptr.3d 152, 542 P.3d 1085].
- “Organized” Defined. *People v. Superior Court (Farley)* (2024) 100 Cal.App.5th 315, 326–333 [319 Cal.Rptr.3d 100]; *People v. Campbell* (2023) 98 Cal.App.5th 350, 380–381 [316 Cal.Rptr.3d 638].
- Transferred Intent Under Penal Code Section 190.2(a)(22). *People v. Shabazz* (2006) 38 Cal.4th 55 [40 Cal.Rptr.3d 750, 130 P.3d 519].
- “Pattern of Criminal Gang Activity” Defined. Pen. Code, § 186.22(e), (g).
- Examples of Common Benefit. Pen. Code, § 186.22(g).
- “Felony Criminal Conduct” Defined. *People v. Green* (1991) 227 Cal.App.3d 692, 704 [278 Cal.Rptr. 140] [abrogated on other grounds by

*People v. Castenada*, supra, ~~(2000)~~ 23 Cal.4th 743, at pp. 747–748 [~~97 Cal.Rptr.2d 906, 3 P.3d 278~~].

- Separate Intent From Underlying Felony. *People v. Herrera* (1999) 70 Cal.App.4th 1456, 1467–1468 [83 Cal.Rptr.2d 307].
- Crimes Committed After Charged Offense Not Predicates. *People v. Duran*, supra, 97 Cal.App.4th at p. 1458.
- Proof of Sufficient Connection Among Gang “Subsets” and Umbrella Gang Required. *People v. Prunty* (2015) 62 Cal.4th 59, 81-85 [192 Cal.Rptr.3d 309, 355 P.3d 480].
- Amendment to Penal Code Section 186.22 Definition of Criminal Street Gang Did Not Unconstitutionally Amend Penal Code Section 190.2(a)(22). *People v. Rojas* (2023) 15 Cal.5th 561, 580 [316 Cal.Rptr.3d 61, 539 P.3d 468].

## RELATED ISSUES

See the Bench Notes and Related Issues section to CALCRIM No. 1400, *Active Participation in Criminal Street Gang*.

The criminal street gang special circumstance applies when a participant in a criminal street gang intends to kill one person but kills someone else by mistake. *People v. Shabazz*, supra, 38 Cal.4th at p. 66; see CALCRIM No. 562, *Transferred Intent*.

## SECONDARY SOURCES

3 Witkin & Epstein, California Criminal Law (4th ed. 2012) Punishment, § 523.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 87, *Death Penalty*, §§ 87.13[22], 87.14 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.03[3][a] (Matthew Bender).

## 852A. Evidence of Uncharged Domestic Violence

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The People presented evidence that the defendant committed domestic violence that was not charged in this case[, specifically: \_\_\_\_\_ <insert other domestic violence alleged>].<sup>†</sup>

<Alternative A—As defined in Pen. Code, § 13700>

[**Domestic violence** means abuse committed against (an adult/a fully emancipated minor) who is a (spouse[,]/ [or] former spouse[,]/ [or] cohabitant[,]/ [or] former cohabitant[,]/ [or] person with whom the defendant has had a child[,]/ [or] person who dated or is dating the defendant[,]/ [or] person who was or is engaged to the defendant).]

<Alternative B—As defined in Fam. Code, § 6211>

[**Domestic violence** means abuse committed against a (spouse[,]/ [or] former spouse[,]/ [or] cohabitant[,]/ [or] former cohabitant[,]/ [or] person with whom the defendant has had a child[,]/ [or] person who dated or is dating the defendant[,]/ [or] person who was or is engaged to the defendant/ [or] child[,]/ [or] grandchild[,]/ [or] parent[,]/ [or] grandparent[,]/ [or] brother[,]/ [or] sister[,]/ [or] father-in-law[,]/ [or] mother-in-law[,]/ [or] brother-in-law[,]/ [or] sister-in-law[,]/ [or] son-in-law[,]/ [or] daughter-in-law[,]/ [or] \_\_\_\_\_ <insert relationship of consanguinity or affinity within the second degree>) of the defendant.]

**Abuse** means intentionally or recklessly causing or attempting to cause bodily injury, [or] [committing sexual assault][,] [or] placing another person in reasonable fear of imminent serious bodily injury to himself or herself or to someone else[, or engaging in \_\_\_\_\_ <insert behavior that was or could be enjoined pursuant to Fam. Code, § 6320>].

[A **fully emancipated minor** is a person under the age of 18 who has gained certain adult rights by marrying, being on active duty for the United States armed services, or otherwise being declared emancipated under the law.]

<Definition of cohabitant under Pen. Code, § 13700(b)>

[The term **cohabitant** means a person who lives with an unrelated person -for a substantial period of time, resulting in some permanency of the relationship. Factors that may determine whether people are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same residence, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) the parties' holding themselves out as spouses-, (5)

the parties' registering as domestic partners, (6) the continuity of the relationship, and (7) the length of the relationship.]

<Definition of cohabitant under Fam. Code, § 6209>

[The term *cohabitant* means a person who regularly resides in the household. *Former cohabitant* means a person who formerly regularly resided in the household.]

You may consider this evidence only if the People have proved by a preponderance of the evidence that the defendant in fact committed the uncharged domestic violence. Proof by a preponderance of the evidence is a different burden of proof from proof beyond a reasonable doubt. A fact is proved by a preponderance of the evidence if you conclude that it is more likely than not that the fact is true.

If the People have not met this burden of proof, you must disregard this evidence entirely.

If you decide that the defendant committed the uncharged domestic violence, you may, but are not required to, conclude from that evidence that the defendant was disposed or inclined to commit domestic violence and, based on that decision, also conclude that the defendant was likely to commit [and did commit] \_\_\_\_\_ <insert charged offense[s] involving domestic violence>, as charged here. If you conclude that the defendant committed the uncharged domestic violence, that conclusion is only one factor to consider along with all the other evidence. It is not sufficient by itself to prove that the defendant is guilty of \_\_\_\_\_ <insert charged offense[s] involving domestic violence>. The People must still prove (the/each) (charge/ [and] allegation) beyond a reasonable doubt.

[Do not consider this evidence for any other purpose [except for the limited purpose of \_\_\_\_\_ <insert other permitted purpose, e.g., determining the defendant's credibility>].]

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New January 2006; Revised August 2006, June 2007, April 2008, February 2014, March 2017, October 2021, September 2024\*

\* Denotes changes only to bench notes and other commentaries.

## BENCH NOTES

### *Instructional Duty*

The court must give this instruction on request when evidence of other domestic violence has been introduced. (See *People v. Falsetta* (1999) 21 Cal.4th 903, 924 [89 Cal.Rptr.2d 847, 986 P.2d 182] [error to refuse limiting instruction on

request]; *People v. Jennings* (2000) 81 Cal.App.4th 1301, 1317–1318 [97 Cal.Rptr.2d 727]; *People v. Willoughby* (1985) 164 Cal.App.3d 1054, 1067 [210 Cal.Rptr. 880] [general limiting instructions should be given when evidence of past offenses would be highly prejudicial without them].)

If the court has admitted evidence that the defendant was convicted of a felony or committed a misdemeanor for the purpose of impeachment in addition to evidence admitted under Evidence Code section 1109, then the court must specify for the jury what evidence it may consider under section 1109. (*People v. Rollo* (1977) 20 Cal.3d 109, 123, fn. 6 [141 Cal.Rptr. 177, 569 P.2d 771] [discussing section 1101(b); superseded in part on other grounds as recognized in *People v. Olmedo* (1985) 167 Cal.App.3d 1085, 1096 [213 Cal.Rptr. 742]].) In the first sentence, insert a description of the uncharged offense allegedly shown by the section 1109 evidence. If the court has not admitted any felony convictions or misdemeanor conduct for impeachment, then, in the first sentence, the court is not required to insert a description of the conduct alleged.

The definition of “domestic violence” contained in Evidence Code section 1109(d) was amended, effective January 1, 2006. The definition is now in subdivision (d)(3), which states that, as used in section 1109:

“~~Domestic violence~~” has the meaning set forth in Section 13700 of the Penal Code. Subject to a hearing conducted pursuant to section 352, which shall include consideration of any corroboration and remoteness in time, ‘domestic violence’ has the further meaning as set forth in section 6211 of the Family Code, if the act occurred no more than five years before the charged offense.

If the court determines that the evidence is admissible pursuant to the definition of domestic violence contained in Penal Code section 13700, give the definition of domestic violence labeled alternative A. If the court determines that the evidence is admissible pursuant to the definition contained in Family Code section 6211, give the definition labeled alternative B. Give the bracketed portions in the definition of “abuse” if the evidence is admissible pursuant to Family Code section 6211.

Depending on the evidence, give on request the bracketed paragraphs defining “emancipated minor” (see Fam. Code, § 7000 et seq.) and “cohabitant” (see Pen. Code, § 13700(b)).

In the paragraph that begins with “If you decide that the defendant committed,” the committee has placed the phrase “and did commit” in brackets. One appellate court has criticized instructing the jury that it may draw an inference about disposition. (*People v. James* (2000) 81 Cal.App.4th 1343, 1357, fn. 8 [96 Cal.Rptr.2d 823].) The court should review the Commentary section below and give the bracketed phrase at its discretion.



Give the final sentence that begins with “Do not consider” on request.

***Related Instructions***

CALCRIM No. 375, *Evidence of Uncharged Offense to Prove Identity, Intent, Common Plan, etc.*

CALCRIM No. 1191A, *Evidence of Uncharged Sex Offense.*

CALCRIM No. 1191B, *Evidence of Charged Sex Offense.*

CALCRIM No. 852B, *Evidence of Charged Domestic Violence.*

CALCRIM No. 853A, *Evidence of Uncharged Abuse of Elder or Dependent Person.*

CALCRIM No. 853B, *Evidence of Charged Abuse of Elder or Dependent Person.*

**AUTHORITY**

- Instructional Requirement. Evid. Code, § 1109(a)(1); see *People v. Reliford* (2003) 29 Cal.4th 1007, 1012–1016 [130 Cal.Rptr.2d 254, 62 P.3d 601]; *People v. Frazier* (2001) 89 Cal.App.4th 30, 37 [107 Cal.Rptr.2d 100]; *People v. Falsetta*, supra, (1999) 21 Cal.4th at pp.903, 923–924 [~~89 Cal.Rptr.2d 847, 986 P.2d 182~~] [dictum].
- “Abuse” Defined. Pen. Code, § 13700(a); Fam. Code, § 6203; *People v. Kovacich* (2011) 201 Cal.App.4th 863, 894–895 [133 Cal.Rptr.3d 924].
- “Cohabitant” Defined. Pen. Code, § 13700(b); Fam. Code, § 6209.
- “Dating Relationship” Defined. Fam. Code, § 6210.
- Determining Degree of Consanguinity. Prob. Code, § 13.
- “Affinity” Defined. Fam. Code, § 6205.
- “Domestic Violence” Defined. Evid. Code, § 1109(d)(3); Pen. Code, § 13700(b); Fam. Code, § 6211; see *People v. Poplar* (1999) 70 Cal.App.4th 1129, 1139 [83 Cal.Rptr.2d 320] [spousal rape is higher level of domestic violence].
- Emancipation of Minors Law. Fam. Code, § 7000 et seq.
- Other Crimes Proved by Preponderance of Evidence. *People v. Carpenter* (1997) 15 Cal.4th 312, 382 [63 Cal.Rptr.2d 1, 935 P.2d 708]; *People v. James*, supra, (2000) 81 Cal.App.4th at p.1343, 1359 [~~96 Cal.Rptr.2d 823~~].
- Propensity Evidence Alone Is Not Sufficient to Support Conviction Beyond a Reasonable Doubt. *People v. Younger* (2000) 84 Cal.App.4th 1360, 1382 [101 Cal.Rptr.2d 624]; *People v. James*, supra, (2000) 81 Cal.App.4th at pp.1343, 1357–1358, fn. 8 [~~96 Cal.Rptr.2d 823~~]; see *People v. Hill* (2001) 86



Cal.App.4th 273, 277–278 [103 Cal.Rptr.2d 127] [in context of prior sexual offenses].

- Charged Sex Offenses Proved Beyond a Reasonable Doubt May Be Evidence of Propensity. *People v. Cruz* (2016) 2 Cal.App.5th 1178, 1186–1186 [206 Cal.Rptr.3d 835]; *People v. Villatoro* (2012) 54 Cal.4th 1152, 1161 [144 Cal.Rptr.3d 401, 281 P.3d 390].
- ~~Previous Version of~~ This Instruction Upheld. *People v. Johnson* (2008) 164 Cal.App.4th 731, 738 [79 Cal.Rptr.3d 568]; *People v. Panighetti* (2023) 95 Cal.App.5th 978, 1000 [313 Cal.Rptr.3d 798].
- No Sua Sponte Duty to Give Similar Instruction. *People v. Cottone* (2013) 57 Cal.4th 269, 293, fn. 15 [159 Cal.Rptr.3d 385, 303 P.3d 1163].

## COMMENTARY

The paragraph that begins with “If you decide that the defendant committed” tells the jury that they may draw an inference of disposition. (See *People v. Hill*, *supra*, (2001) 86 Cal.App.4th 273, at pp. 275–279 [103 Cal.Rptr.2d 127]; *People v. Brown* (2000) 77 Cal.App.4th 1324, 1334–1335 [92 Cal.Rptr.2d 433].) One appellate court, however, suggests using more general terms to instruct the jury how they may use evidence of other domestic violence offenses, “leaving particular inferences for the argument of counsel and the jury’s common sense.” (*People v. James*, *supra*, (2000) 81 Cal.App.4th at p. 1343, 1357, fn. 8 [96 Cal.Rptr.2d 823] [includes suggested instruction].) If the trial court adopts this approach, the paragraph that begins with “If you decide that the defendant committed the uncharged domestic violence” may be replaced with the following:

If you decide that the defendant committed the uncharged domestic violence, you may consider that evidence and weigh it together with all the other evidence received during the trial to help you determine whether the defendant committed \_\_\_\_\_ <insert charged offense involving domestic violence>. Remember, however, that evidence of uncharged domestic violence is not sufficient alone to find the defendant guilty of \_\_\_\_\_ <insert charged offense involving domestic violence>. The People must still prove (the/each) (charge/ [and] allegation) of \_\_\_\_\_ <insert charged offense involving domestic violence> beyond a reasonable doubt.

## RELATED ISSUES

### *Constitutional Challenges*

Evidence Code section 1109 does not violate a defendant's rights to due process (*People v. Escobar* (2000) 82 Cal.App.4th 1085, 1095–1096 [98 Cal.Rptr.2d 696]; *People v. Hoover* (2000) 77 Cal.App.4th 1020, 1028–1029 [92 Cal.Rptr.2d 208]; *People v. Johnson* (2000) 77 Cal.App.4th 410, 420 [91 Cal.Rptr.2d 596]; see *People v. Falsetta*, *supra*, (1999) 21 Cal.4th at pp.903, 915–922 [~~89 Cal.Rptr.2d 847, 986 P.2d 182~~] (construing Evid. Code, § 1108, a parallel statute to Evid. Code, § 1109); *People v. Branch* (2001) 91 Cal.App.4th 274, 281 [109 Cal.Rptr.2d 870] (construing Evid. Code, § 1108) or equal protection (*People v. Jennings*, *supra*, (2000) 81 Cal.App.4th at pp.1301, 1310–1313 [~~97 Cal.Rptr.2d 727~~]; see *People v. Fitch* (1997) 55 Cal.App.4th 172, 184–185 [63 Cal.Rptr.2d 753] (construing Evid. Code, § 1108).

### ***Exceptions***

Evidence of domestic violence occurring more than 10 years before the charged offense is inadmissible under section 1109 of the Evidence Code, unless the court determines that the admission of this evidence is in the interest of justice. (Evid. Code, § 1109(e).) Evidence of the findings and determinations of administrative agencies regulating health facilities is also inadmissible under section 1109. (~~*Id.* Evid. Code~~, § 1109(f).)

See the Related Issues sections of CALCRIM No. 375, *Evidence of Uncharged Offense to Prove Identity, Intent, Common Plan, etc.*, and CALCRIM No. 1191, *Evidence of Uncharged Sex Offense*.

## **SECONDARY SOURCES**

5 Witkin & Epstein, California Criminal Law (4th ed. 2012) Criminal Trial, §§ 720-722.

1 Witkin, California Evidence (5th ed. 2012) Circumstantial Evidence, §§ 101, 102.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 83, *Evidence*, § 83.12[1] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.13 (Matthew Bender).

### **938. Sexual Battery: Misdemeanor (Pen. Code, § 243.4(e)(1))**

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The defendant is charged [in Count \_\_] with sexual battery [in violation of Penal Code section 243.4(e)(1)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant touched an intimate part of \_\_\_\_\_ *<insert name of complaining witness>*;
2. The touching was done against \_\_\_\_\_'s *<insert name of complaining witness>* will;

**AND**

3. The touching was done for the specific purpose of sexual arousal, sexual gratification, or sexual abuse.

An *intimate part* is a female's breast or the anus, groin, sexual organ, or buttocks of anyone.

*Touching*, as used here, means making physical contact with another person. *Touching* includes contact made through the clothing.

[An act is done *against a person's will* if that person does not consent to the act. In order to *consent*, a person must act freely and voluntarily and know the nature of the act.]

**[Sexual abuse includes touching a person's intimate part[s] (to insult, humiliate, or intimidate that person for a sexual purpose/ [or] to physically harm the person for a sexual purpose).]**

*<Defense: Reasonable Belief in Consent>*

[The defendant is not guilty of sexual battery if (he/she) actually and reasonably believed that the other person consented to the touching [and actually and reasonably believed that (he/she) consented throughout the act of touching]. The People have the burden of proving beyond a reasonable doubt that the defendant did not actually and reasonably believe that the other person consented. If the People have not met this burden, you must find the defendant not guilty.]

## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to give an instruction defining the elements of the crime.

The court has a **sua sponte** duty to instruct on the defense of mistaken but honest and reasonable belief in consent if there is substantial evidence of equivocal conduct that would have led a defendant to reasonably and in good faith believe consent existed where it did not. (See *People v. Andrews* (2015) 234 Cal.App.4th 590, 602 [184 Cal.Rptr.3d 183]; following *People v. Williams* (1992) 4 Cal.4th 354, 362 [14 Cal.Rptr.2d 441, 841 P.2d 961]; *People v. Mayberry* (1975) 15 Cal.3d 143, 153–158 [125 Cal.Rptr. 745, 542 P.2d 1337].)

Give the bracketed definition of “against a person’s will” on request.

## AUTHORITY

- Elements. Pen. Code, § 243.4(e)(1).
- “Touches” Defined. Pen. Code, § 243.4(e)(2).
- “Intimate Part” Defined. Pen. Code, § 243.4(g)(1).
- “Consent” Defined. Pen. Code, §§ 261.6, 261.7.
- Specific-Intent Crime. *People v. Chavez* (2000) 84 Cal.App.4th 25, 29 [100 Cal.Rptr.2d 680].
- Defendant Must Touch Intimate Part of Victim. *People v. Elam* (2001) 91 Cal.App.4th 298, 309–310 [110 Cal.Rptr.2d 185].
- Defendant Need Not Touch Skin. *People v. Dayan* (1995) 34 Cal.App.4th 707, 716 [40 Cal.Rptr.2d 391].
- Sexual Abuse Includes Insulting, Intimidating, or Humiliating. *In re Shannon T.* (2006) 144 Cal.App.4th 618, 622 [50 Cal.Rptr.3d 564].

## LESSER INCLUDED OFFENSES

- Misdemeanor sexual battery is not a lesser included offense of sexual battery by misrepresentation of professional purpose under the statutory elements test. *People v. Robinson* (2016) 63 Cal.4th 200, 210–213 [202 Cal.Rptr.3d 485, 370 P.3d 1043].

- Attempted sexual battery is not a lesser included offense of sexual battery by fraudulent representation. *People v. Babaali* (2009) 171 Cal.App.4th 982, 1000 [90 Cal.Rptr.3d 278].

### COMMENTARY

~~In a case addressing the meaning of for the “purpose of . . . sexual abuse” in the context of Penal Code section 289, one court has stated that “when a penetration is accomplished for the purpose of causing pain, injury or discomfort, it becomes sexual abuse, even though the perpetrator may not necessarily achieve any sexual arousal or gratification whatsoever.” (*People v. White* (1986) 179 Cal.App.3d 193, 205 [224 Cal.Rptr. 467].) If the court concludes that this reasoning applies to the crime of sexual battery and a party requests a definition of “sexual abuse,” the following language may be used:~~

~~*Sexual abuse means any touching of a person’s intimate parts in order to cause pain, injury, or discomfort. The perpetrator does not need to achieve any sexual arousal or sexual gratification.*~~

### SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against the Person, § 26.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.22[2] (Matthew Bender).

**939–944. Reserved for Future Use**

## 960. Simple Battery (Pen. Code, § 242)

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The defendant is charged with battery [in violation of Penal Code section 242].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant willfully [and unlawfully] touched \_\_\_\_\_ *<insert name>* in a harmful or offensive manner(;/.)

*<Give element 2 when instructing on self-defense, defense of another, or reasonable discipline>*

[AND

2. The defendant did not act (in self-defense/ [or] in defense of someone else/ [or] while reasonably disciplining a child).]

Someone commits an act *willfully* when he or she does it willingly or on purpose. It is not required that he or she intend to break the law, hurt someone else, or gain any advantage.

The slightest touching can be enough to commit a battery if it is done in a rude or angry way. Making contact with another person, including through his or her clothing, is enough. The touching does not have to cause pain or injury of any kind.

[The touching can be done indirectly (by causing an object [or someone else] to touch the other person/ [or] by touching something held by or attached to the other person).]

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*New January 2006; Revised August 2013, February 2014, March 2017, September 2024*

## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to give an instruction defining the elements of the crime.

If there is sufficient evidence of self-defense or defense of another, the court has a **sua sponte** duty to instruct on the defense. Give bracketed element 2, the bracketed words “and unlawfully” in element 1, and any appropriate defense instructions. (See CALCRIM Nos. 3470–3477.)

If there is sufficient evidence of reasonable parental discipline, the court has a **sua sponte** duty to instruct on the defense. Give bracketed element 2, the bracketed words “and unlawfully” in element 1, and CALCRIM No. 3405, *Parental Right to Punish a Child*.

Give the bracketed paragraph on indirect touching if that is an issue.

### AUTHORITY

- Elements. Pen. Code, § 242; see *People v. Martinez* (1970) 3 Cal.App.3d 886, 889 [83 Cal.Rptr. 914] [harmful or offensive touching].
- Willful Defined. Pen. Code, § 7(1); *People v. Lara* (1996) 44 Cal.App.4th 102, 107 [51 Cal.Rptr.2d 402].
- Least Touching. *People v. Myers* (1998) 61 Cal.App.4th 328, 335 [71 Cal.Rptr.2d 518] [citing *People v. Rocha* (1971) 3 Cal.3d 893, 899–900, fn. 12 [92 Cal.Rptr. 172, 479 P.2d 372]].
- Defense of Parental Discipline. *People v. Whitehurst* (1992) 9 Cal.App.4th 1045, 1051 [12 Cal.Rptr.2d 33].
- Contact With Object Held in Another Person’s Hand May Constitute Touching. *In re B.L.* (2015) 239 Cal.App.4th 1491, 1495–1497 [192 Cal.Rptr.3d 154].
- Hitting a Vehicle Occupied by Another Person May Constitute Touching. *People v. Dealba* (2015) 242 Cal.App.4th 1142, 1144, 1153 [195 Cal.Rptr.3d 848].

### LESSER INCLUDED OFFENSES

- Assault. Pen. Code, § 240.

### RELATED ISSUES

#### ~~*Touching of Something Attached to or Closely Connected with Person*~~

~~The committee could not locate any authority on whether it is sufficient to commit a battery if the defendant touches something attached to or closely connected with the person. Thus, the committee has not included this principle in the instruction.~~

#### *Battery Against Elder or Dependent Adult*



When a battery is committed against an elder or dependent adult as defined in Penal Code section 368, with knowledge that the victim is an elder or a dependent adult, special punishments apply. (Pen. Code, § 243.25.)

***Related Instruction***

CALCRIM No. 917, *Insulting Words Are Not a Defense*.

**SECONDARY SOURCES**

1 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against the Person, §§ 12-16.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.12 (Matthew Bender).

**961–964. Reserved for Future Use**

### 1191A. Evidence of Uncharged Sex Offense

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The People presented evidence that the defendant committed the crime[s] of \_\_\_\_\_ *<insert description of offense[s]>* that (was/were) not charged in this case. (This/These) crime[s] (is/are) defined for you in these instructions.

You may consider this evidence only if the People have proved by a preponderance of the evidence that the defendant in fact committed the uncharged offense[s]. Proof by a preponderance of the evidence is a different burden of proof from proof beyond a reasonable doubt. A fact is proved by a preponderance of the evidence if you conclude that it is more likely than not that the fact is true.

If the People have not met this burden of proof, you must disregard this evidence entirely.

If you decide that the defendant committed the uncharged offense[s], you may, but are not required to, conclude from that evidence that the defendant was disposed or inclined to commit sexual offenses, and based on that decision, also conclude that the defendant was likely to commit [and did commit] \_\_\_\_\_ *<insert charged sex offense[s]>*, as charged here. If you conclude that the defendant committed the uncharged offense[s], that conclusion is only one factor to consider along with all the other evidence. It is not sufficient by itself to prove that the defendant is guilty of \_\_\_\_\_ *<insert charged sex offense[s]>*. The People must still prove (the/each) \_\_\_\_\_ (charge/ [and] allegation) beyond a reasonable doubt.

[Do not consider this evidence for any other purpose [except for the limited purpose of \_\_\_\_\_ *<insert other permitted purpose, e.g., determining the defendant's credibility>*].]

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*New January 2006; Revised April 2008, February 2013, February 2014, March 2017, September 2019, September 2024\**

*\* Denotes changes only to bench notes and other commentaries.*

### BENCH NOTES

#### ***Instructional Duty***

Although there is ordinarily no sua sponte duty (*People v. Cottone* (2013) 57 Cal.4th 269, 293, fn. 15 [159 Cal.Rptr.3d 385, 303 P.3d 1163]), the court must give this instruction on request when evidence of other sexual offenses has been

introduced. (See *People v. Falsetta* (1999) 21 Cal.4th 903, 924 [89 Cal.Rptr.2d 847, 986 P.2d 182] [error to refuse limiting instruction on request]; *People v. Jennings* (2000) 81 Cal.App.4th 1301, 1317–1318 [97 Cal.Rptr.2d 727] [in context of prior acts of domestic violence].)

Evidence Code section 1108(a) provides that “evidence of the defendant’s commission of another sexual offense or offenses is not made inadmissible by Section 1101.” Subdivision (d)(1) defines “sexual offense” as “a crime under the law of a state or of the United States that involved any of the following[,]” listing specific sections of the Penal Code as well as specified sexual conduct. In the first sentence, the court must insert the name of the offense or offenses allegedly shown by the evidence. The court **must** also instruct the jury on elements of the offense or offenses.

In the fourth paragraph, the committee has placed the phrase “and did commit” in brackets. One appellate court has criticized instructing the jury that it may draw an inference about disposition. (*People v. James* (2000) 81 Cal.App.4th 1343, 1357, fn. 8 [96 Cal.Rptr.2d 823].) The court should review the Commentary section below and give the bracketed phrase at its discretion.

Give the bracketed sentence that begins with “Do not consider” on request.

### ***Related Instructions***

CALCRIM No. 375, *Evidence of Uncharged Offense to Prove Identity, Intent, Common Plan, etc.*

CALCRIM No. 1191B, *Evidence of Charged Sex Offense.*

CALCRIM No. 852A, *Evidence of Uncharged Domestic Violence.*

CALCRIM No. 852B, *Evidence of Charged Domestic Violence.*

CALCRIM No. 853A, *Evidence of Uncharged Abuse of Elder or Dependent Person.*

CALCRIM No. 853B, *Evidence of Charged Abuse of Elder or Dependent Person.*

### **AUTHORITY**

- Instructional Requirement. Evid. Code, § 1108(a); see *People v. Reliford* (2003) 29 Cal.4th 1007, 1012–1016 [130 Cal.Rptr.2d 254, 62 P.3d 601]; *People v. Frazier* (2001) 89 Cal.App.4th 30, 37 [107 Cal.Rptr.2d 100]; *People v. Falsetta*, *supra*, 21 Cal.4th at pp. 923–924 [dictum].
- ~~Previous Version of CALCRIM No. 1191 Upheld. *People v. Schnabel* (2007) 150 Cal.App.4th 83, 87 [57 Cal.Rptr.3d 922]; *People v. Crompt* (2007) 153 Cal.App.4th 476, 480 [62 Cal.Rptr.3d 848].~~

- This Instruction Upheld. *People v. Panighetti* (2023) 95 Cal.App.5th 978, 999–1000 [313 Cal.Rptr.3d 798]; *People v. Phea* (2018) 29 Cal.App.5th 583, 614 [240 Cal.Rptr.3d 526].
- “Sexual Offense” Defined. Evid. Code, § 1108(d)(1).
- Other Crimes Proved by Preponderance of Evidence. *People v. Carpenter* (1997) 15 Cal.4th 312, 382 [63 Cal.Rptr.2d 1, 935 P.2d 708]; *People v. James, supra*, 81 Cal.App.4th at p. 1359; *People v. Van Winkle* (1999) 75 Cal.App.4th 133, 146 [89 Cal.Rptr.2d 28].
- Propensity Evidence Alone Is Not Sufficient to Support Conviction Beyond a Reasonable Doubt. *People v. Hill* (2001) 86 Cal.App.4th 273, 277–278 [103 Cal.Rptr.2d 127]; see *People v. Younger* (2000) 84 Cal.App.4th 1360, 1382 [101 Cal.Rptr.2d 624] [in context of prior acts of domestic violence]; *People v. James, supra*, 81 Cal.App.4th at pp. 1357–1358, fn. 8 [same].
- Charged Offenses Proved Beyond a Reasonable Doubt May Be Evidence of Propensity. *People v. Cruz* (2016) 2 Cal.App.5th 1178, 1186–1186; [206 Cal.Rptr.3d 835]; *People v. Villatoro* (2012) 54 Cal.4th 1152, 1161 [144 Cal.Rptr.3d 401, 281 P.3d 390].

## COMMENTARY

The fourth paragraph of this instruction tells the jury that they may draw an inference of disposition. (See *People v. Hill, supra, (2001)* 86 Cal.App.4th 273, at pp. 275–279 [103 Cal.Rptr.2d 127]; *People v. Brown* (2000) 77 Cal.App.4th 1324, 1334–1335 [92 Cal.Rptr.2d 433] [in context of prior acts of domestic violence].) One appellate court, however, suggests using more general terms to instruct the jury how they may use evidence of other sexual offenses, “leaving particular inferences for the argument of counsel and the jury’s common sense.” (*People v. James, supra*, 81 Cal.App.4th at p. 1357, fn. 8 [includes suggested instruction].) If the trial court adopts this approach, the fourth paragraph may be replaced with the following:

If you decide that the defendant committed the other sexual offense[s], you may consider that evidence and weigh it together with all the other evidence received during the trial to help you determine whether the defendant committed \_\_\_\_\_ <insert charged sex offense>. Remember, however, that evidence of another sexual offense is not sufficient alone to find the defendant guilty of \_\_\_\_\_ <insert charged sex offense>. The People must still prove (the/each) \_\_\_\_\_ (charge/ [and] allegation) of \_\_\_\_\_ <insert charged sex offense> beyond a reasonable doubt.

## RELATED ISSUES

### *Constitutional Challenges*

Evidence Code section 1108 does not violate a defendant's rights to due process (*People v. Falsetta*, supra, ~~(1999)~~ 21 Cal.4th at pp. 903, 915–922 [~~89 Cal.Rptr.2d 847, 986 P.2d 182~~]; *People v. Branch* (2001) 91 Cal.App.4th 274, 281 [109 Cal.Rptr.2d 870]; *People v. Fitch* (1997) 55 Cal.App.4th 172, 184 [63 Cal.Rptr.2d 753]) or equal protection (*People v. Jennings*, supra, ~~(2000)~~ 81 Cal.App.4th 1301, at pp. 1310–1313 [~~97 Cal.Rptr.2d 727~~]; *People v. Fitch*, supra, 55 Cal.App.4th at pp. 184–185).

### *Expert Testimony*

Evidence Code section 1108 does not authorize expert opinion evidence of sexual propensity during the prosecution's case-in-chief. (*People v. McFarland* (2000) 78 Cal.App.4th 489, 495–496 [92 Cal.Rptr.2d 884] [expert testified on ultimate issue of abnormal sexual interest in child].)

### *Rebuttal Evidence*

When the prosecution has introduced evidence of other sexual offenses under Evidence Code section 1108(a), the defendant may introduce rebuttal character evidence in the form of opinion evidence, reputation evidence, and evidence of specific incidents of conduct under similar circumstances. (*People v. Callahan* (1999) 74 Cal.App.4th 356, 378–379 [87 Cal.Rptr.2d 838].)

### *Subsequent Offenses Admissible*

“[E]vidence of subsequently committed sexual offenses may be admitted pursuant to Evidence Code section 1108.” (*People v. Medina* (2003) 114 Cal.App.4th 897, 903 [8 Cal.Rptr.3d 158].)

### *Evidence of Acquittal*

If the court admits evidence that the defendant committed a sexual offense that the defendant was previously acquitted of, the court must also admit evidence of the acquittal. (*People v. Mullens* (2004) 119 Cal.App.4th 648, 663 [14 Cal.Rptr.3d 534].)

See also the Related Issues section of CALCRIM No. 375, *Evidence of Uncharged Offense to Prove Identity, Intent, Common Plan, etc.*

## SECONDARY SOURCES

1 Witkin, California Evidence (5th ed. 2012) Circumstantial Evidence, §§ 98–100.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.23[3][e][ii], [4] (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and Procedure § 12:9 (The Rutter Group).

### 1193. Testimony on Child Sexual Abuse Accommodation Syndrome

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You have heard testimony from \_\_\_\_\_ <insert name of expert> regarding child sexual abuse accommodation syndrome.

Child sexual abuse accommodation syndrome relates to a pattern of behavior that may be present in child sexual abuse cases. Testimony as to the accommodation syndrome is offered only to explain certain behavior of an alleged victim of child sexual abuse.

\_\_\_\_\_’s <insert name of expert> testimony about child sexual abuse accommodation syndrome is not evidence that the defendant committed any of the crimes charged against (him/her) [or any conduct or crime[s] with which (he/she) was not charged].

You may consider this evidence only in deciding whether or not \_\_\_\_\_’s <insert name of alleged victim of abuse> conduct was consistent with the conduct of someone who has been molested, and in evaluating the believability of the alleged victim.

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*New January 2006; Revised August 2016, April 2020, March 2021, September 2022, September 2024\**

*\* Denotes changes only to bench notes and other commentaries.*

### BENCH NOTES

#### ***Instructional Duty***

Several courts of review have concluded there is no sua sponte duty to give this instruction when an expert testifies on child sexual abuse accommodation syndrome. (*People v. Mateo* (2016) 243 Cal.App.4th 1063, 1073-1074 [197 Cal.Rptr.3d 248]; *People v. Sanchez* (1989) 208 Cal.App.3d 721, 736 [256 Cal.Rptr. 446] and *People v. Stark* (1989) 213 Cal.App.3d 107, 116 [261 Cal.Rptr. 479] [instruction required only on request].) See also *People v. Humphrey* (1996) 13 Cal.4th 1073, 1088, fn. 5, 1090-1091, 1100 [56 Cal.Rptr.2d 142, 921 P.2d 1], which concludes that a limiting instruction on battered woman syndrome is required only on request. But see *People v. Housley* (1992) 6 Cal.App.4th 947, 958-959 [9 Cal.Rptr.2d 431], which did find a sua sponte duty to give this instruction.

#### ***Related Instructions***



If this instruction is given, also give CALCRIM No. 303, *Limited Purpose Evidence in General*, and CALCRIM No. 332, *Expert Witness*.

## AUTHORITY

- Eliminate Juror Misconceptions or Rebut Attack on Victim’s Credibility. *People v. Bowker* (1988) 203 Cal.App.3d 385, 393–394 [249 Cal.Rptr. 886].
- Previous Version of This Instruction Upheld. *People v. Ortiz* (2023) 96 Cal.App.5th 768, 815–816 [314 Cal.Rptr.3d 732]; *People v. Lapenias* (2021) 67 Cal.App.5th 162, 175–176 [282 Cal.Rptr.3d 79]; *People v. Munch* (2020) 52 Cal.App.5th 464, 473–474 [266 Cal.Rptr.3d 136]; *People v. Gonzales* (2017) 16 Cal.App.5th 494, 504 [224 Cal.Rptr.3d 421].

## COMMENTARY

The jurors must understand that the research on child sexual abuse accommodation syndrome assumes a molestation occurred and seeks to describe and explain children’s common reactions to the experience. (*People v. Bowker, supra*, 203 Cal.App.3d at p. 394.) However, it is unnecessary and potentially misleading to instruct that the expert testimony assumes that a molestation has in fact occurred. (See *People v. Gilbert* (1992) 5 Cal.App.4th 1372, 1387 [7 Cal.Rptr.2d 660].)

The prosecution must identify the myth or misconception the evidence is designed to rebut (*People v. Bowker, supra*, 203 Cal.App.3d at p. 394; *People v. Sanchez, supra*, 208 Cal.App.3d at p. 735; *People v. Harlan* (1990) 222 Cal.App.3d 439, 449–450 [271 Cal.Rptr. 653]), or the victim’s credibility must have been placed in issue (*People v. Patino* (1994) 26 Cal.App.4th 1737, 1744–1745 [32 Cal.Rptr.2d 345]).

## RELATED ISSUES

### *Expert Testimony Regarding Parent’s Behavior*

An expert may also testify regarding reasons why a parent may delay reporting molestation of his or her child. (*People v. McAlpin* (1991) 53 Cal.3d 1289, 1300–1301 [283 Cal.Rptr. 382, 812 P.2d 563].)

## SECONDARY SOURCES

1 Witkin, California Evidence (5th ed. 2012) Opinion Evidence, §§ 54–56.

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 71, *Scientific and Expert Evidence*, § 71.04[1][d][v][B] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.23[3][d] (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and Procedure § 12:7 (The Rutter Group).

**1202. Kidnapping: For Ransom, Reward, Extortion, or to Exact From Another Person (Pen. Code, § 209(a))**

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The defendant is charged [in Count \_\_] with kidnapping (for ransom[,]/ [or] for reward[,]/ [or] to commit extortion[,]/ [or] to get from a different person money or something valuable) [that resulted in (death[,]/ [or] bodily harm[,]/ [or] exposure to a substantial likelihood of death)] [in violation of Penal Code section 209(a)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant (kidnapped[,]/ [or] abducted[,]/ [or] seized[,]/ [or] confined[,]/ [or] concealed[,]/ [or] carried away[,]/ [or] inveigled[,]/ [or] enticed[,]/ [or] decoyed) a person;

*<Alternative 2A—held or detained>*

2. The defendant held or detained that person;

*<Alternative 2B—intended to hold or detain that person>*

2. When the defendant acted, (he/she) intended to hold or detain that person;

3. The defendant did so (for ransom[,]/ [or] for reward[,]/ [or] to commit extortion[,]/ [or] to get from a different person money or something valuable);

[AND]

4. The person did not consent to being (kidnapped[,]/ [or] abducted[,]/ [or] seized[,]/ [or] confined[,]/ [or] concealed[,]/ [or] carried away[,]/ [or] inveigled[,]/ [or] enticed[,]/ [or] decoyed)(;/.)

*<Give element 5 if instructing on reasonable belief in consent.>*

[AND]

5. The defendant did not actually and reasonably believe that the person consented to being (kidnapped[,]/ [or] abducted[,]/ [or] seized[,]/ [or] confined[,]/ [or] concealed[,]/ [or] carried away[,]/ [or] inveigled[,]/ [or] enticed[,]/ [or] decoyed).]

| [It is not necessary that the person be moved for any distance.]

[In order to *consent*, a person must act freely and voluntarily and know the nature of the act.]

<Defense: Good Faith Belief in Consent>

[The defendant is not guilty of kidnapping if (he/she) reasonably and actually believed that the person consented to the movement. The People have the burden of proving beyond a reasonable doubt that the defendant did not reasonably and actually believe that the person consented to the movement. If the People have not met this burden, you must find the defendant not guilty of this crime.]

<Defense: Consent Given>

[The defendant is not guilty of kidnapping if the person consented to go with the defendant. The person consented if (he/she) (1) freely and voluntarily agreed to go with or be moved by the defendant, (2) was aware of the movement, and (3) had sufficient mental capacity to choose to go with the defendant. The People have the burden of proving beyond a reasonable doubt that the person did not consent to go with the defendant. If the People have not met this burden, you must find the defendant not guilty of this crime.]

[Consent may be withdrawn. If, at first, a person agreed to go with the defendant, that consent ended if the person changed his or her mind and no longer freely and voluntarily agreed to go with or be moved by the defendant. The defendant is guilty of kidnapping if after the person withdrew consent, the defendant committed the crime as I have defined it.]

[Someone intends to commit *extortion* if he or she intends to: (1) obtain a person's property with the person's consent and (2) obtain the person's consent through the use of force or fear.]

[Someone intends to commit *extortion* if he or she: (1) intends to get a public official to do an official act and (2) uses force or fear to make the official do the act.] [An *official act* is an act that a person does in his or her official capacity using the authority of his or her public office.]

<Sentencing Factor>

[If you find the defendant guilty of kidnapping (for ransom [,]/ [or] for reward[,]/ [or] to commit extortion[,]/ [or] to get from a different person money or something valuable), you must then decide whether the People have proved the additional allegation that the defendant (caused the kidnapped

person to (die/suffer bodily harm)/ [or] intentionally confined the kidnapped person in a way that created a substantial likelihood of death).

[*Bodily harm* means any substantial physical injury resulting from the use of force that is more than the force necessary to commit kidnapping.]

[The defendant caused \_\_\_\_\_'s <insert name of allegedly kidnapped person> (death/bodily harm) if:

1. A reasonable person in the defendant's position would have foreseen that the defendant's use of force or fear could begin a chain of events likely to result in \_\_\_\_\_'s <insert name of allegedly kidnapped person> (death/bodily harm);
2. The defendant's use of force or fear was a direct and substantial factor in causing \_\_\_\_\_'s <insert name of allegedly kidnapped person> (death/bodily harm);

AND

3. \_\_\_\_\_'s <insert name of allegedly kidnapped person> (death/bodily harm) would not have happened if the defendant had not used force or fear to hold or detain \_\_\_\_\_ <insert name of allegedly kidnapped person>.

A *substantial factor* is more than a trivial or remote factor. However, it need not have been the only factor that caused \_\_\_\_\_'s <insert name of allegedly kidnapped person> (death/bodily harm).]

The People have the burden of proving this allegation beyond a reasonable doubt. If the People have not met this burden, you must find that the allegation has not been proved.]

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New January 2006; Revised April 2011, February 2015, March 2017, September 2020, March 2021, September 2024\*

\* Denotes changes only to bench notes and other commentaries.

## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to give an instruction defining the elements of the crime.

If the prosecution alleges that the kidnapping resulted in death or bodily harm, or exposed the victim to a substantial likelihood of death (see Pen. Code, § 209(a)), the court has a **sua sponte** duty to instruct on the sentencing factor. (See *People v. Schoenfeld* (1980) 111 Cal.App.3d 671, 685–686 [168 Cal.Rptr. 762] [bodily harm defined]); see also *People v. Ryan* (1999) 76 Cal.App.4th 1304, 1318 [76 Cal.Rptr.2d 160] [court must instruct on general principles of law relevant to issues raised by the evidence].) The court must also give the jury a verdict form on which the jury can indicate whether this allegation has been proved. If causation is an issue, the court has a **sua sponte** duty to give the bracketed section that begins “The defendant caused.” (See Pen. Code, § 209(a); *People v. Monk* (1961) 56 Cal.2d 288, 296 [14 Cal.Rptr. 633, 363 P.2d 865]; *People v. Reed* (1969) 270 Cal.App.2d 37, 48–49 [75 Cal.Rptr. 430].)

Give the bracketed definition of “consent” on request.

Give alternative 2A if the evidence supports the conclusion that the defendant actually held or detained the alleged victim. Otherwise, give alternative 2B. (See Pen. Code, § 209(a).)

“Extortion” is defined in Penal Code section 518. If the kidnapping was for purposes of extortion, give one of the bracketed definitions of extortion on request. Give the second definition if the defendant is charged with intending to extort an official act. (*People v. Hill* (1983) 141 Cal.App.3d 661, 668 [190 Cal.Rptr. 628]; see *People v. Ordonez* (1991) 226 Cal.App.3d 1207, 1229–1230 [277 Cal.Rptr. 382]; *People v. Norris* (1985) 40 Cal.3d 51, 55–56 [219 Cal.Rptr. 7, 706 P.2d 1141] [defining “official act”].) Extortion may also be committed by using “the color of official right” to make an official do an act. (Pen. Code, § 518; see *Evans v. United States* (1992) 504 U.S. 255, 258 [112 S.Ct. 1881, 119 L.Ed.2d 57]; *McCormick v. United States* (1990) 500 U.S. 257, 273 [111 S.Ct. 1807, 114 L.Ed.2d 307] [both discussing common law definition].) It appears that this type of extortion rarely occurs in the context of kidnapping, so it is excluded from this instruction.

### ***Defenses—Instructional Duty***

The court has a **sua sponte** duty to instruct on the defense of consent if there is sufficient evidence to support the defense. (See *People v. Davis* (1995) 10 Cal.4th 463, 516–518 [41 Cal.Rptr.2d 826, 896 P.2d 119] [approving consent instruction as given]; see also *People v. Sedeno* (1974) 10 Cal.3d 703, 717, fn. 7 [112 Cal.Rptr. 1, 518 P.2d 913], overruled on other grounds in *People v. Breverman* (1998) 19 Cal.4th 142, 165 [77 Cal.Rptr.2d 870, 960 P.2d 1094] [when court must instruct on defenses].) Give the bracketed paragraph on the defense of consent. On request, if supported by the evidence, also give the bracketed paragraph that begins with “Consent may be withdrawn.” (See *People v. Camden* (1976) 16 Cal.3d 808, 814 [129 Cal.Rptr. 438, 548 P.2d 1110].)

The defendant's reasonable and actual belief in the victim's consent to go with the defendant may be a defense. (See *People v. Greenberger* (1997) 58 Cal.App.4th 298, 375 [68 Cal.Rptr.2d 61]; *People v. Isitt* (1976) 55 Cal.App.3d 23, 28 [127 Cal.Rptr. 279] [reasonable, good faith belief that victim consented to movement is a defense to kidnapping].)

### ***Related Instructions***

For the elements of extortion, see CALCRIM No. 1830, *Extortion by Threat or Force*.

## **AUTHORITY**

- Elements. Pen. Code, § 209(a).
- Requirement of Lack of Consent. *People v. Eid* (2010) 187 Cal.App.4th 859, 878 [114 Cal.Rptr.3d 520].
- Extortion. Pen. Code, § 518; *People v. Hill*, supra, ~~(1983)~~ 141 Cal.App.3d at p. 661, 668 ~~[190 Cal.Rptr. 628]~~; see *People v. Ordonez*, supra, ~~(1991)~~ 226 Cal.App.3d at pp. 1207, 1229–1230 ~~[277 Cal.Rptr. 382]~~.
- Amount of Physical Force Required. *People v. Chacon* (1995) 37 Cal.App.4th 52, 59 [43 Cal.Rptr.2d 434]; *People v. Schoenfeld*, supra, ~~(1980)~~ 111 Cal.App.3d ~~671~~, at pp. 685–686 ~~[168 Cal.Rptr. 762]~~.
- “Bodily Injury” Defined. *People v. Chacon*, supra, ~~(1995)~~ 37 Cal.App.4th at p. 52, 59; *People v. Schoenfeld*, supra, ~~(1980)~~ 111 Cal.App.3d at pp. 671, 685–686; see *People v. Reed*, supra, ~~(1969)~~ 270 Cal.App.2d at pp. 37, 48–50 ~~[75 Cal.Rptr. 430]~~ [injury reasonably foreseeable from defendant's act].
- Control Over Victim When Intent Formed. *People v. Martinez* (1984) 150 Cal.App.3d 579, 600–602 [198 Cal.Rptr. 565] [disapproved on other ground in *People v. Hayes* (1990) 52 Cal.3d 577, 627–628, fn. 10 [276 Cal.Rptr. 874, 802 P.2d 376].]
- No Asportation Required. *People v. Macinnes* (1973) 30 Cal.App.3d 838, 844 [106 Cal.Rptr. 589]; see *People v. Rayford* (1994) 9 Cal.4th 1, 11–12, fn. 8 [36 Cal.Rptr.2d 317, 884 P.2d 1369]; *People v. Ordonez*, supra, ~~(1991)~~ 226 Cal.App.3d at p. 1207, 1227 ~~[277 Cal.Rptr. 382]~~.
- “Official Act” Defined. *People v. Mayfield* (1997) 14 Cal.4th 668, 769–773 [60 Cal.Rptr.2d 1, 928 P.2d 485]; *People v. Norris*, supra, ~~(1985)~~ 40 Cal.3d at pp. 51, 55–56 ~~[219 Cal.Rptr. 7, 706 P.2d 1141]~~.
- Kidnapping ~~T~~to Extract From Another Person Any Money or Valuable Thing Requires That ~~T~~the Other Person Not Be ~~T~~the Person Kidnapped. *People v.*



*Harper* (2020) 44 Cal.App.5th 172, 192–193 [257 Cal.Rptr.3d 440]; *People v. Stringer* (2019) 41 Cal.App.5th 974, 983 [254 Cal.Rptr.3d 678].

## COMMENTARY

A trial court may refuse to define “reward.” There is no need to instruct a jury on the meaning of terms in common usage. Reward means something given in return for good or evil done or received, and especially something that is offered or given for some service or attainment. (*People v. Greenberger*, supra, ~~(1997)~~ 58 Cal.App.4th at pp.298, 367–368 ~~[68 Cal.Rptr.2d 61]~~.) In the absence of a request, there is also no duty to define “ransom.” The word has no statutory definition and is commonly understood by those familiar with the English language. (*People v. Hill*, supra, ~~(1983)~~ 141 Cal.App.3d at p.661, 668 ~~[190 Cal.Rptr. 628]~~.)

## LESSER INCLUDED OFFENSES

- False Imprisonment. Pen. Code, §§ 236, 237; *People v. Chacon*, supra, ~~(1995)~~ 37 Cal.App.4th at p.52, 65 ~~[43 Cal.Rptr.2d 434]~~; *People v. Magana* (1991) 230 Cal.App.3d 1117, 1121 [281 Cal.Rptr. 338]; *People v. Gibbs* (1970) 12 Cal.App.3d 526, 547 [90 Cal.Rptr. 866].
- Extortion. Pen. Code, § 518.
- Attempted Extortion. Pen. Code, §§ 664, 518.
- Multiple Convictions of Lesser Included Offenses of Pen. Code, § 209(a) Possible. *People v. Eid*, supra, ~~(2014)~~ 59 Cal.4th at pp.650, 655–658 ~~[174 Cal.Rptr.3d 82, 328 P.3d 69]~~.

If the prosecution alleges that the kidnapping resulted in death or bodily harm, or exposed the victim to a substantial likelihood of death (see Pen. Code, § 209(a)), then kidnapping for ransom without death or bodily harm is a lesser included offense. The court must provide the jury with a verdict form on which the jury will indicate if the allegation has been proved.

Simple kidnapping under section 207 of the Penal Code is not a lesser and necessarily included offense of kidnapping for ransom, reward, or extortion. (*People v. Greenberger*, supra, ~~(1997)~~ 58 Cal.App.4th at p.298, 368, fn. 56 ~~[68 Cal.Rptr.2d 61]~~ [kidnapping for ransom can be accomplished without asportation while simple kidnapping cannot]; see *People v. Macinnes*, supra, ~~(1973)~~ 30 Cal.App.3d 838, at pp. 843–844 ~~[106 Cal.Rptr. 589]~~; *People v. Bigelow* (1984) 37 Cal.3d 731, 755, fn. 14 [209 Cal.Rptr. 328, 691 P.2d 994].)

## RELATED ISSUES

### *Extortion Target*

The kidnapped victim may also be the person from whom the defendant wishes to extort something. (*People v. Ibrahim* (1993) 19 Cal.App.4th 1692, 1696–1698 [24 Cal.Rptr.2d 269].)

### *No Good-Faith Exception*

A good faith exception to extortion or kidnapping for ransom does not exist. Even actual debts cannot be collected by the reprehensible and dangerous means of abducting and holding a person to be ransomed by payment of the debt. (*People v. Serrano* (1992) 11 Cal.App.4th 1672, 1677–1678 [15 Cal.Rptr.2d 305].)

### *Kidnap for Ransom in Multiple Victim Robbery Case*

In *People v. Daniels* (1969) 71 Cal.2d 1119, 1139 [80 Cal.Rptr. 897, 459 P.2d 225], the California Supreme Court held that kidnap for robbery does not include robberies “in which the movements of the victim are merely incidental to the commission of the robbery and do not substantially increase the risk of harm over and above that necessarily present in the crime of robbery itself.” *People v. Martinez, supra*, 150 Cal.App.3d at pp. 591–594, applied the *Daniels* rationale to a kidnap for ransom case in which the defendants held two victims during a home invasion robbery. In order “to prevent the *Daniels* line of cases from being circumvented by charging what is essentially a multivictim robbery as a kidnapping for ransom,” *Martinez* held that “the movement or restraint of the purported kidnap victim ... [must] substantially increase the risk of harm over and above that necessarily present in the crime of the robbery itself.” (*Id.* at p. 595.) After *Martinez*, the legislature amended Penal Code section 209 as it pertained to kidnapping for robbery and specified sex offenses and did not include the word “substantial” with respect to the increased risk. (*People v. Robertson* (2012) 208 Cal.App.4th 965, 979–982 [146 Cal.Rptr.3d 66].) If substantial evidence supports this theory, modify the instruction to include the additional element of legally sufficient movement.

## SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against the Person, §§ 301–302.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.14 (Matthew Bender).

### 1243. Human Trafficking (Pen. Code, § 236.1(a) & (b))

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The defendant is charged [in Count \_\_\_\_] with human trafficking [in violation of Penal Code section 236.1].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant either deprived another person of personal liberty or violated that other person's personal liberty;

**AND**

*<Give Alternative 2A if the defendant is charged with a violation of subsection (a).>*

**[2A. When the defendant acted, (he/she) intended to obtain forced labor or services(./;)]**

**[OR]**

*<Give Alternative 2B if the defendant is charged with a violation of subsection (b).>*

**[2B. When the defendant acted, (he/she) intended to (commit/ [or] maintain) a [felony] violation of \_\_\_\_\_ *<insert appropriate code section[s]>*.]**

***Depriving or violating another person's personal liberty***, as used here, includes substantial and sustained restriction of another person's liberty accomplished through **(force[,]/ [or] fear[,]/ [or] fraud[,]/ [or] deceit[,]/ [or] coercion[,]/ [or] violence[,]/ [or] duress[,]/ [or] menace[,]/ [or] threat of unlawful injury\_\_\_\_\_** *<insert terms that apply from statutory definition, i.e.: force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury>* to the victim or to another person under circumstances in which the person receiving or perceiving the threat reasonably believes that it is likely that the person making the threat would carry it out).

**[Forced labor or services**, as used here, means labor or services that are performed or provided by a person and are obtained or maintained through force, fraud, duress, or coercion, or equivalent conduct that would reasonably overbear the will of the person.]

[*Duress* means a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause a reasonable person to do [or submit to] something that he or she would not otherwise do [or submit to].]

[*Duress* includes (a direct or implied threat to destroy, conceal, remove, confiscate, or possess any actual or purported passport or immigration document of the other person/ [or] knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or immigration document of the other person).]

[*Violence* means using physical force that is greater than the force reasonably necessary to restrain someone.]

[*Menace* means a verbal or physical threat of harm[, including use of a deadly weapon]. The threat of harm may be express or implied.]

[*Coercion* includes any scheme, plan, or pattern intended to cause a person to believe that failing to perform an act would result in (serious harm to or physical restraint against someone else/ [or] the abuse or threatened abuse of the legal process/ [or] debt bondage/ [or] providing or facilitating the possession of any controlled substance to impair the other person's judgment).]

[When you decide whether the defendant (used *duress*/ [or] used *coercion*/ [or] *deprived another person of personal liberty or violated that other person's personal liberty*), consider all of the circumstances, including the age of the other person, (his/her) relationship to the defendant [or defendant's agent[s]], and the other person's handicap or disability, if any.]

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New August 2009; Revised August 2013, February 2014, October 2021,  
September 2024

## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to give an instruction defining the elements of the crime.

If necessary, insert the correct Penal Code section into the blank provided in element 2B and give the corresponding CALCRIM instruction.

~~Give bracketed element three if the defendant is charged with a violation of Pen. Code, § 236.1(c).~~

~~This instruction is based on the language of the statute effective November 7, 2012, and only applies to crimes committed on or after that date.~~

The court is not required to instruct sua sponte on the definition of “menace” or “violence” and Penal Code section 236.1 does not define these terms. (*People v. Pitmon* (1985) 170 Cal.App.3d 38, 52 [216 Cal.Rptr. 221] [duress]). Optional definitions are provided for the court to use at its discretion.

### **AUTHORITY**

- Elements and Definitions. Pen. Code, § 236.1.
- Menace Defined [in context of false imprisonment]. *People v. Matian* (1995) 35 Cal.App.4th 480, 484–486 [41 Cal.Rptr.2d 459]
- Violence Defined [in context of false imprisonment]. *People v. Babich* (1993) 14 Cal.App.4th 801, 806 [18 Cal.Rptr.2d 60]

### **RELATED ISSUES**

The victim’s consent is irrelevant. (*People v. Oliver* (2020) 54 Cal.App.5th 1084, 1097 [269 Cal.Rptr.3d 201].-)

### **SECONDARY SOURCES**

1 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against the Person, § 278.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.14A (Matthew Bender).

### 1301. Stalking (Pen. Code, § 646.9(a), (e)–(h))

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The defendant is charged [in Count \_\_\_\_] with stalking [in violation of Penal Code section 646.9].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant willfully and maliciously harassed or willfully, maliciously, and repeatedly followed another person;

[AND]

2. The defendant made a credible threat with the intent to place the other person in reasonable fear for (his/her) safety [or for the safety of (his/her) immediate family].

*<If a court order prohibiting defendant's contact with the threatened person was in effect at the time of the charged conduct, give the following two paragraphs.>*  
[If you find the defendant guilty of stalking [in Count[s] \_\_\_\_], you must then decide whether the People have proved that a/an (temporary restraining order/injunction/\_\_\_\_\_ *<describe other court order>*) prohibiting the defendant from engaging in this conduct against the threatened person was in effect at the time of the conduct.

The People have the burden of proving this allegation beyond a reasonable doubt. If the People have not met this burden, you must find that this allegation has not been proved.]

*A credible threat* is one that causes the target of the threat to reasonably fear for his or her safety [or for the safety of his or her immediate family] and one that the maker of the threat appears to be able to carry out.

*A credible threat* may be made orally, in writing, or electronically or may be implied by a pattern of conduct or a combination of statements and conduct.

*Harassing* means engaging in a knowing and willful *course of conduct* directed at a specific person that seriously annoys, alarms, torments, or terrorizes the person and that serves no legitimate purpose.

**A course of conduct** means two or more acts occurring over a period of time, however short, demonstrating a continuous purpose.

**[A person is not guilty of stalking if (his/her) conduct is constitutionally protected activity. \_\_\_\_\_ <Describe type of activity; see Bench Notes below> is constitutionally protected activity. ]**

**Someone commits an act *willfully* when he or she does it willingly or on purpose.**

**Someone acts *maliciously* when he or she intentionally does a wrongful act or when he or she acts with the unlawful intent to disturb, annoy, or injure someone else.**

**[*Repeatedly* means more than once.]**

**[The People do not have to prove that a person who makes a threat intends to actually carry it out.]**

**[Someone who makes a threat while in prison or jail may still be guilty of stalking.]**

**[A threat may be made electronically by using a telephone, cellular telephone, pager, computer, video recorder, fax machine, or other similar electronic communication device.]**

**[*Immediate family* means (a) any spouse, parents, and children; (b) any grandchildren, grandparents, brothers, and sisters related by blood or marriage; or (c) any person who regularly lives in the other person's household [or who regularly lived there within the prior six months].]**

**[The terms and conditions of (a/an) (restraining order/injunction/\_\_\_\_\_ <describe other court order>) remain enforceable despite the parties' actions, and may only be changed by court order.]**

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*New January 2006; Revised April 2010, March 2017, September 2024\**  
*\* Denotes changes only to bench notes and other commentaries.*

## **BENCH NOTES**

### ***Instructional Duty***

The court has a **sua sponte** duty to give an instruction defining the elements of the crime.



Give element 3 if the defendant is charged with stalking in violation of a temporary restraining order, injunction, or any other court order. (See Pen. Code, § 646.9(b).)

If there is substantial evidence that any of the defendant’s conduct was constitutionally protected, instruct on the type of constitutionally protected activity involved. (See the optional bracketed paragraph regarding constitutionally protected activity.) Examples of constitutionally protected activity include speech, protest, and assembly. (See Civ. Code, § 1708.7(f) [civil stalking statute]; see also *People v. Peterson* (2023) 95 Cal.App.5th 1061, 1066–1067 [314 Cal.Rptr.3d 137] [speech about bond measure, local politics, and criticism of a politician].)

The bracketed sentence that begins with “The People do not have to prove that” may be given on request. (See Pen. Code, § 646.9(g).)

The bracketed sentence about the defendant’s incarceration may be given on request if the defendant was in prison or jail when the threat was made. (See Pen. Code, § 646.9(g).)

Give the bracketed definition of “electronic communication” on request. (See Pen. Code, § 422; 18 U.S.C., § 2510(12).)

If there is evidence that the threatened person feared for the safety of members of his or her immediate family, give the bracketed paragraph defining “immediate family” on request. (See Pen. Code, § 646.9(l); see Fam. Code, § 6205; Prob. Code, §§ 6401, 6402.)

If the defendant argues that the alleged victim acquiesced to contact with the defendant contrary to a court order, the court may, on request, give the last bracketed paragraph stating that such orders may only be changed by the court. (See Pen. Code, § 13710(b); *People v. Gams* (1996) 52 Cal.App.4th 147, 151–152, 154–155 [60 Cal.Rptr.2d 423].)

## AUTHORITY

- Elements. Pen. Code, § 646.9(a), (e)–(h); *People v. Ewing* (1999) 76 Cal.App.4th 199, 210 [90 Cal.Rptr.2d 177]; *People v. Norman* (1999) 75 Cal.App.4th 1234, 1239 [89 Cal.Rptr.2d 806].
- Intent to Cause Victim Fear. *People v. Falck* (1997) 52 Cal.App.4th 287, 295, 297–298 [60 Cal.Rptr.2d 624]; *People v. Carron* (1995) 37 Cal.App.4th 1230, 1236, 1238–1240 [44 Cal.Rptr.2d 328]; see *People v. McCray* (1997) 58 Cal.App.4th 159, 171–173 [67 Cal.Rptr.2d 872] [evidence of past violence toward victim].
- “Repeatedly” Defined. *People v. Heilman* (1994) 25 Cal.App.4th 391, 399, 400 [30 Cal.Rptr.2d 422].

- “Safety” Defined. *People v. Borrelli* (2000) 77 Cal.App.4th 703, 719–720 [91 Cal.Rptr.2d 851]; see *People v. Falck*, supra, ~~(1997)~~ 52 Cal.App.4th at pp. 287, 294–295 ~~[60 Cal.Rptr.2d 624]~~.
- “Substantial Emotional Distress” Defined. *People v. Ewing*, supra, ~~(1999)~~ 76 Cal.App.4th ~~199~~, at p. 210 ~~[90 Cal.Rptr.2d 177]~~; see *People v. Carron*, supra, ~~(1995)~~ 37 Cal.App.4th ~~1230~~, at pp. 1240–1241 ~~[44 Cal.Rptr.2d 328]~~.
- Victim’s Fear Not Contemporaneous With Stalker’s Threats. *People v. Norman*, supra, ~~(1999)~~ 75 Cal.App.4th ~~1234~~, at pp. 1239–1241 ~~[89 Cal.Rptr.2d 806]~~.
- Subsections (b) & (c) of Pen. Code, § 646.9 are Alternate Penalty Provisions. *People v. Muhammad* (2007) 157 Cal.App.4th 484, 494 [68 Cal.Rptr.3d 695].
- This Instruction Upheld. *People v. Ibarra* (2007) 156 Cal.App.4th 1174, 1195–1197 [67 Cal.Rptr.3d 871].
- Examples of Credible Threats. *People v. Frias* (2024) 98 Cal.App.5th 999, 1018–1019 [317 Cal.Rptr.3d 202]; *People v. Lopez* (2015) 240 Cal.App.4th 436, 452–454 [192 Cal.Rptr.3d 585]; *People v. Uecker* (2009) 172 Cal.App.4th 583, 594–595 [91 Cal.Rptr.3d 355].

## LESSER INCLUDED OFFENSES

- Attempted Stalking. Pen. Code, §§ 664, 646.9.

## RELATED ISSUES

### *Harassment Not Contemporaneous With Fear*

The harassment need not be contemporaneous with the fear caused. (See *People v. Norman*, supra, ~~(1999)~~ 75 Cal.App.4th ~~1234~~, at pp. 1239–1241 ~~[89 Cal.Rptr.2d 806]~~.)

### *Constitutionality of Terms*

The term “credible threat” is not unconstitutionally vague. (*People v. Halgren* (1996) 52 Cal.App.4th 1223, 1230 [61 Cal.Rptr.2d 176].) The element that the objectionable conduct “serve[] no legitimate purpose” (Pen. Code, § 646.9(e) is also not unconstitutionally vague; “an ordinary person can reasonably understand what conduct is expressly prohibited.” (*People v. Tran* (1996) 47 Cal.App.4th 253, 260 [54 Cal.Rptr.2d 650].)

### *Labor Picketing*

Section 646.9 does not apply to conduct that occurs during labor picketing. (Pen. Code, § 646.9(i).)

## **SECONDARY SOURCES**

1 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against the Person, §§ 333–336.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.11A[2] (Matthew Bender).

**1400. Active Participation in Criminal Street Gang (Pen. Code, § 186.22(a))**

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The defendant is charged [in Count \_\_] with participating in a criminal street gang [in violation of Penal Code section 186.22(a)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant actively participated in a criminal street gang;
2. When the defendant participated in the gang, (he/she) knew that members of the gang engage in or have engaged in a pattern of criminal gang activity;

AND

3. The defendant willfully assisted, furthered, or promoted felonious criminal conduct by members of the gang either by:
  - a. directly and actively committing a felony offense;

OR

- b. aiding and abetting a felony offense.

At least two members of that same gang must have participated in committing the felony offense. The defendant may count as one of those members if you find that the defendant was a member of the gang.

*Active participation* means involvement with a criminal street gang in a way that is more than passive or in name only.

[The People do not have to prove that the defendant devoted all or a substantial part of (his/her) time or efforts to the gang, or that (he/she) was an actual member of the gang.]

| <If criminal street gang has already been defined.>

[A *criminal street gang* is defined in another instruction to which you should refer.]

| *<If criminal street gang has not already been defined in another instruction.>*

**[A criminal street gang is an ongoing organized association or group of three or more persons, whether formal or informal:**

- 1. That has a common name or common identifying sign or symbol;**
- 2. That has, as one or more of its primary activities, the commission of \_\_\_\_\_ *<insert one or more crimes listed in Pen. Code, § 186.22(e)(1)>;***

**AND**

- 3. Whose members collectively engage in or have engaged in a pattern of criminal gang activity.**

**In order to qualify as a *primary* activity, the crime must be one of the group's chief or principal activities rather than an occasional act committed by one or more persons who happen to be members of the group.]**

*<Give this paragraph only when the conduct that establishes the pattern of criminal gang activity, i.e., predicate offenses, has not resulted in a conviction or sustained juvenile petition.>*

**[To decide whether the ongoing organized association or group has, as one of its primary activities, the commission of \_\_\_\_\_ *<insert felony or felonies from Pen. Code, § 186.22(e)(1)>*, please refer to the separate instructions that I (will give/have given) you on (that/those) crime[s].]**

***A pattern of criminal gang activity, as used here, means:***

- 1. [The] (commission of[,]/ [or] attempted commission of[,]/ [or] conspiracy to commit[,]/ [or] solicitation to commit[,]/ [or] conviction of[,]/ [or] (Having/having) a juvenile petition sustained for commission of) (any combination of two or more of the following crimes/[.,] [or] two or more occurrences of [one or more of the following crimes]:) \_\_\_\_\_ *<insert one or more crimes listed in Pen. Code, § 186.22(e)(1)>;***
- 2. At least one of those crimes was committed after September 26, 1988;**

3. The most recent crime occurred within three years of one of the earlier crimes and within three years of the date of the charged offense;
4. The crimes were committed on separate occasions or were personally committed by two or more members;
5. The crimes commonly benefitted a criminal street gang;

AND

6. The common benefit from the crimes was more than reputational.

Examples of a common benefit that are more than reputational may include, but are not limited to, financial gain or motivation, retaliation, targeting a perceived or actual gang rival, or intimidation or silencing of a potential current or previous witness or informant.

As used here, members collectively engage in or have engaged in a pattern of criminal gang activity when the crimes that make up the pattern of criminal gang activity can be connected to the gang as a whole. Collective engagement requires a connection between the crimes and the gang's organizational structure or manner of governance, its primary activities, or its common goals and principles.

*<Give this paragraph only when the conduct that establishes the pattern of criminal gang activity, i.e., predicate offenses, has not resulted in a conviction or sustained juvenile petition.>*

[To decide whether a member of the gang [or the defendant] committed \_\_\_\_\_ *<insert felony or felonies from Pen. Code, § 186.22(e)(1)>*, please refer to the separate instructions that I (will give/have given) you on (that/those) crime[s].]

The People need not prove that every perpetrator involved in the pattern of criminal gang activity, if any, was a member of the alleged criminal street gang at the time when such activity was taking place.

[If you find the defendant guilty of a crime in this case, you may consider that crime in deciding whether one of the group's primary activities was commission of that crime.]

[You may not consider evidence of the charged offense[s] in deciding whether a pattern of criminal gang activity has been established.]

[You may not find that there was a pattern of criminal gang activity unless all of you agree that two or more crimes that satisfy these requirements were committed, but you do not have to all agree on which crimes were committed.]

As the term is used here, a *willful act* is one done willingly or on purpose.

*Felonious criminal conduct* means committing or attempting to commit [any of] the following crime[s]: \_\_\_\_\_ <insert felony or felonies by gang members that the defendant is alleged to have furthered, assisted, promoted or directly committed>.

[To decide whether a member of the gang [or the defendant] committed \_\_\_\_\_ <insert felony or felonies listed immediately above>, please refer to the separate instructions that I (will give/have given) you on (that/those) crime[s].]

To prove that the defendant aided and abetted felonious criminal conduct by a member of the gang, the People must prove that:

1. A member of the gang committed the crime;
2. The defendant knew that the gang member intended to commit the crime;
3. Before or during the commission of the crime, the defendant intended to aid and abet the gang member in committing the crime;

AND

4. The defendant's words or conduct did in fact aid and abet the commission of the crime.

Someone *aids and abets* a crime if he or she knows of the perpetrator's unlawful purpose and he or she specifically intends to, and does in fact, aid, facilitate, promote, encourage, or instigate the perpetrator's commission of that crime.



[If all of these requirements are proved, the defendant does not need to actually have been present when the crime was committed to be guilty as an aider and abettor.]

[If you conclude that defendant was present at the scene of the crime or failed to prevent the crime, you may consider that fact in determining whether the defendant was an aider and abettor. However, the fact that a person is present at the scene of a crime or fails to prevent the crime does not, by itself, make him or her an aider and abettor.]

[A person who aids and abets a crime is not guilty of that crime if he or she withdraws before the crime is committed. To withdraw, a person must do two things:

1. He or she must notify everyone else he or she knows is involved in the commission of the crime that he or she is no longer participating. The notification must be made early enough to prevent the commission of the crime;

AND

2. He or she must do everything reasonably within his or her power to prevent the crime from being committed. He or she does not have to actually prevent the crime.

The People have the burden of proving beyond a reasonable doubt that the defendant did not withdraw. If the People have not met this burden, you may not find the defendant guilty under an aiding and abetting theory.]

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*New January 2006; Revised August 2006, June 2007, December 2008, August 2012, February 2013, August 2013, February 2014, August 2014, February 2016, March 2022, March 2023, September 2024*

## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to give an instruction defining the elements of the crime.

In the definition of “felonious criminal conduct,” insert the felony or felonies the defendant allegedly aided and abetted. (See *People v. Green* (1991) 227 Cal.App.3d 692, 704 [278 Cal.Rptr. 140] [abrogated on other grounds by *People v. Castenada* (2000) 23 Cal.4th 743, 747–748 [97 Cal.Rptr.2d 906, 3 P.3d 278]]<sup>1</sup>.)

Note that a defendant’s misdemeanor conduct in the charged case, which is

elevated to a felony by operation of Penal Code section 186.22(a), is not sufficient to satisfy the felonious criminal conduct requirement of an active gang participation offense charged under subdivision (a) of section 186.22 or of active gang participation charged as an element of felony firearm charges under section 12025(b)(3) or 12031(a)(2)(C). *People v. Lamas* (2007) 42 Cal.4th 516, 524 [67 Cal.Rptr.3d 179, 169 P.3d 102].

The court should also give the appropriate instructions defining the elements of crimes inserted in the list of alleged “primary activities” or inserted in the definition of “pattern of criminal gang activity” that have not been established by prior convictions or sustained juvenile petitions. The court should also give the appropriate instructions defining the elements of all crimes inserted in the definition of “felonious criminal conduct.”

~~There is a split in authority over the meaning of “collectively.” (Compare *People v. Delgado* (2022) 74 Cal.App.5th 1067 [290 Cal.Rptr.3d 189] [two or more gang members must have committed each predicate offense]; *People v. Clark* (2022) 81 Cal.App.5th 133 [296 Cal.Rptr.3d 153] [pattern of criminal gang activity may be established either by (1) two gang members who separately committed crimes on different occasions, or (2) two gang members who committed a crime together on a single occasion], review granted October 19, 2022, S275746.)~~

On request, give the bracketed paragraph that begins with “The People do not need to prove that the defendant devoted all or a substantial part of . . . .” (See Pen. Code, § 186.22(j).)

On request, give the bracketed paragraph that begins with “If you find the defendant guilty of a crime in this case.” (*People v. Sengpadychith* (2001) 26 Cal.4th 316, 322–323 [109 Cal.Rptr.2d 851, 27 P.3d 739]; *People v. Duran* (2002) 97 Cal.App.4th 1448, 1464–1465 [119 Cal.Rptr.2d 272].)

On request, give the bracketed paragraph that begins with “You may not find that there was a pattern of criminal gang activity.” (*People v. Funes* (1994) 23 Cal.App.4th 1506, 1527–1528 [28 Cal.Rptr.2d 758]; see also Related Issues section below on Unanimity.)

On request, the court must give a limiting instruction on the gang evidence. (*People v. Hernandez* (2004) 33 Cal.4th 1040, 1051–1052 [16 Cal.Rptr.3d 880, 94 P.3d 1080].) If requested, give CALCRIM No. 1403, *Limited Purpose of Evidence of Gang Activity*.

If the defendant is charged with other counts that do not require gang evidence as an element, the court must try the Penal Code section 186.22(a) count separately. (Pen. Code, § 1109(b).)

### ***Defenses—Instructional Duty***

If there is evidence that the defendant was merely present at the scene or only had knowledge that a crime was being committed, the court has a **sua sponte** duty to give the bracketed paragraph that begins with “If you conclude that defendant was present.” (*People v. Boyd* (1990) 222 Cal.App.3d 541, 557, fn. 14 [271 Cal.Rptr. 738]; *In re Michael T.* (1978) 84 Cal.App.3d 907, 911 [149 Cal.Rptr. 87].)

If there is sufficient evidence that the defendant withdrew, the court has a **sua sponte** duty to give the final bracketed section on the defense of withdrawal.

### ***Related Instructions***

This instruction should be used when a defendant is charged with a violation of Penal Code section 186.22(a) as a substantive offense. If the defendant is charged with an enhancement under 186.22(b), use CALCRIM No. 1401, *Felony or Misdemeanor Committed for Benefit of Criminal Street Gang* (Pen. Code, § 186.22(b)(1) (Felony) and § 186.22(d) (Felony or Misdemeanor)).

For additional instructions relating to liability as an aider and abettor, see the Aiding and Abetting series (CALCRIM No. 400 et seq.).

## **AUTHORITY**

- Elements. Pen. Code, § 186.22(a).
- “Active Participation” Defined. *People v. Castenada, supra*, 23 Cal.4th at p. 747.
- “Criminal Street Gang” Defined. Pen. Code, § 186.22(f).
- “Collectively Engage” Defined. *People v. Clark* (2024) 15 Cal.5th 743, 755–756 [318 Cal.Rptr.3d 152, 542 P.3d 1085].
- “Organized” Defined. *People v. Superior Court (Farley)* (2024) 100 Cal.App.5th 315, 326–333 [319 Cal.Rptr.3d 100]; *People v. Campbell* (2023) 98 Cal.App.5th 350, 380–381 [316 Cal.Rptr.3d 638].
- “Pattern of Criminal Gang Activity” Defined. Pen. Code, § 186.22(e), (g).
- Examples of Common Benefit. Pen. Code, § 186.22(g).
- “Willful” Defined. Pen. Code, § 7(1).
- Applies to Both Perpetrator and Aider and Abettor. *People v. Ngoun* (2001) 88 Cal.App.4th 432, 436 [105 Cal.Rptr.2d 837]; *People v. Castenada, supra*, 23 Cal.4th at pp. 749–750.

- “Felonious Criminal Conduct” Defined. *People v. Albillar* (2010) 51 Cal.4th 47, 54-59 [119 Cal.Rptr.3d 415, 244 P.3d 1062]; *People v. Green, supra*, 227 Cal.App.3d at p. 704.
- Separate Intent From Underlying Felony. *People v. Herrera* (1999) 70 Cal.App.4th 1456, 1467–1468 [83 Cal.Rptr.2d 307].
- Willfully Assisted, Furthered, or Promoted Felonious Criminal Conduct. *People v. Rodriguez* (2012) 55 Cal.4th 1125, 1132-1138 [150 Cal.Rptr.3d 533, 290 P.3d 1143].
- Temporal Connection Between Active Participation and Felonious Criminal Conduct. *People v. Garcia* (2007) 153 Cal.App.4th 1499, 1509 [64 Cal.Rptr.3d 104].
- Crimes Committed After Charged Offense Not Predicates. *People v. Duran, supra*, 97 Cal.App.4th at p. 1458.
- Conspiracy to Commit This Crime. *People v. Johnson* (2013) 57 Cal.4th 250, 255, 266-267 [159 Cal.Rptr.3d 70, 303 P.3d 379].
- Proof of Sufficient Connection Among Gang “Subsets” and Umbrella Gang Required. *People v. Prunty* (2015) 62 Cal.4th 59, 81-85 [192 Cal.Rptr.3d 309, 355 P.3d 480].

## COMMENTARY

The jury may not consider the circumstances of the charged crime to establish a pattern of criminal activity. (Pen. Code, § 186.22(e)(2).) A “pattern of criminal gang activity” requires two or more “predicate offenses” during a statutory time period. Another offense committed on the same occasion by a fellow gang member may serve as a predicate offense. (*People v. Loeun* (1997) 17 Cal.4th 1, 9–10 [69 Cal.Rptr.2d 776, 947 P.2d 1313]; see also *In re Nathaniel C.* (1991) 228 Cal.App.3d 990, 1002–1003 [279 Cal.Rptr. 236] [two incidents each with single perpetrator, or single incident with multiple participants committing one or more specified offenses, are sufficient]; *People v. Ortiz* (1997) 57 Cal.App.4th 480, 484 [67 Cal.Rptr.2d 126].) However, convictions of a perpetrator and an aider and abettor for a single crime establish only one predicate offense (*People v. Zermeno* (1999) 21 Cal.4th 927, 931–932 [89 Cal.Rptr.2d 863, 986 P.2d 196]), and “[c]rimes occurring *after* the charged offense cannot serve as predicate offenses to prove a pattern of criminal gang activity.” (*People v. Duran, supra*, 97 Cal.App.4th at p. 1458 [original italics].) The “felonious criminal conduct” need not be gang-related. (*People v. Albillar, supra*, 51 Cal.4th at pp. 54-59.)

## LESSER INCLUDED OFFENSES

### *Predicate Offenses Not Lesser Included Offenses*

The predicate offenses that establish a pattern of criminal gang activity are not lesser included offenses of active participation in a criminal street gang. (*People v. Burnell* (2005) 132 Cal.App.4th 938, 944–945 [34 Cal.Rptr.3d 40].)

## RELATED ISSUES

### *Conspiracy*

Anyone who actively participates in a criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, assists, or benefits from any felonious criminal conduct by the members, is guilty of conspiracy to commit that felony. (Pen. Code, § 182.5; see Pen. Code, § 182; CALCRIM No. 415, *Conspiracy*.)

### *Labor Organizations or Mutual Aid Activities*

The California Street Terrorism Enforcement and Prevention Act does not apply to labor organization activities or to employees engaged in activities for their mutual aid and protection. (Pen. Code, § 186.23.)

### *Related Gang Crimes*

Soliciting or recruiting others to participate in a criminal street gang, or threatening someone to coerce them to join or prevent them from leaving a gang, are separate crimes. (Pen. Code, § 186.26.) It is also a crime to supply a firearm to someone who commits a specified felony while participating in a criminal street gang. (Pen. Code, § 186.28.)

### *Unanimity*

The “continuous-course-of-conduct exception” applies to the “pattern of criminal gang activity” element of Penal Code section 186.22(a). Thus the jury is not required to unanimously agree on which two or more crimes constitute a pattern of criminal activity. (*People v. Funes, supra*, 23 Cal.App.4th at pp. 1527–1528.)

## SECONDARY SOURCES

2 Witkin & Epstein, Cal. Criminal Law (4th ed. 2012) Crimes Against Public Peace and Welfare, §§ 31-46.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.03 (Matthew Bender).

**1401. Felony or Misdemeanor Committed for Benefit of Criminal Street Gang (Pen. Code, § 186.22(b)(1) (Felony) and § 186.22(d) (Felony or Misdemeanor))**

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If you find the defendant guilty of the crime[s] charged in Count[s] \_\_[,], [or of attempting to commit (that/those crime[s])][,][or the lesser offense[s] of \_\_\_\_\_ *<insert lesser offense[s]>*], you must then decide whether[, for each crime,] the People have proved the additional allegation that the defendant committed that crime (for the benefit of[,]/ at the direction of[,]/ [or] in association with) a criminal street gang. [You must decide whether the People have proved this allegation for each crime and return a separate finding for each crime.]

[You must also decide whether the crime[s] charged in Count[s] \_\_\_\_ (was/were) committed on the grounds of, or within 1,000 feet of a public or private (elementary/ [or] vocational/ [or] junior high/ [or] middle/ [or] high) school open to or being used by minors for classes or school-related programs at the time.]

To prove this allegation, the People must prove that:

1. The defendant (committed/ [or] attempted to commit) the crime (for the benefit of[,]/ at the direction of[,]/ [or] in association with) a criminal street gang;

**AND**

2. The defendant intended to assist, further, or promote criminal conduct by gang members.

To benefit, promote, further, or assist means to provide a common benefit to members of a gang where the common benefit is more than reputational. Examples of a common benefit that are more than reputational may include, but are not limited to, financial gain or motivation, retaliation, targeting a perceived or actual gang rival, or intimidation or silencing of a potential current or previous witness or informant.

*<If criminal street gang has already been defined>*

[A criminal street gang is defined in another instruction to which you should refer.]



*<If criminal street gang has not already been defined in another instruction>*  
**[A criminal street gang is an ongoing organized association or group of three or more persons, whether formal or informal:**

- 1. That has a common name or common identifying sign or symbol;**
- 2. That has, as one or more of its primary activities, the commission of \_\_\_\_\_ *<insert one or more crimes listed in Pen. Code, § 186.22(e)(1)>*;**

**AND**

- 3. Whose members collectively engage in or have engaged in a pattern of criminal gang activity.**

**In order to qualify as a *primary* activity, the crime must be one of the group's chief or principal activities rather than an occasional act committed by one or more persons who happen to be members of the group.]**

*<Give this paragraph only when the conduct that establishes the pattern of criminal gang activity, i.e., predicate offenses, has not resulted in a conviction or sustained juvenile petition.>*

**[To decide whether the organized association or group has, as one of its primary activities, the commission of \_\_\_\_\_ *<insert felony or felonies from Pen. Code, § 186.22(e)(1)>*, please refer to the separate instructions that I (will give/have given) you on (that/those) crime[s].]**

**A *pattern of criminal gang activity*, as used here, means:**

- 1. [The] (commission of[,]/ [or] attempted commission of[,]/ [or] conspiracy to commit[,]/ [or] solicitation to commit[,]/ [or] conviction of[,]/ [or] (Having/having) a juvenile petition sustained for commission of) (any combination of two or more of the following crimes/[,,][or] two or more occurrences of [one or more of the following crimes]:) \_\_\_\_\_ *<insert one or more crimes listed in Pen. Code, § 186.22(e)(1)>*;**
- 2. At least one of those crimes was committed after September 26, 1988;**
- 3. The most recent crime occurred within three years of one of the earlier crimes and within three years of the date of the charged offense;**



4. The crimes were committed on separate occasions or were personally committed by two or more members;
5. The crimes commonly benefitted a criminal street gang;

AND

6. The common benefit from the crimes was more than reputational.

As used here, members collectively engage in or have engaged in a pattern of criminal gang activity when the crimes that make up the pattern of criminal gang activity can be connected to the gang as a whole. Collective engagement requires a connection between the crimes and the gang's organizational structure or manner of governance, its primary activities, or its common goals and principles.

*<Give this paragraph only when the conduct that establishes the pattern of criminal gang activity, i.e., predicate offenses, has not resulted in a conviction or sustained juvenile petition.>*

[To decide whether a member of the gang [or the defendant] committed \_\_\_\_\_ *<insert felony or felonies from Pen. Code, § 186.22(e)(1)>*, please refer to the separate instructions that I (will give/have given) you on (that/those) crime[s].]

[The People need not prove that the defendant is an active or current member of the alleged criminal street gang.]

[If you find the defendant guilty of a crime in this case, you may consider that crime in deciding whether one of the group's primary activities was commission of that crime.]

[You may not consider evidence of the charged offense[s] in deciding whether a pattern of criminal gang activity has been established.]

[You may not find that there was a pattern of criminal gang activity unless all of you agree that two or more crimes that satisfy these requirements were committed, but you do not have to all agree on which crimes were committed.]

The People have the burden of proving each allegation beyond a reasonable doubt. If the People have not met this burden, you must find that the allegation has not been proved.

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New January 2006; Revised August 2006, June 2007, April 2008, December 2008, August 2012, February 2013, August 2013, February 2014, February 2016, March 2022, March 2023, September 2024

## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to give this instruction defining the elements of the sentencing enhancement. (*People v. Sengpadychith* (2001) 26 Cal.4th 316, 327 [109 Cal.Rptr.2d 851, 27 P.3d 739]; *Apprendi v. New Jersey* (2000) 530 U.S. 466, 475–476, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)

The court should also give the appropriate instructions defining the elements of crimes inserted in the list of alleged “primary activities,” or the definition of “pattern of criminal gang activity” that have not been established by prior convictions or sustained juvenile petitions.

~~There is a split in authority over the meaning of “collectively.” (Compare *People v. Delgado* (2022) 74 Cal.App.5th 1067 [290 Cal.Rptr.3d 189] [two or more gang members must have committed each predicate offense]; *People v. Clark* (2022) 81 Cal.App.5th 133 [296 Cal.Rptr.3d 153] [pattern of criminal gang activity may be established either by (1) two gang members who separately committed crimes on different occasions, or (2) two gang members who committed a crime together on a single occasion], review granted October 19, 2022, S275746.)~~

On request, give the bracketed paragraph that begins with “If you find the defendant guilty of a crime in this case.” (*People v. Sengpadychith, supra*, 26 Cal.4th at pp. 322–323; *People v. Duran* (2002) 97 Cal.App.4th 1448, 1464–1465 [119 Cal.Rptr.2d 272].)

On request, give the bracketed paragraph that begins with “You may not find that there was a pattern of criminal gang activity.” (*People v. Funes* (1994) 23 Cal.App.4th 1506, 1527–1528 [28 Cal.Rptr.2d 758]; see also Related Issues section below on Unanimity.)

On request, the court must give a limiting instruction on the gang evidence. (*People v. Hernandez* (2004) 33 Cal.4th 1040, 1051–1052 [16 Cal.Rptr.3d 880, 94 P.3d 1080].) If requested, give CALCRIM No. 1403, *Limited Purpose of Gang Evidence*.

The court must bifurcate the trial on the gang enhancement upon request of the defense. (Pen. Code, § 1109(a).) If the trial is bifurcated, give CALCRIM No. 221, *Reasonable Doubt: Bifurcated Trial*.

### *Related Instructions*

CALCRIM No. 1400, *Active Participation in Criminal Street Gang*.

## AUTHORITY

- Enhancement. Pen. Code, § 186.22(b)(1).
- “Specific Intent” Defined. *People v. Albillar* (2010) 51 Cal.4th 47, 64–68 [119 Cal.Rptr.3d 415, 244 P.3d 1062].
- “Criminal Street Gang” Defined. Pen. Code, § 186.22(f).
- “Collectively Engage” Defined. *People v. Clark* (2024) 15 Cal.5th 743, 755–756 [318 Cal.Rptr.3d 152, 542 P.3d 1085].
- “Organized” Defined. *People v. Superior Court (Farley)* (2024) 100 Cal.App.5th 315, 326–333 [319 Cal.Rptr.3d 100]; *People v. Campbell* (2023) 98 Cal.App.5th 350, 380–381 [316 Cal.Rptr.3d 638].
- “Pattern of Criminal Gang Activity” Defined. Pen. Code, § 186.22(e), (g); see *People v. Zermeno* (1999) 21 Cal.4th 927, 931–932 [89 Cal.Rptr.2d 863, 986 P.2d 196] [conviction of perpetrator and aider and abettor for single crime establishes only single predicate offense].
- “To Benefit, Promote, Further, or Assist” Defined. Pen. Code, § 186.22(g).
- Active or Current Participation in Gang Not Required. *In re Ramon T.* (1997) 57 Cal.App.4th 201, 207 [66 Cal.Rptr.2d 816].
- “Primary Activities” Defined. *People v. Sengpadychith, supra*, 26 Cal.4th at pp. 323–324.
- Defendant Need Not Act With Another Gang Member. *People v. Rodriguez* (2012) 55 Cal.4th 1125, 1138–1139 [150 Cal.Rptr.3d 533].
- Crimes Committed After Charged Offense Not Predicates. *People v. Duran, supra*, 97 Cal.App.4th at p. 1458.
- Proof of Sufficient Connection Among Gang “Subsets” and Umbrella Gang Required. *People v. Prunty* (2015) 62 Cal.4th 59, 81–85 [192 Cal.Rptr.3d 309, 355 P.3d 480].
- Evidence Required for Gang Member Acting Alone. *People v. Renteria* (2022) 13 Cal.5th 951, 969 [297 Cal.Rptr.3d 344, 515 P.3d 77].

## RELATED ISSUES

### *Commission On or Near School Grounds*

In imposing a sentence under Penal Code section 186.22(b)(1), it is a circumstance in aggravation if the defendant’s underlying felony was committed on or within 1,000 feet of specified schools. (Pen. Code, § 186.22(b)(2).)

### ***Enhancements for Multiple Gang Crimes***

Separate criminal street gang enhancements may be applied to gang crimes committed against separate victims at different times and places, with multiple criminal intents. (*People v. Akins* (1997) 56 Cal.App.4th 331, 339–340 [65 Cal.Rptr.2d 338].)

### ***Wobblers***

Specific punishments apply to any person convicted of an offense punishable as a felony or a misdemeanor that is committed for the benefit of a criminal street gang and with the intent to promote criminal conduct by gang members. (See Pen. Code, § 186.22(d); see also *Robert L. v. Superior Court* (2003) 30 Cal.4th 894, 909 [135 Cal.Rptr.2d 30, 69 P.3d 951].) However, the felony enhancement provided by Penal Code section 186.22(b)(1) cannot be applied to a misdemeanor offense made a felony pursuant to section 186.22(d). (*People v. Arroyas* (2002) 96 Cal.App.4th 1439, 1449 [118 Cal.Rptr.2d 380].)

### ***Murder—Enhancements Under Penal Code Section 186.22(b)(1) May Not Apply at Sentencing***

The enhancements provided by Penal Code section 186.22(b)(1) do not apply to crimes “punishable by imprisonment in the state prison for life . . .” (Pen. Code, § 186.22(b)(5); *People v. Lopez* (2005) 34 Cal.4th 1002, 1004 [22 Cal.Rptr.3d 869, 103 P.3d 270].) Thus, the 10-year enhancement provided by Penal Code section 186.22(b)(1)(C) for a violent felony committed for the benefit of the street gang may not apply in some sentencing situations involving the crime of murder.

### ***Conspiracy—Alternate Penalty Provisions Under Penal Code Section 186.22(b)(4)***

The alternate penalty provisions provided by Penal Code section 186.22(b)(4) apply only to completed target offenses, not to conspiracies. (*People v. Lopez* (2022) 12 Cal.5th 957, 975 [292 Cal.Rptr.3d 265, 507 P.3d 925].)

See also the Related Issues section to CALCRIM No. 1400, *Active Participation in Criminal Street Gang*.

## **SECONDARY SOURCES**

2 Witkin & Epstein, Cal. Criminal Law (4th ed. 2012) Crimes Against Public Peace and Welfare, § 40.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.43 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.03 (Matthew Bender).

**2140. Failure to Perform Duty Following Accident: Death or Injury—  
Defendant Driver (Veh. Code, §§ 20001, 20003 & 20004)**

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The defendant is charged [in Count \_\_] with failing to perform a legal duty following a vehicle accident that caused (death/ [or] [permanent] injury) to another person [in violation of \_\_\_\_\_ *<insert appropriate code section[s]>*].

To prove that the defendant is guilty of this crime, the People must prove that:

1. While driving, the defendant was involved in a vehicle accident;
2. The accident caused (the death of/ [or] [permanent, serious] injury to) someone else;
3. The defendant knew that (he/she) had been involved in an accident that injured another person [or knew from the nature of the accident that it was probable that another person had been injured];

**AND**

4. The defendant willfully failed to perform one or more of the following duties:
  - (a) To immediately stop at the scene of the accident;
  - (b) To provide reasonable assistance to any person injured in the accident;
  - (c) To give to (the person struck/the driver or occupants of any vehicle collided with) or any peace officer at the scene of the accident all of the following information:

- The defendant's name and current residence address;

[AND]

- The registration number of the vehicle (he/she) was driving(;/.)

<Give following sentence if defendant not owner of vehicle.>

**[[AND]**

- **The name and current residence address of the owner of the vehicle if the defendant is not the owner(;/.)]**

<Give following sentence if occupants of defendant's vehicle were injured.>

**[AND]**

- **The names and current residence addresses of any occupants of the defendant's vehicle who were injured in the accident.]**

**[AND]**

- (d) **When requested, to show (his/her) driver's license if available, to (the person struck/the driver or occupants of any vehicle collided with) or any peace officer at the scene of the accident(;/.)**

<Give element 4(e) if accident caused death.>

**[AND]**

- (e) **The driver must, without unnecessary delay, notify either the police department of the city where the accident happened or the local headquarters of the California Highway Patrol if the accident happened in an unincorporated area.]**

Someone commits an act *willfully* when he or she does it willingly or on purpose. It is not required that he or she intend to break the law, hurt someone else, or gain any advantage.

The duty to *immediately stop* means that the driver must stop his or her vehicle as soon as reasonably possible under the circumstances.

To *provide reasonable assistance* means the driver must determine what assistance, if any, the injured person needs and make a reasonable effort to see that such assistance is provided, either by the driver or someone else. *Reasonable assistance* includes transporting anyone who has been injured for medical treatment, or arranging the transportation for such treatment, if it is apparent that treatment is necessary or if an injured person requests transportation. [The driver is not required to provide assistance that is

unnecessary or that is already being provided by someone else. However, the requirement that the driver provide assistance is not excused merely because bystanders are on the scene or could provide assistance.]

The driver of a vehicle must perform the duties listed regardless of who was injured and regardless of how or why the accident happened. It does not matter if someone else caused the accident or if the accident was unavoidable.

You may not find the defendant guilty unless all of you agree that the People have proved that the defendant failed to perform at least one of the required duties. You must all agree on which duty the defendant failed to perform.

[To be *involved in a vehicle accident* means to be connected with the accident in a natural or logical manner. It is not necessary for the driver's vehicle to collide with another vehicle or person.]

[When providing his or her name and address, the driver is required to identify himself or herself as the driver of a vehicle involved in the accident.]

[A *permanent, serious injury* is one that permanently impairs the function or causes the loss of any organ or body part.]

[An accident causes (death/ [or] [permanent, serious] injury) if the (death/ [or] injury) is the direct, natural, and probable consequence of the accident and the (death/ [or] injury) would not have happened without the accident. A natural and probable consequence is one that a reasonable person would know is likely to happen if nothing unusual intervenes. In deciding whether a consequence is natural and probable, consider all the circumstances established by the evidence.]

[There may be more than one cause of (death/ [or] [permanent, serious] injury). An accident causes (death/ [or] injury) only if it is a substantial factor in causing the (death/ [or] injury). A *substantial factor* is more than a trivial or remote factor. However, it need not be the only factor that causes the (death/ [or] injury).]

[If the accident caused the defendant to be unconscious or disabled so that (he/she) was not capable of performing the duties required by law, then (he/she) did not have to perform those duties at that time. [However, (he/she) was required to do so as soon as reasonably possible.]]

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New January 2006; Revised August 2006, October 2010, February 2012, March 2019, September 2024\*



## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to give this instruction defining the elements of the crime. Give this instruction if the prosecution alleges that the defendant drove the vehicle. If the prosecution alleges that the defendant was a nondriving owner present in the vehicle or other passenger in control of the vehicle, give CALCRIM No. 2141, *Failure to Perform Duty Following Accident: Death or Injury—Defendant Nondriving Owner or Passenger in Control*.

If causation is at issue, the court has a **sua sponte** duty to instruct on proximate cause. (*People v. Bernhardt* (1963) 222 Cal.App.2d 567, 590–591 [35 Cal.Rptr. 401].) If the evidence indicates that there was only one cause of death or injury, the court should give the “direct, natural, and probable” language in the first bracketed paragraph on causation. If there is evidence of multiple causes of death or injury, the court should also give the “substantial factor” instruction in the second bracketed paragraph on causation. (See *People v. Autry* (1995) 37 Cal.App.4th 351, 363 [43 Cal.Rptr.2d 135]; *People v. Pike* (1988) 197 Cal.App.3d 732, 746–747 [243 Cal.Rptr. 54].)

If the defendant is charged under Vehicle Code section 20001(b)(1) with leaving the scene of an accident causing injury, but not death or permanent, serious injury, delete the words “death” and “permanent, serious” from the instruction. If the defendant is charged under Vehicle Code section 20001(b)(2) with leaving the scene of an accident causing death or permanent, serious injury, use either or both of these options throughout the instruction, depending on the facts of the case. When instructing on both offenses, give this instruction using the words “death” and/or “permanent, serious injury,” and give CALCRIM No. 2142, *Failure to Perform Duty Following Accident: Lesser Included Offense*.

Give bracketed element 4(e) only if the accident caused a death.

Give the bracketed portion that begins with “The driver is not required to provide assistance” if there is an issue over whether assistance by the defendant to the injured person was necessary in light of aid provided by others. (See *People v. Scheer* (1998) 68 Cal.App.4th 1009, 1027 [80 Cal.Rptr.2d 676]; *People v. Scofield* (1928) 203 Cal. 703, 708 [265 P. 914]; see also discussion in the Related Issues section below.)

Give the bracketed paragraph defining “involved in a vehicle accident” if that is an issue in the case.

Give the bracketed paragraph stating that “the driver is required to identify himself or herself as the driver” if there is evidence that the defendant stopped and

identified himself or herself but not in a way that made it apparent to the other parties that the defendant was the driver. (*People v. Kroncke* (1999) 70 Cal.App.4th 1535, 1546 [83 Cal.Rptr.2d 493].)

Give the bracketed paragraph that begins with “If the accident caused the defendant to be unconscious” if there is sufficient evidence that the defendant was unconscious or disabled at the scene of the accident.

On request, give CALCRIM No. 2241, *Driver and Driving Defined*.

## AUTHORITY

- Elements. Veh. Code, §§ 20001, 20003 & 20004.
- Sentence for Death or Permanent Injury. Veh. Code, § 20001(b)(2).
- Sentence for Injury. Veh. Code, § 20001(b)(1).
- Knowledge of Accident and Injury. *People v. Holford* (1965) 63 Cal.2d 74, 79–80 [45 Cal.Rptr. 167, 403 P.2d 423]; *People v. Carter* (1966) 243 Cal.App.2d 239, 241 [52 Cal.Rptr. 207]; *People v. Hamilton* (1978) 80 Cal.App.3d 124, 133–134 [145 Cal.Rptr. 429].
- Neither Voluntary Intoxication Nor Unconsciousness Caused by Voluntary Intoxication Negates Knowledge Element in Vehicle Code Section 20001(a), (c). *People v. Suazo* (2023) 95 Cal.App.5th 681, 703–704 [313 Cal.Rptr.3d 649].
- Willful Failure to Perform Duty. *People v. Crouch* (1980) 108 Cal.App.3d Supp. 14, 21–22 [166 Cal.Rptr. 818].
- Duty Applies Regardless of Fault for Accident. *People v. Scofield*, *supra*, ~~(1928)~~ 203 Cal. at p.703, 708 ~~[265 P. 914]~~.
- “Involved” Defined. *People v. Bammes* (1968) 265 Cal.App.2d 626, 631 [71 Cal.Rptr. 415]; *People v. Sell* (1950) 96 Cal.App.2d 521, 523 [215 P.2d 771].
- “Immediately Stopped” Defined. *People v. Odom* (1937) 19 Cal.App.2d 641, 646–647 [66 P.2d 206].
- Duty to Render Assistance. *People v. Scofield*, *supra*, ~~(1928)~~ 203 Cal. at p.703, 708 ~~[265 P. 914]~~; *People v. Scheer*, *supra*, ~~(1998)~~ 68 Cal.App.4th at p.1009, 1027 ~~[80 Cal.Rptr.2d 676]~~.
- “Permanent, Serious Injury” Defined. Veh. Code, § 20001(d).
- Statute Does Not Violate Fifth Amendment Privilege. *California v. Byers* (1971) 402 U.S. 424, 434 [91 S.Ct. 1535, 29 L.Ed.2d 9].

- Must Identify Self as Driver. *People v. Kroncke*, supra, ~~(1999)~~ 70 Cal.App.4th at p.1535, 1546 ~~[83 Cal.Rptr.2d 493]~~.
- Unanimity Instruction Required. *People v. Scofield*, supra, ~~(1928)~~ 203 Cal. at p.703, 710 ~~[265 P. 914]~~.
- Unconscious Driver Unable to Comply at Scene. *People v. Flores* (1996) 51 Cal.App.4th 1199, 1204 [59 Cal.Rptr.2d 637].
- Offense May Occur on Private Property. *People v. Stansberry* (1966) 242 Cal.App.2d 199, 204 [51 Cal.Rptr. 403].
- Duty Applies to Injured Passenger in Defendant's Vehicle. *People v. Kroncke*, supra, ~~(1999)~~ 70 Cal.App.4th at p.1535, 1546 ~~[83 Cal.Rptr.2d 493]~~.

### LESSER INCLUDED OFFENSES

- Failure to Stop Following Accident—Injury. Veh. Code, § 20001(b)(1).
- Misdemeanor Failure to Stop Following Accident—Property Damage. Veh. Code, § 20002; but see *People v. Carter*, supra, ~~(1966)~~ 243 Cal.App.2d at pp.239, 242–243 ~~[52 Cal.Rptr. 207]~~.

### RELATED ISSUES

#### *Constructive Knowledge of Injury*

“[K]nowledge may be imputed to the driver of a vehicle where the fact of personal injury is visible and obvious or where the seriousness of the collision would lead a reasonable person to assume there must have been resulting injuries.” (*People v. Carter*, supra, ~~(1966)~~ 243 Cal.App.2d at p.239, 241 ~~[52 Cal.Rptr. 207]~~ [citations omitted].)

#### *Accusatory Pleading Alleged Property Damage*

If accusatory pleading alleges property damage, (Veh. Code, § 20002), see *People v. Carter*, supra, ~~(1966)~~ 243 Cal.App.2d at pp.239, 242–243 ~~[52 Cal.Rptr. 207]~~.

#### *Reasonable Assistance*

Failure to render reasonable assistance to an injured person constitutes a violation of the statute. (*People v. Limon* (1967) 252 Cal.App.2d 575, 578 [60 Cal.Rptr. 448].) “In this connection it must be noted that the statute requires that *necessary* assistance be rendered.” (*People v. Scofield*, supra, ~~(1928)~~ 203 Cal. at p.703, 708 ~~[265 P. 914]~~ [emphasis in original].) In *People v. Scofield*, supra, the court held that where other people were caring for the injured person, the defendant’s “assistance was not *necessary*.” (*Id.* at p. 709 [emphasis in original].) An instruction limited to the statutory language on rendering assistance “is

inappropriate where such assistance by the driver is unnecessary, as in the case where paramedics have responded within moments following the accident.” (*People v. Scheer*, ~~*supra*, (1998)~~ 68 Cal.App.4th ~~at p.1009~~, 1027 ~~[80 Cal.Rptr.2d 676]~~.) However, “the driver’s duty to render necessary assistance under Vehicle Code section 20003, at a minimum, requires that the driver first ascertain what assistance, if any, the injured person needs, and then the driver must make a reasonable effort to see that such assistance is provided, whether through himself or third parties.” (*Ibid.*) The presence of bystanders who offer assistance is not alone sufficient to relieve the defendant of the duty to render aid. (*Ibid.*) “[T]he ‘reasonable assistance’ referred to in the statute might be the summoning of aid,” rather than the direct provision of first aid by the defendant. (*People v. Limon*, ~~*supra*, (1967)~~ 252 Cal.App.2d ~~at p.575~~, 578 ~~[60 Cal.Rptr. 448]~~.)

## SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against Public Peace and Welfare, §§ 313-319.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, §§ 91.60[2][b][ii], 91.81[1][d] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, § 140.03, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.02[3A][a] (Matthew Bender).

**2141. Failure to Perform Duty Following Accident: Death or Injury—  
Defendant Nondriving Owner or Passenger in Control (Veh. Code, §§  
20001, 20003 & 20004)**

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The defendant is charged [in Count \_\_] with failing to perform a legal duty following a vehicle accident that caused (death/ [or] [permanent] injury) to another person [in violation of \_\_\_\_\_ <insert appropriate code section[s]>].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant [owned and] was riding as a passenger in a vehicle involved in an accident;
2. At the time of the accident, the defendant had full authority to direct and control the vehicle even though another person was driving the vehicle;
3. The accident caused (the death of/ [or] [permanent, serious] injury to) someone else;
4. The defendant knew that the vehicle had been involved in an accident that injured another person [or knew from the nature of the accident that it was probable that another person had been injured];

**AND**

5. The defendant willfully failed to perform one or more of the following duties:
  - (a) To cause the driver of the vehicle to immediately stop at the scene of the accident;
  - (b) When requested, to show (his/her) driver's license, or any other available identification, to (the person struck/ the driver or occupants of any vehicle collided with) or any peace officer at the scene of the accident;

**(c) To provide reasonable assistance to any person injured in the accident;**

**[OR]**

**(d) To give to (the person struck/the driver or occupants of any vehicle collided with) or any peace officer at the scene of the accident all of the following information:**

- **The defendant's name and current residence address;**
- **The registration number of the vehicle (he/she) (owned/ was a passenger in);**

**[AND]**

- **The name and current residence address of the driver of the vehicle(;/.)**

*<Give following sentence if defendant not owner of vehicle.>*

**[[AND]**

- **The name and current residence address of the owner of the vehicle if the defendant is not the owner(;/.)]**

*<Give following sentence if occupants of defendant's vehicle were injured.>*

**[AND]**

- **The names and current residence addresses of any occupants of the defendant's vehicle who were injured in the accident(;/.)]**

*<Give element 5(e) if accident caused death.>*

**[OR]**

**(e) The driver must, without unnecessary delay, notify either the police department of the city where the accident happened or the local headquarters of the California Highway Patrol if the accident happened in an unincorporated area.]**

Someone commits an act *willfully* when he or she does it willingly or on purpose. It is not required that he or she intend to break the law, hurt someone else, or gain any advantage.

The duty to *immediately stop* means that the (owner/passenger in control) must cause the vehicle he or she is a passenger in to stop as soon as reasonably possible under the circumstances.

To *provide reasonable assistance* means the (owner/passenger in control) must determine what assistance, if any, the injured person needs and make a reasonable effort to see that such assistance is provided, either by the (owner/passenger in control) or someone else. *Reasonable assistance* includes transporting anyone who has been injured for medical treatment, or arranging the transportation for such treatment, if it is apparent that treatment is necessary or if an injured person requests transportation. [The (owner/passenger in control) is not required to provide assistance that is unnecessary or that is already being provided by someone else. However, the requirement that the (owner/passenger in control) provide assistance is not excused merely because bystanders are on the scene or could provide assistance.]

The (owner/passenger in control) of a vehicle must perform the duties listed regardless of who was injured and regardless of how or why the accident happened. It does not matter if someone else caused the accident or if the accident was unavoidable.

You may not find the defendant guilty unless all of you agree that the People have proved that the defendant failed to perform at least one of the required duties. You must all agree on which duty the defendant failed to perform.

[To be *involved in an accident* means to be connected with the accident in a natural or logical manner. It is not necessary for the vehicle to collide with another vehicle or person.]

[A *permanent, serious injury* is one that permanently impairs the function or causes the loss of any organ or body part.]

[An accident causes (death/ [or] [permanent, serious] injury) if the (death/ [or] injury) is the direct, natural, and probable consequence of the accident and the (death/ [or] injury) would not have happened without the accident. A natural and probable consequence is one that a reasonable person would know is likely to happen if nothing unusual intervenes. In deciding whether a



consequence is natural and probable, consider all the circumstances established by the evidence.]

[There may be more than one cause of (death/ [or] [permanent, serious] injury). An accident causes (death/ [or] injury) only if it is a substantial factor in causing the (death/ [or] injury). A *substantial factor* is more than a trivial or remote factor. However, it need not be the only factor that causes the (death/ [or] injury).]

[If the accident caused the defendant to be unconscious or disabled so that (he/she) was not capable of performing the duties required by law, then (he/she) did not have to perform those duties at that time. [However, (he/she) was required to do so as soon as reasonably possible.]]

[If the defendant told the driver to stop and made a reasonable effort to stop the vehicle, but the driver refused, then the defendant is not guilty of this crime.]

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*New January 2006; Revised October 2010, September 2024\**

*\* Denotes changes only to bench notes and other commentaries.*

## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to give this instruction defining the elements of the crime. Give this instruction if the prosecution alleges that the defendant was a nondriving owner present in the vehicle or other passenger in control. If the prosecution alleges that the defendant drove the vehicle, give CALCRIM No. 2140, *Failure to Perform Duty Following Accident: Death or Injury—Defendant Driver*.

If causation is at issue, the court has a **sua sponte** duty to instruct on proximate cause. (*People v. Bernhardt* (1963) 222 Cal.App.2d 567, 590–591 [35 Cal.Rptr. 401].) If the evidence indicates that there was only one cause of death or injury, the court should give the “direct, natural, and probable” language in the first bracketed paragraph on causation. If there is evidence of multiple causes of death or injury, the court should also give the “substantial factor” instruction in the second bracketed paragraph on causation. (See *People v. Autry* (1995) 37 Cal.App.4th 351, 363 [43 Cal.Rptr.2d 135]; *People v. Pike* (1988) 197 Cal.App.3d 732, 746–747 [243 Cal.Rptr. 54].)

If the defendant is charged under Vehicle Code section 20001(b)(1) with leaving the scene of an accident causing injury, but not death or permanent, serious injury, delete the words “death” and “permanent, serious” from the instruction. If the

defendant is charged under Vehicle Code section 20001(b)(2) with leaving the scene of an accident causing death or permanent, serious injury, use either or both of these options throughout the instruction, depending on the facts of the case. When instructing on both offenses, give this instruction using the words “death” and/or “permanent, serious injury,” and give CALCRIM No. 2142, *Failure to Perform Duty Following Accident: Lesser Included Offense*.

Give bracketed element 5(e) only if the accident caused a death.

Give the bracketed portion that begins with “The (owner/passenger in control) is not required to provide assistance” if there is an issue over whether assistance by the defendant to the injured person was necessary in light of aid provided by others. (See *People v. Scheer* (1998) 68 Cal.App.4th 1009, 1027 [80 Cal.Rptr.2d 676]; *People v. Scofield* (1928) 203 Cal. 703, 708 [265 P. 914]; see also discussion in the Related Issues section of CALCRIM No. 2140, *Failure to Perform Duty Following Accident: Death or Injury—Defendant Driver*.)

Give the bracketed paragraph defining “involved in an accident” if that is an issue in the case.

Give the bracketed paragraph that begins with “If the accident caused the defendant to be unconscious” if there is sufficient evidence that the defendant was unconscious or disabled at the scene of the accident.

Give the bracketed paragraph that begins with “If the defendant told the driver to stop” if there is sufficient evidence that the defendant attempted to cause the vehicle to be stopped.

## AUTHORITY

- Elements. Veh. Code, §§ 20001, 20003 & 20004.
- Sentence for Death or Permanent Injury. Veh. Code, § 20001(b)(2).
- Knowledge of Accident and Injury. *People v. Holford* (1965) 63 Cal.2d 74, 79–80 [45 Cal.Rptr. 167, 403 P.2d 423]; *People v. Carter* (1966) 243 Cal.App.2d 239, 241 [52 Cal.Rptr. 207]; *People v. Hamilton* (1978) 80 Cal.App.3d 124, 133–134 [145 Cal.Rptr. 429].
- Neither Voluntary Intoxication Nor Unconsciousness Caused by Voluntary Intoxication Negates Knowledge Element in Vehicle Code Section 20001(a), (c). *People v. Suazo* (2023) 95 Cal.App.5th 681, 703–704 [313 Cal.Rptr.3d 649].
- Willful Failure to Perform Duty. *People v. Crouch* (1980) 108 Cal.App.3d Supp. 14, 21–22 [166 Cal.Rptr. 818].

- Duty Applies Regardless of Fault for Accident. *People v. Scofield*, supra, ~~(1928)~~ 203 Cal. at p.703, 708 ~~[265 P. 914]~~.
- “Involved” Defined. *People v. Bammes* (1968) 265 Cal.App.2d 626, 631 [71 Cal.Rptr. 415]; *People v. Sell* (1950) 96 Cal.App.2d 521, 523 [215 P.2d 771].
- “Immediately Stopped” Defined. *People v. Odom* (1937) 19 Cal.App.2d 641, 646–647 [66 P.2d 206].
- Duty to Render Assistance. *People v. Scofield*, supra, ~~(1928)~~ 203 Cal. at p.703, 708 ~~[265 P. 914]~~; *People v. Scheer*, supra, ~~(1998)~~ 68 Cal.App.4th at p.1009, 1027 ~~[80 Cal.Rptr.2d 676]~~.
- “Permanent, Serious Injury” Defined. Veh. Code, § 20001(d).
- Nondriving Owner. *People v. Rallo* (1931) 119 Cal.App. 393, 397 [6 P.2d 516].
- Statute Does Not Violate Fifth Amendment Privilege. *California v. Byers* (1971) 402 U.S. 424, 434 [91 S.Ct. 1535, 29 L.Ed.2d 9].
- Unanimity Instruction Required. *People v. Scofield*, supra, ~~(1928)~~ 203 Cal. at p.703, 710 ~~[265 P. 914]~~.
- Unconscious Driver Unable to Comply at Scene. *People v. Flores* (1996) 51 Cal.App.4th 1199, 1204 [59 Cal.Rptr.2d 637].
- Offense May Occur on Private Property. *People v. Stansberry* (1966) 242 Cal.App.2d 199, 204 [51 Cal.Rptr. 403].
- Duty Applies to Injured Passenger in Defendant’s Vehicle. *People v. Kroncke* (1999) 70 Cal.App.4th 1535, 1546 [83 Cal.Rptr.2d 493].

## LESSER INCLUDED OFFENSES

- Failure to Stop Following Accident—Injury. Veh. Code, § 20001(b)(1).
- Misdemeanor Failure to Stop Following Accident—Property Damage. Veh. Code, § 20002; but see *People v. Carter*, supra, ~~(1966)~~ 243 Cal.App.2d at pp.239, 242–243 ~~[52 Cal.Rptr. 207]~~.

## RELATED ISSUES

See the Related Issues section in CALCRIM No. 2140, *Failure to Perform Duty Following Accident: Death or Injury—Defendant Driver*.

## SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against Public Peace and Welfare, §§ 313–319.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, § 140.03 (Matthew Bender).

**2142. Failure to Perform Duty Following Accident: Lesser Included Offense (Veh. Code, §§ 20001, 20003 & 20004)**

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The crime[s] of (failing to perform a legal duty following a vehicle accident that caused injury/ [and] failing to perform a legal duty following a vehicle accident that caused property damage) (is a/are) lesser crime[s] than failing to perform a legal duty following a vehicle accident that caused (death/ [or] permanent, serious injury).

The People have the burden of proving beyond a reasonable doubt that the defendant committed the crime of failing to perform a legal duty following a vehicle accident that caused (death/ [or] permanent, serious injury) rather than a lesser offense. If the People have not met this burden, you must find the defendant not guilty of failing to perform a legal duty following a vehicle accident that caused (death/ [or] permanent, serious injury). You must consider whether the defendant is guilty of the lesser crime[s] of [failing to perform a legal duty following a vehicle accident that caused injury] [or] [failing to perform a legal duty following a vehicle accident that caused property damage].

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*New January 2006; Revised September 2024\**

*\* Denotes changes only to bench notes and other commentaries.*

**BENCH NOTES**

***Instructional Duty***

Give this instruction when: (1) the defendant is charged with leaving the scene of an accident resulting in death or permanent, serious injury and the court is instructing on the lesser offense of leaving the scene of an accident resulting in injury, and/or leaving the scene of an accident resulting in property damage; or (2) when the defendant is charged with leaving the scene of an accident resulting in injury and the court is instructing on the lesser offense of leaving the scene of an accident resulting in property damage.

**AUTHORITY**

- Elements. Veh. Code, §§ 20001, 20003 & 20004.
- Sentence for Death or Permanent Injury. Veh. Code, § 20001(b)(2).
- Sentence for Injury. Veh. Code, § 20001(b)(1).

- “Permanent, Serious Injury” Defined. Veh. Code, § 20001(d).
- Neither Voluntary Intoxication Nor Unconsciousness Caused by Voluntary Intoxication Negates Knowledge Element in Vehicle Code Section 20001(a), (c). *People v. Suazo* (2023) 95 Cal.App.5th 681, 703–704 [313 Cal.Rptr.3d 649].

## RELATED ISSUES

See the Related Issues section in CALCRIM No. 2140, *Failure to Perform Duty Following Accident: Death or Injury—Defendant Driver*.

## SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against Public Peace and Welfare, §§ 313–319.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, § 140.03 (Matthew Bender).

**2160. Fleeing the Scene Following Accident: Enhancement for Vehicular Manslaughter (Veh. Code, § 20001(c))**

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If you find the defendant guilty of vehicular manslaughter [as a felony] [under Count \_\_], you must then decide whether the People have proved the additional allegation that the defendant fled the scene of the accident after committing vehicular manslaughter [in violation of Vehicle Code section 20001(c)].

To prove this allegation, the People must prove that:

1. The defendant knew that (he/she) had been involved in an accident that injured another person [or knew from the nature of the accident that it was probable that another person had been injured];

**AND**

2. The defendant willfully fled the scene of the accident.

Someone commits an act *willfully* when he or she does it willingly or on purpose. It is not required that he or she intend to break the law, hurt someone else, or gain any advantage.

[To be *involved in an accident* means to be connected with the accident in a natural or logical manner. It is not necessary for the driver's vehicle to collide with another vehicle or person.]

The People have the burden of proving this allegation beyond a reasonable doubt. If the People have not met this burden, you must find that this allegation has not been proved.

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*New January 2006; Revised February 2013, September 2024\**

*\* Denotes changes only to bench notes and other commentaries.*

**BENCH NOTES**

***Instructional Duty***

The court has a **sua sponte** duty to give this instruction defining the elements of the sentencing factor. (See *Apprendi v. New Jersey* (2000) 530 U.S. 466, 475–476, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)



Give this instruction if the defendant is charged with an enhancement under Vehicle Code section 20001(c). This enhancement only applies to felony vehicular manslaughter convictions (Pen. Code, §§ 191.5, 192(c)(1) & (3), and 192.5(a) & (c)) and must be pleaded and proved. (Veh. Code, § 20001(c).) Give the bracketed “felony” in the introductory paragraph if the jury is also being instructed on misdemeanor vehicular manslaughter.

Give the bracketed paragraph defining “involved in an accident” if that is an issue in the case.

### AUTHORITY

- Enhancement. Veh. Code, § 20001(c).
- Knowledge of Accident and Injury. *People v. Holford* (1965) 63 Cal.2d 74, 79–80 [45 Cal.Rptr. 167, 403 P.2d 423]; *People v. Carter* (1966) 243 Cal.App.2d 239, 241 [52 Cal.Rptr. 207]; *People v. Hamilton* (1978) 80 Cal.App.3d 124, 133–134 [145 Cal.Rptr. 429].
- Neither Voluntary Intoxication Nor Unconsciousness Caused by Voluntary Intoxication Negates Knowledge Element in Vehicle Code Section 20001(a), (c). *People v. Suazo* (2023) 95 Cal.App.5th 681, 703–704 [313 Cal.Rptr.3d 649].
- Willful Failure to Perform Duty. *People v. Crouch* (1980) 108 Cal.App.3d Supp. 14, 21–22 [166 Cal.Rptr. 818].
- “Involved” Defined. *People v. Bammes* (1968) 265 Cal.App.2d 626, 631 [71 Cal.Rptr. 415]; *People v. Sell* (1950) 96 Cal.App.2d 521, 523 [215 P.2d 771].
- Fleeing Scene of Accident. *People v. Vela* (2012) 205 Cal.App.4th 942, 950 [140 Cal.Rptr.3d 755].
- First Element of This Instruction Cited With Approval. *People v. Nordberg* (2010) 189 Cal.App.4th 1228, 1238 [117 Cal.Rptr.3d 558].

### SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against Public Peace and Welfare, § 312.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.02, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.03[4][a] (Matthew Bender).

### **2303. Possession of Controlled Substance While Armed With Firearm (Health & Saf. Code, § 11370.1)**

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**The defendant is charged [in Count \_\_\_\_] with possessing \_\_\_\_\_ *<insert type of controlled substance specified in Health & Saf. Code, § 11370.1>*, a controlled substance, while armed with a firearm [in violation of \_\_\_\_\_ *<insert appropriate code section[s]>*].**

**To prove that the defendant is guilty of this crime, the People must prove that:**

- 1. The defendant [unlawfully] possessed a controlled substance;**
- 2. The defendant knew of its presence;**
- 3. The defendant knew of the substance's nature or character as a controlled substance;**

*<If the controlled substance is not listed in the schedules set forth in sections 11054 through 11058 of the Health and Safety Code, give paragraph 4B and the definition of analog substance below instead of paragraph 4A.>*

**[4A. The controlled substance was \_\_\_\_\_ *<insert type of controlled substance>*;**

**[4B. The controlled substance was an analog of \_\_\_\_\_ *<insert type of controlled substance>*;**

- 5. The controlled substance was in a usable amount;**
- 6. While possessing that controlled substance, the defendant had a loaded, operable firearm available for immediate offensive or defensive use;**

**AND**

- 7. The defendant knew that (he/she) had the firearm available for immediate offensive or defensive use.**

[In order to prove that the defendant is guilty of this crime, the People must prove that \_\_\_\_\_ <insert name of analog drug> is an analog of \_\_\_\_\_ <insert type of controlled substance>. -An analog of a controlled substance:

[1. Has a chemical structure substantially similar to the structure of a controlled substance(./;)]

[OR]

[(2/1). Has, is represented as having, or is intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the effect of a controlled substance.]]

Knowledge that an available firearm is loaded and operable is not required.

A *firearm* is any device designed to be used as a weapon, from which a projectile is expelled or discharged through a barrel by the force of an explosion or other form of combustion.

A *usable amount* is a quantity that is enough to be used by someone as a controlled substance. Useless traces [or debris] are not usable amounts. On the other hand, a usable amount does not have to be enough, in either amount or strength, to affect the user.

[The People do not need to prove that the defendant knew which specific controlled substance (he/she) possessed.]

[Two or more people may possess something at the same time.]

[A person does not have to actually hold or touch something to possess it. It is enough if the person has (control over it/ [or] the right to control it), either personally or through another person.]

[Agreeing to buy a controlled substance does not, by itself, mean that a person has control over that substance.]

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*New January 2006; Revised August 2006, October 2010, August 2013, February 2014, September 2017, September 2024\**

*\* Denotes changes only to bench notes and other commentaries.*

## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

### AUTHORITY

- Elements. Health & Saf. Code, § 11370.1; *People v. Palaschak* (1995) 9 Cal.4th 1236, 1242 [40 Cal.Rptr.2d 722, 893 P.2d 717].
- Constructive vs. Actual Possession. *People v. Barnes* (1997) 57 Cal.App.4th 552, 556 [67 Cal.Rptr.2d 162].
- Knowledge of Controlled Substance. *People v. Horn* (1960) 187 Cal.App.2d 68, 74–75 [9 Cal.Rptr. 578].
- Usable Amount. *People v. Rubacalba* (1993) 6 Cal.4th 62, 65–67 [23 Cal.Rptr.2d 628, 859 P.2d 708]; *People v. Piper* (1971) 19 Cal.App.3d 248, 250 [96 Cal.Rptr. 643].
- Loaded Firearm. *People v. Clark* (1996) 45 Cal.App.4th 1147, 1153 [53 Cal.Rptr.2d 99].
- Knowledge of Presence of Firearm. *People v. Singh* (2004) 119 Cal.App.4th 905, 912–913 [14 Cal.Rptr.3d 769].
- Knowledge That Firearm **i**s Loaded or Operable Not Required. *People v. Heath* (2005) 134 Cal.App.4th 490, 498 [36 Cal.Rptr.3d 66].
- Definition of Analog Controlled Substance. Health & Saf. Code, § 11401; *People v. Davis* (2013) 57 Cal.4th 353, 357, fn. 2 [159 Cal.Rptr.3d 405, 303 P.3d 1179].
- No Finding Necessary for “Expressly Listed” Controlled Substance. *People v. Davis*, *supra*, 57 Cal.4th at p. 362, fn. 5.
- Statute Constitutional. *People v. Allen* (2023) 96 Cal.App.5th 573, 581–582 [314 Cal.Rptr.3d 474].

## LESSER INCLUDED OFFENSES

- Simple Possession of a Controlled Substance Not a Lesser Included Offense.  
*People v. Sosa* (2012) 210 Cal.App.4th 946, 949–950 [148 Cal.Rptr.3d 826]; Health & Saf. Code, §§ 11350, 11377.

See also Firearm Possession instructions, CALCRIM Nos. 2510 to 2530.

## RELATED ISSUES

### *Loaded Firearm*

“Under the commonly understood meaning of the term ‘loaded,’ a firearm is ‘loaded’ when a shell or cartridge has been placed into a position from which it can be fired; the shotgun is not ‘loaded’ if the shell or cartridge is stored elsewhere and not yet placed in a firing position.” (*People v. Clark*, *supra*, (1996) 45 Cal.App.4th at p. 1147, 1153 [53 Cal.Rptr.2d 99].)

## SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against Public Peace and Welfare, § 100.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.01[1][f]; Ch. 145, *Narcotics and Alcohol Offenses*, § 145.01[1][a]–[d], [3][b] (Matthew Bender).

**2542. Carrying Firearm: Active Participant in Criminal Street Gang  
(Pen. Code, §§ 25400(c)(3), 25850(c)(3))**

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If you find the defendant guilty of unlawfully (carrying a concealed firearm (on (his/her) person/within a vehicle)[,]/ causing a firearm to be carried concealed within a vehicle[,]/ [or] carrying a loaded firearm) [under Count[s] \_\_], you must then decide whether the People have proved the additional allegation that the defendant was an active participant in a criminal street gang.

To prove this allegation, the People must prove that:

1. When the defendant (carried the firearm/ [or] caused the firearm to be carried concealed in a vehicle), the defendant was an active participant in a criminal street gang;
2. When the defendant participated in the gang, (he/she) knew that members of the gang engage in or have engaged in a pattern of criminal gang activity;

**AND**

3. The defendant willfully assisted, furthered, or promoted felonious criminal conduct by members of the gang either by:
  - a. Directly and actively committing a felony offense;

**OR**

- b. aiding and abetting a felony offense.

At least two members of that same gang must have participated in committing the felony offense. The defendant may count as one of those members if you find that the defendant was a member of the gang.

*Active participation* means involvement with a criminal street gang in a way that is more than passive or in name only.

[The People do not have to prove that the defendant devoted all or a substantial part of (his/her) time or efforts to the gang, or that (he/she) was an actual member of the gang.]

**A *criminal street gang* is an ongoing organized association or group of three or more persons, whether formal or informal:**

- 1. That has a common name or common identifying sign or symbol;**
- 2. That has, as one or more of its primary activities, the commission of \_\_\_\_\_ *<insert one or more crimes listed in Pen. Code, § 186.22(e)(1)>;***

**AND**

- 3. Whose members collectively engage in or have engaged in a pattern of criminal gang activity.**

**In order to qualify as a *primary* activity, the crime must be one of the group's chief or principal activities rather than an occasional act committed by one or more persons who happen to be members of the group.**

*<Give this paragraph only when the conduct that establishes the primary activity, i.e., predicate offenses, has not resulted in a conviction or sustained juvenile petition.>*

**[To decide whether the organization, association, or group has, as one of its primary activities, the commission of \_\_\_\_\_ *<insert felony or felonies from Pen. Code, § 186.22(e)(1)>*, please refer to the separate instructions that I (will give/have given) you on (that/those) crime[s].]**

**A *pattern of criminal gang activity*, as used here, means:**

- 1. [The] (commission of[,]/ [or] attempted commission of[,]/ [or] conspiracy to commit[,]/ [or] solicitation to commit[,]/ [or] conviction of[,]/ [or] (Having/having) a juvenile petition sustained for commission of) (any combination of two or more of the following crimes/[.,] [or] two or more occurrences of [one or more of the following crimes]:) \_\_\_\_\_ *<insert one or more crimes listed in Pen. Code, § 186.22(e)(1)>;***
- 2. At least one of those crimes was committed after September 26, 1988;**



3. The most recent crime occurred within three years of one of the earlier crimes and within three years of the date of the currently charged offense;
4. The crimes were committed on separate occasions or were personally committed by two or more members;
5. The crimes commonly benefitted a criminal street gang;

AND

6. The common benefit from the crimes was more than reputational.

Examples of a common benefit that are more than reputational may include, but are not limited to, financial gain or motivation, retaliation, targeting a perceived or actual gang rival, or intimidation or silencing of a potential current or previous witness or informant.

As used here, members collectively engage in or have engaged in a pattern of criminal gang activity when the crimes that make up the pattern of criminal gang activity can be connected to the gang as a whole. Collective engagement requires a connection between the crimes and the gang's organizational structure or manner of governance, its primary activities, or its common goals and principles.

*<Give this paragraph only when the conduct that establishes the pattern of primary activity, i.e., predicate offenses, has not resulted in a conviction or sustained juvenile petition.>*

[To decide whether a member of the gang [or the defendant] committed \_\_\_\_\_ *<insert felony or felonies from Pen. Code, § 186.22(e)(1)>*, please refer to the separate instructions that I (will give/have given) you on (that/those) crime[s].]

[If you find the defendant guilty of a crime in this case, you may consider that crime in deciding whether one of the group's primary activities was commission of that crime.]

[You may not consider evidence of the charged offense[s] in deciding whether a pattern of criminal gang activity has been established.]

[You may not find that there was a pattern of criminal gang activity unless all of you agree that two or more crimes that satisfy these requirements were

committed, but you do not have to all agree on which crimes were committed.]

As the term is used here, a *willful act* is one done willingly or on purpose.

*Felonious criminal conduct* means committing or attempting to commit [any of] the following crime[s]: \_\_\_\_\_ *<insert felony or felonies by gang members that the defendant is alleged to have furthered, assisted, or promoted>*.

To decide whether a member of the gang [or the defendant] committed \_\_\_\_\_ *<insert felony or felonies listed immediately above and crimes from Pen. Code, § 186.22(e)(1) inserted in definition of pattern of criminal gang activity>*, please refer to the separate instructions that I (will give/have given) you on (that/those) crime[s].

To prove that the defendant aided and abetted felonious criminal conduct by a member of the gang, the People must prove that:

1. A member of the gang committed the crime;
2. The defendant knew that the gang member intended to commit the crime;
3. Before or during the commission of the crime, the defendant intended to aid and abet the gang member in committing the crime;

AND

4. The defendant's words or conduct did in fact aid and abet the commission of the crime.

Someone *aids and abets* a crime if he or she knows of the perpetrator's unlawful purpose and he or she specifically intends to, and does in fact, aid, facilitate, promote, encourage, or instigate the perpetrator's commission of that crime.

[If all of these requirements are proved, the defendant does not need to actually have been present when the crime was committed to be guilty as an aider and abettor.]

[If you conclude that defendant was present at the scene of the crime or failed to prevent the crime, you may consider that fact in determining whether the defendant was an aider and abettor. However, the fact that a person is

**present at the scene of a crime or fails to prevent the crime does not, by itself, make him or her an aider and abettor.]**

**[A person who aids and abets a crime is not guilty of that crime if he or she withdraws before the crime is committed. To withdraw, a person must do two things:**

- 1. He or she must notify everyone else he or she knows is involved in the commission of the crime that he or she is no longer participating. The notification must be made early enough to prevent the commission of the crime;**

**AND**

- 2. He or she must do everything reasonably within his or her power to prevent the crime from being committed. He or she does not have to actually prevent the crime.**

**The People have the burden of proving beyond a reasonable doubt that the defendant did not withdraw. If the People have not met this burden, you may not find the defendant guilty under an aiding and abetting theory.]**

**The People have the burden of proving this allegation beyond a reasonable doubt. If the People have not met this burden, you must find this allegation has not been proved.**

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*New January 2006; Revised August 2006, June 2007, December 2008, February 2012, August 2013, February 2014, February 2016, March 2022, March 2023, September 2024*

## **BENCH NOTES**

### ***Instructional Duty***

The court has a **sua sponte** duty to give this instruction defining the elements of the sentencing factor. (*People v. Sengpadychith* (2001) 26 Cal.4th 316, 327 [109 Cal.Rptr.2d 851, 27 P.3d 739]; *People v. Robles* (2000) 23 Cal.4th 1106, 1115 [99 Cal.Rptr.2d 120, 5 P.3d 176] [now-repealed Pen. Code, § 12031(a)(2)(C) incorporates entire substantive gang offense defined in section 186.22(a)]; see *Apprendi v. New Jersey* (2000) 530 U.S. 466, 475–476, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)

Give this instruction if the defendant is charged under Penal Code section 25400(c)(3) or 25850(c)(3) and the defendant does not stipulate to being an active

gang participant. (*People v. Hall* (1998) 67 Cal.App.4th 128, 135 [79 Cal.Rptr.2d 690].) This instruction **must** be given with the appropriate instruction defining the elements of carrying a concealed firearm, CALCRIM No. 2520, 2521, or 2522, carrying a loaded firearm, CALCRIM No. 2530. The court must provide the jury with a verdict form on which the jury will indicate if the sentencing factor has been proved.

If the defendant does stipulate that he or she is an active gang participant, this instruction should not be given and that information should not be disclosed to the jury. (See *People v. Hall*, *supra*, 67 Cal.App.4th at p. 135.)

~~There is a split in authority over the meaning of “collectively.” (Compare *People v. Delgado* (2022) 74 Cal.App.5th 1067 [290 Cal.Rptr.3d 189] [two or more gang members must have committed each predicate offense]; *People v. Clark* (2022) 81 Cal.App.5th 133 [296 Cal.Rptr.3d 153] [pattern of criminal gang activity may be established either by (1) two gang members who separately committed crimes on different occasions, or (2) two gang members who committed a crime together on a single occasion], review granted October 19, 2022, S275746.)~~

The court should also give the appropriate instructions defining the elements of all crimes inserted in the definition of “criminal street gang,” “pattern of criminal gang activity,” or “felonious criminal conduct.”

Note that a defendant’s misdemeanor conduct in the charged case, which is elevated to a felony by operation of Penal Code section 186.22(a), is not sufficient to satisfy the felonious criminal conduct requirement of an active gang participation offense charged under subdivision (a) of section 186.22 or of active gang participation charged as an element of felony firearm charges under sections 25400(c)(3) or 25850(c)(3). *People v. Lamas* (2007) 42 Cal.4th 516, 524 [67 Cal.Rptr.3d 179, 169 P.3d 102].

On request, give the bracketed paragraph that begins with “The People do not need to prove that the defendant devoted all or a substantial part of . . . .” (See Pen. Code, § 186.22(j).)

On request, give the bracketed paragraph that begins with “If you find the defendant guilty of a crime in this case.” (*People v. Sengpadychith*, *supra*, 26 Cal.4th at pp. 322–323; *People v. Duran* (2002) 97 Cal.App.4th 1448, 1464–1465 [119 Cal.Rptr.2d 272].)

On request, give the bracketed paragraph that begins with “You may not find that there was a pattern of criminal gang activity.” (*People v. Funes* (1994) 23 Cal.App.4th 1506, 1527–1528 [28 Cal.Rptr.2d 758]; see also Related Issues section to CALCRIM No. 1400, *Active Participation in Criminal Street Gang*.)

On request, the court must give a limiting instruction on the gang evidence. (*People v. Hernandez* (2004) 33 Cal.4th 1040, 1051–1052 [16 Cal.Rptr.3d 880, 94

P.3d 1080].) If requested, give CALCRIM No. 1403, *Limited Purpose of Evidence of Gang Activity*.

### ***Defenses—Instructional Duty***

If there is evidence that the defendant was merely present at the scene or only had knowledge that a crime was being committed, the court has a **sua sponte** duty to give the bracketed paragraph that begins with “If you conclude that defendant was present.” (*People v. Boyd* (1990) 222 Cal.App.3d 541, 557, fn. 14 [271 Cal.Rptr. 738]; *In re Michael T.* (1978) 84 Cal.App.3d 907, 911 [149 Cal.Rptr. 87].)

If there is sufficient evidence that the defendant withdrew, the court has a **sua sponte** duty to give the final bracketed section on the defense of withdrawal.

### ***Related Instructions***

CALCRIM No. 1400, *Active Participation in Criminal Street Gang*.

CALCRIM No. 1401, *Felony or Misdemeanor Committed for Benefit of Criminal Street Gang* (Pen. Code, § 186.22(b)(1) (Felony) and § 186.22(d) (Felony or Misdemeanor)).

For additional instructions relating to liability as an aider and abettor, see series 400, Aiding and Abetting.

## **AUTHORITY**

- Factors. Pen. Code, §§ 25400(c)(3), 25850(c)(3)
- Sentencing Factors, Not Elements. *People v. Hall*, *supra*, 67 Cal.App.4th at p. 135.
- Elements of Gang Factor. Pen. Code, § 186.22(a); *People v. Robles*, *supra*, 23 Cal.4th at p. 1115.
- “Active Participation” Defined. *People v. Salcido* (2007) 149 Cal.App.4th 356 [56 Cal.Rptr.3d 912]; *People v. Castenada* (2000) 23 Cal.4th 743, 747 [97 Cal.Rptr.2d 906, 3 P.3d 278].
- “Criminal Street Gang” Defined. Pen. Code, § 186.22(f).
- “Collectively Engage” Defined. *People v. Clark* (2024) 15 Cal.5th 743, 755–756 [318 Cal.Rptr.3d 152, 542 P.3d 1085].
- “Organized” Defined. *People v. Superior Court (Farley)* (2024) 100 Cal.App.5th 315, 326–333 [319 Cal.Rptr.3d 100]; *People v. Campbell* (2023) 98 Cal.App.5th 350, 380–381 [316 Cal.Rptr.3d 638].
- “Pattern of Criminal Gang Activity” Defined. Pen. Code, §§ 186.22(e), (g).
- Examples of Common Benefit. Pen. Code, § 186.22(g).

- Willfully Assisted, Furthered, or Promoted Felonious Criminal Conduct. *People v. Rodriguez* (2012) 55 Cal.4th 1125, 1132-1138 [150 Cal.Rptr.3d 533, 290 P.3d 1143].
- Crimes Committed After Charged Offense Not Predicates. *People v. Duran*, *supra*, 97 Cal.App.4th at p. 1458.
- Proof of Sufficient Connection Among Gang “Subsets” and Umbrella Gang Required. *People v. Prunty* (2015) 62 Cal.4th 59, 81–85 [192 Cal.Rptr.3d 309, 355 P.3d 480].

## RELATED ISSUES

### *Gang Expert Cannot Testify to Defendant’s Knowledge or Intent*

In *People v. Killebrew* (2002) 103 Cal.App.4th 644, 658 [126 Cal.Rptr.2d 876], the court held it was error to permit a gang expert to testify that the defendant knew there was a loaded firearm in the vehicle:

[The gang expert] testified to the subjective *knowledge and intent* of each occupant in each vehicle. Such testimony is much different from the *expectations* of gang members in general when confronted with a specific action.... ¶... [The gang expert] simply informed the jury of his belief of the suspects’ knowledge and intent on the night in question, issues properly reserved to the trier of fact. [The expert’s] beliefs were irrelevant.

(*Ibid.* [emphasis in original].)

See also the Commentary and Related Issues sections of the Bench Notes for CALCRIM No. 1400, *Active Participation in Criminal Street Gang*.

## SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against Public Peace and Welfare, §§ 31–46, 204, 249-250.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, §§ 144.01[1], 144.03 (Matthew Bender).

## **2600. Giving or Offering a Bribe to an Executive Officer (Pen. Code, § 67)**

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The defendant is charged [in Count \_\_] with (giving/ [or] offering) a bribe to an executive officer [in violation of Penal Code section 67].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant (gave/ [or] offered) a bribe to an executive officer in this state [or someone acting on the officer's behalf];

**AND**

2. The defendant acted with the corrupt intent to unlawfully influence that officer's official (act[,]/ decision[,]/ vote[,]/ opinion[,]/ [or] \_\_\_\_\_ <insert description of alleged conduct in other proceeding>).

As used here, *bribe* means something of present or future value or advantage, or a promise to give such a thing, that is given or offered with the corrupt intent to unlawfully influence the public or official action, vote, decision, [or] opinion, [or \_\_\_\_\_ <insert description of alleged conduct at other proceeding>] of the person to whom the bribe is given.

A person acts with *corrupt intent* when he or she acts to wrongfully gain a financial or other advantage for himself, herself, or someone else.

The official (act[,]/ decision[,]/ vote[,]/ opinion[,]/ [or] proceeding) the defendant sought to influence must have related to an existing subject that could have been brought before the public officer in his or her official capacity. It does not have to relate to a duty specifically given by statute to that officer.

| An *executive officer* is a government official within the executive branch who may use his or her own discretion in performing his or her job duties. [(A/An) \_\_\_\_\_ <insert title, e.g., police officer, commissioner, etc.> is an executive officer.]

[The executive officer does not need to have (accepted the bribe[,]/ [or] performed the requested act[,]/ [or] deliberately failed to perform a duty).]



**[Offering a bribe does not require specific words or behavior, as long as the language used and the circumstances clearly show an intent to bribe. [The thing offered does not need to actually be given, exist at the time it is offered, or have a specific value.]]**

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New January 2006; Revised September 2024

## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

The statute applies to giving or offering a bribe to “any executive officer . . . with intent to influence him in respect to any act, decision, vote, opinion, or other proceeding as such officer . . . .” It is unclear what “other proceeding” refers to and there are no cases defining the phrase. If the evidence presents an issue about attempting to influence an officer in any “other proceeding,” the court may insert a description of the proceeding where indicated.

Give the bracketed sentence that begins with “The executive officer does not” if the evidence shows that the executive officer did not accept the bribe or follow through on the action sought.

Give the bracketed definition of “offering a bribe” if the prosecution is pursuing this theory. Give the bracketed sentence that begins, “The thing offered does not need to actually,” on request.

## AUTHORITY

- Elements. Pen. Code, § 67.
- “Bribe” Defined. Pen. Code, § 7(6).
- “Corruptly” Defined. Pen. Code, § 7(3).
- “Executive Officer” Defined. *People v. Hupp* (2023) 96 Cal.App.5th 946, 950 [314 Cal.Rptr.3d 842]; *People v. Strohl* (1976) 57 Cal.App.3d 347, 361 [129 Cal.Rptr. 224].
- Corrupt Intent Is an Element of Bribery. *People v. Gliksman* (1978) 78 Cal.App.3d 343, 351 [144 Cal.Rptr. 451]; *People v. Zerillo* (1950) 36 Cal.2d 222, 232 [223 P.2d 223].

- Subject Matter of Bribe. *People v. Megladdery* (1940) 40 Cal.App.2d 748, 782 [106 P.2d 84], disapproved on other grounds in *People v. Posey* (2004) 32 Cal.4th 193, 214–215 [8 Cal.Rptr.3d 551, 82 P.3d 755] and *People v. Simon* (2001) 25 Cal.4th 1082, 1108 [108 Cal.Rptr.2d 385, 25 P.3d 598]; *People v. Diedrich* (1982) 31 Cal.3d 263, 276 [182 Cal.Rptr. 354, 643 P.2d 971].
- Offering a Bribe. *People v. Britton* (1962) 205 Cal.App.2d 561, 564 [22 Cal.Rptr. 921].
- Bribery and Extortion Distinguished. *People v. Powell* (1920) 50 Cal.App. 436, 441 [195 P. 456].
- No Bilateral Agreement Necessary. *People v. Gliksman*, *supra*, ~~(1978)~~ 78 Cal.App.3d at pp.343, 350–351 ~~[144 Cal.Rptr. 451]~~.
- Promised Payment May Be to Third Party or Target of Bribe. *People v. Moyer* (2023) 94 Cal.App.5th 999, 1011–1012 [312 Cal.Rptr.3d 773].

## RELATED ISSUES

### *Entrapment*

The crime is complete once an offer is made. Accordingly, subsequent efforts to procure corroborative evidence do not constitute entrapment. (*People v. Finkelstein* (1950) 98 Cal.App.2d 545, 553 [220 P.2d 934]; *People v. Bunkers* (1905) 2 Cal.App. 197, 209 [84 P. 364].)

### *Accomplice Liability and Conspiracy*

The giver and the recipient of a bribe are not accomplices of one another, nor are they coconspirators, because they are guilty of distinct crimes that require different mental states. (*People v. Wolden* (1967) 255 Cal.App.2d 798, 804 [63 Cal.Rptr. 467].)

### *Extortion Distinguished*

Extortion is bribery with the additional element of coercion. Accordingly, the defendant cannot be guilty of receiving a bribe and extortion in the same transaction. (*People v. Powell*, *supra*, ~~(1920)~~ 50 Cal.App. at p.436, 441 ~~[195 P. 456]~~.)

## SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against Governmental Authority, §§ 33–56.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 141, *Conspiracy, Solicitation, and Attempt*, § 141.10 (Matthew Bender).

### 2603. Requesting or Taking a Bribe (Pen. Code, §§ 68, 86, 93)

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The defendant is charged [in Count \_\_] with (requesting[,]/ taking[,]/ [or] agreeing to take) a bribe [in violation of *<insert appropriate code section[s]>*].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant was (a/an) (executive officer/ministerial officer/employee/appointee/legislative officer/judicial officer) of the (State of California/City of \_\_\_\_\_ *<insert name of city>*/County of \_\_\_\_\_ *<insert name of county>*/\_\_\_\_\_ *<insert name of political subdivision from Pen. Code, § 68>*);
2. The defendant (requested[,]/ took[,]/ [or] agreed to take) a bribe;
3. When the defendant (requested[,]/ took[,]/ [or] agreed to take) the bribe, (he/she) represented that the bribe would unlawfully influence (his/her) official (act[,]/ decision[,]/ vote[,]/ [or] opinion). The representation may have been express or implied;

AND

4. The defendant acted with the corrupt intent that (his/her) public or official duty would be unlawfully influenced.

As used here, *bribe* means something of present or future value or advantage, or a promise to give such a thing, that is requested or taken with the corrupt intent that the public or official action, vote, decision, or opinion of the person to who is requesting, taking, or agreeing to take the bribe, will be unlawfully influenced.

A person acts with *corrupt intent* when he or she acts to wrongfully gain a financial or other advantage for himself, herself, or someone else.

[An *executive officer* is a government official within the executive branch who may use his or her own discretion in performing his or her job duties. [A \_\_\_\_\_ *<insert title, e.g., police officer, commissioner, etc.>* is an executive officer.]]

[A *ministerial officer* is an officer who has a clear and mandatory duty involving the performance of specific tasks without the exercise of discretion.]

[A *legislative officer* is a member of the (Assembly/Senate/ <insert name of other legislative body specified in Penal Code, § 86>) of this state.]

[A *judicial officer* includes a (juror[,]/ [or] judge [,]/ [or] referee[,]/ [or] commissioner[,]/ [or] arbitrator [,]/ [or] umpire[,]/ [or] [other] person authorized by law to hear or determine any question or controversy).]

[*Requesting or agreeing to take a bribe* does not require specific words or behavior, as long as the language used and the circumstances clearly show that the person is seeking a bribe from someone else. [The People do not need to prove that the other person actually consented to give a bribe.]]

[The People do not need to prove that the defendant made any effort to follow through on the purpose for which the bribe was sought.]

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New January 2006; Revised June 2007, September 2024

## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

Give the bracketed definition of “requesting or agreeing to take a bribe” if the prosecution is pursuing this theory.

Give the bracketed sentence that begins with “The People do not need to prove that the defendant made any effort to follow through” if there is no evidence that the defendant took any action based on the alleged bribe.

## AUTHORITY

- Elements. Pen. Code, §§ 68, 86, 93.
- “Bribe” Defined. Pen. Code, § 7, ~~subd. (6)~~.
- “Corruptly” Defined. Pen. Code, § 7, ~~subd. (3)~~.
- “Executive Officer” Defined. *People v. Hupp* (2023) 96 Cal.App.5th 946, 950 [314 Cal.Rptr.3d 842]; *People v. Strohl* (1976) 57 Cal.App.3d 347, 361 [129 Cal.Rptr. 224].

- “Ministerial Officer” Defined. Gov. Code, § 820.25(b); *People v. Strohl*, ~~*supra*, (1976)~~ 57 Cal.App.3d ~~at p.347~~, 361 ~~[129 Cal.Rptr. 224]~~.
- Legislative Member. Pen. Code, § 86.
- Judicial Officer. Pen. Code, § 93.
- Corrupt Intent Is an Element of Bribery. *People v. Gliksman* (1978) 78 Cal.App.3d 343, 346–350 [144 Cal.Rptr. 451]; *People v. Zerillo* (1950) 36 Cal.2d 222, 232 [223 P.2d 223].
- Meaning of Understanding or Agreement. *People v. Pic'l* (1982) 31 Cal.3d 731, 738–740 [183 Cal.Rptr. 685, 646 P.2d 847]; *People v. Diedrich* (1982) 31 Cal.3d 263, 273–274 [182 Cal.Rptr. 354, 643 P.2d 971]; *People v. Gliksman*, ~~*supra*, (1978)~~ 78 Cal.App.3d ~~at pp.343~~, 346–350 ~~[144 Cal.Rptr. 451]~~.
- Bribery and Extortion Distinguished. *People v. Powell* (1920) 50 Cal.App. 436, 441 [195 P. 456].

## RELATED ISSUES

See the Related Issues section of CALCRIM No. 2600, *Giving or Offering a Bribe to an Executive Officer*.

## SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against Governmental Authority, §§ 33–56.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 141, *Conspiracy, Solicitation, and Attempt*, § 141.10 (Matthew Bender).

**2604–2609. Reserved for Future Use**

## Crimes Against the Government

### **2651. Trying to Prevent an Executive Officer From Performing Duty (Pen. Code, § 69)**

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The defendant is charged [in Count \_\_] with trying to (prevent/ [or] deter) an executive officer from performing that officer's duty [in violation of Penal Code section 69].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant willfully and unlawfully used (violence/ [or] a threat of violence) to try to (prevent/ [or] deter) an executive officer from performing the officer's lawful duty;
2. When the defendant acted, (he/she) intended to (prevent/ [or] deter) the executive officer from performing the officer's lawful duty;

| <Give the following language if the violation is based on a threat.>

- | [3. A reasonable ~~person~~listener in a similar situation with similar knowledge would interpret the threat, in light of the context and surrounding circumstances, as a serious expression of intent to commit an act of unlawful force or violence;]

AND

- (3/4). When the defendant acted, (he/she) knew that the person was an executive officer.

Someone commits an act *willfully* when he or she does it willingly or on purpose.

| An *executive officer* is a government official within the executive branch who may use his or her own discretion in performing his or her job duties. [(A/An) \_\_\_\_\_ <insert title, e.g., peace officer, commissioner, etc.> is an *executive officer*.]

The executive officer does not need to be performing his or her job duties at the time the threat is communicated.

**A threat may be oral or written and may be implied by a pattern of conduct or a combination of statements and conduct.**

**[Photographing or recording an *executive officer* while the officer is in a public place or while the person photographing or recording is in a place where he or she has the right to be is not, by itself, a crime.]**

**[The defendant does not have to communicate the threat directly to the intended victim, but may do so through someone else. The defendant must, however, intend that (his/her) statement be taken as a threat by the intended victim.]**

**[Someone who intends that a statement be understood as a threat does not have to actually intend to carry out the threatened act [or intend to have someone else do so].]**

**[A sworn member of \_\_\_\_\_ <insert name of agency that employs peace officer>, authorized by \_\_\_\_\_ <insert appropriate section from Pen. Code, § 830 et seq.> to \_\_\_\_\_ <describe statutory authority>, is a *peace officer*.]**

**[The duties of (a/an) \_\_\_\_\_ <insert title of officer specified in Pen. Code, § 830 et seq.> include \_\_\_\_\_ <insert job duties>.]**

*<When lawful performance is an issue, give the following paragraph and Instruction 2670, Lawful Performance: Peace Officer.>*

**[A peace officer is not lawfully performing his or her duties if he or she is (unlawfully arresting or detaining someone/ [or] using unreasonable or excessive force in his or her duties). Instruction 2670 explains (when an arrest or detention is unlawful/ [and] when force is unreasonable or excessive).]**

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*New January 2006; Revised August 2014, August 2016, September 2019, March 2021, September 2024*

## **BENCH NOTES**

### ***Instructional Duty***

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

In order to be “performing a lawful duty,” an executive officer, including a peace officer, must be acting lawfully. (*In re Manuel G.* (1997) 16 Cal.4th 805, 816–817 [66 Cal.Rptr.2d 701, 941 P.2d 880]; *People v. Gonzalez* (1990) 51 Cal.3d 1179, 1217 [275 Cal.Rptr. 729, 800 P.2d 1159].) The court has a **sua sponte** duty to



instruct on lawful performance and the defendant's reliance on self-defense as it relates to the use of excessive force when this is an issue in the case. (*People v. Castain* (1981) 122 Cal.App.3d 138, 145 [175 Cal.Rptr. 651]; *People v. Olguin* (1981) 119 Cal.App.3d 39, 46–47 [173 Cal.Rptr. 663]; *People v. White* (1980) 101 Cal.App.3d 161, 167–168 [161 Cal.Rptr. 541].)

For this offense, “the relevant factor is simply the lawfulness of the official conduct that the defendant (through threat or violence) has attempted to deter, and not the lawfulness (or official nature) of the conduct in which the officer is engaged at the time the threat is made.” (*In re Manuel G.*, *supra*, 16 Cal.4th at p. 817.) Thus, if the evidence supports the conclusion that the defendant attempted to deter the officer's current performance of a duty, the court should instruct on the lawfulness of that duty. (*Ibid.*) Where the evidence supports the conclusion that the defendant attempted to deter the officer from performing a duty in the future, the court should only instruct on the lawfulness of that future duty. (*Ibid.*)

If there is an issue in the case as to the lawful performance of a duty by a peace officer, give the last bracketed paragraph and CALCRIM No. 2670, *Lawful Performance: Peace Officer*.

If a different executive officer was the alleged victim, the court will need to draft an appropriate definition of lawful duty if this is an issue in the case.

## AUTHORITY

- Elements. Pen. Code, § 69; *People v. Atkins* (2019) 31 Cal.App.5th 963, 979 [243 Cal.Rptr.3d 283] [statute requires actual knowledge that person was an executive officer].
- Specific Intent Required. *People v. Gutierrez* (2002) 28 Cal.4th 1083, 1154 [124 Cal.Rptr.2d 373, 52 P.3d 572].
- Immediate Ability to Carry Out Threat Not Required. *People v. Hines* (1997) 15 Cal.4th 997, 1061 [64 Cal.Rptr.2d 594, 938 P.2d 388].
- Lawful Performance Element to Attempting to Deter. *In re Manuel G.*, *supra*, ~~(1997)~~ 16 Cal.4th at pp.805, 816–817 ~~[66 Cal.Rptr.2d 701, 941 P.2d 880]~~.
- Statute Constitutional. *People v. Hines*, *supra*, ~~(1997)~~ 15 Cal.4th at p.997, 1061 ~~[64 Cal.Rptr.2d 594, 938 P.2d 388]~~.
- Merely Photographing or Recording Officers Not a Crime. Pen. Code, § 69(b).
- Reasonable ~~Person~~Listener Standard. *People v. Lowery* (2011) 52 Cal.4th 419, 427 [128 Cal.Rptr.3d 648, 257 P.3d 72]; *People v. Smolkin* (2020) 49 Cal.App.5th 183, 188 [262 Cal.Rptr.3d 696].

- “Executive Officer” Defined. *People v. Hupp* (2023) 96 Cal.App.5th 946, 950 [314 Cal.Rptr.3d 842]; *People v. Strohl* (1976) 57 Cal.App.3d 347, 361 [129 Cal.Rptr. 224].

## RELATED ISSUES

### ***Resisting an Officer Not Lesser Included Offense***

Resisting an officer, Penal Code section 148(a), is not a lesser included offense of attempting by force or violence to deter an officer. (*People v. Smith* (2013) 57 Cal.4th 232, 240-245 [159 Cal.Rptr.3d 57, 303 P.3d 368].)

### ***Statute as Written Is Overbroad***

The statute as written would prohibit lawful threatening conduct. To avoid overbreadth, this instruction requires that the defendant act both “willfully” and “unlawfully.” (*People v. Superior Court (Anderson)* (1984) 151 Cal.App.3d 893, 895–896 [199 Cal.Rptr. 150].)

### ***State of Mind of Victim Irrelevant***

Unlike other threat crimes, the state of mind of the intended victim is irrelevant. (*People v. Gutierrez*, *supra*, ~~(2002)~~ 28 Cal.4th at p.1083, 1153 ~~[124 Cal.Rptr.2d 373, 52 P.3d 572]~~; *People v. Hines*, *supra*, ~~(1997)~~ 15 Cal.4th at p.997, 1061, fn. 15 ~~[64 Cal.Rptr.2d 594, 938 P.2d 388]~~.)

### ***Immediate Ability to Carry Out Threat Not Required***

“As long as the threat reasonably appears to be a serious expression of intention to inflict bodily harm and its circumstances are such that there is a reasonable tendency to produce in the victim a fear that the threat will be carried out, a statute proscribing such threats is not unconstitutional for lacking a requirement of immediacy or imminence. Thus, threats may be constitutionally prohibited even when there is no *immediate* danger that they will be carried out.” (*People v. Hines*, *supra*, ~~(1997)~~ 15 Cal.4th at p.997, 1061 ~~[64 Cal.Rptr.2d 594, 938 P.2d 388]~~ [quoting *In re M.S.* (1995) 10 Cal.4th 698, 714 [42 Cal.Rptr.2d 355, 896 P.2d 1365], citation and internal quotation marks removed, emphasis in original]; see also *People v. Gudger* (1994) 29 Cal.App.4th 310, 320–321 [34 Cal.Rptr.2d 510]; *Watts v. United States* (1969) 394 U.S. 705, 707 [89 S.Ct. 1399, 22 L.Ed.2d 664]; *United States v. Kelner* (2d Cir. 1976) 534 F.2d 1020, 1027.)

## SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against Governmental Authority, § 128.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.11A[1][b] (Matthew Bender).

**2652. Resisting an Executive Officer in Performance of Duty (Pen. Code, § 69)**

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The defendant is charged [in Count \_\_] with resisting an executive officer in the performance of that officer's duty [in violation of Penal Code section 69].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant [unlawfully] used force [or violence] to resist an executive officer;
2. When the defendant acted, the officer was performing (his/her) lawful duty;
3. When the defendant acted, the defendant knew that the person (he/she) resisted was an executive officer;

AND

4. When the defendant acted, (he/she) knew the executive officer was performing (his/her) duty.

| An *executive officer* is a government official within the executive branch who may use his or her own discretion in performing his or her job duties. [(A/An) \_\_\_\_\_ <insert title, e.g., peace officer, commissioner, etc.> is an *executive officer*.]

[A sworn member of \_\_\_\_\_ <insert name of agency that employs peace officer>, authorized by \_\_\_\_\_ <insert appropriate section from Pen. Code, § 830 et seq.> to \_\_\_\_\_ <describe statutory authority>, is a *peace officer*.]

[The duties of (a/an) \_\_\_\_\_ <insert title of officer specified in Pen. Code, § 830 et seq.> include \_\_\_\_\_ <insert job duties>.]

[Taking a photograph or making an audio or video recording of an *executive officer* while the officer is in a public place or the person taking the photograph or making the recording is in a place where he or she has the right to be is not, by itself, a crime.]

<When lawful performance is an issue, give the following paragraph and Instruction 2670, Lawful Performance: Peace Officer.>

**[A peace officer is not lawfully performing his or her duties if he or she is (unlawfully arresting or detaining someone/ [or] using unreasonable or excessive force in his or her duties). Instruction 2670 explains (when an arrest or detention is unlawful/ [and] when force is unreasonable or excessive).]**

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New January 2006; Revised August 2014, February 2015, August 2016, September 2019, September 2024

## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

In order to be “performing a lawful duty,” an executive officer, including a peace officer, must be acting lawfully. (*In re Manuel G.* (1997) 16 Cal.4th 805, 816 [66 Cal.Rptr.2d 701, 941 P.2d 880]; *People v. Gonzalez* (1990) 51 Cal.3d 1179, 1217 [275 Cal.Rptr. 729, 800 P.2d 1159].) The court has a **sua sponte** duty to instruct on lawful performance and the defendant’s reliance on self-defense as it relates to the use of excessive force when this is an issue in the case. (*People v. Castain* (1981) 122 Cal.App.3d 138, 145 [175 Cal.Rptr. 651]; *People v. Olguin* (1981) 119 Cal.App.3d 39, 46–47 [173 Cal.Rptr. 663]; *People v. White* (1980) 101 Cal.App.3d 161, 167–168 [161 Cal.Rptr. 541].)

If there is an issue in the case as to the lawful performance of a duty by a peace officer, give the last bracketed paragraph and CALCRIM No. 2670, *Lawful Performance: Peace Officer*.

If a different executive officer was the alleged victim, the court will need to draft an appropriate definition of lawful duty if this is an issue in the case.

## AUTHORITY

- Elements. Pen. Code, § 69.
- General Intent Offense. *People v. Roberts* (1982) 131 Cal.App.3d Supp. 1, 9 [182 Cal.Rptr. 757].
- Lawful Performance Element to Resisting Officer. *In re Manuel G.*, *supra*, (1997) 16 Cal.4th at p.805, 816 ~~[66 Cal.Rptr.2d 701, 941 P.2d 880]~~.
- Merely Photographing or Recording Officers Not a Crime. Pen. Code, § 69(b).

- “Executive Officer” Defined. *People v. Hupp* (2023) 96 Cal.App.5th 946, 950 [314 Cal.Rptr.3d 842]; *People v. Strohl* (1976) 57 Cal.App.3d 347, 361 [129 Cal.Rptr. 224].

### LESSER INCLUDED OFFENSES

Penal Code section 148(a) is not a lesser included offense of this crime under the statutory elements test, but may be one under the accusatory pleading test. (*People v. Smith* (2013) 57 Cal.4th 232, 241-242 [159 Cal.Rptr.3d 57, 303 P.3d 368]; see also *People v. Belmares* (2003) 106 Cal.App.4th 19, 26 [130 Cal.Rptr.2d 400] and *People v. Lopez* (2005) 129 Cal.App.4th 1508, 1532 [29 Cal.Rptr.3d 586].

Assault may be a lesser included offense of this crime under the accusatory pleading test. See *People v. Brown* (2016) 245 Cal.App.4th 140, 153 [199 Cal.Rptr.3d 303].

### SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against Governmental Authority, § 128.

1 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 11, *Arrest*, § 11.06[3] (Matthew Bender).

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications*, § 73.15[2] (Matthew Bender).

**2701. Violation of Court Order: Protective Order or Stay Away (Pen. Code, §§ 166(c)(1), 273.6)**

The defendant is charged [in Count \_\_] with violating a court order [in violation of \_\_\_\_\_ <insert appropriate code section[s]>].

To prove that the defendant is guilty of this crime, the People must prove that:

1. A court ~~lawfully~~ issued a written order that the defendant \_\_\_\_\_ <insert description of content of order>;
2. The court order was a (protective order/stay-away court order/ \_\_\_\_\_ <insert description of other type of order>); **issued under** \_\_\_\_\_ <insert code section under which order *was* made or applicable language from Pen. Code, § 166(c)(1)(C), (c)(3)(B), or (c)(3)(C) or § 273.6(c)(2) or (c)(3)> ~~in a pending criminal proceeding involving domestic violence/as a condition of probation after a conviction for (domestic violence/elder abuse/dependent adult abuse)~~;
3. The defendant knew of the court order;
4. The defendant had the ability to follow the court order;

**AND**

<For violations of Pen. Code, § 166(c)(3), choose “willfully”; for violations of Pen. Code, § 273.6(e), choose “intentionally” for the scienter requirement.>

5. The defendant (willfully/intentionally) violated the court order.

Someone commits an act *willfully* when he or she does it willingly or on purpose.

[The People must prove that the defendant knew of the court order and that (he/she) had the opportunity to read the order or to otherwise become familiar with what it said. But the People do not have to prove that the defendant actually read the court order.]

~~[Domestic violence means abuse committed against (an adult/a fully emancipated minor) who is a (spouse[,]/ [or] former spouse[,]/ [or] cohabitant[,]/ [or] former~~



~~cohabitant[,]/[or] person with whom the defendant has had a child[,]/[or] person who dated or is dating the defendant[,]/[or] person who was or is engaged to the defendant).~~

~~*Abuse* means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable fear of imminent serious bodily injury to himself or herself or to someone else.}]~~

~~[The term *cohabitants* means two unrelated persons living together for a substantial period of time, resulting in some permanency of the relationship. Factors that may determine whether people are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same residence, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) the parties' holding themselves out as (husband and wife/domestic partners), (5) the continuity of the relationship, and (6) the length of the relationship.]~~

~~[(*Elder/(D/d)ependent adult*)] *abuse* means that under circumstances or conditions likely to produce great bodily harm or death, the defendant:~~

~~Willfully caused or permitted any (elder/dependent adult) to suffer;~~

~~——OR~~

~~Inflicted on any (elder/dependent adult) unjustifiable physical pain or mental suffering;~~

~~——OR~~

~~Having the care or custody of any (elder/dependent adult), willfully caused or permitted the person or health of the (elder/dependent adult) to be injured;~~

~~——OR~~

~~4. Willfully caused or permitted the (elder/dependent adult) to be placed in a situation in which (his/her) person or health was endangered.~~

~~[An *elder* is someone who is at least 65 years old.]~~

~~[A *dependent adult* is someone who is between 18 and 64 years old and has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights.] [This definition includes an adult who has physical or developmental disabilities or whose physical or~~

~~mental abilities have decreased because of age.] [A dependent adult is also someone between 18 and 64 years old who is an inpatient in a (health facility/psychiatric health facility/ [or] chemical dependency recovery hospital).]]~~

*New January 2006; Revised June 2007, April 2008, August 2009, September 2024*

## BENCH NOTES

### *Instructional Duty*

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

~~In order for a defendant to be guilty of violating Penal Code section 166(a)(4), the court order must be “lawfully issued.” (Pen. Code, § 166(a)(4); *People v. Gonzalez* (1996) 12 Cal.4th 804, 816–817 [50 Cal.Rptr.2d 74, 910 P.2d 1366].) The defendant may not be convicted for violating an order that is unconstitutional, and the defendant may bring a collateral attack on the validity of the order as a defense to this charge. (*People v. Gonzalez, supra*, 12 Cal.4th at pp. 816–818; *In re Berry* (1968) 68 Cal.2d 137, 147 [65 Cal.Rptr. 273, 436 P.2d 273].) The defendant may raise this issue on demurrer but is not required to. (*People v. Gonzalez, supra*, 12 Cal.4th at pp. 821, 824; *In re Berry, supra*, 68 Cal.2d at p. 146.) The legal question of whether the order was lawfully issued is the type of question normally resolved by the court. (*People v. Gonzalez, supra*, 12 Cal.4th at pp. 816–820; *In re Berry, supra*, 68 Cal.2d at p. 147.) If, however, there is a factual issue regarding the lawfulness of the court order and the trial court concludes that the issue must be submitted to the jury, give the bracketed word “lawfully” in element 1. The court must also instruct on the facts that must be proved to establish that the order was lawfully issued. In element 2, give the bracketed phrase “in a criminal case involving domestic violence” if the defendant is charged with a violation of Penal Code section 166(c)(1). In such cases, also give the bracketed definition of “domestic violence” and the associated terms.~~

In element 2, in all cases, insert the statutory authority or applicable language under which the order was issued. (See Pen. Code, §§ 166(c)(1) & (3), 273.6(a) & (c).) In element 2, if the order was not a “protective order” or “stay away order” but another type of qualifying order listed in Penal Code section 166(c)(1~~3~~) or 273.6(c)(1), insert a description of the type of order from the statute.

~~In element 2, in all cases, insert the statutory authority under which the order was issued. (See Pen. Code, §§ 166(c)(1) & (3), 273.6(a) & (c).)~~

Give the bracketed paragraph that begins with “The People must prove that the defendant knew” on request. (*People v. Poe* (1965) 236 Cal.App.2d Supp. 928, 938–941 [47 Cal.Rptr. 670]; *People v. Brindley* (1965) 236 Cal.App.2d Supp. 925,

927–928 [47 Cal.Rptr. 668], both decisions affd. *sub nom. People v. Von Blum* (1965) 236 Cal.App.2d Supp. 943 [47 Cal.Rptr. 679].)

If the prosecution alleges that physical injury resulted from the defendant's conduct, in addition to this instruction, give CALCRIM No. 2702, *Violation of Court Order: Protective Order or Stay Away—Physical Injury*. (Pen. Code, §§ 166(c)(2), 273.6(b).)

If the prosecution charges the defendant with a felony based on a prior conviction and a current offense involving an act of violence or credible threat of violence, in addition to this instruction, give CALCRIM No. 2703, *Violation of Court Order: Protective Order or Stay Away—Act of Violence*. (Pen. Code, §§ 166(c)(4), 273.6(d).) The jury also must determine if the prior conviction has been proved unless the defendant stipulates to the truth of the prior. (See CALCRIM Nos. 3100–3103 on prior convictions.)

### ***Related Instruction***

~~CALCRIM No. 831, *Abuse of Elder or Dependent Adult* (Pen. Code, § 368(c)).~~

## **AUTHORITY**

- Elements. Pen. Code, §§ 166(c)(1), 273.6.
- “Willfully” Defined. Pen. Code, § 7(1); *People v. Lara* (1996) 44 Cal.App.4th 102, 107 [51 Cal.Rptr.2d 402].
- ~~Order Must Be Lawfully Issued. Pen. Code, § 166(a)(4); *People v. Gonzalez* (1996) 12 Cal.4th 804, 816–817 [50 Cal.Rptr.2d 74, 910 P.2d 1366]; *In re Berry* (1968) 68 Cal.2d 137, 147 [65 Cal.Rptr. 273, 436 P.2d 273].~~
- Knowledge of Order Required. *People v. Saffell* (1946) 74 Cal.App.2d Supp. 967, 979 [168 P.2d 497].
- Proof of Service Not Required. *People v. Saffell*, *supra*, ~~(1946)~~ 74 Cal.App.2d Supp. at p.967, 979 ~~[168 P.2d 497]~~.
- Must Have Opportunity to Read but Need Not Actually Read Order. *People v. Poe*, *supra*, ~~(1965)~~ 236 Cal.App.2d Supp. at pp.928, 938–941 ~~[47 Cal.Rptr. 670]~~; *People v. Brindley*, *supra*, ~~(1965)~~ 236 Cal.App.2d Supp. at pp.925, 927–928 ~~[47 Cal.Rptr. 668]~~, both decisions affd. *sub nom. People v. Von Blum* (1965) 236 Cal.App.2d Supp. 943 [47 Cal.Rptr. 679].
- Ability to Comply With Order. *People v. Greenfield* (1982) 134 Cal.App.3d Supp. 1, 4 [184 Cal.Rptr. 604].
- General-Intent Offense. *People v. Greenfield*, *supra*, ~~(1982)~~ 134 Cal.App.3d Supp. at p.1, 4 ~~[184 Cal.Rptr. 604]~~.

- “Abuse” Defined. Pen. Code, § 13700(a); Fam. Code, § 6203.
- “Cohabitant” Defined. Pen. Code, § 13700(b); Fam. Code, § 6209.
- “Domestic Violence” Defined. Evid. Code, § 1109(d)(3); Pen. Code, § 13700(b); Fam. Code, § 6211; see *People v. Poplar* (1999) 70 Cal.App.4th 1129, 1139 [83 Cal.Rptr.2d 320] [spousal rape is higher level of domestic violence].
- “Abuse of Elder or Dependent Adult” Defined. Pen. Code, § 368.

### COMMENTARY

~~Penal Code section 166(c)(1) also includes protective orders and stay aways “issued as a condition of probation after a conviction in a criminal proceeding involving domestic violence . . . .” However, in *People v. Johnson* (1993) 20 Cal.App.4th 106, 109 [24 Cal.Rptr.2d 628], the court held that a defendant cannot be prosecuted for contempt of court under Penal Code section 166 for violating a condition of probation. Thus, the committee has not included this option in the instruction.~~

### LESSER INCLUDED OFFENSES

If the defendant is charged with a felony based on a prior conviction and the allegation that the current offense involved an act of violence or credible threat of violence (Pen. Code, §§ 166(c)(4), 273.6(d)), then the misdemeanor offense is a lesser included offense. The court must provide the jury with a verdict form on which the jury will indicate if the additional allegations have or have not been proved. If the jury finds that the either allegation was not proved, then the offense should be set at a misdemeanor.

### RELATED ISSUES

See the Related Issues section of CALCRIM No. 2700, *Violation of Court Order*.

### SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against Governmental Authority, § 31.

1 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against the Person, §§ 64, 66-68.

1 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 11, *Arrest*, § 11.02[1] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.13[4] (Matthew Bender).

### 3261. While Committing a Felony: Defined—Escape Rule

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**The People must prove that \_\_\_\_\_ *<insert allegation, e.g., the defendant personally used a firearm>* while committing [or attempting to commit] \_\_\_\_\_ *<insert felony or felonies>*.**

*<Give one or more bracketed paragraphs below depending on crime[s] alleged.>*

*<Robbery>*

**[The crime of robbery [or attempted robbery] continues until the perpetrator[s] (has/have) actually reached a place of temporary safety.**

**The perpetrator[s] (has/have) reached a place of temporary safety if:**

- **(He/She/They) (has/have) successfully escaped from the scene; [and]**
- **(He/She/They) (is/are) not or (is/are) no longer being chased(; [and]/.)**
- **[(He/She/They) (has/have) unchallenged possession of the property(; [and]/.)]**
- **[(He/She/They) (is/are) no longer in continuous physical control of the person who is the target of the robbery.]]**

*<Burglary>*

**[The crime of burglary [or attempted burglary] continues until the perpetrator[s] (has/have) actually reached a place of temporary safety. The perpetrator[s] (has/have) reached a place of temporary safety if (he/she/they) (has/have) successfully escaped from the scene[, [and] (is/are) no longer being chased[, and (has/have) unchallenged possession of the property].]**

*<Sexual Assault>*

**[The crime of \_\_\_\_\_ *<insert sexual assault alleged>* [or attempted \_\_\_\_\_ *<insert sexual assault alleged>*] continues until the perpetrator[s] (has/have) actually reached a place of temporary safety. The perpetrator[s] (has/have) reached a place of temporary safety if (he/she/they) (has/have) successfully escaped from the scene[, [and] (is/are) no longer being chased[, and (is/are) no longer in continuous physical control of the person who was the target of the crime].]**

<Kidnapping>

[The crime of kidnapping [or attempted kidnapping] continues until the perpetrator[s] (has/have) actually reached a place of temporary safety. The perpetrator[s] (has/have) reached a place of temporary safety if (he/she/they) (has/have) successfully escaped from the scene, (is/are) no longer being chased, and (is/are) no longer in continuous physical control of the person kidnapped.]

<Other Felony>

[The crime of \_\_\_\_\_ <insert felony alleged> [or attempted \_\_\_\_\_ <insert felony alleged>] continues until the perpetrator[s] (has/have) actually reached a place of temporary safety. The perpetrator[s] (has/have) reached a place of temporary safety if (he/she/they) (has/have) successfully escaped from the scene and (is/are) no longer being chased.]

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New January 2006; Revised August 2006, August 2013, September 2024\*

\* Denotes changes only to bench notes and other commentaries.

## BENCH NOTES

### *Instructional Duty*

Give this instruction whenever the evidence raises an issue over the duration of the felony and another instruction given to the jury has required some act “during the commission or attempted commission” of the felony. (See *People v. Wilkins* (2013) 56 Cal.4th 333, 347-348 [153 Cal.Rptr.3d 519, 295 P.3d 903].)

This instruction should **not** be given if the issue is when the defendant formed the intent to aid and abet a robbery or a burglary. For robbery, give CALCRIM No. 1603, *Robbery: Intent of Aider and Abettor*. For burglary, give CALCRIM No. 1702, *Burglary: Intent of Aider and Abettor*.

## AUTHORITY

- Escape Rule. *People v. Wilkins*, supra, ~~(2013)~~ 56 Cal.4th at pp.333, 347-348 [~~153 Cal.Rptr.3d 519, 295 P.3d 903~~].
- Place of Temporary Safety. *People v. Salas* (1972) 7 Cal.3d 812, 823 [103 Cal.Rptr. 431, 500 P.2d 7]; *People v. Johnson* (1992) 5 Cal.App.4th 552, 560 [7 Cal.Rptr.2d 23].
- Continuous Control of Victim. *People v. Thompson* (1990) 50 Cal.3d 134, 171–172 [266 Cal.Rptr. 309, 785 P.2d 857] [lewd acts]; *People v. Carter* (1993) 19 Cal.App.4th 1236, 1251–1252 [23 Cal.Rptr.2d 888] [robbery].



- Robbery. *People v. Salas*, *supra*, (1972) 7 Cal.3d at p.812, 823 ~~[103 Cal.Rptr. 431, 500 P.2d 7]~~; *People v. Cooper* (1991) 53 Cal.3d 1158, 1170 [282 Cal.Rptr. 450, 811 P.2d 742].
- Burglary. *People v. Bodely* (1995) 32 Cal.App.4th 311, 313–314 [38 Cal.Rptr.2d 72].
- Lewd Acts on Child. *People v. Thompson*, *supra*, (1990) 50 Cal.3d at pp.134, 171–172 ~~[266 Cal.Rptr. 309, 785 P.2d 857]~~.
- Sexual Assault. *People v. Portillo* (2003) 107 Cal.App.4th 834, 841–846 [132 Cal.Rptr.2d 435]; *People v. Hart* (1999) 20 Cal.4th 546, 611 [85 Cal.Rptr.2d 132, 976 P.2d 683]; *People v. Hernandez* (1988) 47 Cal.3d 315, 348 [253 Cal.Rptr. 199, 763 P.2d 1289].
- Kidnapping. *People v. Pearch* (1991) 229 Cal.App.3d 1282, 1299 [280 Cal.Rptr. 584]; *People v. Silva* (1988) 45 Cal.3d 604, 632 [247 Cal.Rptr. 573, 754 P.2d 1070].

## RELATED ISSUES

### *Place of Temporary Safety Based on Objective Standard*

Whether the defendant had reached a place of temporary safety is judged on an objective standard. The “issue to be resolved is whether a robber had actually reached a place of temporary safety, not whether the defendant thought that he or she had reached such a location.” (*People v. Johnson*, *supra*, (1992) 5 Cal.App.4th at p.552, 560 ~~[7 Cal.Rptr.2d 23]~~.)

## SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against the Person, §§ 156, 157, 160, 162.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, §§ 142.01[2][b][v], 142.10[1][b] (Matthew Bender).

**3262–3399. Reserved for Future Use**

## 3425. Unconsciousness

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The defendant is not guilty of \_\_\_\_\_ <insert crime[s]> if (he/she) acted while unconscious. Someone is unconscious when he or she is not conscious of his or her actions. [Someone may be unconscious even though able to move.]

Unconsciousness may be caused by (a blackout[,]/ [or] an epileptic seizure[,]/ [or] involuntary intoxication[,]/ [or] \_\_\_\_\_ <insert a similar condition>).

[The defense of unconsciousness may not be based on voluntary intoxication.]

The People must prove beyond a reasonable doubt that the defendant was conscious when (he/she) acted. If there is proof beyond a reasonable doubt that the defendant acted as if (he/she) were conscious, you should conclude that (he/she) was conscious, unless based on all the evidence, you have a reasonable doubt that (he/she) was conscious, in which case you must find (him/her) not guilty.

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*New January 2006; Revised April 2008, August 2013, September 2024\**

*\* Denotes changes only to bench notes and other commentaries.*

### BENCH NOTES

#### *Instructional Duty*

The court must instruct on a defense when the defendant requests it and there is substantial evidence supporting the defense. The court has a **sua sponte** duty to instruct on a defense if there is substantial evidence supporting it and either the defendant is relying on it or it is not inconsistent with the defendant's theory of the case.

When the court concludes that the defense is supported by substantial evidence and is inconsistent with the defendant's theory of the case, however, it should ascertain whether defendant wishes instruction on this alternate theory. *-(People v. Gonzales (1999) 74 Cal.App.4th 382, 389–390 [88 Cal.Rptr.2d 111]; People v. Breverman (1998) 19 Cal.4th 142, 157 [77 Cal.Rptr.2d 870, 960 P.2d 1094].)*

Substantial evidence means evidence of a defense, which, if believed, would be sufficient for a reasonable jury to find a reasonable doubt as to the defendant's guilt. *-(People v. Salas (2006) 37 Cal.4th 967, 982–983 [38 Cal.Rptr.3d 624, 127 P.3d 40].)*

Because there is a presumption that a person who appears conscious is conscious (*People v. Hardy (1948) 33 Cal.2d 52, 63–64 [198 P.2d 865]*), the defendant must

produce sufficient evidence raising a reasonable doubt that he or she was conscious before an instruction on unconsciousness may be given. (*Ibid.*; *People v. Kitt* (1978) 83 Cal.App.3d 834, 842 [148 Cal.Rptr. 447], disapproved on other grounds by *People v. Cooper* (1991) 53 Cal.3d 771, 836 [281 Cal.Rptr. 90, 809 P.2d 865] [presumption of consciousness goes to the defendant's burden of producing evidence].)

## AUTHORITY

- Instructional Requirements. Pen. Code, § 26(4); *People v. Mathson* (2012) 210 Cal.App.4th 1297, 1317-1323 [149 Cal.Rptr.3d 167]; *People v. Stewart* (1976) 16 Cal.3d 133, 140 [127 Cal.Rptr. 117, 544 P.2d 1317].
- Burden of Proof. Evid. Code, § 607; *People v. Hardy*, *supra*, (1948) 33 Cal.2d at p.52, 64 [198 P.2d 865]; *People v. Cruz* (1978) 83 Cal.App.3d 308, 330–331 [147 Cal.Rptr. 740].
- “Unconsciousness” Defined. *People v. Newton* (1970) 8 Cal.App.3d 359, 376 [87 Cal.Rptr. 394]; *People v. Heffington* (1973) 32 Cal.App.3d 1, 9 [107 Cal.Rptr. 859].
- Unconscious State: Blackouts. *People v. Cox* (1944) 67 Cal.App.2d 166, 172 [153 P.2d 362].
- Unconscious State: Epileptic Seizures. *People v. Freeman* (1943) 61 Cal.App.2d 110, 115–116 [142 P.2d 435].
- Unconscious State: Involuntary Intoxication. *People v. Heffington*, *supra*, (1973) 32 Cal.App.3d at p.1, 8 [107 Cal.Rptr. 859]; see *People v. Hughes* (2002) 27 Cal.4th 287, 343–344 [116 Cal.Rptr.2d 401, 39 P.3d 432] [jury was adequately informed that unconsciousness does not require that person be incapable of movement].
- Unconscious State: Somnambulism, Sleepwalking, or Delirium. *People v. Mathson*, *supra*, (2012) 210 Cal.App.4th at pp.1297, 1317-1323 [149 Cal.Rptr.3d 167]; *People v. Methever* (1901) 132 Cal. 326, 329 [64 P. 481], overruled on other grounds in *People v. Gorshen* (1953) 51 Cal.2d 716 [336 P.2d 492].

## COMMENTARY

The committee did not include an instruction on the presumption of consciousness. There is a judicially created presumption that a person who acts as if conscious is in fact conscious. (*People v. Hardy*, *supra*, (1948) 33 Cal.2d at pp.52, 63–64 [198 P.2d 865].) Although an instruction on this presumption has been approved, it has been highly criticized. (See *People v. Kitt*, *supra*, (1978) 83 Cal.App.3d at pp.834,

842–843 ~~[148 Cal.Rptr. 447], disapproved on other grounds by *People v. Cooper* (1991) 53 Cal.3d 771, 836 [281 Cal.Rptr. 90, 809 P.2d 865] [acknowledging instruction and suggesting modification]; *People v. Cruz, supra*, (1978) 83 Cal.App.3d at p. 308, 332 [147 Cal.Rptr. 740] [criticizing instruction for failing to adequately explain the presumption].)~~

The effect of this presumption is to place on the defendant a burden of producing evidence to dispel the presumption. (*People v. Cruz, supra*, 83 Cal.App.3d at pp. 330–331; *People v. Kitt, supra*, 83 Cal.App.3d at p. 842, ~~disapproved on other grounds by *People v. Cooper* (1991) 53 Cal.3d 771, 836 [281 Cal.Rptr. 90, 809 P.2d 865]~~; and see *People v. Babbitt* (1988) 45 Cal.3d 660, 689–696 [248 Cal.Rptr. 69, 755 P.2d 253] [an instruction on this presumption “did little more than guide the jury as to how to evaluate evidence bearing on the defendant’s consciousness and apply it to the issue.”].) However, if the defendant produces enough evidence to warrant an instruction on unconsciousness, the rebuttable presumption of consciousness has been dispelled and no instruction on its effect is necessary. The committee, therefore, concluded that no instruction on the presumption of consciousness was needed.

## RELATED ISSUES

### *Inability to Remember*

Generally, a defendant’s inability to remember or his hazy recollection does not supply an evidentiary foundation for a jury instruction on unconsciousness. (*People v. Heffington, supra*, ~~(1973) 32 Cal.App.3d at p. 1, 10 [107 Cal.Rptr. 859]~~; *People v. Sameniego* (1931) 118 Cal.App. 165, 173 [4 P.2d 809] [“The inability of a defendant . . . to remember . . . is of such common occurrence and so naturally accountable for upon the normal defects of memory, or, what is more likely, the intentional denial of recollection, as to raise not even a suspicion of declarations having been made while in an unconscious condition.”].) In *People v. Coston* (1947) 82 Cal.App.2d 23, 40–41 [185 P.2d 632], the court stated that forgetfulness may be a factor in unconsciousness; however, “there must be something more than [the defendant’s] mere statement that he does not remember what happened to justify a finding that he was unconscious at the time of that act.”

Two cases have held that a defendant’s inability to remember warrants an instruction on unconsciousness. (*People v. Bridgehouse* (1956) 47 Cal.2d 406, 414 [303 P.2d 1018] and *People v. Wilson* (1967) 66 Cal.2d 749, 761–762 [59 Cal.Rptr. 156, 427 P.2d 820].) Both cases were discussed in *People v. Heffington, supra*, ~~(1973) 32 Cal.App.3d at p. 101 [107 Cal.Rptr. 859]~~, but the court declined to hold that *Bridgehouse* and *Wilson* announced an “ineluctable rule of law” that “a defendant’s inability to remember or his ‘hazy’ recollection supplies an evidentiary foundation for a jury instruction on unconsciousness.” ~~(*Id.* at p. 10.)~~

The court stated that, “[b]oth [cases] were individualized decisions in which the court examined the record and found evidence, no matter how incredible, warranting the instruction.” (*Ibid.*)

### ***Intoxication—Involuntary versus Voluntary***

Unconsciousness due to involuntary intoxication is a complete defense to a criminal charge under Penal Code section 26, subdivision (4). (*People v. Heffington*, supra, ~~(1973)~~ 32 Cal.App.3d at p.4, 8 ~~[107 Cal.Rptr. 859]~~.)

Unconsciousness due to voluntary intoxication is governed by ~~former Penal Code section 22~~ ~~[now~~ Penal Code section 29.4], rather than section 26, and may only be offered to negate specific intent ~~is not a defense to a general intent crime~~. (*People v. Suazo* (2023) 95 Cal.App.5th 681, 703–704 [313 Cal.Rptr.3d 649]; *People v. Chaffey* (1994) 25 Cal.App.4th 852, 855 [30 Cal.Rptr.2d 757]; see CALCRIM No. 3426, *Voluntary Intoxication*.)

### ***Mental Condition***

A number of authorities have stated that a conflict exists in California over whether an unsound mental condition can form the basis of a defense of unconsciousness. (See *People v. Lisnow* (1978) 88 Cal.App.3d Supp. 21, 23 [151 Cal.Rptr. 621]; 1 Witkin California Criminal Law (4th ed. 2012) Defenses, § 32 [noting the split and concluding that the more recent cases permit the defense for defendants of unsound mind]; Annot., Automatism or Unconsciousness as a Defense ~~to~~ Criminal Charge (1984) 27 A.L.R.4th 1067, § 3(b) fn. 7.)

## **SECONDARY SOURCES**

1 Witkin & Epstein, California Criminal Law (4th ed. 2012) Defenses, §§ 32-39.

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications*, § 73.01[4] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 124, *Jurisdiction and Disposition Hearings*, § 124.04 (Matthew Bender).

### 3426. Voluntary Intoxication (Pen. Code, § 29.4)

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**You may consider evidence, if any, of the defendant's voluntary intoxication only in a limited way. You may consider that evidence only in deciding whether the defendant acted [or failed to do an act] with \_\_\_\_\_** *<insert specific intent or mental state required, e.g., "the intent to permanently deprive the owner of his or her property" or "knowledge that . . ." or "the intent to do the act required">.*

**A person is *voluntarily intoxicated* if he or she becomes intoxicated by willingly using any intoxicating drug, drink, or other substance knowing that it could produce an intoxicating effect, or willingly assuming the risk of that effect.**

**In connection with the charge of \_\_\_\_\_** *<insert first charged offense requiring specific intent or mental state>*, **the People have the burden of proving beyond a reasonable doubt that the defendant acted [or failed to act] with \_\_\_\_\_** *<insert specific intent or mental state required, e.g., "the intent to permanently deprive the owner of his or her property" or "knowledge that . . .">.* **If the People have not met this burden, you must find the defendant not guilty of \_\_\_\_\_** *<insert first charged offense requiring specific intent or mental state>.*

*<Repeat this paragraph for each offense requiring specific intent or a specific mental state.>*

**You may not consider evidence of voluntary intoxication for any other purpose. [Voluntary intoxication is not a defense to \_\_\_\_\_** *<insert general intent offense[s]>.*

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*New January 2006; Revised August 2012, August 2013, February 2015, March 2019, September 2024\**

*\* Denotes changes only to bench notes and other commentaries.*

### BENCH NOTES

#### ***Instructional Duty***

The court has no sua sponte duty to instruct on voluntary intoxication; however, the trial court must give this instruction on request. (*People v. Ricardi* (1992) 9 Cal.App.4th 1427, 1432 [12 Cal.Rptr.2d 364]; *People v. Castillo* (1997) 16 Cal.4th 1009, 1014 [68 Cal.Rptr.2d 648, 945 P.2d 1197]; *People v. Saille* (1991) 54 Cal.3d



1103, 1119 [2 Cal.Rptr.2d 364, 820 P.2d 588].) Although voluntary intoxication is not an affirmative defense to a crime, the jury may consider evidence of voluntary intoxication and its effect on the defendant's required mental state. (Pen. Code, § 29.4; *People v. Reyes* (1997) 52 Cal.App.4th 975, 982–986 [61 Cal.Rptr.2d 39] [relevant to knowledge element in receiving stolen property]; *People v. Mendoza* (1998) 18 Cal.4th 1114, 1131–1134 [77 Cal.Rptr.2d 428, 959 P.2d 735] [relevant to mental state in aiding and abetting].)

Voluntary intoxication may not be considered for general intent crimes. (*People v. Mendoza*, *supra*, ~~(1998)~~ 18 Cal.4th at pp. 1114, 1127–1128 ~~[77 Cal.Rptr.2d 428, 959 P.2d 735]~~; *People v. Atkins* (2001) 25 Cal.4th 76, 81 [104 Cal.Rptr.2d 738, 18 P.3d 660]; see also *People v. Hood* (1969) 1 Cal.3d 444, 451 [82 Cal.Rptr. 618, 462 P.2d 370] [applying specific vs. general intent analysis and holding that assault type crimes are general intent; subsequently superseded by amendments to former Penal Code ~~S~~section 22 [now Penal Code section 29.4] on a different point].)

If both specific and general intent crimes are charged, the court must specify the general intent crimes in the bracketed portion of the last sentence and instruct the jury that voluntary intoxication is not a defense to those crimes. (*People v. Aguirre* (1995) 31 Cal.App.4th 391, 399–402 [37 Cal.Rptr.2d 48]; *People v. Rivera* (1984) 162 Cal.App.3d 141, 145–146 [207 Cal.Rptr. 756].)

If the defendant claims unconsciousness due to involuntary intoxication as a defense to driving under the influence, see *People v. Mathson* (2012) 210 Cal.App.4th 1297, 1317–1323 [149 Cal.Rptr.3d 167].

The court may need to modify this instruction if given with CALCRIM No. 362, *Consciousness of Guilt*. (*People v. Wiidanen* (2011) 201 Cal.App.4th 526, 528, 533 [135 Cal.Rptr.3d 736].)

Evidence of voluntary intoxication is inadmissible on the question of whether a defendant believed it necessary to act in self-defense. (*People v. Soto* (2018) 4 Cal.5th 968, 970 [231 Cal.Rptr.3d 732, 415 P.3d 789].)

### ***Related Instructions***

CALCRIM No. 3427, *Involuntary Intoxication*.

CALCRIM No. 625, *Voluntary Intoxication: Effects on Homicide Crimes*.

CALCRIM No. 626, *Voluntary Intoxication Causing Unconsciousness: Effects on Homicide Crimes*.

## **AUTHORITY**

- Instructional Requirements. Pen. Code, § 29.4; *People v. Castillo*, *supra*, ~~(1997)~~ 16 Cal.4th at p. 1009, 1014 ~~[68 Cal.Rptr.2d 648, 945 P.2d 1197]~~; *People*



v. *Saille*, supra, ~~(1991)~~ 54 Cal.3d at p. ~~1103~~, 1119 ~~[2 Cal.Rptr.2d 364, 820 P.2d 588]~~.

- Effect of Prescription Drugs. *People v. Mathson*, supra, ~~(2012)~~ 210 Cal.App.4th at p. ~~1297~~, 1328, fn. 32 ~~[149 Cal.Rptr.3d 167]~~.

## RELATED ISSUES

### *Implied Malice*

“[E]vidence of voluntary intoxication is no longer admissible on the issue of implied malice aforethought.” (*People v. Martin* (2000) 78 Cal.App.4th 1107, 1114–1115 [93 Cal.Rptr.2d 433], quoting *People v. Reyes*, supra, ~~(1997)~~ 52 Cal.App.4th at p. ~~975~~, 984, fn. 6 ~~[61 Cal.Rptr.2d 39]~~.)

### *Intoxication Based on Mistake of Fact Is Involuntary*

Intoxication resulting from trickery is not “voluntary.” (*People v. Scott* (1983) 146 Cal.App.3d 823, 831–833 [194 Cal.Rptr. 633] [defendant drank punch not knowing it contained hallucinogens; court held his intoxication was result of trickery and mistake and involuntary].)

### *Premeditation and Deliberation*

“[T]he trial court has no sua sponte duty to instruct that voluntary intoxication may be considered in determining the existence of premeditation and deliberation.” (*People v. Hughes* (2002) 27 Cal.4th 287, 342 [116 Cal.Rptr.2d 401, 39 P.3d 432], citing *People v. Saille*, supra, ~~(1991)~~ 54 Cal.3d at p. ~~1103~~, 1120 ~~[2 Cal.Rptr.2d 364, 820 P.2d 588]~~; see *People v. Castillo*, supra, ~~(1997)~~ 16 Cal.4th at p. ~~1009~~, 1018 ~~[68 Cal.Rptr.2d 648, 945 P.2d 1197]~~ [counsel not ineffective for failing to request instruction specifically relating voluntary intoxication to premeditation and deliberation].)

### *Unconsciousness Based on Voluntary Intoxication Is Not a Complete Defense*

Unconsciousness is typically a complete defense to a crime except when it is caused by voluntary intoxication. (*People v. Heffington* (1973) 32 Cal.App.3d 1, 8 [107 Cal.Rptr. 859].) Unconsciousness caused by voluntary intoxication is governed by ~~former Penal Code section 22~~ [now Penal Code section 29.4], rather than by section 26 and may only be offered to negate specific intent ~~is only a partial defense to a crime~~. (*People v. Suazo* (2023) 95 Cal.App.5th 681, 703–704 [313 Cal.Rptr.3d 649] [no error in refusing to instruct on unconsciousness resulting from voluntary intoxication in gross vehicular manslaughter and fleeing-the-scene allegations]; *People v. Walker* (1993) 14 Cal.App.4th 1615, 1621 [18 Cal.Rptr.2d 431] [no error in refusing to instruct on unconsciousness when defendant was voluntarily under the influence of drugs at the time of the crime]; see also *People v. Ochoa* (1998) 19 Cal.4th 353, 423 [79 Cal.Rptr.2d 408, 966

P.2d 442] [“if the intoxication is voluntarily induced, it can never excuse homicide. Thus, the requisite element of criminal negligence is deemed to exist irrespective of unconsciousness, and a defendant stands guilty of involuntary manslaughter if he voluntarily procured his own intoxication [citation].”].)

## **SECONDARY SOURCES**

1 Witkin & Epstein, California Criminal Law (4th ed. 2012) Defenses, §§ 32-39.

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications*, § 73.04 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 124, *Jurisdiction and Disposition Hearings*, § 124.04 (Matthew Bender).

## 3427. Involuntary Intoxication

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Consider any evidence that the defendant was involuntarily intoxicated in deciding whether the defendant had the required (intent/ [or] mental state) when (he/she) acted.

A person is *involuntarily intoxicated* if he or she unknowingly ingested some intoxicating liquor, drug, or other substance, or if his or her intoxication is caused by the (force/[1] [or] duress/[1] [or] fraud/[1] [or] trickery) of someone else), for whatever purpose [, without any fault on the part of the intoxicated person].

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New January 2006; Revised August 2013, September 2024\*

\* Denotes changes only to bench notes and other commentaries.

### BENCH NOTES

#### *Instructional Duty*

It appears that the court has no sua sponte duty to instruct on involuntary intoxication, unless the intoxication results in unconsciousness. (See *People v. Saille* (1991) 54 Cal.3d 1103, 1119 [2 Cal.Rptr.2d 364, 820 P.2d 588] [no sua sponte duty when evidence of voluntary intoxication presented to negate element of offense].) If the defendant is relying on the defense of unconsciousness caused by involuntary intoxication, see CALCRIM No. 3425, *Unconsciousness*.

In the definition of “involuntarily intoxicated,” the phrase “without any fault on the part of the intoxicated person” is taken from *People v. Velez* (1985) 175 Cal.App.3d 785, 796 [221 Cal.Rptr. 631]. It is unclear when this concept of “fault” would apply if the person has no knowledge of the presence of the intoxicating substance. The committee has included the language in brackets for the court to use at its discretion.

If the defendant claims unconsciousness due to involuntary intoxication as a defense to driving under the influence, see *People v. Mathson* (2012) 210 Cal.App.4th 1297, 1317-1323 [149 Cal.Rptr.3d 167].

#### *Related Instructions*

See CALCRIM No. 3426, *Voluntary Intoxication*.

### AUTHORITY

- Instructional Requirements. See Pen. Code, § 26(3).

- Burden of Proof. See *People v. Saille*, supra, ~~(1991)~~ 54 Cal.3d ~~at p.1103~~, 1106 ~~[2 Cal.Rptr.2d 364, 820 P.2d 588]~~ [in context of voluntary intoxication].
- “Involuntary Intoxication” Defined. *People v. Velez*, supra, ~~(1985)~~ 175 Cal.App.3d ~~at p.785~~, 796 ~~[221 Cal.Rptr. 631]~~.

## COMMENTARY

One court has held that a mistake of fact defense (see Pen. Code, § 26(3)) can be based on involuntary intoxication. (*People v. Scott* (1983) 146 Cal.App.3d 823, 831–832 [194 Cal.Rptr. 633].) For further discussion, see CALCRIM No. 3406, *Mistake of Fact*.

## RELATED ISSUES

### *Unconsciousness Based on Voluntary Intoxication Is Not a Complete Defense*

Unconsciousness is typically a complete defense to a crime except when it is caused by voluntary intoxication. (*People v. Heffington* (1973) 32 Cal.App.3d 1, 8 [107 Cal.Rptr. 859].) Unconsciousness caused by voluntary intoxication is governed by ~~former Penal Code section 22~~ [now Penal Code section 29.4], rather than by section 26, and may only be offered to negate specific intentis only a partial defense to a crime. (*People v. Suazo* (2023) 95 Cal.App.5th 681, 703–704 [313 Cal.Rptr.3d 649] [no error in refusing to instruct on unconsciousness resulting from voluntary intoxication in gross vehicular manslaughter and fleeing-the-scene allegations]; *People v. Walker* (1993) 14 Cal.App.4th 1615, 1621 [18 Cal.Rptr.2d 431] [no error in refusing to instruct on unconsciousness when defendant was voluntarily under the influence of drugs at the time of the crime].)

## SECONDARY SOURCES

- 1 Witkin & Epstein, California Criminal Law (4th ed. 2012) Defenses, §§ 32-39.
- 3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications*, §§ 73.01[4], 73.04 (Matthew Bender).

## CALCRIM 2024-01

### Revised Jury Instructions

All comments are verbatim unless indicated by an asterisk (\*).

<b>Instruction No.</b>	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
320, 510, 520, 562, 570, 640, 641, 642, 643, 736, 852A, 938, 960, 1191A, 1193, 1243, 1301, 1400, 1401, 2141, 2142, 2160, 2542, 2600, 2603, 2652, 3261, 3425	James Mugridge, Lead Appellate Court Attorney and Linda Rouse, Managing Attorney, California Fifth District Court of Appeal.	A	*We recommend implementing the proposed changes.	No response necessary.
320, 510, 520, 522, 562, 570, 640, 641, 642, 643, 736, 852A, 938, 960, 1191A, 1193, 1243, 1301, 1400, 1401, 2140, 2141, 2142, 2160, 2303, 2542, 2600, 2603, 2651, 2652, 3261, 3425, 3426, 3427	Orange County Bar Association by Christina Zabat-Fran, President.	A	The proposal appropriately addresses the stated purpose. The new suggested language for each subdivision is easy to understand. Plain English enables lay persons to readily comprehend that which is required of them by each oath.	No response necessary.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

# CALCRIM 2024-01

## Revised Jury Instructions

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Instruction No.	Commenter	Position	Comment	Committee Response
522	James Mugridge, Lead Appellate Court Attorney and Linda Rousse, Managing Attorney, California Fifth District Court of Appeal.	AM	<ul style="list-style-type: none"> <li>• Adds an Authority bullet point for “Victim, Not Third Party, Must Be Reason for Provocation,” citing <i>People v. Verdugo</i> (2010) 50 Cal.4th 263, 294 (murder to manslaughter) and <i>People v. Nunez</i> (2023) 97 Cal.App.5th 362, 370 (first degree to second degree murder).</li> <li>• The authority cited largely supports both propositions—third party provocation is insufficient to reduce murder to manslaughter or first degree murder to second degree murder. And there is no published directly contrary authority. However, <i>Verdugo</i> does not conclude that third party provocation can never be the basis for reduction of murder to manslaughter: “ ‘provocation which incites the defendant to homicidal conduct in the heat of passion must be caused by the victim [citation], or be conduct reasonably believed by the defendant to have been engaged in by the victim.’ ” [Citation.] ” (<i>People v. Verdugo, supra</i>, 50 Cal.4th at p. 294.) Likewise, our Supreme Court has permitted evidence of third party threats if there reasonable association between the victim and the person making the treat because, in that situation, the threats are relevant to prove a defendant’s state of mind in the context of self-defense. (<i>People v. Minifie</i> (1996) 13 Cal.4th 1055, 1065–1066). <i>Nunez</i> did not draw the same distinction, but it relied on <i>Verdugo</i> and the issue of whether defendant reasonably believed the victim engaged in the provocatory conduct, such that premeditation and deliberation could not have taken place, was not before it (the defendant had heard a rumor that the victim had raped a child and hours later attacked the victim). One could predict a situation in which the defendant engaged in an argument with the</li> </ul>	

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# CALCRIM 2024-01

## Revised Jury Instructions

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Instruction No.	Commenter	Position	Comment	Committee Response
			<p>victim, turned his back to the victim and others, and someone—not the victim—who defendant believed to have been the victim threw something at defendant or otherwise provoked defendant. In that situation, the third party’s provocation would presumably be sufficient provocation, based on <i>Verdugo</i>, to reduce first degree murder to second degree murder (or manslaughter) by negating premeditation and deliberation (or malice).</p>	
			<ul style="list-style-type: none"> <li>It is more accurate for the authority bullet point to read “Victim’s Conduct (or Conduct Reasonably Believed by the Defendant to Have Been Engaged in by the Victim), Not Third Party Conduct, Must Be Reason for Provocation.” It is a little more cumbersome, but it is also more accurate. We recommend that modification and implementing the remainder of the changes as proposed.</li> </ul>	<p>The committee agrees with the suggested clarification and has changed the authority section entry to: “Provocation Must Be Caused by Victim’s Conduct or Conduct Reasonably Believed by Defendant to Have Been Engaged In by Victim.”</p>
736, 1400, 1401, 2542	Los Angeles District Attorney’s Office, by Joseph F. Iniguez, Chief Deputy District Attorney.	NI	<p>In response to the Judicial Council’s request for feedback regarding its proposed new CALCRIM jury instructions, the Los Angeles County District Attorney’s Office has reviewed all of the proposed changes. Specifically, the proposed changes to the gang instructions misstate the applicable law.</p> <p>The Judicial Council’s proposed revisions to CALCRIM instructions 736, 1400, 1401, and 2542 would each contain identical language regarding collective engagement in gang activity. They provide:</p> <p>“As used here, members <i>collectively engage in or have engaged in</i> a pattern of criminal gang activity when the crimes that make up the pattern of criminal gang activity can be connected to the</p>	<p>The committee disagrees with this interpretation of <i>Clark</i> and reads the opinion as listing the three essential characteristics relevant to proving collective engagement. However, the committee did decide to make minor clarifying changes to the final sentence.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



# CALCRIM 2024-01

## Revised Jury Instructions

All comments are verbatim unless indicated by an asterisk (\*).

Instruction No.	Commenter	Position	Comment	Committee Response
			<p>gang as a whole. Collective engagement <b>requires</b> a connection between the crimes and the gang’s organizational structure, manner of governance, primary activities, or common goals and principles.” (emphasis added).</p> <p>This proposed language inaccurately captures the pertinent discussion in <i>People v. Clark</i> (2024) 15 Cal.5th 743, 762-63. Specifically, this proposed language limits the scope of proof of collective engagement to “organizational structure, manner of governance, primary activities, or common goals and principles” and makes that evidentiary showing mandatory.</p> <p>In <i>Clark</i>, the California Supreme Court held that collective engagement “calls for a showing of a connection, or nexus, between an offense committed by one or more gang members and the organization as a whole.” (<i>Clark, supra</i>, 15 Cal.5th at p. 762.) However, the Supreme Court went on to explain: This organizational nexus may be shown by evidence linking the predicate offenses to the gang’s organizational structure, meaning its manner of governance; its primary activities; or its common goals and principles.” This proposed language makes such proof mandatory. The Supreme Court explained: “By reference to these elements of a gang’s affairs and operations, we do not mean overstate the degree of formality required . . . . As we have recognized, some gangs have a ‘loose’ structure while others are ‘highly ordered and disciplined’ with a ‘well-defined hierarchy’ . . . Given this variability, collective engagement will be</p>	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

# CALCRIM 2024-01

## Revised Jury Instructions

All comments are verbatim unless indicated by an asterisk (\*).

Instruction No.	Commenter	Position	Comment	Committee Response
			<p>established in different ways.” (<i>Clark, supra</i>, 15 Cal.5th at p. 762.)</p> <p>In order to accurately reflect the language in <i>Clark</i>, the following revisions to CALCRIM instructions 736, 1400, 1401, and 2542 are respectfully recommended instead:</p> <p>“As used here, members <i>collectively engage in or have engaged in</i> a pattern of criminal gang activity when the crimes that make up the pattern of criminal gang activity can be connected to the gang as a whole. Collective engagement <b>requires</b> a connection between the crimes and the gang.</p> <p><b>Proof of collective engagement may include gang characteristics such as its</b> organizational structure, manner of governance, primary activities, or common goals and principles.”</p> <p>The Los Angeles District Attorney’s Office believes that such language would comply with the legal requirements of the <i>Clark</i> decision without holding the People to a higher burden of proof than the law requires, such as proof of each of these gang characteristics in each trial.</p>	
1202	James Mugridge, Lead Appellate Court Attorney and Linda Rouse, Managing Attorney, California Fifth District Court of Appeal.	AM	<ul style="list-style-type: none"> <li>Makes nonsubstantive edits and adds a Related Issues paragraph on “Kidnap for Ransom in Multiple Victim Robbery Case.” The paragraph summarizes that “kidnap for robbery does not include robberies ‘in which the movements of the victim are merely incidental to the commission of the robbery and do not substantially increase the risk of harm over and above that necessarily</li> </ul>	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

# CALCRIM 2024-01

## Revised Jury Instructions

All comments are verbatim unless indicated by an asterisk (\*).

Instruction No.	Commenter	Position	Comment	Committee Response
			<p>present in the crime of robbery itself,’ ” quoting <i>People v. Daniels</i> (1969) 71 Cal.3d 1119, 1139. (See <i>People v. Martinez</i> (1984) 150 Cal.App.3d 579, 591–595 extending the <i>Daniels</i> reasoning to the kidnapping for ransom context). The paragraph concludes by directing that if substantial evidence supports the theory that the defendant’s movement or restraint of the victim(s) increased the risk of harm during a multi-victim robbery above that necessary to commit the robbery, the instruction on kidnapping for ransom should be modified to include the additional element of legally sufficient movement. The paragraph cites <i>People v. Robertson</i> for the proposition that “substantial” increase of risk is not required. (<i>People v. Robertson</i> (2012) 208 Cal.App.4th 965, 979–982 [explaining that the legislature’s amendment of section 209 without including the word “substantial” with respect to increased risk as to kidnapping with intent to commit robbery or a sex offense was purposeful].)</p> <ul style="list-style-type: none"> <li>• The added paragraph and the directions to modify the instruction are mostly correct. No published authority disagrees with <i>Daniels</i> or <i>Martinez</i>. However, the suggestion that after <i>Martinez</i> was published, section 209 was amended and did not include the word “substantial” with respect to the increased risk is misleading considering the paragraph heading relates to kidnapping for purposes of ransom. In 1997, section 209 was amended to add subdivision (b)(2) which reads “This subdivision shall only apply if the movement of the victim is beyond that merely incidental to the commission of, and increases the risk of harm to the</li> </ul>	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

# CALCRIM 2024-01

## Revised Jury Instructions

All comments are verbatim unless indicated by an asterisk (\*).

Instruction No.	Commenter	Position	Comment	Committee Response
			<p>victim over and above that necessarily present in, the intended underlying offense.”<sup>1</sup></p> <p>Subdivision (b)(1) applies to kidnapping for purposes of robbery or a sex offense. Kidnapping for purposes of ransom is codified in section 209, subdivision (a), to which subdivision (b)(2) does not apply. <i>Robertson</i> did not consider section 209, subdivision (a), because the case before it involved kidnapping to commit a sex offense. Obviously, because <i>Martinez</i> drew the “substantial risk” standard from <i>Daniels</i> (which occurred in the kidnapping for purposes of robbery context), the reasoning of <i>Martinez</i> is considerably (although not entirely) undermined.</p> <ul style="list-style-type: none"> <li>• Also, one of the quotations drawn from <i>Martinez</i>, contains a typographical error. The sentence beginning with “In order ‘to prevent the <i>Daniels</i> line of cases from being circumvented by charging what is essentially a multi-victim robbery as a kidnapping for ransom,’ ” hyphenates multi-victim when it was written “multivictim” in the original.</li> <li>• Modify the word “multi-victim” to “multi[-]victim” or “multivictim.”</li> </ul>	<p>The committee appreciates this comment and has removed the hyphen.</p>
			<p>Modify the sentence “After <i>Martinez</i>, the Legislature amended Penal Code section 209 as it pertained to kidnapping for robbery and sex offenses and did not include the word “substantial” with respect to the</p>	<p>The committee agrees with this suggestion and has added “as it pertained to kidnapping for robbery and specified sex offenses” to the sentence.</p>

<sup>1</sup> Stats. 1997 ch. 817, § 17—a section in the same Act that made the relevant modification to section 209—explained: “It is the intent of the Legislature in enacting this act that the two-prong test of asportation for kidnapping, as set forth in *People v. Daniels*, 71 Cal. 2d 1119, 1139, be applied to violations of subdivision (b) of Section 209 of the Penal Code, as amended by this act ....” (Italics added.) It did not add the same provision with respect to section 209, subdivision (a).

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

# CALCRIM 2024-01

## Revised Jury Instructions

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Instruction No.	Commenter	Position	Comment	Committee Response
			increased risk.” Otherwise, we recommend implementing the proposed changes.	
1202	Orange County Bar Association by Christina Zabat-Fran, President.	AM	<p>Under “Related Issues,” the Instruction adds reference to <i>People v. Daniels</i>, which held that kidnap for robbery requires proof that movement of the victim was not merely incidental to the commission of robbery and <u>substantially increased the risk of harm</u>.</p> <p>The entry then explains that <i>Martinez</i> applied the same standard to a Kidnap for Ransom case. The last 5 lines of the entry read:</p> <p><b>After <i>Martinez</i>, the legislature amended Penal Code section 209 and did not include the word “substantial” with respect to the increased risk. (<i>People v. Robertson</i> (2012) 208 Cal.App.4th 965, 979–982 [146 Cal.Rptr.3d 66].) If substantial evidence supports this theory, modify the instruction to include the additional element of legally sufficient movement.</b></p>	<p>The committee disagrees with these suggestions. The new proposed language addresses the issue appropriately.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

# CALCRIM 2024-01

## Revised Jury Instructions

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Instruction No.	Commenter	Position	Comment	Committee Response
			<p>not require proof that the movement substantially increased the risk of harm to the victim.”</p> <p>2) Since legally sufficient movement is an element of the offense, it should be added to the listed elements as an optional, bracketed element. <u>Suggested</u>, after element 5:</p> <p><i>&lt;Give element 6 if substantial evidence supports the theory that holding or detaining the victim was merely incidental to an underlying offense.&gt;</i></p> <p>6. When the defendant held or detained that person, the holding or detaining was not merely incidental to the underlying offense of _____, and increased the risk of harm beyond that inherent in the _____[underlying offense]_____ itself.</p> <p>Alternatively, in the final line, it would avoid confusion to replace “this theory” with a description of the theory itself. Suggested: <b>“If substantial evidence supports the theory that holding or detaining the victim was merely incidental to an underlying offense, modify the instruction to include the additional element of legally sufficient movement.”</b></p>	<p>The committee appreciates this comment. However, the committee believes that this suggested additional element would apply to CALCRIM No. 1203, <i>Kidnapping: For Robbery, Rape, or Other Sex Offenses</i>, which is not part of the current proposed revisions. The committee will consider this comment at its next meeting.</p>
2140	James Mugridge, Lead Appellate Court Attorney and Linda Rouse, Managing Attorney, California	AM	<ul style="list-style-type: none"> <li>At the seventh bullet point in the Authority section of CALCRIM No. 2140, the citation “<i>People v. Scofield, supra</i>, 203 Cal. 2d p. 708,” should be corrected. Otherwise, we recommend implementing the proposed changes.</li> </ul>	The citation has been corrected.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



## CALCRIM 2024-01

### Revised Jury Instructions

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Instruction No.	Commenter	Position	Comment	Committee Response
	Fifth District Court of Appeal.			
2303	James Mugridge, Lead Appellate Court Attorney and Linda Rouse, Managing Attorney, California Fifth District Court of Appeal.	AM	<ul style="list-style-type: none"><li>• Modify the citation for the bullet point under Lesser Included Offenses to replace the dash in the <i>Sosa</i> citation with an en-dash (rather than a dash or em-dash).<sup>2</sup> Otherwise, we recommend implementing the proposed changes.</li></ul>	This correction has been made.
2651	James Mugridge, Lead Appellate Court Attorney and Linda Rouse, Managing Attorney, California Fifth District Court of Appeal.	NI	<ul style="list-style-type: none"><li>• Makes the same changes as CALCRIM Nos. 2600 and 2603 and changes the “reasonable listener” standard to the “reasonable person” standard. One of the cases cited for the “reasonable person” standard—<i>People v. Lowery</i> (2011) 52 Cal.4th 419, 427—uses “reasonable person” and “reasonable listener” language; the other case—<i>People v. Smolkin</i> (2020) 49 Cal.App.5th 183, 188—uses only the “reasonable listener” language.</li><li>• The “reasonable listener” language is certainly more commonly used in the threats context, but the cases using that language predominantly rely on <i>Lowery</i>. (E.g., <i>People v. Pineda</i> (2022) 13 Cal.5th 186, 248; <i>People v. Chandler</i> (2014) 60 Cal.4th 508, 522; <i>In re J.M.</i> (2019) 36 Cal.App.5th 668, 676; but see <i>People v. Peterson</i> (2023) 95 Cal.App.5th 1061, 1067–1068 [using the “reasonable person” and “reasonable listener” language].) And, as a practical matter, the proposed change does not substantively impact the standard.</li></ul>	

<sup>2</sup> In citations, use an en-dash (–) for ranges (no spaces) (e.g., pp. 123–124); create with ctrl+minus on number pad (not hyphen).

In text, use an em-dash (—) for dashes used like colons or parentheses (no spaces); create with (1) automatic conversion of two hyphens between words or (2) ctrl+alt+minus on number pad (not hyphen).

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



# CALCRIM 2024-01

## Revised Jury Instructions

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Instruction No.	Commenter	Position	Comment	Committee Response
			<ul style="list-style-type: none"> <li>The proposed change does not seem necessary, but it will likely cause no problems. We recommend implementing the proposed changes.</li> </ul>	The change to “reasonable person” conforms with previous changes in other CALCRIM instructions and reflects the fact that not all threats are made verbally.
2701	James Mugridge, Lead Appellate Court Attorney and Linda Rouse, Managing Attorney, California Fifth District Court of Appeal.		<ul style="list-style-type: none"> <li>To the instruction, removes the bracketed word “lawfully” from “A court issued a written order . . .,” directs the court to &lt;insert code section under which order made or applicable language from Pen. Code, § 166(c)(1)(C), (c)(3)(B) or (c)(3)(C), or § 273.6(c)(2) or (c)(3)&gt; (i.e., orders issued after an elder/dependent adult abuse conviction, removing a party from a dwelling, to effectuate other stay-away orders / protective orders, enjoining specific conduct in violation of protective orders) and removes bracketed definitions for domestic violence, abuse, cohabitants, elder/dependent adult abuse, and dependent adult.</li> <li>To the Notes, removing the “lawfully issued” bracketed text bench note, adding a note regarding the added statutory authority inclusion direction, removing the reference to a related elder/dependent adult abuse instruction, removing the “lawfully issued” authority, adds statutory authority to several defined terms, and removes the Commentary section.</li> </ul>	
			<ul style="list-style-type: none"> <li>Section 166, subdivision (a)(4) was not modified and continues to require that an order be “lawfully issued.” No recent case authority could be located on the issue. Presumably, the condition that the order be lawfully issued is removed because the Judicial Council believes the trial court—not the jury—should determine whether the order was lawfully issued because it is a purely legal issue (<i>People v. Taylor</i> (2004) 118 Cal.App.4th 11, 29</li> </ul>	The committee agrees that Penal Code section 166(a)(4) requires that an order have been lawfully issued. The parenthetical information in the instruction’s title indicates that this instruction only covers violations of Penal Code section 166(c)(1) and 273.6. However, this instruction does not cover violations of Penal

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

# CALCRIM 2024-01

## Revised Jury Instructions

All comments are verbatim unless indicated by an asterisk (\*).

Instruction No.	Commenter	Position	Comment	Committee Response
2701	Orange County Bar Association by Christina Zabat-Fran, President.	AM	<p>[a trial court may make purely legal determinations in criminal cases and defendant is not entitled to a jury trial on those issues]], but <i>Apprendi v. New Jersey</i> (2000) 530 U.S. 466, 477 requires “a jury determination that [the defendant] is guilty of every element of the crime with which he is charged, beyond a reasonable doubt.”</p> <ul style="list-style-type: none"> <li>• We would also comment that other CALCRIM jury instructions based on the same statute (CALCRIM No. 2700) and similar statutes (CALCRIM No. 2656) requiring that an order or conduct be lawfully issued or performed, respectively, are not among the proposed changes and will keep the “lawfully” language.</li> <li>• We would recommend not removing the “lawfully” language. Otherwise, we recommend implementing the proposed changes.</li> </ul> <p><b>OCBA recommends keeping the word “lawfully” in brackets in element 1.</b></p> <p><b>OCBA recommends keeping the following bench note (that the judicial council has proposed striking):</b></p> <p>-In order for a defendant to be guilty of violating Penal Code section 166(a)(4), the court order must be “lawfully issued.” (Pen. Code, § 166(a)(4); <i>People v. Gonzalez</i> (1996) 12 Cal.4th 804, 816–817 [50 Cal.Rptr.2d 74, 910 P.2d 1366].) The defendant may not be convicted for violating an order that is unconstitutional, and the defendant may bring a collateral attack on the validity of the order as a defense to this charge. (<i>People v. Gonzalez, supra</i>, 12 Cal.4th at pp. 816–818; <i>In re Berry</i> (1968) 68 Cal.2d 137, 147 [65 Cal.Rptr. 273, 436 P.2d 273].) The defendant may raise this issue on demurrer but is not required to. (<i>People v.</i></p>	<p>Code section 166(a)(4) – which is covered in CALCRIM No. 2700, <i>Violation of Court Order</i>.</p> <p>The committee agrees that Penal Code section 166(a)(4) requires that an order have been lawfully issued. The parenthetical information in the instruction’s title indicates that this instruction only covers violations of Penal Code section 166(c)(1) and 273.6. However, this instruction does not cover violations of Penal Code section 166(a)(4) – which is a violation covered in CALCRIM No. 2700, <i>Violation of Court Order</i>.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

# CALCRIM 2024-01

## Revised Jury Instructions

All comments are verbatim unless indicated by an asterisk (\*).

Instruction No.	Commenter	Position	Comment	Committee Response
			<p><i>Gonzalez, supra</i>, 12 Cal.4th at pp. 821, 824; <i>In re Berry, supra</i>, 68 Cal.2d at p. 146.) The legal question of whether the order was lawfully issued is the type of question normally resolved by the court. (<i>People v. Gonzalez, supra</i>, 12 Cal.4th at pp. 816–820; <i>In re Berry, supra</i>, 68 Cal.2d at p. 147.) If, however, there is a factual issue regarding the lawfulness of the court order and the trial court concludes that the issue must be submitted to the jury, give the bracketed word “lawfully” in element 1. The court must also instruct on the facts that must be proved to establish that the order was lawfully issued. In element 2, give the bracketed phrase “in a criminal case involving domestic violence” if the defendant is charged with a violation of Penal Code section 166(c)(1). In such cases, also give the bracketed definition of “domestic violence” and the associated terms.</p> <p>Order Must Be Lawfully Issued. Pen. Code, § 166(a)(4); <i>People v. Gonzalez</i> (1996) 12 Cal.4th 804, 816–817 [50 Cal.Rptr.2d 74, 910 P.2d 1366]; <i>In re Berry</i> (1968) 68 Cal.2d 137, 147 [65 Cal.Rptr. 273, 436 P.2d 273].</p> <p><b>Reasoning:</b> <i>People v. Gonzalez</i> is valid California Supreme Court caselaw. The proposed deletion of the two paragraphs referencing <i>Gonzalez</i> and the deletion of word “lawful” from the first element is contrary to <i>Gonzalez</i>. As noted in the current commentary, the word lawful may require factual determinations for a jury in some instances. The word lawful should remain in brackets. Because <i>Gonzalez</i> holds there can be no conviction for violating an unlawful order, the word</p>	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## CALCRIM 2024-01

### Revised Jury Instructions

All comments are verbatim unless indicated by an asterisk (\*).

Instruction No.	Commenter	Position	Comment	Committee Response
			lawful and the commentary on <i>Gonzalez</i> will remain helpful to the court in addressing motions for acquittal pursuant to PC 1118. The other modifications by the instruction are appropriate.	
3426 & 3427	James Mugridge, Lead Appellate Court Attorney and Linda Rousse, Managing Attorney, California Fifth District Court of Appeal.	AM	<ul style="list-style-type: none"><li>• Makes nonsubstantive changes and adds a citation to <i>People v. Suazo</i> (2023) 95 Cal.App.5th 681, 703–704, for the proposition that voluntary intoxication is “only a partial defense to a crime.”</li><li>• For the sake of consistency with CALCRIM No. 3425 and accuracy, the sentence is better framed “Unconsciousness caused by voluntary intoxication is governed by now Penal Code section 29.4, rather than by section 26, is not a defense to a general intent crime, and is only a partial defense to a specific intent crime.”</li><li>• We recommend the above modification and otherwise implementing the proposed changes.</li></ul>	In response to this suggestion, the committee replaced the phrase “only a partial defense to a crime” with “may only be offered to negate specific intent” in the related issue sections of Nos. 3425, 3426, and 3427.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** August 13, 2024

**Rules Committee action requested** [Choose from the drop-down menu below]:

**Recommend JC approval (has circulated for comment)**

**Title of proposal:** Court Interpreters: Implementation of Assembly Bill 1032

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*

Amend Cal. Rules of Court, rule 2.893; revise forms INT-100-INFO, INT-110, INT-120, and INT-140

*Committee or other entity submitting the proposal:*

Court Interpreters Advisory Panel

*Staff contact (name, phone and e-mail):* Diana Glick, 916-643-7012, [diana.glick@jud.ca.gov](mailto:diana.glick@jud.ca.gov)

*Identify project(s) on the committee's annual agenda that is the basis for this item:*

Annual agenda approved by Rules Committee on (date): Approved by E&P on March 14, 2024

Project description from annual agenda: Implementation of Assembly Bill 1032 (Pacheco) Court interpreters Assembly Bill 1032 (Stats. 2023, ch. 556), amends the Trial Court Interpreter Employment and Labor Relations Act (Government Code sections 71800-71829) with provisions affecting intermittent part-time, independent contractor, relay, and privately appointed interpreters. CIAP will propose revisions to California Rules of Court, rule 2.893, interpreter forms, and other guidance materials to conform with the statute.

**Out of Cycle:** *If requesting September 1 effective date or out of cycle, explain why:*

N/A

**Additional Information for Rules Committee:** (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

N/A

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was

☒ reviewed by EGG on (date) 6/14/24

☒ approved by Office Director (or Designee) (name) Anna Maves  
on (date) 6-21-24

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **Form Translations** (check all that apply)

This proposal:

☐ includes forms that have been translated.

☐ includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)

☐ includes forms that staff will request be translated.

- **Form Descriptions** (for any report with new or revised forms)

☒ The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

(05/20/24)

- **Self-Help Website** (check if applicable)
  - ☐ This proposal may require changes or additions to self-help web content.



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-036*

For business meeting on September 19–20, 2024

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**Title**

Court Interpreters: Implementation of Assembly Bill 1032

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2025

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rule 2.893; revise forms INT-100-INFO, INT-110, INT-120, and INT-140

**Date of Report**

July 26, 2024

**Recommended by**

Court Interpreters Advisory Panel  
Hon. Brian L. McCabe, Chair  
Mr. Hector Gonzalez, Jr., Vice-Chair

**Contact**

Diana Glick, 916-643-7012  
[diana.glick@jud.ca.gov](mailto:diana.glick@jud.ca.gov)

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### Executive Summary

Recent statutory changes were enacted by Assembly Bill 1032 (Pacheco; Stats. 2023, ch. 556), relating to provisionally qualified court interpreters. The Court Interpreters Advisory Panel recommends the amendment of rule 2.893 of the California Rules of Court and revisions to four forms to conform with those changes.

### Recommendation

The Court Interpreters Advisory Panel recommends that the Judicial Council, effective January 1, 2025:

1. Amend California Rules of Court, rule 2.893 to incorporate revised statutory language and to clarify the processes for qualification and appointment of provisionally qualified and temporary interpreters;
2. Revise *Procedures to Appoint a Noncertified or Nonregistered Spoken Language Interpreter as Either Provisionally Qualified or Temporary* (form INT-100-INFO) by renaming it



*Procedures to Appoint a Noncertified or Nonregistered Spoken Language Interpreter* and reorganizing the contents to track the amended rule of court;

3. Revise *Qualifications of a Noncertified or Nonregistered Spoken Language Interpreter* (form INT-110) by renaming it *Provisional Qualification of Noncertified or Nonregistered Spoken Language Interpreter*, adding revised requirements for provisional qualification, and streamlining the contents of the form;
4. Revise *Certification of Unavailability of Certified or Registered Interpreter* (form INT-120) by renaming it *Certification of Unavailability of Certified or Registered Interpreter and Availability of Provisionally Qualified Interpreter*, streamlining the options to demonstrate a diligent search, reorganizing the certification section, and removing two pages of instructions; and
5. Revise *Temporary Use of a Noncertified or Nonregistered Spoken Language Interpreter* (form INT-140) by renaming it *Temporary Qualification of Noncertified or Nonregistered Spoken Language Interpreter*, revising the caption to better track other Judicial Council forms in this set, and amending the findings and order to reflect the requirements of rule 2.893.

The proposed amended rule and revised forms are attached at pages 9–27.

## **Relevant Previous Council Action**

California Government Code sections 68560–68566 present a statutory scheme for the qualification and appointment of spoken-language interpreters in the California courts. The provisions establish two types of credentialed interpreters—certified<sup>1</sup> and registered<sup>2</sup>—and authorize the Judicial Council to designate languages and testing requirements for each type.

The Government Code requires interpreters of court proceedings to be certified or registered for the language required, with an exception for good cause.<sup>3</sup> The Legislature requires the Judicial Council to establish guidelines and a process for the good cause qualification and appointment of noncertified and nonregistered interpreters.<sup>4</sup>

In response to these statutory requirements, the Judicial Council adopted rule 2.893 of the California Rules of Court, effective January 1, 1996.<sup>5</sup> The rule was repealed and replaced,

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<sup>1</sup> A “certified interpreter” interprets between English and a language designated by the Judicial Council and is certified by an entity approved by the Judicial Council (Gov. Code, §§ 68562(b), 68566).

<sup>2</sup> A “registered interpreter” interprets between English and a language not designated by the Judicial Council and is qualified under the procedures and guidelines adopted by the Judicial Council (*id.*, § 68561(d)).

<sup>3</sup>*Id.*, § 68561.

<sup>4</sup>*Id.*, §§ 68561(c), 68564(d)–(e).

<sup>5</sup> This rule of court was originally adopted as rule 984.2. The rule was renumbered as 2.893 as part of the 2007 reorganization of the California Rules of Court.

effective January 1, 2018, to include a process for temporary appointments and to provide specific requirements for statements on the record when appointing a noncertified or nonregistered interpreter.

Form INT-100-INFO, an information sheet describing the provisional appointment process, originated in 1996 as form IN-120, *Procedure to Appoint a Noncertified Interpreter in Criminal and Juvenile Delinquency Proceedings*. By 2006, the form had been renumbered as IN-100. The form was revised again, effective January 1, 2009, at which time it was again renumbered to include “-INFO” to denote its status as an information sheet. Effective January 1, 2018, this form was revoked, and a new version was adopted, to include additional court settings for the appointment of noncertified and nonregistered interpreters.

Form INT-110 was originally adopted as form IN-110, effective January 1, 1996. This form is used by the courts to review and evaluate the qualifications of a noncertified or nonregistered interpreter. It was last revised, effective January 1, 2018, to greater distinguish between provisional and temporary appointments, to add the ability to indicate prior six-month qualification periods, and to allow prospective provisional interpreters to indicate interpreter and translator credentials, exams pursued, and other training and relevant work experience.

Form INT-120 was originally adopted as form IN-100, effective January 1, 1996, with the purpose of facilitating certification of unavailability of a certified interpreter by the court interpreter coordinator. By 2006, the form had been renumbered as IN-120. This form was last revised effective January 1, 2009; changes at that time included adding references to nonregistered interpreters and designated languages.

Form INT-140 was adopted by the Judicial Council effective January 1, 2018, and is intended for optional use by the court to facilitate the appointment of a temporary interpreter in the very limited circumstances in which a temporary interpreter is permitted by rule 2.893.

## **Analysis/Rationale**

Government Code sections 71800–71826, also known as the Trial Court Interpreter Employment and Labor Relations Act, address the employment status of court interpreters and describe the responsibilities of superior courts with respect to issues of hiring and negotiation of employment contracts.

As part of this statutory scheme, Government Code section 71802 requires courts to employ only certified and registered interpreters and places limitations on hiring independent contractors in lieu of employee interpreters. This section also provides that noncertified and nonregistered interpreters may be appointed in accordance with the good cause and qualification procedures adopted by the Judicial Council under section 68561(c).

AB 1032 added time limits, effective January 1, 2025, on the appointment of noncertified and nonregistered interpreters to section 71802, which now specifies that noncertified interpreters working in English and Spanish are limited to 45 court days or parts of court days in a calendar

year, and noncertified or nonregistered interpreters working in any other language or languages are limited to 75 court days or parts of court days in a calendar year.

In addition, section 71801 was amended to include a definition of “relay interpreting,” and sections 71802(d) and 71803(c) were amended to permit courts to hire nonregistered interpreters as employees to perform relay interpretation in specified circumstances.

The panel recommends updating the provisional qualification and appointment process in rule 2.893 and the corresponding forms to reflect these new statutory provisions. In addition, the panel identified several areas of the rule and forms that could be streamlined and clarified, as described below.

### **California Rules of Court, rule 2.893**

This rule has been amended to incorporate the new statutory limits on the appointment of noncertified and nonregistered interpreters, revise the definitions in subdivision (b) to bring them in line with statute, and streamline the provisional qualification process in subdivision (e). Under the current rule, provisional qualification is granted in six-month periods, with escalating requirements for qualification in the second and subsequent periods, and a maximum of four six-month periods allowed for noncertified interpreters working in Spanish. Because the limits on appointments mandated under AB 1032 are based on the calendar year, the panel recommends revising this rule to establish provisional qualification periods of 12 months, while implementing a requirement for interpreters working in any language to demonstrate efforts towards certified or registered status after two years. For third and subsequent 12-month periods of provisional qualification, the panel recommends adding language to subdivision (e)(2) requiring an interpreter to demonstrate efforts toward credentialed status, which include attempts to pass available qualifying exams for their language or languages and the completion of an online ethics training course. The proposed rule provides that a judicial officer may waive these requirements for good cause. The proposed rule has also been reorganized with subdivisions for temporary qualification and appointment in subdivision (f), and new information specific to relay interpreters in subdivision (g).

### **Form INT-100-INFO, *Procedures to Appoint a Noncertified or Nonregistered Spoken Language Interpreter as Either Provisionally Qualified or Temporary***

This form has been renamed *Procedures to Appoint a Noncertified or Nonregistered Spoken Language Interpreter*. The panel further recommends reorganizing the form to track the contents of the amended rule of court, rule 2.893, and adding numbering and formatting conventions to bring it in line with other Judicial Council information sheets.<sup>6</sup>

### **Form INT-110, *Qualifications of a Noncertified or Nonregistered Spoken Language Interpreter***

This form has been renamed *Provisional Qualification of Noncertified or Nonregistered Spoken Language Interpreter*. The panel further recommends revising the question about the language or

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<sup>6</sup> Because the form has been reorganized and significantly revised, no highlighting has been added.

languages of interpretation in item 1 of this form, and the questions seeking information on efforts towards certified or registered status for third and subsequent provisional qualification periods in items 4 and 9. Because the provisional qualification periods have been changed from six to twelve months, and the limits on provisional appointment are by calendar year as of January 1, 2025, the panel proposes to ask only for previous provisional qualification periods since January 1, 2025, in item 2 of this form. Any interpreter who was provisionally qualified during the last six months of 2024 would remain provisionally qualified through the completion of their six-month term but would be subject to the limits on provisional appointment going into effect on January 1, 2025, which would be tracked on form INT-120. The panel also recommends moving questions regarding the Judicial Council's court interpreter orientation course and the required ethics course for new certified and registered interpreters into item 3, as they are courses that would only be taken by interpreters who have achieved certified or registered status in other languages. In addition, the panel has proposed revisions to a variety of items asked of provisional interpreters, in response to concerns expressed by courts and justice partners, and updated and streamlined the provisional qualification finding and order for signature of the judicial officer. The changes to this form have shortened it from six to four pages.

**Form INT-120, *Certification of Unavailability of Certified or Registered Interpreter***

This form has been renamed *Certification of Unavailability of Certified or Registered Interpreter and Availability of Provisionally Qualified Interpreter*. In response to comments and feedback from courts, additional recommended changes streamline the certification section to allow an interpreter coordinator to indicate that a diligent search was performed, or that the language required does not have a qualifying exam that is recognized by the Judicial Council (thereby obviating a diligent search), or that the interpreter coordinator had less than one court day to identify an available interpreter because of either a cancellation or an emergency. In addition, the recommended revisions add to this form a section titled, "Availability of Provisionally Qualified Interpreter," which allows the form to more clearly state the availability of a provisionally qualified interpreter and provide an indication as to whether that interpreter is within the statutory limits for days worked during the calendar year. The panel also recommends revising the caption of this form to bring it into line with other Judicial Council forms.<sup>7</sup> The changes to this form have shortened it from three pages to one page.

**Form INT-140, *Temporary Use of a Noncertified or Nonregistered Spoken Language Interpreter***

This form has been renamed *Temporary Qualification of Noncertified or Nonregistered Spoken Language Interpreter*. Additional recommended changes include revising the caption to better track other Judicial Council forms in this set and amending the findings and order to better reflect the requirements of rule 2.893.

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<sup>7</sup> The version of this form that was circulated for comment contained an instruction in the caption to file the form with the court administrator. This was removed post-comment as the panel is aware that practice varies across the state; some courts file this form only in their court administrative records, while others file it into the case file.

## **Policy implications**

Consistent with their obligations under Title VI, courts are required to take reasonable steps to ensure meaningful access to legal proceedings for limited English proficient court users.<sup>8</sup> An important element in ensuring meaningful language access is the appointment of qualified interpreters. The Government Code requires that a court interpreter be qualified to interpret in the language required, which means that the interpreter must be certified or registered, unless a court finds good cause to appoint a noncertified or nonregistered interpreter.<sup>9</sup> The Judicial Council is charged with developing and implementing processes to certify and register interpreters, and with developing rules and forms for the qualification and appointment of noncertified and nonregistered interpreters, when necessary.<sup>10</sup>

In balancing the goals of developing and regulating a qualified professional interpreter workforce and ensuring the presence of a qualified interpreter for all LEP litigants who need language assistance in court, it is important to provide courts with sufficient operational flexibility. In particular, the process needs to account for situations in which relay interpretation is required because no exam currently exists that will qualify a relay interpreter to work in two non-English languages. In addition, a relay interpreter may or may not speak and understand English sufficiently to benefit from an ethics training course. The panel concluded that if any interpreter, including a relay interpreter, is working in a language for which an Oral Proficiency Exam exists, the language of the rule and forms should bolster the policy of encouraging those interpreters to pursue all testing and training opportunities available to them, while providing the court the discretion necessary to identify when it may be necessary to appoint an interpreter who is not able to become credentialed because of a lack of fluency in English. In addition, the panel concluded that any person who is qualified to provide interpretation services for court proceedings, including relay interpreters who do not speak English, should be required to demonstrate their efforts toward understanding the professional ethics rules and expectations for work in the California courts. In furtherance of this important policy, the Court Interpreters Program will make the online self-paced ethics training available to provisionally qualified interpreters through the Judicial Council's Learning Management System, upon request.

## **Comments**

The proposal was circulated for comment from April 2–May 3, 2024, and received five comments: one from a county bar association, three from courts, and one from the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee. The comments were all supportive of the proposal, and several commenters provided recommendations for revisions to rule 2.893 and the forms, most of which were accepted and incorporated into the proposal.

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<sup>8</sup> 65 Fed.Reg. 50123–50124 (eff. August 11, 2000).

<sup>9</sup> Gov. Code, § 68561(a), (d).

<sup>10</sup> *Id.*, §§ 68561(c), 68564(d)–(e).

The invitation to comment asked for specific comments regarding the proposal's success in balancing the "twin goals of encouraging interpreters to obtain credentials and providing courts with flexibility." The three commenters who responded to this question answered in the affirmative.

Two commenters requested that language on existing form INT-120 regarding a last-minute interpreter cancellation be retained and included with language stating that the interpreter coordinator had less than 24 hours to identify a certified or registered interpreter. The panel accepted that recommendation.

One commenter recommended revisions that would move away from referencing designated and nondesignated languages in rule 2.893 and on form INT-110 because of the difficulties of conveying this information in plain language. The panel discussed the potential benefits and drawbacks of eliminating references to designated (certified) and nondesignated (registered) languages in the rule and form. The identified benefits included eliminating surplusage in subdivision (a) of rule 2.893 and eliminating the need for a link to web content distinguishing designated and nondesignated languages on form INT-110. Removing references to designated and nondesignated languages would also allow for further condensing of the options in item 1 of this form relating to the language or languages for which the interpreter is seeking provisional qualification. The panel also considered reasons to retain the distinction between designated and nondesignated languages, including allowing the court to track progress toward either certified or registered status in item 4. If an interpreter were seeking a third or subsequent qualification period for a designated language, the judicial officer would be looking for progress toward passing the Bilingual Interpreting Exam, whereas an interpreter seeking registered status would only be able to take one of the other exams listed in item 4. Ultimately, the panel recommends removing the reference to designated and nondesignated languages in subdivision (a) of the rule of court, to clarify references to these language categories in subdivision (b), and to retain four options for languages of interpretation in item 1 of form INT-110 and the weblink to additional information about designated languages.

The chart of comments and panel responses are attached at pages 28–38.

### **Alternatives considered**

This proposal implements legislative requirements that limit the number of days a noncertified or nonregistered interpreter may work in a court, streamlines the existing process for provisional qualification and appointment, and accounts for necessary judicial discretion. The panel determined that this proposal is necessary to ensure that the California Rules of Court and Judicial Council forms are in compliance with the statutory amendments enacted by AB 1032 and, therefore, taking no action was not an appropriate alternative.

### **Fiscal and Operational Impacts**

The process of appointing nonregistered and noncertified interpreters has been simplified, but the significant amount of streamlining and reorganization of the rule and forms may require

education and retraining. Courts that provided comments noted the need for training, communications, and updates to case management systems; however, courts also indicated that the amount of time allotted for this work was reasonable and that the process would work in their courts. In addition, courts that maintain paper versions of the forms will incur the costs of replacing old forms with the revised forms.

### **Attachments and Links**

1. Cal. Rules of Court, rule 2.893, at pages 9–18
2. Forms INT-100-INFO, INT-110, INT-120, and INT-140, at pages 19–27
3. Chart of comments, at pages 28–38
4. Link A: Assem. Bill 1032,  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202320240AB1032](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1032)



1 **Rule 2.893. Appointment of interpreters in court proceedings**

2  
3 **(a) Application**

4  
5 This rule applies to all trial court proceedings in which the court appoints ~~an a~~  
6 spoken language interpreter for a ~~L~~imited English ~~P~~roficient (LEP) person. ~~This~~  
7 ~~rule applies to spoken language interpreters in languages designated and not~~  
8 ~~designated by the Judicial Council.~~  
9

10 **(b) Definitions**

11  
12 As used in this rule:

- 13  
14 (1) “Designated language” means a language selected by the Judicial Council for  
15 the development of a certification program under Government Code section  
16 68562;  
17  
18 (2) “Certified interpreter” means an interpreter who is ~~certified~~qualified by the  
19 Judicial Council to interpret in a designated language as defined in (b)(1).  
20 ~~designated by the Judicial Council under Government Code section 68560 et~~  
21 ~~seq.;~~ A certified interpreter has passed the English written exam and the  
22 Bilingual Interpreting Exam.  
23  
24 (3) “Registered interpreter” means an interpreter who is qualified by the Judicial  
25 Council to interpret in a language that is not a designated language by the  
26 Judicial Council as defined in (b)(1).; ~~who is qualified by the court under the~~  
27 ~~qualification procedures and guidelines adopted by the Judicial Council;~~ ~~and~~  
28 ~~who has passed a minimum of an English fluency examination offered by a~~  
29 ~~testing entity approved by the Judicial Council under Government Code~~  
30 ~~section 68560 et seq.;~~ A registered interpreter has passed the English written  
31 exam, an Oral Proficiency Exam in English, and an Oral Proficiency Exam in  
32 the target language, if available.  
33  
34 (4) ~~“Noncertified interpreter”~~ “Relay interpreter” means ~~an interpreter is not~~  
35 ~~certified by the Judicial Council to interpret a language designated by the~~  
36 ~~Judicial Council under Government Code section 68560 et seq.;~~ a person who  
37 interprets between two non-English spoken languages.;  
38  
39 (5) ~~“Nonregistered interpreter”~~ means ~~an interpreter in a language not designated~~  
40 ~~by the Judicial Council who has not been qualified under the qualification~~  
41 ~~procedures and guidelines adopted by the Judicial Council under Government~~  
42 ~~Code section 68560 et seq.;~~ “Noncertified” or “nonregistered” interpreter  
43 means a person providing interpretation services:

- (A) In a language designated for certification by the Judicial Council, without holding a certification to provide interpretation in that language;
- (B) In a language identified as a registered language by the Judicial Council, without holding registered status to interpret in that language, under the procedures and guidelines adopted by the Judicial Council; or
- (C) In two non-English languages, as a relay interpreter.

~~(6) “Provisionally qualified” means an interpreter who is neither certified nor registered but has been qualified under the good cause and qualification procedures and guidelines adopted by the Judicial Council under Government Code section 68560 et seq.;~~

~~(7) “Temporary interpreter” means an interpreter who is not certified, registered, or provisionally qualified, but is used one time, in a brief, routine matter.~~

**(c) Appointment of certified or registered interpreters**

If a court appoints a certified or registered court interpreter, the ~~judge~~ judicial officer in the proceeding must require the following to be stated on the record:

(1)–(6) \* \* \*

**(d) Appointment ~~or use of~~ noncertified or nonregistered interpreters**

(1) ~~When permissible~~ A noncertified or nonregistered interpreter may be appointed to provide interpretation services as follows:

~~If after a diligent search a certified or registered interpreter is not available, the judge in the proceeding may either appoint a noncertified or nonregistered interpreter who has been provisionally qualified under (d)(3) or, in the limited circumstances specified in (d)(4), may use a noncertified or nonregistered interpreter who is not provisionally qualified.~~

(A) Under a provisional appointment as described in (e); or

(B) Under a temporary appointment as described in (f).

(2) *Required record*

In all cases in which a noncertified or nonregistered interpreter is appointed

1 ~~or used~~, the judge judicial officer in the proceeding must require the  
2 following to be stated on the record:

3  
4 (A) The language to be interpreted;

5  
6 ~~(B) A finding that a certified or registered interpreter is not available and a~~  
7 ~~statement regarding whether a *Certification of Unavailability of*~~  
8 ~~*Certified or Registered Interpreter* (form INT-120) for the language to~~  
9 ~~be interpreted is on file for this date with the court administrator;~~

10  
11 ~~(C)~~ (B) A finding that good cause exists to appoint a noncertified or  
12 nonregistered interpreter;

13  
14 ~~(D)~~ (C) The name of the interpreter;

15  
16 ~~(E)~~ (D) A statement that the interpreter is not certified or registered to  
17 interpret in the language to be interpreted;

18  
19 ~~(F)~~ (E) A finding that the interpreter is qualified to interpret in the  
20 proceeding as required in ~~(d)(3) (e) or (d)(4) (f), with any other findings~~  
21 ~~required under those subdivisions;~~ and

22  
23 ~~(G)~~ (F) A statement that the interpreter was administered the interpreter's  
24 oath.

25  
26 ~~(3) —~~ Provisional qualification

27  
28 ~~(A) — A noncertified or nonregistered interpreter is provisionally qualified if~~  
29 ~~the presiding judge of the court or other judicial officer designated by~~  
30 ~~the presiding judge:~~

31  
32 ~~(i) — Finds the noncertified or nonregistered interpreter to be~~  
33 ~~provisionally qualified following the Procedures to Appoint a~~  
34 ~~Noncertified or Nonregistered Spoken Language Interpreter as~~  
35 ~~Either Provisionally Qualified or Temporary (form INT-100-~~  
36 ~~INFO); and~~

37  
38 ~~(ii) — Signs an order allowing the interpreter to be considered for~~  
39 ~~appointment on *Qualifications of a Noncertified or Nonregistered*~~  
40 ~~*Spoken Language Interpreter* (form INT-110). The period~~  
41 ~~covered by this order may not exceed a maximum of six months.~~  
42

1           (B) ~~To appoint a provisionally qualified interpreter, in addition to the~~  
2           ~~matters that must be stated on the record under (d)(2), the judge in the~~  
3           ~~proceeding must state on the record:~~

4  
5           (i) ~~A finding that the interpreter is qualified to interpret the~~  
6           ~~proceeding, following procedures adopted by the Judicial Council~~  
7           ~~(see forms INT 100-INFO, INT 110, and INT 120);~~

8  
9           (ii) ~~A finding, if applicable, that good cause exists under (f)(1)(B) for~~  
10          ~~the court to appoint the interpreter beyond the time ordinarily~~  
11          ~~allowed in (f); and~~

12  
13          (iii) ~~If a party has objected to the appointment of the proposed~~  
14          ~~interpreter or has waived the appointment of a certified or~~  
15          ~~registered interpreter.~~

16  
17       (4) ~~Temporary use~~

18  
19       ~~At the request of an LEP person, a temporary interpreter may be used to~~  
20       ~~prevent burdensome delay or in other unusual circumstances if:~~

21  
22       (A) ~~The judge in the proceeding finds on the record that:~~

23  
24           (i) ~~The LEP person has been informed of their right to an interpreter~~  
25           ~~and has waived the appointment of a certified or registered~~  
26           ~~interpreter or an interpreter who could be provisionally qualified~~  
27           ~~by the presiding judge as provided in (d)(3);~~

28  
29           (ii) ~~Good cause exists to appoint an interpreter who is not certified,~~  
30           ~~registered, or provisionally qualified; and~~

31  
32           (iii) ~~The interpreter is qualified to interpret that proceeding, following~~  
33           ~~procedures adopted by the Judicial Council (see forms INT 100-~~  
34           ~~INFO and INT 140).~~

35  
36       (B) ~~The use of an interpreter under this subdivision is limited to a single~~  
37       ~~brief, routine matter before the court. The use of the interpreter in this~~  
38       ~~circumstance may not be extended to subsequent proceedings without~~  
39       ~~again following the procedure set forth in this subdivision.~~  
40

1 (e) **Appointment of intermediary interpreters working between two languages**  
2 **that do not include English- Provisional qualification and appointment of**  
3 **noncertified or nonregistered interpreters**  
4

5 An interpreter who works as an intermediary between two languages that do not  
6 include English (a relay interpreter) is not eligible to become certified or registered.  
7 However, a relay interpreter can become provisionally qualified if the judge finds  
8 that he or she is qualified to interpret the proceeding following procedures adopted  
9 by the Judicial Council (see forms INT-100 INFO, INT-110, and INT-120). The  
10 limitations in (f) below do not apply to relay interpreters.  
11

12 (1) When permissible  
13

14 If, after a diligent search, a certified or registered interpreter is not available,  
15 the judicial officer in the proceeding may appoint a noncertified or  
16 nonregistered interpreter who has been provisionally qualified under this  
17 subdivision.  
18

19 (2) Provisional qualification  
20

21 (A) A noncertified or nonregistered interpreter is provisionally qualified if a  
22 judicial officer of a superior court finds the noncertified or  
23 nonregistered interpreter to be provisionally qualified to interpret in a  
24 specific language or languages and signs the order allowing the  
25 interpreter to be considered for appointment on *Provisional*  
26 *Qualification of Noncertified or Nonregistered Spoken Language*  
27 *Interpreter* (form INT-110).  
28

29 (B) A provisional qualification is valid for one year from the date of  
30 judicial officer signature on form INT-110.  
31

32 (C) Interpreters seeking a third or subsequent provisional qualification  
33 period after January 1, 2025, must demonstrate their efforts to achieve  
34 certified or registered status, by providing the following information to  
35 the court, either orally or on form INT-110:  
36

37 (i) Whether they have completed the Judicial Council's online self-  
38 paced court interpreter ethics training within the past two years;  
39 and  
40

41 (ii) Whether they have made at least two attempts to pass a  
42 qualifying exam in the past two years, if such a qualifying exam  
43 exists. Interpreters, including relay interpreters, working in a

1 language for which an Oral Proficiency Exam exists must attempt  
2 that exam.

3  
4 (D) When an interpreter seeks a third or subsequent provisional  
5 qualification period after January 1, 2025, the judicial officer must find  
6 that the interpreter has made the efforts required in (C) or must indicate  
7 that good cause exists to appoint the interpreter in form INT-110's  
8 *Provisional Qualification Finding and Order of the Court.*  
9

10 (3) Required record  
11

12 In addition to the matters that must be stated on the record under (d)(2), to  
13 make a provisional appointment of a noncertified or nonregistered interpreter,  
14 the judicial officer in the proceeding must state on the record:  
15

16 (A) A finding that a certified or registered interpreter is not available and a  
17 statement that *Certification of Unavailability of Certified or Registered*  
18 *Interpreter and Availability of Provisionally Qualified Interpreter*  
19 (form INT-120) for the language to be interpreted is on file for this date  
20 with the court administrator;  
21

22 (B) A finding that the interpreter has been provisionally qualified to  
23 interpret in the required language or languages, following procedures  
24 adopted by the Judicial Council (see forms INT-100-INFO and INT-  
25 110);  
26

27 (C) A finding, if applicable, that there is a necessity to appoint the  
28 interpreter beyond the time ordinarily allowed in (4); and  
29

30 (D) Whether a party has objected to the appointment of the proposed  
31 interpreter or has waived the appointment of a certified or registered  
32 interpreter.  
33

34 (4) Limits on provisional appointment  
35

36 (A) Unless the judicial officer in the proceeding determines there is a  
37 necessity, a noncertified interpreter who is provisionally qualified  
38 under this rule to interpret in Spanish may not interpret in a superior  
39 court for more than 45 court days or parts of court days within a  
40 calendar year.  
41

42 (B) Unless the judicial officer in the proceeding determines there is a  
43 necessity, a noncertified or nonregistered interpreter who is

provisionally qualified under this rule to interpret in a language other than Spanish may not interpret in a superior court for more than 75 court days or parts of court days within a calendar year.

**(f) ~~Limit on appointment of provisionally qualified noncertified and nonregistered interpreters~~**

~~(1) A noncertified or nonregistered interpreter who is provisionally qualified under (d)(3) may not interpret in any trial court for more than any four six-month periods, except in the following circumstances:~~

~~(A) A noncertified interpreter of Spanish may be allowed to interpret for no more than any two six-month periods in counties with a population greater than 80,000.~~

~~(B) A noncertified or nonregistered interpreter may be allowed to interpret more than any four six-month periods, or any two six-month periods for an interpreter of Spanish under (f)(1)(A), if the judge in the proceeding makes a specific finding on the record in each case in which the interpreter is sworn that good cause exists to appoint the interpreter, notwithstanding the interpreter's failure to achieve Judicial Council certification.~~

~~(2) Except as provided in (f)(3), each six-month period under (f)(1) begins on the date a presiding judge signs an order under (d)(3)(A)(ii) allowing the noncertified or nonregistered interpreter to be considered for appointment.~~

~~(3) If an interpreter is provisionally qualified under (d)(3) in more than one court at the same time, each six-month period runs concurrently for purposes of determining the maximum periods allowed in this subdivision.~~

~~(4) Beginning with the second six-month period under (f)(1), a noncertified or nonregistered interpreter may be appointed if he or she meets all of the following conditions:~~

~~(A) The interpreter has taken the State of California Court Interpreter Written Exam at least once during the 12 calendar months before the appointment;~~

~~(B) The interpreter has taken the State of California's court interpreter ethics course for interpreters seeking appointment as a noncertified or nonregistered interpreter, or is certified or registered in a different language from the one in which he or she is being appointed; and~~



1  
2 ~~(C) The interpreter has taken the State of California's online court~~  
3 ~~interpreter orientation course, or is certified or registered in a different~~  
4 ~~language from the one in which he or she is being appointed.~~

5  
6 ~~(5) Beginning with the third six-month period under (f)(1), a noncertified or~~  
7 ~~nonregistered interpreter may be appointed if he or she meets all of the~~  
8 ~~following conditions:~~

9  
10 ~~(A) The interpreter has taken and passed the State of California Court~~  
11 ~~Interpreter Written Exam with such timing that he or she is eligible to~~  
12 ~~take a Bilingual Interpreting Exam; and~~

13  
14 ~~(B) The interpreter has taken either the Bilingual Interpreting Exam or the~~  
15 ~~relevant Oral Proficiency Exam(s) for his or her language pairing at~~  
16 ~~least once during the 12-calendar months before the appointment.~~

17  
18 ~~(6) The restrictions in (f)(5)(B) do not apply to any interpreter who seeks~~  
19 ~~appointment in a language pairing for which no exam is available.~~

20  
21 ~~(7) The restrictions in (f)(4) and (5) may be waived by the presiding judge for~~  
22 ~~good cause whenever there are fewer than 25 certified or registered~~  
23 ~~interpreters enrolled on the Judicial Council's statewide roster for the~~  
24 ~~language requiring interpretation.~~

25  
26 **(f) Temporary appointment of noncertified or nonregistered interpreter**

27  
28 **(1) When permissible**

29  
30 If the judicial officer in a proceeding finds that a certified or registered  
31 interpreter is not available, a noncertified or nonregistered interpreter may be  
32 appointed to interpret for a single, brief, routine matter before the court in  
33 order to prevent burdensome delay or in other unusual circumstances.

34  
35 **(2) Required record**

36  
37 A noncertified or nonregistered interpreter may be appointed on a temporary  
38 basis, if, in addition to the requirements of (d)(2), the judicial officer in the  
39 proceeding finds on the record that:

40  
41 (A) The LEP person has been informed of their right to an interpreter and  
42 has waived the appointment of a certified or registered interpreter or an

1 interpreter who could be provisionally qualified by the judicial officer  
2 in the proceeding, as provided in (e);

3  
4 (B) Good cause exists to appoint an interpreter who is not certified,  
5 registered, or provisionally qualified; and

6  
7 (C) The interpreter is qualified to interpret that proceeding, following  
8 procedures adopted by the Judicial Council (see forms INT-100-INFO  
9 and INT-140).

10  
11 (3) Limits on temporary appointment

12  
13 The appointment of an interpreter under this subdivision is limited to a single,  
14 brief, routine matter before the court. The use of the interpreter in this  
15 circumstance may not be extended to subsequent proceedings without again  
16 following the procedure set forth in this subdivision.

17  
18 **(g) Appointment of relay interpreter**

19  
20 (1) When permissible

21  
22 If, after a diligent search, a certified or registered interpreter is not available  
23 to interpret between English and the language required for a court  
24 proceeding, the court may appoint a relay interpreter to interpret between two  
25 non-English spoken languages and a second interpreter who can interpret  
26 between one of the relay interpreter's languages and English. A relay  
27 interpreter may be appointed provisionally as described in (e), or on a  
28 temporary basis as described in (f).

29  
30 (2) Required record

31  
32 (A) If the relay interpreter is appointed as a provisional interpreter, the  
33 judicial officer must make the record required for all appointments of  
34 noncertified and nonregistered interpreters in (d)(2), must follow the  
35 rules for provisional qualification in (e)(2), and must make the record  
36 required in (e)(3).

37  
38 (B) If the relay interpreter is appointed as a temporary interpreter, the  
39 judicial officer must make the record required for all appointments of  
40 noncertified and nonregistered interpreters in (d)(2) and the record  
41 required in (f)(2).

42  
43 (3) Limits on appointment of relay interpreters

1  
2 (A) A relay interpreter who is qualified for a provisional appointment  
3 described in (e) is subject to the time limits for appointment set forth in  
4 (e)(4).

5  
6 (B) A relay interpreter with a temporary appointment described in (f) is  
7 subject to the limits on temporary appointment to a single, brief, and  
8 routine matter before the court.

9  
10 **Advisory Committee Comment**

11  
12 **Subdivisions (c) and (d)(2).** When a court reporter is transcribing the proceedings, or an  
13 electronic recording is being made of the proceedings, a ~~judge~~ judicial officer may satisfy the “on  
14 the record” requirement by stating the required details of the interpreter appointment in open  
15 court. If there is no court reporter and no electronic recording is being made, the “on the record”  
16 requirement may be satisfied by stating the required details of the interpreter appointment and  
17 documenting them in writing—such as in a minute order, the official clerk’s minutes, a formal  
18 order, or even a handwritten document—that is entered in the case file.

19  
20 **Subdivision ~~(d)(4)(f)~~.** This provision is intended to allow for the one-time use of a noncertified or  
21 nonregistered interpreter who is not provisionally qualified to interpret for an LEP person in a  
22 courtroom event. This provision is not intended to be used to meet the extended or ongoing  
23 interpretation needs of LEP court users.

24  
25 **Subdivision ~~(b)(7) and (d)(4)(f)~~.** When determining whether the matter before the court is a  
26 “brief, routine matter” for which a noncertified or nonregistered interpreter who has not been  
27 provisionally qualified may be used, the judicial officer should consider the complexity of the  
28 matter at issue and likelihood of potential impacts on the LEP person’s substantive rights,  
29 keeping in mind the consequences that could flow from inaccurate or incomplete interpretation of  
30 the proceedings.

## Procedures to Appoint a Noncertified or Nonregistered Spoken Language Interpreter

The court is required to appoint a certified or registered interpreter. If a certified or registered interpreter is not available, the court may appoint a noncertified or nonregistered interpreter on a **provisional or temporary** basis, according to the instructions provided in this information sheet.

### 1. Provisional Qualification and Appointment

#### a. When Allowed

If, after a diligent search, a certified or registered interpreter is not available, a noncertified or nonregistered interpreter who has been provisionally qualified may be appointed.

#### b. Provisional Qualification Process

- (1) The noncertified or nonregistered interpreter may complete, sign, and submit to a judicial officer *Provisional Qualification of Noncertified or Nonregistered Spoken Language Interpreter* (form INT-110). Alternatively, a judicial officer may use form INT-110 to conduct a voir dire process to evaluate the qualifications of the proposed interpreter.
- (2) The judicial officer reviews the information on form INT-110. If the judicial officer finds that the interpreter is eligible for provisional qualification, the judicial officer will sign the finding and order on page 4 of the form.
- (3) A provisional qualification is valid for one year from the date of signature by the judicial officer.

#### c. Limits on Provisional Qualification

Interpreters seeking a third or subsequent period of provisional qualification after January 1, 2025, must demonstrate efforts to become certified or registered by indicating on form INT-110 that they have, during the previous two years:

- (1) Completed the Judicial Council's online self-paced court interpreter ethics training; and
- (2) Made at least two attempts to pass a qualifying exam for the language or languages of interpretation, if such a qualifying exam exists. Interpreters, including relay interpreters, working in a language or languages for which an Oral Proficiency Exam exists, must attempt that exam.

#### d. Provisional Appointment Process

- (1) The court must certify that no certified or registered interpreter is available for the required language or languages on the date of the proceeding. This certification is made when the court completes, signs, and files with the court administrator *Certification of Unavailability of Certified or Registered Interpreter and Availability of Provisionally Qualified Interpreter* (form INT-120).
- (2) After the court has made this certification, a provisionally qualified interpreter may be appointed by the judicial officer in a proceeding. If the prospective interpreter has not yet been made provisionally qualified, the judicial officer must review the qualifications on form INT-110, according to the instructions above.

#### e. Required Record

To appoint a provisionally qualified interpreter, the judicial officer in the proceeding must state the following on the record:

- (1) A finding that good cause exists to appoint a noncertified or nonregistered interpreter;
- (2) A finding that a certified or registered interpreter is not available and a statement that form INT-120 for the language to be interpreted is on file with the court administrator;
- (3) The name of the noncertified or nonregistered interpreter to be appointed, and the language or languages to be interpreted;
- (4) That the interpreter is not certified or registered to interpret in the languages required, and that the interpreter has been provisionally qualified to interpret in the required language or languages, and the date of qualification;
- (5) Whether a party has objected to the appointment of the proposed interpreter or has waived the appointment of a certified or registered interpreter;
- (6) A finding that the appointment is within the time limits in California Rules of Court, rule 2.893, or a finding that there is a necessity for the court to appoint the interpreter beyond these time limits; and
- (7) That the interpreter was administered the interpreter's oath.

### f. Limits on Provisional Appointments

Unless the judicial officer in the proceeding determines there is a necessity:

- (1) A noncertified interpreter who is provisionally qualified under this rule to interpret in Spanish and English may not interpret in a superior court for more than 45 court days or parts of court days within a calendar year.
- (2) A noncertified or nonregistered interpreter who is provisionally qualified under this rule to interpret in a language or languages other than Spanish and English may not interpret in a superior court for more than 75 court days or parts of court days within a calendar year.

## 2. Temporary Appointment

### a. When Allowed

If the court finds that a certified or registered interpreter is not available, a noncertified or nonregistered interpreter may be appointed to interpret for a single, brief, routine matter before the court, in order to prevent burdensome delay or in other unusual circumstances.

### b. Temporary Appointment Process

- (1) A temporary appointment is allowed only for a single, brief, routine matter before the court, when necessary to prevent burdensome delay, or in other unusual circumstances.
- (2) If the judicial officer finds that a certified or registered interpreter is not available, a temporary interpreter may be appointed by the judicial officer in a proceeding. **Optional:** The judicial officer in a proceeding may ask the prospective interpreter to fill out and submit information on *Temporary Qualification of Noncertified or Nonregistered Spoken Language Interpreter* (form INT-140).

### c. Required Record

To appoint a noncertified or nonregistered interpreter on a temporary basis, the judicial officer in the proceeding must state the following on the record:

- (1) A finding that a certified or registered interpreter is not available and that good cause exists to appoint an interpreter who is not certified, registered, or provisionally qualified;
- (2) The name of the noncertified or nonregistered interpreter to be appointed, and the language or languages to be interpreted;
- (3) That the interpreter is not certified or registered to interpret in the language required and that the interpreter is qualified to interpret that proceeding, following procedures adopted by the Judicial Council;
- (4) That the LEP person has been informed of their right to an interpreter and has waived the appointment of a certified or registered interpreter, or an interpreter who could be provisionally qualified; and
- (5) That the interpreter was administered the interpreter's oath.

### d. Limits on Temporary Appointments

Temporary appointments are limited to single, brief, and routine matters before the court. The temporary appointment of an interpreter may not be extended to subsequent proceedings without again following the procedures above.

## 3. Relay Interpreters

Relay interpreters work between two non-English spoken languages and may be provisionally qualified and appointed or temporarily appointed, depending on the circumstances. If a relay interpreter is provisionally appointed, they must abide by the limit of 75 court days or parts of court days in a calendar year, as described above. If a relay interpreter is temporarily appointed, their appointment is limited to a single, brief, and routine matter before the court.

INTERPRETER NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: WORK NO.: EMAIL ADDRESS: DRIVER'S LICENSE or STATE ID:	FOR COURT USE ONLY (FILE WITH THE COURT ADMINISTRATOR)  <b>DRAFT 7.26.2024 NOT APPROVED BY THE JUDICIAL COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	

**PROVISIONAL QUALIFICATION OF NONCERTIFIED OR NONREGISTERED SPOKEN LANGUAGE INTERPRETER**

This form is used to qualify a noncertified or nonregistered spoken language interpreter for provisional appointment under California Rules of Court, rule 2.893. The qualification on page 4 is valid for one year from the date of signature of the judicial officer.

### 1. Languages

- a. Language or languages:
- b. Select the option below that best describes your language pair:
- ☐ English and Spanish
- ☐ English and designated language other than Spanish
- ☐ English and nondesignated language
- ☐ Two non-English spoken languages (relay interpreter)

Information about languages designated by the Judicial Council and nondesignated languages is available at <https://languageaccess.courts.ca.gov/court-interpreters-resources/becoming-court-interpreter>

The following questions may be addressed to the noncertified or nonregistered interpreter as voir dire, or the court may have the prospective interpreter answer the questions in writing on this form. All of the information provided by the interpreter should be considered by the court to determine whether the interpreter is **qualified** to interpret the stated language.

### 2. Previous provisional qualification

Since January 1, 2025, have you been provisionally qualified to interpret in this language or these languages by a judicial officer in this court or any other court under California Rules of Court, rule 2.893?

- a. ☐ No
- b. ☐ Yes. For each previous provisional qualification, state
- |                            |        |
|----------------------------|--------|
| (1) Date of qualification: | Court: |
| (2) Date of qualification: | Court: |
| (3) Date of qualification: | Court: |
| (4) Date of qualification: | Court: |
| (5) Date of qualification: | Court: |

### 3. Interpreter and translator credentials

- a. Please list the two most relevant interpreter or translator credentials you currently hold, that are in good standing (e.g., court interpreter certification from another state, in another language, or for the federal courts; ATA certification; community college certificate).

- |                      |                             |
|----------------------|-----------------------------|
| (1) Credential name: | ID #:                       |
| Language pair:       | Date of initial credential: |
| (2) Credential name: | ID #:                       |
| Language pair:       | Date of initial credential: |

- b. Have you taken the Judicial Council's court interpreter orientation course? ☐ Yes (date): ☐ No
- c. Have you taken the Judicial Council's required ethics course for new certified and registered interpreters? ☐ Yes (date): ☐ No

INTERPRETER (name):

**4. Interpreter examinations and evaluations (related to credentials you do not currently hold)**

Note: Interpreters seeking a third or subsequent provisional qualification period after January 1, 2025, must demonstrate that during the last two years, they have made at least two attempts to pass a qualifying exam for the language or languages of interpretation, if such an exam exists. Interpreters, including relay interpreters, working in a language or languages for which an Oral Proficiency Exam exists must attempt that exam.

**a. Examinations administered by the Judicial Council (complete all that apply)**

- (1) Bilingual Interpreting Exam ☐ Not available for this language or these languages

Language: (date): Results:

Language: (date): Results:

- (2) Oral Proficiency Exam (non-English language) ☐ Not available for this language or these languages

Language: (date): Results:

Language: (date): Results:

- (3) Oral Proficiency Exam (English)

Date: Results:

Date: Results:

- (4) Written Exam (English)

Date: Results:

Date: Results:

☐ Check this box if you are attaching additional information on examinations recognized by the Judicial Council.

**b. Other examinations and evaluations**

- (1) Have you taken the Federal Court Interpreter Certification Examination?

☐ Yes (dates): What were the results?

☐ No (check one): ☐ Not taken ☐ Not given in the language specified above

- (2) Have you taken a Court Interpreter Certification Examination from other states?

☐ Yes (dates): Give states and results of each:

☐ No (check one): ☐ Not taken ☐ Not given in the language specified above

- (3) Have your interpreting skills been evaluated in any other way? ☐ Yes ☐ No

If yes, which aspects of your skills were evaluated? (check all that apply)

☐ Interpreting modes (check all that apply): ☐ Consecutive ☐ Simultaneous ☐ Sight translation

☐ Other (specify): What languages?

When were you evaluated?

Which authority evaluated your skills?

What were the results?

**5. Interpreting and translation training**

- a. Institutions attended: (1)

Year:

(2)

Year:

(3)

Year:

- b. Court interpreting observation (indicate number of hours you have observed court interpreters in the courtroom setting):

- c. Legal/court interpreting training (select one)

(1) ☐ 40 or more hours of training in legal interpreting in the last two years

(2) ☐ 80 or more hours of training in legal interpreting in the last four years

(3) ☐ Less legal training than either (1) or (2) during the identified time period

**6. Translation**

- a. Do you have any experience in written translation? ☐ Yes ☐ No

- b. List types of documents:

- c. What languages?



INTERPRETER (name):

## 7. Teaching experience

- a. Do you have any language teaching experience? ☐ Yes ☐ No
- b. If yes, in which languages?
- c. At what levels?

## 8. Interpreting experience

- a. Have you interpreted in any court or administrative proceedings? ☐ Yes ☐ No  
Please indicate how many proceedings or events you have interpreted in the last **two** years for each of the following types:
- |                   |               |  |                          |
|-------------------|---------------|--|--------------------------|
| Criminal:         | Traffic:      | Juvenile:                                      | Family:                  |
| Civil:            | Small Claims: | Unlawful Detainer:                             | Probate/Conservatorship: |
| Dates (if known): |               | List the last two counties you have worked in: |                          |
| What languages?   |               |  |                          |
- Which modes of interpreting did you employ? (check all that apply)
- ☐ Consecutive ☐ Simultaneous ☐ Sight translation
- b. Have you interpreted in any noncourt setting? ☐ Yes ☐ No  
Please indicate type (medical, business, education, community, other):
- Number of events interpreted in the last **two** years: **Was** your role as an interpreter compensated? ☐ Yes ☐ No
- Approximate number of total days: What languages?
- Modes of interpreting employed (check all that apply): ☐ Consecutive ☐ Simultaneous ☐ Sight translation
- c. Have you had 72 hours of legal interpreting experience with, or under the guidance of, a certified or registered court interpreter mentor (includes police interpreted work, depositions, etc., as well as mock trials and other court training simulations)?
- ☐ Yes ☐ No
- d. Number of proceedings or events you have interpreted in the last two years by remote means:
- e. Are you a member of any language-related professional organizations: ☐ Yes ☐ No  
If yes, please indicate the following:
- |                           |                                  |
|---------------------------|----------------------------------|
| (1) Name of organization: | How long have you been a member? |
| (2) Name of organization: | How long have you been a member? |

## 9. Code of professional conduct/ethics (California Rules of Court, rule 2.890)

Note: Interpreters seeking a third or subsequent provisional qualification period after January 1, 2025, must indicate that, within the last two years, they have completed the Judicial Council's online self-paced court interpreter ethics training.

- a. Have you completed the Judicial Council's online self-paced court interpreter ethics training?
- ☐ Yes (date): ☐ No
- b. Do you have a copy of the *Professional Standards and Ethics for California Court Interpreters*? ☐ Yes ☐ No
- c. Have you read, do you understand, and will you abide by the *Professional Standards and Ethics for California Court Interpreters*? ☐ Yes ☐ No
- d. Have you had any other training in professional ethics for court interpreters? ☐ Yes ☐ No  
If yes, please explain:

## 10. Training in legal terminology and process

- a. Have you received training in criminal procedure? ☐ Yes ☐ No  
Please describe:
- b. Have you received training in civil procedure? ☐ Yes ☐ No  
Please describe:
- c. Describe any other training received in California legal terminology or process:

INTERPRETER (name):

**11. General education****a. (Check highest level degree attained.)**
☐ N/A (No degree)    ☐ High school    ☐ Jr. college    ☐ University    ☐ Graduate degree    ☐ Postgraduate
**b. Name of institution:**

(1) Degree awarded: Year: Major:

(2) Degree awarded: Year: Major:

**12. Language training****a. How did you learn English? (Write N/A if not interpreting in English):****b. How did you learn the non-English language(s) to be interpreted?****c. In which languages were you educated?**

Language (specify):

Elementary

Jr. high

High school

University

(1)

☐☐☐☐

(2)

☐☐☐☐d. What languages ☐ are ☐ were spoken at home (specify):**13. Disqualifications, decertifications, or criminal offenses**a. Have you had any certifications that have lapsed or have you been disqualified from interpreting in any court or administrative hearing? ☐ Yes ☐ No

If yes, please explain:

b. Have you ever been convicted of violating any federal law, state law, county or municipal law, regulation, or ordinance? (Do not include traffic infractions.) ☐ Yes ☐ No

If yes, please explain:

I am 18 years of age or older and I declare under penalty of perjury under the laws of the State of California that the information provided above and on the preceding pages is true and correct. I understand that any false or misleading statements disqualify me from being considered for interpreting assignments in the trial courts, in addition to other penalties provided by law.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PROSPECTIVE INTERPRETER)

**PROVISIONAL QUALIFICATION FINDING AND ORDER OF THE COURT**  
(California Rules of Court, rule 2.893)

1. Interpreter (name):

2. Language or languages to be interpreted:

3. THE COURT FINDS that the above-named interpreter is provisionally qualified to interpret the language or languages specified above.

☐ (for third or subsequent provisional qualification period after January 1, 2025 only) The court finds that this interpreter has made efforts to achieve certified or registered status or that good cause exists to provisionally qualify this interpreter.

4. THE COURT ORDERS that the above-named interpreter may be considered for appointment to interpret the language or languages specified above in any proceeding in this court for a period of one year from the date of the signature below.

Date:

(TYPE OR PRINT NAME)

JUDICIAL OFFICER)

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY  <b>DRAFT 7.26.2024 NOT APPROVED BY THE JUDICIAL COUNCIL</b>
<b>TITLE OF CASE:</b>  <b>DATE OF PROCEEDING:</b> <b>REQUIRED LANGUAGE OR LANGUAGES:</b>	
<b>CERTIFICATION OF UNAVAILABILITY OF CERTIFIED OR REGISTERED INTERPRETER AND AVAILABILITY OF PROVISIONALLY QUALIFIED INTERPRETER</b>	<b>CASE NUMBER:</b>

### UNAVAILABILITY OF CERTIFIED OR REGISTERED INTERPRETER

- I am the person responsible for assigning interpreters to this court.
- I have read and understand Government Code sections 68561, 68562, and 71802 mandating the use of certified court interpreters for court proceedings in languages that have been designated by the Judicial Council, and the use of registered interpreters for court proceedings in languages not designated by the Judicial Council.

(Select option 3, 4, or 5 below.)

- ☐ After making a diligent search, I certify that no certified or registered court interpreter is available on the date of the proceeding to interpret the required language or languages stated above. The diligent search consisted of the following:
  - ☐ I attempted to contact all certified or registered court interpreters for the required language or languages in this county.
  - ☐ I attempted to contact all certified or registered court interpreters for the required language or languages in the neighboring counties of (specify):
  - ☐ I attempted to contact additional certified or registered interpreters on the Judicial Council Master List of Certified and Registered Court Interpreters.
- ☐ There is no examination recognized by the Judicial Council that would allow an interpreter to become certified or registered to provide interpretation in the language or languages required for this proceeding.
- ☐ The undersigned had less than one court day to identify an available interpreter, or a scheduled interpreter canceled less than 24 hours before the proceeding.

### AVAILABILITY OF PROVISIONALLY QUALIFIED INTERPRETER

The following interpreter is available on the date of the proceeding indicated above:

- Name:
- Provisional qualification (select one)
  - ☐ This interpreter was provisionally qualified to interpret the required language or languages on (date):
  - ☐ Provisional qualification has been requested, and form INT-110 has been provided to the court.
- Limits on provisional appointments (select one)
  - ☐ This interpreter is within the limits on court days or parts of court days worked in this calendar year, as provided in California Rules of Court, rule 2.893.
  - ☐ This interpreter has met or exceeded, or with this appointment is likely to exceed, the limits on court days or parts of court days worked in this calendar year, as provided in California Rules of Court, rule 2.893.

I certify that the foregoing is true and correct.

Date:

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

\_\_\_\_\_  
(SIGNATURE OF ☐ COURT ADMINISTRATOR ☐ DESIGNEE)

INTERPRETER NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: WORK NO.: EMAIL ADDRESS:	FOR COURT USE ONLY  <b>DRAFT 7.26.2024 NOT APPROVED BY THE JUDICIAL COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
<b>TEMPORARY QUALIFICATION OF NONCERTIFIED OR NONREGISTERED SPOKEN LANGUAGE INTERPRETER</b>	CASE NUMBER:
This form is used to establish the qualifications of a temporary interpreter for the proceeding listed below. Under California Rules of Court, rule 2.893, if a certified or registered interpreter is unavailable, a temporary interpreter may be used for a single, brief, routine matter before the court to prevent burdensome delay or in other unusual circumstances.	

**CASE NAME:****DATE OF PROCEEDING:****TYPE OF PROCEEDING:****LANGUAGE OR LANGUAGES REQUIRED:**

The following questions may be addressed to the noncertified or nonregistered interpreter as voir dire, or the court may have the prospective interpreter answer the questions in writing on this form. All information provided by the temporary interpreter should be considered by the court to determine whether the interpreter may be used to interpret the required languages in the proceeding above.

**1. General education**a. *(Check highest level degree attained.)*
☐ N/A (No degree)   
☐ High school   
☐ Jr. college   
☐ University   
☐ Graduate degree   
☐ Postgraduate

b. Name of institution:

(1) Degree awarded: Year: Major:

(2) Degree awarded: Year: Major:

**2. Language training**a. How did you learn English? *(Write N/A if not interpreting in English):*

b. How did you learn the non-English language or languages to be interpreted?

c. In which languages were you educated?

Language *(specify)*: Elementary Jr. high High school University(1) ☐ ☐ ☐ ☐(2) ☐ ☐ ☐ ☐d. What languages ☐ are ☐ were spoken at home *(specify)*:e. Have you ever been used as an interpreter in a court or administrative hearing? ☐ Yes ☐ No

If yes, please explain:

INTERPRETER (name):	CASE NUMBER:
---------------------	--------------

## 3. Disqualifications, decertifications, or criminal offenses

- a. Have you had any certifications that have lapsed, or have you been disqualified from interpreting in any court or administrative hearing? ☐ Yes ☐ No

Please provide detail:

- b. What is your relationship to the party? ☐ Acquainted ☐ Related ☐ Do not know party

Please explain or provide detail:

- c. Have you ever been convicted of violating any federal law, state law, county or municipal law, regulation, or ordinance? (Do not include traffic infractions.) ☐ Yes ☐ No

If yes, please explain:

## TEMPORARY INTERPRETER DECLARATION

I am 18 years of age or older and I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

	▶	
(TYPE OR PRINT NAME)		(SIGNATURE OF PROSPECTIVE INTERPRETER)

**FINDING OF QUALIFICATION FOR TEMPORARY APPOINTMENT**  
(California Rules of Court, rule 2.893)

## THE COURT FINDS

1. No certified or registered interpreter is available, and good cause exists to qualify and appoint a temporary interpreter for this single, brief, and routine matter before the court.
2. The limited English proficient person has been informed of their right to an interpreter and has waived the appointment of a certified or registered interpreter, or an interpreter who could be provisionally qualified.

THE COURT ORDERS that the above-named individual is qualified to interpret in the language or languages specified above and is appointed to interpret in this proceeding. **This order expires at the conclusion of the listed proceeding.**

Date:

	▶	
(TYPE OR PRINT NAME)		(JUDICIAL OFFICER)

## SPR 24-14

### Court Interpreters: Implementation of Assembly Bill 1032 (amend Cal. Rules of Court, rule 2.893, revise forms INT-100-INFO, INT-110, INT-120, and INT-140)

All comments are verbatim unless indicated by an asterisk (\*)

	Commenter	Position	Comment	Committee Response
1.	Orange County Bar Association by Christina Zabat-Fran, President	A	<p>Does the proposal appropriately address the stated purpose?</p> <p><b>Yes</b></p> <p>Does the extension of the provisional qualification period from six months to one year and the requirements to demonstrate efforts toward certified or registered status after two provisional qualification periods appropriately meet the twin goals of encouraging interpreters to obtain a credential and providing courts sufficient flexibility to ensure the presence of a qualified interpreter for court proceedings, including interpreters in language pairs for which there is no way to obtain certified or registered status?</p> <p><b>Yes</b></p>	The panel appreciates this comment.
2.	Superior Court of Orange County Civil, Probate and Language Access Services Court Operations Management Teams by Sean Lillywhite	NI	The Proposal appropriately addresses the stated purpose. The extension of the provisional qualification period from six months to one year is greatly appreciated and long overdue as are the requirements to demonstrate efforts toward certified or registered status after two provisional qualification periods. This acknowledges that often times two years is not sufficient for some candidates to become certified or registered. The courts needed this flexibility to ensure the presence of an interpreter for court proceedings while maintaining compliance with rules of court.	The panel appreciates this feedback.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR 24-14

### Court Interpreters: Implementation of Assembly Bill 1032 (amend Cal. Rules of Court, rule 2.893, revise forms INT-100-INFO, INT-110, INT-120, and INT-140)

All comments are verbatim unless indicated by an asterisk (\*)

	Commenter	Position	Comment	Committee Response
			<p>The addition of the checkbox to indicate that there is no available exam is also long overdue for those language pairs for which there is no way to obtain certified or registered status.</p> <p>This court respectfully requests that the Judicial Council – Court Interpreter Program monitor compliance with the ethics and testing requirements for those interpreters who must continue with the provisional qualification process beyond two years. This could be accomplished by way of a solution on the CJER Court Interpreter Program site that could be referenced when local courts process INT-110 forms. If the local courts are left to monitor compliance, it will impose an additional burden on the local courts that may lead to some courts not verifying statements made in this regard. Instead, courts would likely accept the statements affirmed under penalty of perjury without verification.</p> <p>INT-120 Item 5 – suggest including verbiage from current form in addition to the proposed form. The undersigned had less than one court day to identify an available interpreter, or the scheduled interpreter canceled less than 24 hours before the proceeding.</p> <p>This court has a general comment regarding provisional qualification of a relay interpreter who may be hired. What happens when the court hires the interpreter and later is unable to</p>	<p>The panel appreciates this suggestion, but it exceeds the scope of the current rule and forms proposal undertaken to ensure compliance with AB 1032. Judicial Council staff will consider this suggestion as time and resources allow.</p> <p>The panel appreciates this recommendation and has made the suggested change.</p> <p>The panel appreciates this comment. AB 1032 allows courts to hire and appoint relay interpreters who are noncredentialed as employee interpreters.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



## SPR 24-14

### Court Interpreters: Implementation of Assembly Bill 1032 (amend Cal. Rules of Court, rule 2.893, revise forms INT-100-INFO, INT-110, INT-120, and INT-140)

All comments are verbatim unless indicated by an asterisk (\*)

	Commenter	Position	Comment	Committee Response
			comply with the requirements and cannot be provisionally qualified?	
3.	Superior Court of Orange County Family Law and Juvenile Divisions by Katie Tobias, Operations Analyst	NI	<p><u>Does the proposal appropriately address the stated purpose?</u> Yes, the proposal appropriately addresses the stated purpose.</p> <p><u>Does the extension of the provisional qualification period from six months to one year and the requirements to demonstrate efforts toward certified or registered status after two provisional qualification periods appropriately meet the twin goals of encouraging interpreters to obtain a credential and providing courts sufficient flexibility to ensure the presence of a qualified interpreter for court proceedings, including interpreters in language pairs for which there is no way to obtain certified or registered status?</u> Yes, this appears to be a balanced approach to meeting the twin goals of encouraging interpreters to obtain credentials and providing courts with flexibility.</p> <p><u>Would the proposal provide cost savings? If so, please quantify.</u> No, the proposal does not appear to provide any cost savings.</p> <p><u>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of</u></p>	The panel appreciates these responses.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR 24-14

### Court Interpreters: Implementation of Assembly Bill 1032 (amend Cal. Rules of Court, rule 2.893, revise forms INT-100-INFO, INT-110, INT-120, and INT-140)

All comments are verbatim unless indicated by an asterisk (\*)

	Commenter	Position	Comment	Committee Response
			<p><u>training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</u></p> <p>Implementation would require revising procedures, providing communication to judicial officers and staff, and updating the case management system.</p> <p><u>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</u></p> <p>Yes, three months would provide sufficient time for implementation in Orange County.</p> <p><u>How well would this proposal work in courts of different sizes?</u></p> <p>Our court is a large court, and this could work for Orange County.</p>	
4.	Superior Court of Riverside County by Sarah Hodgson, Chief Deputy of Legal Services/General Counsel	NI	<p>The changes made to CRC 2.893 align with the new requirements put in place by AB1032. However, the proposed changes in 2.893(e)(2) do not include the waiver of requirements for interpreters seeking subsequent qualification periods. This exemption was previously available in situations where a language test was not available or when there were limited language resources, as stated in the current language under 2.893(f)(6) &amp; (7). It is necessary</p>	<p>The panel appreciates this comment and has added subparagraph (e)(2)(D) to the rule of court in order to address this concern. The panel also added a checkbox and statement to the Provisional Qualification and Order section of form INT-110 requiring the court to state that an interpreter seeking a third or subsequent provisional qualification period has made efforts towards credentialed status, or that good cause exists to appoint that interpreter.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR 24-14

### Court Interpreters: Implementation of Assembly Bill 1032 (amend Cal. Rules of Court, rule 2.893, revise forms INT-100-INFO, INT-110, INT-120, and INT-140)

All comments are verbatim unless indicated by an asterisk (\*)

	Commenter	Position	Comment	Committee Response
			to have the waiver of the restriction in place for cases where an exam does not exist, as there is no way for the interpreter to comply with all requirements or when the court has no other options available. The court is currently facing challenges in finding qualified resources in certain languages, including designated languages. Removing the exemption will further reduce our options and impact availability. To ensure the availability of qualified interpreters, it is recommended that the waiver remains in the rule or that a provision for judicial officer discretion is added when there is good cause.	
			For better clarity, it is recommended that the required statements related to the <i>Certification of Unavailability of Certified or Registered Interpreter and Availability of Provisionally Qualified Interpreter (form INT-120)</i> in 2.893(d)(2)(B) be placed under 2.893(e)(3). These statements pertain to a provisional appointment and would be best placed under the corresponding section.	The panel agrees with this recommendation and has moved the requirement to certify unavailability of a certified or registered interpreter to subdivision (e), as it applies exclusively to provisional appointments.
			It's suggested that the changes to the definition in 2.893(b)(3) regarding 'Registered Interpreter' be further modified. The current definition may imply that the court is responsible for approving the interpreter, when it is actually the Judicial Council that does so. A suggestion could be as follows, 'An interpreter in a language <b>identified as registered</b> <del>not designated</del> by the Judicial Council, who is qualified <del>by the court to</del>	The panel agrees that this definition could be improved but believes that it is important to retain the statutory language referencing "designated" languages. Therefore, the panel revised this definition to read as follows: <i>"Registered interpreter" means an interpreter who is qualified by the Judicial Council to interpret in a language that is not a designated language as defined in (b)(1). A registered</i>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR 24-14

### Court Interpreters: Implementation of Assembly Bill 1032 (amend Cal. Rules of Court, rule 2.893, revise forms INT-100-INFO, INT-110, INT-120, and INT-140)

All comments are verbatim unless indicated by an asterisk (\*)

	Commenter	Position	Comment	Committee Response
			<del>interpret in the courts under the procedures and guidelines adopted by the Judicial Council, and</del> who has passed a minimum of an English fluency examination offered by a testing entity approved by the Judicial Council under Government Code section 68560 et seq.'	<i>interpreter has passed the English written exam, an Oral Proficiency Exam in English, and an Oral Proficiency Exam in the target language, if available.</i>
			Regarding the extension of the qualification period:  This is a practical solution that allows interpreters sufficient time to work on their certification without needing to request frequent renewals. It also reduces the administrative burden on the court when processing interpreter applications.	The panel appreciates this feedback.
			INT-100 Procedures to Appoint a Noncertified or Nonregistered Spoken Language Interpreter <ul style="list-style-type: none"> <li>Provisional Appointment Process Page 1_Section 1</li> </ul> <p>The proposed language suggests that the court (judge) processes the form INT-120. It's recommended this section be modified to allow for more flexibility in how the INT-120 is processed.  <u>Language as proposed:</u> The certification is made when the court completes, signs, and files with the court administrator a Certification of Unavailability of Certified or Registered Spoken Language Interpreter and Availability of</p>	The panel appreciates this comment but believes that the use of the term “court” to describe who will fill out and file the form is sufficiently broad to encompass a variety of practices across the state.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR 24-14

### Court Interpreters: Implementation of Assembly Bill 1032 (amend Cal. Rules of Court, rule 2.893, revise forms INT-100-INFO, INT-110, INT-120, and INT-140)

All comments are verbatim unless indicated by an asterisk (\*)

	Commenter	Position	Comment	Committee Response
			Provisionally Qualified Interpreter (form INT-120). <u>Possible suggestion:</u> The certification is made when there is a completed and signed Certification of Unavailability of Certified or Registered Spoken Language Interpreter and Availability of Provisionally Qualified Interpreter (form INT-120).	
			<p>INT-100 Procedures to Appoint a Noncertified or Nonregistered Spoken Language Interpreter</p> <ul style="list-style-type: none"> <li>Provisional Appointment Required Record Page 1 &amp; Temporary Appointment Required Page 2</li> </ul> <p>The list of required findings under these sections does not include the general findings for appointing noncertified and nonregistered interpreters in 2.893(d)(2). It is recommended to add these findings to the list for a full and comprehensive list of findings to ensure they are not overlooked.</p>	The panel agrees with this recommendation and has incorporated a full list of elements of the required record for both provisional and temporary appointments.
			<p>INT-110 Provisional Qualification of Noncertified or Nonregistered Spoken Language Interpreter</p> <ul style="list-style-type: none"> <li>Page 1_Section 1</li> </ul> <p>It's recommended that the checkbox options that indicate the applicable</p>	The panel appreciates this comment but believes that revised Item 2 is sufficient to provide information to the court about prior or concurrent qualification periods.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR 24-14

### Court Interpreters: Implementation of Assembly Bill 1032 (amend Cal. Rules of Court, rule 2.893, revise forms INT-100-INFO, INT-110, INT-120, and INT-140)

All comments are verbatim unless indicated by an asterisk (\*)

	Commenter	Position	Comment	Committee Response
			provisional period for the interpreter remain on the form. This information is utilized by staff and judicial officers to ascertain when testing and course requirements must be met, and it ensures compliance with the statute.	
			<p>INT-110 Provisional Qualification of Noncertified or Nonregistered Spoken Language Interpreter</p> <ul style="list-style-type: none"> <li>Page 1 _Section 1.b.</li> </ul> <p>It's suggested to combine the options <i>'English and designated language other than Spanish'</i> and <i>'English and nondesignated language'</i> into one option. Having both options does not seem necessary since both scenarios are for non-Spanish languages and have the same 75-day limitation. Additionally, removing the reference to designated and nondesignated languages, will make it more comprehensible to the reader. A possible recommendation could be the option for <i>'English and other than Spanish language'</i>.</p>	<p>The panel appreciates this suggestion but determined that there are good reasons to retain the distinction between designated and nondesignated languages in this section. First, it is helpful to clarify when an interpreter is certified to interpret in a designated language but may be seeking provisional qualification to interpret in a nondesignated language, or vice-versa. Another reason to distinguish language and certification type in this section would be to more easily track progress towards either certified or registered status in Item 4. If an interpreter were seeking a third or subsequent qualification period for a designated language, the judicial officer would be looking for progress towards passing the Bilingual Interpreting Exam, whereas an interpreter seeking registered status would only be able to take the other exams listed in Item 4.</p>
			<p>INT-110 Provisional Qualification of Noncertified or Nonregistered Spoken Language Interpreter</p> <ul style="list-style-type: none"> <li>Page 1 _Section 3.b.</li> </ul>	<p>The panel appreciates this concern and has made some minor changes to the wording of this section. The option to indicate that an interpreter has participated in the orientation course is embedded under the header of Interpreter and Translator Credentials, signaling that the course</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR 24-14

### Court Interpreters: Implementation of Assembly Bill 1032 (amend Cal. Rules of Court, rule 2.893, revise forms INT-100-INFO, INT-110, INT-120, and INT-140)

All comments are verbatim unless indicated by an asterisk (\*)

	Commenter	Position	Comment	Committee Response
			<p>We suggest adding a note to this section to clarify that the Judicial Council's online court interpreter orientation course is exclusively available to certified or registered court interpreters. This will ensure that both the applicant and judicial officer understand that noncertified or nonregistered interpreters are not eligible for this course.</p>	<p>would only be available to a previously certified or registered interpreter. In addition, the course has recently been incorporated into a learning management system, which only certified and registered interpreters are able to access. Therefore, we have removed the term “online” from the description of the training to avoid the suggestion that it is broadly available to the public.</p>
			<p>INT-120 Certification of Unavailability of Certified or Registered Interpreter and Availability of Provisionally Qualified Interpreter</p> <ul style="list-style-type: none"><li>• Page 1_Section 5</li></ul> <p>We would not advise removing the option to identify when the scheduled interpreter canceled with less than 24 hour notice. By stating simply that the undersigned had less than one court day to identify an available interpreter could cause questions for the judicial officer, especially when the interpreter request was placed well in advance. Instead, a suggestion could be 'The interpreter cancelled less than one court day before the proceeding OR the undersigned had less than one court day to identify an available interpreter.'</p>	<p>The panel appreciates this recommendation and has made the suggested change.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR 24-14

### Court Interpreters: Implementation of Assembly Bill 1032 (amend Cal. Rules of Court, rule 2.893, revise forms INT-100-INFO, INT-110, INT-120, and INT-140)

All comments are verbatim unless indicated by an asterisk (\*)

	Commenter	Position	Comment	Committee Response
			The proposed changes would require desk procedure updates, training, and modifications to the case management system. Three months is sufficient to do so.	The panel appreciates this feedback.
5.	Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee Joint Rules Subcommittee	A	<p>The JRS notes that the proposal is required to conform to a change of law and is intended to provide significant cost savings or efficiencies.</p> <p>The JRS also notes the following:</p> <ul style="list-style-type: none"><li>• The proposal appropriately addresses the stated purpose. The provisional qualification period from six months to one year and the requirement to demonstrate efforts toward certified or registered status after two provisional qualification periods meets the goal to encourage the interpreters to obtain credentials and also provides sufficient flexibility to ensure the presence of a qualified interpreter.</li><li>• The proposal hopefully will provide cost savings, because it will give the courts a larger pool from which to draw interpreters, which will affect the market rate for the languages of limited profusion.</li><li>• Three months from Judicial Council approval of this proposal until it's effective date will be sufficient time to implement the new rules, because courts are already familiar with the process and</li></ul>	The panel appreciates these comments.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



## SPR 24-14

### Court Interpreters: Implementation of Assembly Bill 1032 (amend Cal. Rules of Court, rule 2.893, revise forms INT-100-INFO, INT-110, INT-120, and INT-140)

All comments are verbatim unless indicated by an asterisk (\*)

	Commenter	Position	Comment	Committee Response
			<p>the forms. It would simply require courts to use the modified forms.</p> <ul style="list-style-type: none"><li>• Implementation should make it an easier process for all courts, because it gives more flexibility in the hiring of interpreters in languages for which there is no certification or languages of limited profusion.</li></ul>	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** August 13, 2024

**Rules Committee action requested** [Choose from the drop-down menu below]:

**Recommend JC approval (has circulated for comment)**

**Title of proposal:** Family Law: Adoption Forms

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*

Adopt form ADOPT-203; revise forms ADOPT-050-INFO, ADOPT-200, ADOPT-210, ADOPT-215, ADOPT-230, and ADOPT-310

*Committee or other entity submitting the proposal:*

Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and e-mail):* Kerry Doyle, 415-865-8791, [kerry.doyle@jud.ca.gov](mailto:kerry.doyle@jud.ca.gov)

*Identify project(s) on the committee's annual agenda that is the basis for this item:*

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda:

Item 1(e)

As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration and will act only where necessary to allow courts to implement the legislation efficiently.

AB 1650 (Patterson) Family law proceedings: custody, parentage, and adoption (Stats. of 2023, Ch. 851)

☐ Requires, in an adoption proceeding, each petitioner to inform the court in writing using specified Judicial Council forms, whether the petitioner has entered, or has agreed to enter, into a postadoption contact agreement with any person or persons.

Item 5. Revision of Adoption Forms. Revisions to adoption forms will be required if AB 1650 and AB 20 are signed by the Governor (see pending legislation above, items 1e and 1h). The committee has prioritized developing a separate form for stepparent adoptions because these adoptions have different requirements and the current single form for all adoption types is confusing. The committee also plans to develop an information sheet to provide guidance on understanding and using the different adoption forms.

**Out of Cycle:** *If requesting September 1 effective date or out of cycle, explain why:*

**Additional Information for Rules Committee:** (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was

☐ reviewed by EGG on (date) 6/21/24

☐ approved by Office Director (or Designee) (name) Audrey Fancy  
on (date) July 3, 2024

(05/20/24)

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **Form Translations** (check all that apply)

This proposal:

- ☐ includes forms that have been translated.
- ☐ includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- ☐ includes forms that staff will request be translated.

- **Form Descriptions** (for any report with new or revised forms)

☒ The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

☒ This proposal may require changes or additions to self-help web content.



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-160*

For business meeting on September 20, 2024

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**Title**

Family Law: Adoption Forms

**Agenda Item Type**

Action Required

**Rules, Forms, Standards, or Statutes Affected**

Adopt form ADOPT-203; revise forms ADOPT-050-INFO, ADOPT-200, ADOPT-210, ADOPT-215, ADOPT-230, and ADOPT-310

**Effective Date**

January 1, 2025

**Date of Report**

July 3, 2024

**Recommended by**

Family and Juvenile Law Advisory Committee  
Hon. Stephanie E. Hulse, Chair

**Contact**

Kerry Doyle, Attorney  
415-865-8791  
[kerry.doyle@jud.ca.gov](mailto:kerry.doyle@jud.ca.gov)

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### Executive Summary

The Family and Juvenile Law Advisory Committee recommends adopting one new form and revising six forms to simplify, clarify, and provide additional guidance necessary during the adoption process for all adopting parents, and their counsel if represented. The committee further recommends revising the adoption request form to conform to Assembly Bill 1650 (Patterson; Stats. 2023, ch.76), which requires that the petitioner inform the court, in writing, whether the petitioner has entered, or has agreed to enter, into a postadoption contact agreement.

### Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2025:

1. Adopt *Stepparent Adoption Request* (form ADOPT-203) as an adoption request form to be used only for stepparent adoptions and stepparent adoptions to confirm parentage;
2. Revise *How to Adopt a Child in California* (form ADOPT-050-INFO) to clarify the specific procedures necessary to finalize distinct types of adoptions, provide additional information

and links to adoption resources available on the California Courts Self-Help Guide, and to reference the new separate form for stepparent adoptions;

3. Revise *Adoption Request* (form ADOPT-200) to remove items related solely to the stepparent adoption process and reconfigure the section on consents and termination of parental rights;
4. Revise *Adoption Agreement* (form ADOPT-210) to clarify where an adopting stepparent should sign this form and to include language for adopting parents' signatures added during a remote hearing;
5. Revise *Adoption Order* (form ADOPT-215) to include proper notification language and to clarify language pertaining to adoptions where a parent or parents maintain their parental rights;
6. Revise *Adoption Expenses* (form ADOPT-230) to add instructions regarding which costs should be listed and remove expense categories to allow filers to comply with Family Code section 8610, which requires the itemization of each payment, not each type of service; and
7. Revise *Contact After Adoption Agreement* (form ADOPT-310) to add language referring to all types of siblings who could potentially be a party to the agreement and include instructions indicating that a copy of the agreement must be provided to all adult parties within 30 days.

The proposed new form and the revised forms are attached at pages 11–35.

### **Relevant Previous Council Action**

The *Adoption Request* (form ADOPT-200), *Adoption Agreement* (form ADOPT-210), and *Adoption Order* (form ADOPT-215) were adopted by the Judicial Council in October 1998 as part of a proposal for mandatory uniform adoption forms for all minor children subject to adoption proceedings.

Also in 1998, the Judicial Council adopted a rule of court and several forms, including what is now numbered as California Rules of Court, rule 5.451 and *Contact After Adoption Agreement* (form ADOPT-310) to implement procedures for “kinship” adoption agreements, which allowed for ongoing contact between adopted children and their birth relatives. All references to “kinship adoption agreement” were revised to “postadoption contact agreement” based on legislative changes in 2001. Forms ADOPT-200 and ADOPT-215 were revised in April 2001 to provide information on postadoption contact. Form ADOPT-310 was updated effective January 1, 2002, with a table employing icons to signify the type of postadoption contact agreed upon by the parties, and effective January 1, 2024, it was revised to correct an erroneous code citation and to reconfigure the table to facilitate accessibility for screen readers.

The council adopted the information sheet *How to Adopt a Child in California* (form ADOPT-050-INFO) in 1999 to provide basic information on the adoption process.

Form ADOPT-230 was adopted with the other adoption forms in 1998, but its original title was *Accounting Report—Adoptions*. By 2002, it had been renamed *Adoption Expenses*. The form has been revised multiple times to account for legislative changes and plain-language improvements and was last revised with an effective date of January 1, 2007.

Effective January 1, 2021, forms ADOPT-050-INFO, ADOPT-200, ADOPT-210, and ADOPT-215 were revised in response to two important pieces of legislation affecting international adoptions and adoptions of children born to gestational surrogates in states that do not recognize both intended parents on the child’s birth certificate.

Effective January 1, 2024, form ADOPT-050-INFO was revised to clarify the steps necessary for a stepparent adoption to confirm parentage and *Adoption Request* (form ADOPT-200) was revised to respond to new legislation.

## **Analysis/Rationale**

California law sets forth the procedures for four categories of adoptions. Within each category, there are subcategories of adoption types, each of which has unique requirements. They are as follows:

- Agency Adoptions (Fam. Code, § 8700 et seq.)
  - Nondependent child
  - Relative
  - Nonrelative
  - Dependent child or nonminor dependent
- Independent Adoptions (Fam. Code, § 8900 et seq.)
  - Relative
  - Nonrelative
- Intercountry Adoptions (Fam. Code, § 8900 et seq.)
  - International
  - Re-adoption of child adopted outside of the U.S.
- Stepparent Adoptions (Fam. Code, § 9000 et seq.)
  - Adoption of spouse/domestic partner’s child
  - Adoption to confirm parentage (Fam. Code, § 9000.5)

Since the form was adopted in 1998, all four of these adoption types have been initiated using form ADOPT-200, *Adoption Request*. The committee now recommends the adoption of the new mandatory *Stepparent Adoption Request* (form ADOPT-203), to be used only for stepparent adoptions, including stepparent adoptions to confirm parentage. The committee further recommends removing all items that specifically reference the stepparent adoption process from form ADOPT-200. The committee further recommends revisions to the remainder of the

adoption forms to respond to concerns expressed by self-help attorneys, courts, and stakeholders.<sup>1</sup>

Assembly Bill 1650 (Patterson; Stats. 2023, ch.76) made several changes to the Family Code relating to custody, parentage, and adoption. Revisions to Family Code section 8616.5 require that the petitioner inform the court, in writing, whether a contact after adoption agreement has or will be entered. This section further requires that before the finalization of the adoption, the petitioner must file the agreement with the court and provide a file-marked copy of the form to all signatories of the agreement within 30 days of receipt of the filed-marked copy. These changes require minor changes to form ADOPT-310.

### **Proposed adoption of new form and form revisions**

#### ***How to Adopt a Child in California (form ADOPT-050-INFO)***

The current version of this information sheet lists the forms that need to be completed to start the adoption process and to prepare for the final hearing. The committee recommends adding information that helps an adoptive parent determine what type of adoption they are filing, what agency will be handling their home-study or investigation, and information that there may be additional forms and processes necessary based upon the participation of the parent who is not filing or joining in the adoption request.

The committee also recommends additional guidance and definitions within this form if the child may be of Native American ancestry.

The committee recommends revising the section pertaining to “Open” adoption to refer to the *Contact After Adoption Agreement*. This section will now include the purpose and use of the form when it should be filed (in accordance with the provisions of AB 1650), and who are or can be parties to this agreement.

#### ***Adoption Request (form ADOPT-200)***

The committee recommends revising this form to remove all information related to the filing of a Stepparent Adoption; this information will be contained within the new form ADOPT-203. The committee also recommends significant changes to the items relating to consent and termination of parental rights. These questions have been replaced with an instruction box on page one of the form and an additional information box on page 4. There is also a reference to information to

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<sup>1</sup> As part of the development of this proposal, the advisory committee sought the input of staff attorneys at court self-help centers, the Academy of California Adoption Lawyers (ACAL), court clerks, judicial officers beyond those on the committee, and the California Department of Social Services (CDSS). The self-help centers identified stepparent adoptions as both the most common adoption types for which they provide assistance and the ones having the most confusing processes for self-represented litigants. This proposal includes a new *Stepparent Adoption Request* (form ADOPT-203).

The self-help centers and court clerks also pointed out the numerous continuances required when self-help litigants arrived at court without the statutorily required pleadings and documents, depending on the status of the birth parent. The committee is proposing extensive changes to *How to Adopt a Child in California* (form ADOPT-050-INFO) to help inform self-represented litigants of all the necessary requirements to proceed with an adoption request.

consult the Judicial Council's Self-Help Guide to the California Courts, and that there may be additional paperwork necessary to proceed.

The committee also recommends revising the form so that the assertions made by the adopting parents are placed at the beginning of the form and removing the names of birth parents as they are not required to be contained within the petition. These proposed changes may also eliminate misunderstandings about who qualifies as a person with parental rights, rather than referring to them as birth parents.

The committee recommends adding a question to item 12 to determine whether and when a *Contact After Adoption Agreement* (form ADOPT-310) will be filed. This language includes additional options that comply with Family Code section 8714.5 for dependent child agency adoptions and Welfare and Institutions Code section 16002 for contact between siblings, and that the form must be filed before the adoption hearing.

#### ***Stepparent Adoption Request (form ADOPT-203)***

The committee recommends adopting this new form, which will only be used for stepparent adoptions, including those filed to confirm parentage. This will eliminate any confusion for the court, court clerk, or self-represented litigants since much of the information contained in the current version of form ADOPT-200 is not applicable to stepparent adoptions. This new form will only be used for stepparent adoptions, and all items pertain to stepparent adoption or to confirm parentage only.

#### ***Adoption Agreement (form ADOPT-210)***

The committee recommends revising this form and adding language to clarify that the signature line at item 4, which is for one adopting parent, is also where a stepparent would sign the form. This will clarify where an adopting stepparent would sign this form. Also recommended are additional boxes and language under item 9 to allow for the signing of the form by adopting parents who appear remotely (in 9c) or outside of the hearing (in 9a).

#### ***Adoption Order (form ADOPT-215)***

The committee recommends adding language within item 6 that includes the assertion that proper notice to all persons with actual or possible parental rights has been provided, and their voluntary or nonvoluntary participation is documented in the court file. This language was not contained in the prior form versions. The committee also recommends including language that allows the court to identify any persons with parental rights who agree to this adoption and who will maintain their existing parental rights and who have executed an agreement waiving termination of parental rights. This language applies to all adoptions pursuant to Family Code Section 8617(b) and which could be applicable for those adoptions with more than one additional parent and would not apply to those situations where a person with parental rights either signed a consent to the adoption or where their parental rights were terminated.

#### ***Adoption Expenses (form ADOPT-230)***



The committee recommends that item 3 of this form be revised to allow the adopting parent to write in all types of services provided as well as the ability to include more than one payee for a particular service. The existing form only allows one entry per service, such as attorney fees or medical care. The recommended form changes allow for the inclusion of many professionals who have provided the same service, such as different doctors, and more than one attorney. Typically, there are legal fees for the adoptive parent and separate legal fees for the birth mother or father. This will allow the adoptive parent to comply with Family Code section 8610 that requires the itemization of each payee, not just each type of service.

The committee also recommends that the instructions for item 3 include examples of the types of services that need to be listed, such as court filing fees, pregnancy expenses, and counseling.

### ***Contact After Adoption Agreement (form ADOPT-310)***

The committee recommends including language to describe the different types of siblings who may want to maintain contact and become a party to this agreement. This includes siblings who may be dependents and currently in foster care, or nonminor dependents who are over 18 years of age and continue in extended foster care. The committee also recommends including language to alert siblings that there is an additional form available through the California Department of Social Services (DSS) that can be signed by each sibling. It can be used in the event this agreement becomes unenforceable and the siblings want to maintain contact. The committee recommends including the website address and the DSS form numbers on this form.

The committee further recommends the addition of language on page 2 in the Notice box that provides instructions that the adopting parents must file this form before the adoption finalization hearing and that within 30 days of the filing of the form they must provide a file-marked copy to each person who signed the agreement and to any licensed adoption agency that placed the child for adoption or consented to the adoption,<sup>2</sup>

### **Policy implications**

This proposal responds to Judicial Branch Goal I: Access, Fairness, Diversity, and Inclusion; and Goal IV: Quality of Justice and Service to the Public. The committee is recommending a dedicated form for stepparent adoptions and stepparent adoptions to confirm parentage, as these are processes that are widely undertaken by self-represented adopting parents. The dedicated form will allow self-represented litigants to pursue these types of adoptions without having to sort through multiple requirements and additional forms that do not apply to this type of adoption. This will improve both access to the court process and the quality of the forms for the public seeking this type of adoption.

In addition, the proposal responds to recent legislative changes in AB 1650. The committee's recommendations are designed to ensure that court rules, forms, and processes are consistent with the legislative requirements presented in the Family Code.

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<sup>2</sup> Family Code Section 8616.5(m)(2)(B)

## Comments

The proposal was circulated for comment from March 29 to May 3, 2024, and received comments from 6 commenters. Three commenters agreed with the proposals as written, two agreed if modified, and one did not indicate a position. Comments were received from four superior courts, a county bar association, and the Family Law Section of the California Lawyers Association. The comments were all supportive of the proposal and several commenters provided minor recommendations for revisions to the forms, most of which were accepted and incorporated into the proposal.

In addition to the comments discussed below, the substantive comments and feedback largely indicated that the implementation of the new *Stepparent Adoption Request* (form ADOPT-203) will greatly benefit litigants by providing them with a clear and distinct petition tailored to their circumstances. The proposal will also enhance clarity and efficiency in the adoption process, ultimately benefiting both litigants and court personnel.

A chart with the full text of the comments received and the committee's responses is attached at pages 36–50.

### ***How to Adopt a Child in California (form ADOPT-050-INFO)***

Comments received suggested (1) including directives to fill out the forms only in blue or black; (2) specifying the amount of the filing fee and how that is set; (3) rewording language on page 2, under the note after petition to terminate parental rights, to state: In some courts, this can be filed within the adoption case but in other courts it is a separate court action.; and (4) that the adoptive parent or their legal representative should receive a copy of the filed forms and an instruction to complete form VS-44, a California Department of Social Services form used to produce the amended new birth certificate at the time of the final hearing.

Although the committee initially agreed to include language to complete the forms using blue or black in only, the committee has now determined it may not be necessary. Upon review of the California Rules of Court CRC 2.106, which states that the font on papers presented for filing must be black or blue-black, as well as CRC 2.118 which states that a clerk may not reject a filing that is in handwriting in a color other than black or blue-black, the committee has decided not to include the proposed language. The remainder of the above suggestions were accepted and incorporated into the revisions the committee is recommending.

Another commenter suggested that where the filing fee is mentioned within this document, to include language to alert the adoptive parents that a fee waiver may be sought. The committee appreciates this suggestion; however, it is unclear whether this will create the need for an entirely separate paragraph within the form to include information, hyperlinks to the self-help website on when and how to file a request for a fee waiver and the possibility of the additional opportunity to request fee waivers for court investigations and other costs that may be associated with an adoption request. The committee carefully considered this request and determined that by including the actual filing fee for the form ADOPT-200 and ADOPT-203 and that it is set by the Health and Safety code.

### ***Adoption Request (form ADOPT-200)***

In response to a request in the invitation to comment for input as to whether there should be space on the request forms for more than two adoptive parents' names, some commenters suggested including instructions to attach a sheet of paper to be used for any additional adoptive parents listed in item 1. A few typographical errors were also highlighted. All these suggestions and corrections were implemented.

Three commenters suggested leaving in the child's name after the adoption is finalized. One large court stated that they use the child's new name to initiate the case in its case management system and another large court stated that the information is used by the court to refer to the child throughout the life of the case. One commenter did not state a reason for their suggestion.

The committee initially determined that the name the child will have after the adoption should not be included in form ADOPT-200 and that pursuant to relevant Family Code Sections, the name is not required to be included. After careful consideration of the comments received about how some courts use the child's adoptive name for case management purposes, the committee determined that leaving the option of including the child's name after the adoption could be helpful, and therefore this information will remain in the form ADOPT-200.

One comment suggested that the information regarding the birth parents' name not be removed from the form. The commenter explained that their court uses the names of the birth parents to verify court-received consents. The committee carefully considered this suggestion and determined that removing the names of the birth parents will reduce the possibility for confusion in instances where the listed individuals may not meet the statutory requirements of the term "birth parent", and thus would not be required to sign a consent or other documentation. Because the court receives supplemental information, such as reports and investigations, which identifies any persons who have or may have parental rights and what types of documentation or consents are necessary, the committee determined that there would be sufficient information in the file for the court to decide whether the court had received the appropriate consents.

The committee also reviewed the relevant family law statutory language regarding the information required to be provided within the requests for adoption, including Family Code sections 8802(d), 8714(d), 8912(b) and 9000(c) which favor limiting information that can be contained with the caption and body of the form ADOPT-200. Although the names of the birth parents are not prohibited to be provided within the requests for adoption, their names are not required to be included.

The committee also included informational boxes within the request for adoption form as well as within form ADOPT-050-INFO to alert prospective adoptive parents of these possible birth parent or other determinations of those who may have parental rights and includes hyperlinks to the Judicial Council's Self-Help Guide to the California Courts on parentage and adoption procedures.

A large court suggested that the committee consider leaving in the hearing box on the face of the adoption request. The commenter stated that their county completes this box at the time the adoption request is filed and removing it will impact their adoption case initiation process in their juvenile court. The committee noted that before the distribution of the request for comment, it reached out to adoption professionals who indicated that the hearing is not typically set at the time of filing this form, except in some adult adoptions. The committee carefully reviewed the statutory requirements for information to be included in the requests for adoption either by the adoptive parents or the court and there is no requirement that the information contained within the hearing box be included however, the committee recommends leaving in the hearing box and any court that utilizes this hearing box information will be able to do so.

#### ***Adoption Order (form ADOPT-215)***

The committee received a question, rather than a comment, which asked if the address of the adoptive parents is needed if the adoptive parents have an attorney representing them. The committee appreciates this question; however, this question is outside of the scope of the proposed changes and modifications during this review cycle. Additionally, such a change would require additional public comment and therefore the committee determined that it may seek to address this comment in a future proposal.

#### **Alternatives considered**

The committee considered not making any changes to the forms, however, the committee concluded that a separate form would assist parties, the courts, and self-help center staff by simplifying the process of a frequent adoption request and one that is often pursued by self-represented litigants. The commenters were supportive of a separate form for stepparent adoptions and stepparent adoptions to confirm parentage.

The committee also considered developing a new information sheet specific to stepparent adoptions, but instead added significant new material and clarifications to the current form ADOPT-050-INFO so that all the information would be contained on one form. The committee also considered adding information to form ADOPT-050-INFO regarding remote hearings to finalize adoptions but concluded that it would be too confusing to include information about remote hearings while also ensuring self-represented litigants bring the required documents to the court hearing when it is held in-person.

#### **Fiscal and Operational Impacts**

Three commenters indicated that the proposal does not appear to provide any cost savings. Two commenters indicated that the proposal would require one-to-two or two-to-four hours of training for judicial officers and court staff.

The committee anticipates that this proposal will require courts to train court staff and judicial officers on the newly adopted and revised forms. Courts may also incur costs to incorporate the forms into the paper or electronic processes.

The committee received information from the self-help centers before this proposal which alerted the committee that on a regular basis, the self-help centers were required to assist self-represented litigants with their adoption requests and with additional documentation such as consents and termination of parental rights. This includes help in completing forms, making corrections, and follow up after their request was denied or continued by the court for lack of sufficient documentation. The committee anticipates that a separate stepparent adoption form will alleviate many of the issues self-litigants face and lessen the workload of the self-help centers. The committee also anticipates that by including more information in form ADOPT-50-INFO about the necessary paperwork that the number of continuances granted to gather the correct paperwork will decline.

### **Attachments and Links**

1. Forms ADOPT-050-INFO, ADOPT-200, ADOPT-203, ADOPT-210, ADOPT-215, ADOPT-230, and ADOPT-310, at pages 11–35
2. Chart of comments, at pages 36–50
3. Link A: Assembly Bill 1650,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB1650](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB1650)

## General Information on Adoptions

### Before you begin

**Seek legal advice about your family's options before beginning any adoption.** Every family is different and adoption may not be necessary for some families. Visit the Self-Help Guide to the California Courts adoption page to get copies of adoption forms, look for organizations that provide legal help with adoptions, and learn how to complete the adoption process on your own if you do not have a lawyer: [www.courts.ca.gov/selfhelp-adoption.htm](http://www.courts.ca.gov/selfhelp-adoption.htm). You can also get copies of adoption forms at your local court clerk's office.

**What type of adoption will you be filing?** In California there are several kinds of adoptions. This information sheet provides steps for the following types:

- Stepparent and domestic partnership
- Stepparent and domestic partnership confirmation of parentage
- Independent
- Agency (within the United States) and includes:
  - Agency placement or agency joinder
- Intercountry

For more information and definitions on these types of adoptions, see [selfhelp.courts.ca.gov/adoptions](http://selfhelp.courts.ca.gov/adoptions).

### What department or agency will be handling your home study or investigation?

In most adoptions, a home study or an investigation will be necessary.

- For independent adoptions
  - A regional office of the Department of Social Services (DSS).
  - An adoption agency.
  - For an independent adoption of a newborn, you must also choose an adoption services provider (ASP).

The ASP is an individual or an adoption agency personnel licensed and certified by the State of California. The role of this person is to explain to the birth parent their rights in the adoption process (before "placing" the child with you), and will witness the signing of documents and consent.

There is a listing of all providers who have been licensed as an ASP on the California Department of Social Services website. You can see the list by agency or the list by individual. The ASP will charge a fee. You must pay the fee as the adoptive parent.

- For more information on a home study or ASP, see [selfhelp.courts.ca.gov/independent-adoption/placed](http://selfhelp.courts.ca.gov/independent-adoption/placed).
- For stepparent adoptions, the court investigator or a privately hired, licensed clinical social worker or other appropriate licensed individual will be handling your home study or investigation. See [selfhelp.courts.ca.gov/stepparent-adoption](http://selfhelp.courts.ca.gov/stepparent-adoption).

If you need more information about what office or agency can conduct your home study, you can visit the California Department of Social Services website. Find out what paperwork they will need from you and when it must be sent to them once you file your *Adoption Request*.

### Documents needed in addition to the *Adoption Request*

For most adoptions, the adopting parent, their legal representative, or the agency will be required to obtain additional signed forms or certified documents. These documents can include:

- Consent or relinquishment for adoption
- Death certificate (if applies)
- Other court orders
- Waiver of notice or denial of parentage



# ADOPT-050-INFO

## How to Adopt a Child in California

In certain situations additional court proceedings may be necessary. These may include:

- Petition freeing the child from parental custody and control and an order. (Note: This is a separate court action.)
- Petition to terminate parental rights of an alleged parent and an order. (Note: In some courts, this can be filed within the adoption case but in other courts it is a separate court action.)

Each of the above are specific procedures which must be followed based on the determination of the status of the parent. If this is an agency adoption, the agency will obtain the above information for the court.

This paperwork is needed to complete your adoption home-study or investigation.

The status of a parent is based on the relationship of that parent to the child and other factors. For definitions and more information about status of parent and what additional involvement or paperwork is needed, go to

[selfhelp.courts.ca.gov/adoptions](http://selfhelp.courts.ca.gov/adoptions).

### Stepparent/Domestic Partner Adoptions

If you wish to adopt the child of your spouse or domestic partner, you may be eligible for a stepparent adoption. There are two types of stepparent adoptions. Answer these questions to figure out which process is right for you:

- ➔ Were you in a union with the child's legal parent **at the time the child was born** and are you **still in a union** with the legal parent? (A "union" means a marriage, a California registered domestic partnership, or a registered domestic partnership or civil union from another state that is legally equivalent to a marriage.)
- ➔ Did your **spouse or domestic partner give birth to the child** or was the child born through a **gestational surrogacy process** brought about by one or both of you?

If you answered no to **either** question, complete the items below for a **stepparent/domestic partner adoption**.

If you answered yes to **both** questions, complete the items below for a **stepparent adoption to confirm parentage**.

#### 1 Fill out court forms

- |               |   |  |
|---------------|---|--|
| • ADOPT-203   | <i>Stepparent Adoption Request</i>            | This tells the judge about you and the child you are adopting.   |
| • ADOPT-210   | <i>Adoption Agreement</i>                     | This tells the judge that you and the child, if over 12, agree to the adoption. Fill it out, but do not sign it until the judge asks you to sign it. |
| • ADOPT-215   | <i>Adoption Order</i>                         | The judge signs this form if your adoption is approved.  |
| • ICWA-010(A) | <i>Indian Child Inquiry Attachment</i>        | This lets the judge know that you have asked whether the child may be an Indian child.   |
| • ICWA-020    | <i>Parental Notification of Indian Status</i> | One form is required for each birth parent. This shows that the child's parents have been asked about potential Indian status.                       |

#### Additional Forms for Stepparent Adoption to Confirm Parentage

- |  |  |  |
|--|--|--|
| • ADOPT-205 (or an equivalent declaration) | <i>Declaration Confirming Parentage in Stepparent Adoption</i> | This tells the court how you conceived your child and whether there are any other parents. Only use this if you are seeking a stepparent adoption to confirm parentage. See above for more information on this type of adoption. Both the birth parent and the adopting parent must complete a separate declaration. |
|--|--|--|

-OR-

- |  |   |  |
|--|---|--|
| • ADOPT-206 (or an equivalent declaration) | <i>Declaration Confirming Parentage in Stepparent Adoption: Gestational Surrogacy</i> | This tells the court how you conceived your child and whether there are any other parents. Only use this if you are seeking a stepparent adoption to confirm parentage because the child was conceived through a gestational surrogate and was born outside of California, and the state where the child was born only allowed one intended parent to be named as a legal parent on the child's birth certificate. |
|--|---|--|



### 2 Take your forms to court

Take the completed forms to the court clerk in the county where you live. The court will charge a \$20 filing fee (set by Health and Safety Code section 103730). Or take the forms to your lawyer or adoption agency, if you are using one. If there is no hearing, form ADOPT-210 must be signed in front of the court clerk or a notary.

**Note: In a stepparent adoption to confirm parentage,** no home investigation or hearing is required unless ordered by the court for good cause. Sign form ADOPT-210 in front of a notary or the court clerk when you file the forms and a judge will review your request. If the paperwork is complete and you meet the requirements, the judge will sign the *Adoption Order* (form ADOPT-215) and the adoption is complete. You and your attorney will receive copies. If the judge orders an investigation and hearing, go to the next steps.

### 3 An investigation is completed

In most stepparent adoptions an investigation or a report must be completed before the final hearing. This will be completed by either someone you identified in the request or who was ordered by the court. To begin the investigation you will be required to send the *Adoption Request* and supporting documentation to the investigator. A home visit may also be required.

### 4 Go to court on the date of your hearing

Bring:

- The child you are adopting;
- Form ADOPT-210;
- Form ADOPT-215;
- A camera, if you want a photo of you and your child with the judge (*optional*); and
- Friends/relatives (*optional*).
- California Department of Social Services form VS-44 may be needed (see [selfhelp.courts.ca.gov/stepparent-adoption/prepare-lodge-forms](https://selfhelp.courts.ca.gov/stepparent-adoption/prepare-lodge-forms)).

## Independent or Agency Adoptions in the United States

If this is an independent or agency adoption in the United States, complete items 1 through 4 below.

Note: The rights of the existing parents usually terminate with adoptions. In an independent adoption, if the existing and adopting parents agree, the rights of the existing parents do not have to be terminated. See Family Code section 8617(b).

### 1 Fill out court forms

- |                |   |  |
|----------------|---|--|
| • ADOPT-200    | <i>Adoption Request</i>                       | This tells the judge about you and the child you are adopting.   |
| • ADOPT-210    | <i>Adoption Agreement</i>                     | This tells the judge that you and the child, if over 12, agree to the adoption. Fill it out, but do not sign it until the judge asks you to sign it. |
| • ADOPT-215    | <i>Adoption Order</i>                         | The judge signs this form if your adoption is approved.  |
| • ADOPT-230    | <i>Adoption Expenses</i>                      | This lets the judge know what payments were made that relate to the child you are adopting.  |
| • ICWA-010(A)* | <i>Indian Child Inquiry Attachment</i>        | This lets the judge know that the required questions have been asked to determine whether the child may be an Indian child.                          |
| • ICWA-020*    | <i>Parental Notification of Indian Status</i> | One form is required for each birth parent. This shows that the child's parents have been asked about potential Indian status.                       |

\*The agency or adoption service provider is responsible for getting these forms completed and making them part of the adoption file for adoptions under the Welfare and Institutions Code; other evidence, including court orders regarding ICWA may be necessary.





### 2 Take your forms to court

Take the completed forms to the court clerk in the county where you live. The court will charge a \$20.00 filing fee (set by Health and Safety Code section 103730). Or take the forms to your lawyer or adoption agency, if you are using one.

### 3 The social worker writes a report

In most adoptions, a social worker writes a report. This report gives important information to the judge about the adopting parents and the child. The social worker will ask you questions. You may have to fill out forms. You may be required to pay a fee for this report. The social worker will file the report with the court and send you and your attorney a copy. When you get the report, ask the clerk for a date for your adoption hearing.

### 4 Go to court on the date of your hearing

Bring:

- The child you are adopting;
- Form ADOPT-210;
- Form ADOPT-215;
- Form ADOPT-230;
- A camera, if you want a photo of you and your child with the judge (*optional*); and
- Friends/relatives (*optional*).

## Intercountry Adoptions

If this is an intercountry (international) adoption, complete items 1 through 6 below.

Note: You must follow this process to adopt your child under California law, even if the adoption was previously finalized in a foreign country. If the child's adoption was finalized in a foreign country, you must file the *Adoption Request* within the earlier of 60 days of the child's entry to the United States, or the child's 16th birthday.

### 1 Fill out court forms

• ADOPT-200	<i>Adoption Request</i>	This tells the judge about you and the child you are adopting.
• ADOPT-210	<i>Adoption Agreement</i>	This tells the judge that you and the child, if over 12, agree to the adoption. Fill it out, but do not sign it until the judge asks you to sign it.
• ADOPT-215	<i>Adoption Order</i>	The judge signs this form if your adoption is approved.
• ADOPT-230	<i>Adoption Expenses</i>	This lets the judge know what payments were made that relate to the child you are adopting.
• ICWA-010(A)	<i>Indian Child Inquiry Attachment</i>	This lets the judge know that you have asked whether the child may be an Indian child.
• ICWA-020	<i>Parental Notification of Indian Status</i>	One form is required for each birth parent. This shows that the child's parents have been asked about potential Indian status.

### 2 Postadoption or postplacement visits and reports

If the child's adoption was finalized in a foreign country, there will be at least one postadoption visit provided by the international adoption agency. The report of this visit must be submitted to the court as described below. If the child was born in a foreign country and placed with a California family for adoption in this state, the adoption agency must provide postplacement supervision with up to four visits. These reports are also provided to the court.



### 3 Attach documentation

If the child's adoption was finalized in a foreign country, you must attach the following documents to your *Adoption Request*:

- A certified or otherwise official copy of the foreign decree, order, or certification of adoption that reflects finalization of the adoption in the foreign country;
- A certified or otherwise official copy of the child's foreign birth certificate;
- A certified translation of all required documents that are not written in English;
- Proof that the child was granted lawful entry into the United States as an immediate relative of the adoptive parent or parents;
- A report from at least one postplacement home visit by an intercountry adoption agency or a contractor of that agency licensed to provide intercountry adoption services in the state of California; and
- A copy of the home study report previously completed for the international finalized adoption by an adoption agency authorized to provide intercountry adoption services, in accordance with Family Code section 8900.

### 4 Take your forms to court

Take the completed forms and any required documents to the court clerk in the county where you live. The court will charge a \$20.00 filing fee (set by Health and Safety Code section 103730). Or take the forms to your lawyer or adoption agency, if you are using one.

### 5 Provide a copy of the forms and documents

If the child's adoption was finalized in a foreign country, provide a copy of the forms and documentation you filed with the court to any adoption agency that provided services to you for your international adoption.

### 6 Go to court on the date of your hearing

Bring:

- The child you are adopting;
- Form ADOPT-210;
- Form ADOPT-215;
- Form ADOPT-230;
- A camera, if you want a photo of you and your child with the judge (*optional*); and
- Friends/relatives (*optional*).

## Inquiry and Notice Under the Indian Child Welfare Act (ICWA)

- ☐ The child and other people in the child's life (parents and extended family members, see definition below) must be asked specific questions in order to determine whether the child may be an Indian child. The *Indian Child Inquiry Attachment* (form [ICWA-010\(A\)](#)) should be attached to the *Adoption Request*. In agency adoptions, it is the responsibility of the agency to ensure that this inquiry is conducted and that the form is made part of the adoption file. In independent adoptions, the adoption service provider, CDSS Regional Office, or delegated county adoption agency is responsible. For more information about the duty of inquiry, see form [ICWA-005-INFO](#).
- ☐ Extended family member is defined by law or custom of the Indian child's tribe or, if no law or custom, must be a person who is 18 years or older and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (25 U.S.C. § 1903(2)(2).)
- ☐ A completed version of *Parental Notification of Indian Status* (form [ICWA-020](#)) for each birth parent should be attached to the *Adoption Request*, OR it should be shown that a good faith attempt was made to provide the form to each birth parent, the Indian custodian, or guardian of the child and inform them that they are required to complete and submit the form to the court. In agency adoptions, it is the responsibility of the agency to ensure that this form is provided to the birth parents and made part of the adoption file. In independent adoptions, the adoption service provider, CDSS Regional Office, or delegated county adoption agency is responsible.

## ADOPT-050-INFO How to Adopt a Child in California

- ☐ If there is **reason to believe** that the child is or may be an Indian child, additional inquiry is required. For more information about the duty of inquiry, see form [ICWA-005-INFO](#).
- ☐ If, at any time during the proceeding, there is **reason to know** that the child is an Indian child, notice must be provided of the adoption request to the child's tribe or tribes, parents, Indian custodian, and the Bureau of Indian Affairs, using *Notice of Child Custody Proceeding for Indian Child* (form [ICWA-030](#)). This form must be served by registered or certified mail, with return receipt requested.
- Reason to know a child is an Indian child means that (1) a person having an interest in the child, including the child, informs the court the child is an Indian child; or (2) the child, the child's parents, or Indian custodian lives on a reservation or in an Alaska Native village; or (3) any person, tribe, or organization informs the court that it has discovered information indicating that the child is an Indian child. The court must proceed per rule 5.481(b)(3) of the California Rules of Court.
- ☐ If it is determined that the child is an **Indian child** or this is a tribal customary adoption, see Adoption of an Indian Child, below.

### Adoption of an Indian Child

If you are adopting an Indian child, fill out and bring to court the following additional forms:

- ☐ *Adoption of Indian Child* (form ADOPT-220); and
- ☐ *Parent of Indian Child Agrees to End Parental Rights* (form ADOPT-225).

If this is a tribal customary adoption, a copy of the tribal customary adoption order must be attached to the petition (form ADOPT-200) and the order (form ADOPT-215).

Note: An Indian child who has reached the age of 18 and who was placed for adoption, may apply to the court which entered the final order or decree. That court shall inform that child of their tribal affiliation, if any, of the child's biological parents and provide such other information as may be necessary to protect any rights flowing from the child's tribal relationship. [USC 25, Chpt.21,Section 1917]

### “Open” Adoption and Use of *Contact After Adoption Agreement* (Family Code Section 8616.5)

If you want your child to have contact with their birth relatives after the adoption, you can use *Contact After Adoption Agreement* (form ADOPT-310). This form describes the kind of contact the birth relatives will have with your child after the adoption is finalized. If you use this form, fill it out and file this form with the court before the finalization hearing or order of the court. A file-marked copy of this agreement must be provided within 30 days of filing to all adult parties to this agreement and any licensed agency that placed the child or consented to the adoption, and the child, if over the age of 12.

Important: This is a voluntary agreement and is not required for the finalization of the adoption. If you chose to use this form, it will become part of the adoption file and will be enforceable by the court.

The adoptive parents, the child, and the child's birth relatives can agree to continuing contact without using this form, but unless that agreement is in writing and attached to the *Contact After Adoption Agreement* (form ADOPT-310) it may not be enforced by the court if it is not followed.

Birth relatives are birth parents, siblings, and other birth relatives. For Indian children, this can also include the child's Indian tribe.

Clerk stamps date here when form is filed.

**Instructions**

This request must be completed for agency, independent, intercountry, and tribal customary adoptions. For a stepparent adoption or a stepparent adoption to confirm parentage, use [Stepparent Adoption Request \(form ADOPT-203\)](#). Fill out one adoption request for each child to be adopted.

You may also need to provide additional forms, certified documents, or other paperwork to inform the judge of the status of a parent or possible parent who may have parental rights in these proceedings and how that parent will or will not participate in these proceedings.

For more information on the different types of adoptions and how to determine the status of a parent and the documentation that may be required, see form [ADOPT-050- INFO](#), [selfhelp.courts.ca.gov/adoptions](http://selfhelp.courts.ca.gov/adoptions), or visit your local county court self-help center before filling out this form.

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ADOPT-200.v21.071724.jh

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

**1 Adopting parents**

- a. Name: \_\_\_\_\_
- b. Name: \_\_\_\_\_
- c. Street address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone number: \_\_\_\_\_
- d. Relationship to child: \_\_\_\_\_
- e. Lawyer (if any) (name, address, telephone numbers, email address, and State Bar number): \_\_\_\_\_

(Note: For any additional adoptive parents, attach a sheet of paper, write "ADOPT-200, Item ①", and complete a-c).

**2 Hearing is set for:**

(To be completed by the clerk of the superior court if a hearing date is available.)



Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m. ☐ p.m. Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
Name and address of court if different from above: \_\_\_\_\_

**To the person served with this request:** If you do not come to this hearing, the judge can order the adoption without your input.

**3 Each adopting parent:**

- a. Is at least 10 years older than the child or meets the criteria in Family Code section 8601(b);
- b. Will treat the child as their own;
- c. Will support and care for the child;
- d. Has a suitable home for the child; *and*
- e. Agrees to adopt the child.



Name of adopting parent: \_\_\_\_\_

Case Number: \_\_\_\_\_

#### 4 County of filing

This *Adoption Request* is filed in this court because (*check all that apply*):

- a. ☐ An adopting parent lives in this county;
- b. ☐ The child was born in or the child now lives in this county;
- c. ☐ An office of the agency that placed the child or is filing the request for adoption is located in this county;
- d. ☐ An office of the department or public adoption agency that is investigating the request is located in this county;
- e. ☐ A placing birth parent lived in this county when the adoptive placement agreement, consent, or relinquishment was signed;
- f. ☐ A placing birth parent lived in this county when the request was filed;
- g. ☐ The child was freed for adoption in this county.

(Note: If the child is a dependent of the court (in foster care), this *Adoption Request* must be filed in the county where the child was freed for adoption or the county where the adopting parents reside. See Family Code sections 8714 and 8714.5). For more information on dependent children, [selfhelp.courts.ca.gov/juvenile-dependency](http://selfhelp.courts.ca.gov/juvenile-dependency).

#### 5 Type of adoption

Check one of the following:

- a. ☐ Agency (*name*): \_\_\_\_\_ ☐ Relative ☐ Nonrelative  
☐ Tribal customary adoption (*attach tribal customary adoption order*)
- b. ☐ Independent: ☐ Relative ☐ Nonrelative ☐ Additional Parent
- c. ☐ Intercountry (*name of agency*): \_\_\_\_\_

#### 6 Information about the child

- a. Child's name before adoption (only for independent, intercountry, tribal customary adoption, or dependent child's adoption by a relative (Family Code, § 8714.5):  
\_\_\_\_\_
- b. Gender: ☐ Female ☐ Male ☐ Nonbinary
- c. Date of birth: \_\_\_\_\_
- d. Child's address (*if different from address of adopting parent or parents*):  
Street: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_
- e. Place of birth (*if known*): City: \_\_\_\_\_ State: \_\_\_\_\_ Country: \_\_\_\_\_
- f. If the child is 12 or older, does the child agree to the adoption? ☐ Yes ☐ No
- g. Date child was placed in the physical care of the adopting parent: \_\_\_\_\_
- h. The child was conceived by assisted reproduction in compliance with Family Code section 7613. ☐ Yes ☐ No
- i. The child is a dependent of the court. ☐ Yes ☐ No (If yes, add Juvenile Case No. and County)  
Juvenile Case No. \_\_\_\_\_ County: \_\_\_\_\_
- j. ☐ The child's new name will be: \_\_\_\_\_



Name of adopting parent: \_\_\_\_\_

Case Number: \_\_\_\_\_

**7 Legal guardian**

Does the child have a legal guardian? ☐ Yes ☐ No (If yes, attach *Letters of Guardianship* or fill out below.)

a. Date guardianship ordered: \_\_\_\_\_

b. County: \_\_\_\_\_

c. Case number: \_\_\_\_\_

**8 Inquiry and notice under the Indian Child Welfare Act (ICWA)**

a. ☐ The inquiry required under law to determine whether the child may be an Indian child has been made, and a completed *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.

Note: In agency adoptions, it is the responsibility of the agency to ensure that this inquiry is conducted and the form is made part of the file. In independent adoptions, the adoption service provider, CDSS Regional Office, or delegated county adoption agency is responsible. For adoptions of a dependent child under the **Welfare and Institutions Code**, other evidence, including court orders regarding ICWA, may be necessary.

b. ☐ A completed version of *Parental Notification of Indian Status* (form ICWA-020) is attached OR a good faith attempt has been made to provide the form to the parents, Indian custodian, or guardian of the child and inform them that they are required to complete and submit the form to the court.

Note: In agency adoptions, it is the responsibility of the agency to ensure that these forms are made part of the file. In independent adoptions, the adoption service provider, CDSS Regional Office, or delegated county adoption agency is responsible.

c. ☐ There is **reason to know** that this child is an Indian child. Notice of the adoption request will be provided to the child's tribe or tribes, parents, Indian custodian, and the Bureau of Indian Affairs, using *Notice of Child Custody Proceeding for Indian Child* (form ICWA-030).

For more information on these requirements and for definitions, see form [ADOPT-050-INFO](#).

**9 Adoption of an Indian child**

a. ☐ This is an adoption of an Indian child. The adopting parents have filled out and attached *Adoption of Indian Child* (form ADOPT-220) and will bring *Parent of Indian Child Agrees to End Parental Rights* (form ADOPT-225) to the hearing.

b. ☐ This is a tribal customary adoption under Welfare and Institutions Code section 366.24. Parental rights have been modified under and in accordance with the attached tribal customary adoption order, and the child has been ordered placed for adoption.

**10 Agency adoption information**

a. ☐ The adopting parents have received information about the Adoption Assistance Program, the Regional Center, mental health services available through Medi-Cal or other programs, and federal and state tax credits that may be available.

b. ☐ Joinder is being filed at same time as this *Adoption Request*.

c. ☐ Joinder will be filed.





Name of adopting parent: \_\_\_\_\_

Case Number: \_\_\_\_\_

**11 Independent adoption information**

- a. The adopting parents will file promptly with the department or delegated county adoption agency the information required by the department in the investigation of the proposed adoption.
- b. A copy of the *Independent Adoption Placement Agreement* from the California Department of Social Services is attached. (This is required in most independent adoptions; see Family Code section 8802.) ☐ Yes ☐ No
- c. All persons with parental rights agree to the adoption and have signed the *Independent Adoptive Placement Agreement* or consent on the appropriate California Department of Social Services form. ☐ Yes ☐ No  
(If no, list the name and relationship to child of each person who has not signed the agreement form): \_\_\_\_\_

- d. This is an independent adoption involving additional parent: ☐ Yes ☐ No If yes, \_\_\_\_\_
- ☐ The following person with existing parental rights agree to this adoption and will maintain their existing parental rights: Name: \_\_\_\_\_ Relationship to child: \_\_\_\_\_
- ☐ An agreement waiving termination of parental rights, signed by both the existing parents and the adopting parent is attached.

**Note:** If a person who may have parental rights has not signed a consent or relinquishment, the adopting parent or parents must obtain other signed documents or file for termination of parental rights or other action.

**12 Intercountry and California re-adoption questions**

- a. ☐ This adoption may be subject to the Hague Adoption Convention (form [ADOPT-216](#) may be required to be filed with this request. See *Calif. Rules of Court 5.490-5.493*).
- b. ☐ This is an adoption conducted under the requirements of the Hague Adoption Convention and the child has already moved with the adopting parents to another Hague Convention member country or will be moving at the conclusion of this adoption.  
Child will be moving or has moved to (name of country): \_\_\_\_\_  
Adopting parent: ☐ seek(s) a California adoption ☐ will be petitioning for a Hague Adoption Certificate  
☐ will be seeking a Hague Custody Declaration.
- c. ☐ This is an intercountry re-adoption. The adoption was finalized in another country before the child entered the United States with the adopting parents.  
Date the child entered the United States: \_\_\_\_\_  
See form [ADOPT-050-INFO](#) for a list of documents to attach to this *Adoption Request*.

**13 Contact after adoption (optional)**

Contact After Adoption Agreement (form [ADOPT-310](#)) (Family Code, § 8616.5)

- a. ☐ is attached.
- b. ☐ is attached as required in Family Code section 8714.50 (dependent child agency adoption).
- c. ☐ will be completed as required in Welfare and Institutions Code section 16002 between siblings and filed before the adoption hearing.
- d. ☐ will be filed before the adoption hearing.
- e. ☐ This is a tribal customary adoption. Postadoption contact is governed by the attached tribal customary adoption order.

For more information, see form [ADOPT-050-INFO](#).



Name of adopting parent: \_\_\_\_\_

Case Number: \_\_\_\_\_

### Additional Information Needed

If there are any other persons who are or may be the child's parent, you will be required to obtain additional forms, submit specified paperwork, and possibly participate in additional court proceedings. Other paperwork or additional court proceedings may be necessary. During the adoption process, you must provide additional documents to the court or the department or agency handling your home study. These documents can include:

- Consent or relinquishment for adoption—properly signed and accepted by court.
- Death certificates, prior court orders, or pending court orders.
- Waiver or denial of parentage—properly signed and accepted by court.

Additional court proceedings can include:

- Filing a petition and order freeing the child from parental custody and control. This is a separate action.
- Filing a petition and order terminating parental rights of an alleged father. This action can be filed within the adoption process.

Important: Seek the advice of an attorney. Refer to form [ADOPT-050-INFO](#), see also

<https://selfhelp.courts.ca.gov/adoptions>, or visit your local county court self-help center for more information.


### 14 Requests to court

- a. ☐ The adopting parents ask the court to approve the adoption and to declare that the adopting parents and the child have the legal relationship of parent and child, with all the rights and duties of this relationship, including the right of inheritance.
- b. ☐ The adopting parents ask the court to date its order approving the adoption as of an earlier (date): \_\_\_\_\_ for the following reason (Family Code, § 8601.5): \_\_\_\_\_

*(Enter a date no earlier than the date parental rights were ended.)*

- c. ☐ This is a tribal customary adoption. The adopting parents ask the court to approve the adoption and to declare that the adopting parents and the child have the legal relationship of parent and child, with all of the rights and duties stated in the attached tribal customary adoption order and in accordance with Welfare and Institutions Code section 366.24.

### 15 If a lawyer is representing you in this case, the lawyer must sign here:

Date: \_\_\_\_\_ *Type or print lawyer's name*  *Signature of lawyer for adopting parents*

### 16 I declare under penalty of perjury under the laws of the State of California that the information in this form and all its attachments is true and correct to my knowledge. This means that if I lie on this form, I am guilty of a crime.

Date: \_\_\_\_\_ *Type or print your name*  *Signature of adopting parent*

Date: \_\_\_\_\_ *Type or print your name*  *Signature of adopting parent*

**NOTICE—ACCESS TO AFFORDABLE HEALTH INSURANCE:** Do you or someone in your household need affordable health insurance? If so, you should apply for Covered California. Covered California can help reduce the cost you pay toward high-quality affordable health care. For more information, visit [www.coveredca.com](http://www.coveredca.com), or call Covered California at 1-800-300-1506 (English) or 1-800-300-0213 (Spanish).



Clerk stamps date here when form is filed.

**Instructions**

Use this form for a stepparent adoption or a stepparent adoption to confirm parentage. If you are adopting more than one child, fill out an adoption request for each child.

For more information on stepparent adoption and how to fill out this form, see form ADOPT-050-INFO and [selfhelp.courts.ca.gov/stepparent-adoption](http://selfhelp.courts.ca.gov/stepparent-adoption).

If there are any other persons who are or may be the child's parent, you will be required to obtain additional forms, submit specified paperwork, and possibly participate in additional court proceedings. You will be required to provide all documentation to the court or the investigator during the adoption process.

For more information, see stepparent adoption in California [selfhelp.courts.ca.gov/stepparent-adoption](http://selfhelp.courts.ca.gov/stepparent-adoption).

**DRAFT**  
**Not approved by**  
**the Judicial Council**  
**ADOPT-203.v14.072924.jh**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:****1 Adopting parent**

- a. Name: \_\_\_\_\_
- b. Street address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone number: \_\_\_\_\_
- c. Lawyer (if any) (Name, State Bar number, address, telephone numbers, email): \_\_\_\_\_

(Note: for any additional adoptive parents, attach a sheet of paper, write "ADOPT-203, Item ①", and complete a-c)

**2 Hearing is set for:**

(To be completed by the clerk of the superior court if a hearing date is available.)



Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m. ☐ p.m. Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
Name and address of court if different from above: \_\_\_\_\_

**3 The adopting parent**

- a. Will treat the child as their own;
- b. Will support and care for the child;
- c. Has a suitable home for the child; *and*
- d. Agrees to adopt the child.

**4 County of filing**

This *Stepparent Adoption Request* is filed in this court because (check all that apply):

- a. ☐ The adopting parent lives in this county;
- b. ☐ The child was born in or the child now lives in this county;



Name of adopting parent: \_\_\_\_\_

Case Number: \_\_\_\_\_

- 4 c. ☐ An office of the department or public adoption agency that is investigating the request is located in this county;
- d. ☐ A placing birth parent lived in this county when the consent was signed;
- e. ☐ A birth parent who will be retaining custody lived in this county when the request was filed;
- f. ☐ The child was freed for adoption in this county.

5 **Type of stepparent adoption (check all that apply):**

- a. ☐ The adopting parent is married to or in a registered domestic partnership with the legal parent of a child the adopting parent is seeking to adopt. (*Attach proof of the marriage or domestic partnership.*)  
The adopting parent married or entered into a registered domestic partnership with the legal parent on (date): \_\_\_\_\_  
(*For court use only. There is no waiting period.*)
- b. ☐ The adopting parent is seeking a stepparent adoption to confirm parentage. At the time the child was born, the adopting parent was married to or in a state-registered domestic partnership with the parent who gave birth or whose parentage was established through a gestational surrogacy process, and we remain in that union. See attached:
- (1) ☐ Form ADOPT-205, *Declaration Confirming Parentage in Stepparent Adoption*
- (2) ☐ Form ADOPT-206, *Declaration Confirming Parentage in Stepparent Adoption: Gestational Surrogacy*
- (3) ☐ Declaration describing the circumstances of the child's conception.
- c. ☐ This is a stepparent adoption involving an additional parent.
- (1) All persons with existing parental rights agree to this adoption and will maintain their existing parental rights.
- (2) An agreement waiving termination of parental rights, signed by both the existing parents and the adopting parent, is attached.

6 **Information about the child**

- a. Name before adoption: \_\_\_\_\_
- b. Gender: ☐ Female ☐ Male ☐ Nonbinary
- c. Date of birth: \_\_\_\_\_
- d. Address (*if different from address of adopting parent*)  
Street: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_
- e. Place of birth (*if known*): City: \_\_\_\_\_ State: \_\_\_\_\_ Country: \_\_\_\_\_
- f. If the child is 12 or older, does the child agree to the adoption? ☐ Yes ☐ No
- g. ☐ The child was conceived by assisted reproduction in compliance with Family Code section 7613.

7 **Legal guardian**

Does the child have a court-ordered guardian appointed? ☐ Yes ☐ No  
(If yes, attach *Letters of Guardianship* or fill out below.)

a. Date guardianship ordered: \_\_\_\_\_ b. County: \_\_\_\_\_ c. Case number: \_\_\_\_\_

8 **Inquiry and notice under the Indian Child Welfare Act**

- a. ☐ The inquiry required under law to determine whether the child may be an Indian child has been made, and a completed *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.



Name of adopting parent: \_\_\_\_\_

Case Number: \_\_\_\_\_

- 8 ☐ A completed version of *Parental Notification of Indian Status* (form ICWA-020) is attached, OR a good faith attempt has been made to provide the form to the parents, Indian custodian, or guardian of the child and inform them that they are required to complete and submit the form to the court.
- c. ☐ There is **reason to know** that this child is an Indian child. Notice of the adoption request will be provided to the child's tribe or tribes, parents, Indian custodian, and the Bureau of Indian Affairs, using *Notice of Child Custody Proceeding for Indian Child* (form ICWA-030).

9 **Adoption of an Indian child**

- a. ☐ This is an adoption of an Indian child. The adopting parents have filled out and attached *Adoption of Indian Child* (form ADOPT-220) and will bring *Parent of Indian Child Agrees to End Parental Rights* (form ADOPT-225) to the hearing.
- b. ☐ This is a tribal customary adoption under Welfare and Institutions Code section 366.24. Parental rights have been modified under and in accordance with the attached tribal customary adoption order, and the child has been ordered placed for adoption.

10 **Contact after adoption (check any that apply):**

*Contact After Adoption Agreement* ([form ADOPT-310](#))

- a. ☐ is attached
- b. ☐ will be filed before the final adoption hearing.
- (For more information, see form ADOPT-050-INFO; Family Code section 8616.5)

11 **Investigation or written report (check one):**

The investigation or written report will be completed as follows:

- a. ☐ I will choose someone to do an investigation or written report and will pay them directly. I understand that this person must be a licensed clinical social worker, a licensed marriage and family therapist, or work for a licensed private adoption agency.
- b. ☐ I would like the court to choose someone to do an investigation. I understand that the court can charge me money for this investigation.
- c. ☐ This is an adoption to confirm parentage. No investigation is required unless court-ordered for good cause.

**Additional Information Needed**

If there are any other persons who are or may be the child's parent, you will be required to obtain additional forms, submit specified paperwork, and possibly participate in additional court proceedings. You must provide additional documents to the court or the investigator during the adoption process. These documents can include:

- Consent or relinquishment for adoption—properly signed and accepted by court.
- Death certificates, prior court orders, or pending court orders.
- Waiver or denial of parentage—properly signed and accepted by court.

Additional court proceedings can include:

- Filing a petition and order freeing the child from parental custody and control. This is a separate action.
- Filing a petition and order terminating parental rights of an alleged father. This action can be filed within the adoption process.

For more information, see: [selfhelp.courts.ca.gov/stepparent-adoption](https://selfhelp.courts.ca.gov/stepparent-adoption).



Name of adopting parent: \_\_\_\_\_

Case Number: \_\_\_\_\_


**12 Requests to court**

a. ☐ I ask the court to approve the adoption and to declare that the adopting parents and the child have the legal relationship of parent and child, with all the rights and duties of this relationship, including the right of inheritance.


b. ☐ I ask the court to date its order approving the adoption as of an earlier date (date): \_\_\_\_\_  
for the following reason (Family Code, § 8601.5): \_\_\_\_\_  
\_\_\_\_\_

*(Enter a date no earlier than the date parental rights were ended.)*

**13 If a lawyer is representing you in this case, the lawyer must sign here:**

Date: \_\_\_\_\_  \_\_\_\_\_  
*Type or print lawyer's name* *Signature of lawyer for adopting parent*

**14 I declare under penalty of perjury under the laws of the State of California that the information in this form and all its attachments is true and correct to my knowledge. This means that if I lie on this form, I am guilty of a crime.**

Date: \_\_\_\_\_  \_\_\_\_\_  
*Type or print your name* *Signature of adopting parent*

**NOTICE—ACCESS TO AFFORDABLE HEALTH INSURANCE:** Do you or someone in your household need affordable health insurance? If so, you should apply for Covered California. Covered California can help reduce the cost you pay toward high-quality affordable health care. For more information, visit [www.coveredca.com](http://www.coveredca.com), or call Covered California at 1-800-300-1506 (English) or 1-800-300-0213 (Spanish).

**DRAFT**  
**Not approved by**  
**the Judicial Council**  
**ADOPT-210.v11.062424.jh**

**1 Adopting parents**

a. Name: \_\_\_\_\_

b. Name: \_\_\_\_\_

Relationship to child: \_\_\_\_\_

Address (skip this if you have a lawyer): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Lawyer (if any) (name, address, telephone numbers, e-mail address, and State Bar number): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of****2 Information about the child**

Child's name before adoption: \_\_\_\_\_

Child's name after adoption: \_\_\_\_\_

Date of birth: \_\_\_\_\_ Age: \_\_\_\_\_

Court fills in case number when form is filed.

**Case Number:****Signing this form:**

- Adoptions usually require a hearing where most signatures on this form must be completed in front of a judge.
- Item **5** may be signed before the hearing.
- If this is a stepparent adoption to confirm parentage involving a spouse or registered domestic partner who gave birth to the child or established parentage over a child born through gestational surrogacy during the union, usually no hearing is required and you may sign this form in front of a proper witness. See item 9a for instructions on having your signature properly witnessed. If the court orders a hearing in this case, you must sign this form at the hearing in front of the judge.
- All other signatures must be signed at a hearing, in front of a judge, unless waived by the judge for good cause.

**3 I am the child listed in 2 and I agree to the adoption. (Not required in the case of a tribal customary adoption under Welf. & Inst. Code, § 366.24.)**

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

Type or print your name



Signature of child (child must sign if 12 or older; optional if child is under 12)

**4 If there is one adopting parent (including stepparent), read and sign:**I am the adopting parent listed in **1**, and I agree that the child will:

- Be adopted and treated as my legal child (Family Code, § 8612(b)) and
- Have the same rights as a natural child born to me, including the right to inherit my estate.

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

Type or print your name



Signature of adopting parent



Name of adopting parents: \_\_\_\_\_

Case Number: \_\_\_\_\_

- 5 If the adopting parent is married and not separated, the consent of their spouse is required (Family Code, § 8603). Spouse must sign here:

I am married to, or am the registered domestic partner of, the adopting parent listed in ①, and I am not a party to this adoption. I agree to the adoption of the child by the adopting parent listed in ①.

Date: \_\_\_\_\_  
Type or print your name

►  
\_\_\_\_\_  
Signature of spouse or registered domestic partner  
(may be signed before hearing)

- 6 For stepparent adoptions only:  
If you are the legal parent of the child listed in ②, read and sign below.

I am the legal parent of the child and am the spouse or registered domestic partner of the adopting parent listed in ①. I agree to the adoption of my child by the adopting parent listed in ①.

Date: \_\_\_\_\_  
Type or print your name

►  
\_\_\_\_\_  
Signature of legal parent

- 7 If there are **two** adopting parents, read and sign below.  
We are the adopting parents listed in ①, and we agree that the child will:

- a. Be adopted and treated as our legal child (Family Code, § 8612(b)); and
- b. Have the same rights as a natural child born to us, including the right to inherit our estate.

I agree to the other parent's adoption of the child.

Date: \_\_\_\_\_  
Type or print your name

►  
\_\_\_\_\_  
Signature of adopting parent

I agree to the other parent's adoption of the child.

Date: \_\_\_\_\_  
Type or print your name

►  
\_\_\_\_\_  
Signature of adopting parent

- 8 If this is a tribal customary adoption, read and sign below.

I/we are the adopting parents listed in ①, and I/we agree that the child will:

- a. Be adopted and treated as my/our legal child (Family Code, § 8612(b)) and
- b. Have the same rights and duties stated in the tribal customary adoption order dated \_\_\_\_\_ (copy attached).

If two adopting parents, we agree to the other parent's adoption of the child.

Date: \_\_\_\_\_  
Type or print your name

►  
\_\_\_\_\_  
Signature of adopting parent

Date: \_\_\_\_\_  
Type or print your name

►  
\_\_\_\_\_  
Signature of adopting parent

Name of adopting parents: \_\_\_\_\_

Case Number: _____
--------------------

**9 Executed (check one):**

a. ☐ This form was signed outside of a hearing. *(Select this option for either a stepparent adoption to confirm parentage under Family Code section 9000.5, where the court did not order a hearing for good cause, or if the court waived appearance under Family Code, section 8613 or 8613.5.)*

(1) ☐ This form was signed **in** California.

This form was signed in front of the following type of witness *(check one)*:

- ☐ Notary public *(the notary acknowledgment is attached)*
- ☐ Court clerk
- ☐ Probation officer
- ☐ Qualified court investigator
- ☐ Authorized representative of a licensed adoption agency
- ☐ County welfare department staff member

(2) ☐ This form was signed **outside** of California.

This form was signed in front of the following type of witness *(check one)*:

- ☐ Notary public *(the notary acknowledgment is attached)*
- ☐ Other person authorized to perform notarial acts *(proof of notarization is attached)*
- ☐ Authorized representative of an adoption agency that is licensed in the state or country where this form was signed

(3) Witness information

This form was signed in: (county) \_\_\_\_\_ (state) \_\_\_\_\_ (country) \_\_\_\_\_

Name of witness: \_\_\_\_\_

Agency witness works for *(if applicable)*: \_\_\_\_\_

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

Witness signature:  \_\_\_\_\_

b. ☐ This form was signed at a hearing in front of a judicial officer. *(The judge will date and sign the form below.)*

c. ☐ This form was signed by the adopting parent or parents either before or while the adopting parents or parents were attending a remote hearing and was acknowledged by the judicial officer. *(The judge will date and sign the form below.)*

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

\_\_\_\_\_  
*Judge (or Judicial Officer)*

# ADOPT-215 Adoption Order

Clerk stamps date here when form is filed.

**DRAFT**  
**Not approved by**  
**the Judicial Council**  
**ADOPT-215.v13.071824.jh**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**

## 1 Adopting parents

a. Name: \_\_\_\_\_

b. Name: \_\_\_\_\_

Relationship to child: \_\_\_\_\_

Street address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Daytime telephone number: \_\_\_\_\_

Lawyer (if any) (name, address, telephone number, email address, and State Bar number): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

## 2 Information about the child

Child's name after adoption:

First name: \_\_\_\_\_

Middle name: \_\_\_\_\_

Last name: \_\_\_\_\_

Date of birth: \_\_\_\_\_ Age: \_\_\_\_\_

Place of birth (if known): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Country: \_\_\_\_\_

3 Name of adoption agency (if any): \_\_\_\_\_

## 4 Hearing details

Hearing date: \_\_\_\_\_ Dept.: \_\_\_\_\_ Div.: \_\_\_\_\_ Rm.: \_\_\_\_\_

Judicial officer: \_\_\_\_\_ Clerk's office telephone number: \_\_\_\_\_

People present at the hearing:

☐ Adopting parent ☐ Lawyer for adopting parent

☐ Child ☐ Child's lawyer

☐ Parent keeping parental rights: \_\_\_\_\_

☐ Other people present (list each name and relationship to child): \_\_\_\_\_

a. \_\_\_\_\_

b. \_\_\_\_\_

☐ Check here if there are more names. Attach a sheet of paper, write "ADOPT-215, Item 4" at the top, and list the additional names and each person's relationship to child. You may use form MC-025, Attachment.

☐ The hearing is waived pursuant to Family Code section 9000.5 (Check this box only if this is an adoption confirming parentage of a parent who was married to or in a state-registered domestic partnership, including a registered domestic partnership or civil union from another jurisdiction, with the legal parent at the time the child was born.)





Name of adopting parents: \_\_\_\_\_

Case Number: \_\_\_\_\_

**Judge will fill out section below.**

- 5 The judge finds that the child (*check all that apply*):
- ☐ Is 12 or older and agrees to the adoption
  - ☐ Is under 12
  - ☐ Is not required to consent because this is a tribal customary adoption.
- 6 The judge has reviewed the report and other documents and evidence and finds that:
- Proper notice to all persons with actual or possible parental rights has been provided and their voluntary or nonvoluntary participation is documented in the court file.
  - Each adopting parent:
    - Is at least 10 years older than the child or meets the criteria in Family Code section 8601(b);
    - Will treat the child as their own;
    - Will support and care for the child;
    - Has a suitable home for the child; *and*
    - Agrees to adopt the child.
- 7 Child's name before adoption  
*Complete for nonrelative agency, independent, intercountry, or stepparent adoption.  
If this is an adoption of a dependent child by a relative filed under Family Code section 8714.5, complete only if requested by the adopting relative or by the child being adopted, if 12 years of age or older.*  
First name: \_\_\_\_\_ Middle name: \_\_\_\_\_ Last name: \_\_\_\_\_
- 8 ☐ The child is an Indian child. The judge finds that this adoption meets the placement requirements of the Indian Child Welfare Act or that there is good cause to give preference to these adopting parents. The clerk will fill out 14 below.
- 9 ☐ The judge approves the *Contact After Adoption Agreement* (form [ADOPT-310](#))  
☐ As submitted    ☐ As amended on form ADOPT-310
- 10 ☐ This is a tribal customary adoption. The tribal customary adoption order of the \_\_\_\_\_ tribe dated \_\_\_\_\_ containing \_\_\_\_\_ pages and attached hereto is fully incorporated into this order of adoption.
- 11 ☐ This is an adoption under the Hague Adoption Convention. *Verification of Compliance with Hague Adoption Convention Attachment* (form ADOPT-216) is attached and fully incorporated into this order.
- 12 ☐ (*Do not complete for stepparent adoptions.*) This is an adoption involving an additional parent. The following persons with existing parental rights agree to this adoption and will maintain their existing parental rights:
- Name: \_\_\_\_\_ Relationship to child: \_\_\_\_\_  
Name: \_\_\_\_\_ Relationship to child: \_\_\_\_\_
  - An agreement waiving termination of parental rights, signed by both the existing parents and the adoptive parent, was filed with the court.



Name of adopting parents: \_\_\_\_\_

Case Number: \_\_\_\_\_

- 13 The judge believes the adoption is in the child's best interest and orders this adoption. The child's name after adoption will be:

First name: \_\_\_\_\_ Middle name: \_\_\_\_\_ Last name: \_\_\_\_\_

The adopting parent or parents and the child are now parent and child under the law, with all the rights and duties of the parent-child relationship or, in the case of a tribal customary adoption, all the rights and duties set out in the tribal customary adoption order and Welfare and Institutions Code section 366.24.

- ☐ The judge believes it will serve public policy and the best interest of the child to grant the request of the adopting parent or parents for the court to make this order effective as of (date): \_\_\_\_\_.

Date: \_\_\_\_\_  
(Date of Signature)

\_\_\_\_\_  
Judge (or Judicial Officer)

**Clerk will fill out section below.**

14 **Clerk's Certificate of Mailing**

For the adoption of an Indian child, the clerk certifies:

I am not a party to this adoption. I placed a filed copy of:

- ☐ *Adoption Request* (form ADOPT-200) ☐ *Adoption of Indian Child* (form ADOPT-220)  
☐ *Adoption Order* (form ADOPT-215) ☐ *Contact After Adoption Agreement* (form ADOPT-310)

in a sealed envelope, marked "Confidential" and addressed to:

Chief, Division of Social Services  
Bureau of Indian Affairs  
1849 C Street, NW  
Mail Stop 310-SIB  
Washington, DC 20240

The envelope was mailed by U.S. mail, with full postage, from:

Place: \_\_\_\_\_ on (date): \_\_\_\_\_

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

If you are adopting your stepchild, do not fill out this form.

**DRAFT**  
**Not approved by**  
**the Judicial Council**  
**ADOPT-230.v4.062524.jh**

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number if known:

**Case Number:**

① Your name (adopting parent):

a. \_\_\_\_\_

b. \_\_\_\_\_

Relationship to child: \_\_\_\_\_

Address (skip this if you have a lawyer): \_\_\_\_\_

Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Lawyer (if any): (Name, address, telephone number, and State Bar number): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

② Name of child after adoption:

\_\_\_\_\_

③ List services you received that were related to the adoption of the child listed in ②. Include all medical, hospital, attorney, legal fees and costs, doctors and physicians, surgeons, licensed adoption agency, or any other person or organization that received payment in connection with the birth of the child, expenses, and services received by either birth parent or by the child. (Examples of other services provided: prenatal care, transportation, counseling, adoption service provider, pregnancy expenses, court filing fees, fingerprinting fees.)

Service	Name and address of service provider	How much paid, or value of service	Payment date
a. _____	_____ _____	\$ _____	_____
b. _____	_____ _____	\$ _____	_____
c. _____	_____ _____	\$ _____	_____
d. _____	_____ _____	\$ _____	_____
e. _____	_____ _____	\$ _____	_____



Your name: \_\_\_\_\_

Case Number: \_\_\_\_\_

Service	Name and address of service provider	How much paid, or value of service	Payment date
f. _____	_____ _____	\$ _____	_____
g. _____	_____ _____	\$ _____	_____
h. _____	_____ _____	\$ _____	_____
i. _____	_____ _____	\$ _____	_____
j. _____	_____ _____	\$ _____	_____
k. _____	_____ _____	\$ _____	_____
l. _____	_____ _____	\$ _____	_____

If you need more space, attach a sheet of paper and write "ADOPT-230, Item 3—Payment for Services" at the top.

Number of pages attached: \_\_\_\_\_

- ④ I declare under penalty of perjury under the laws of the State of California that I have listed all payments (or anything of value) that I have paid or agreed to pay, or that were paid on my behalf, related to the child I want to adopt. I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct, which means that if I lie on this form, I am guilty of a crime.

Date: \_\_\_\_\_  
Type or print your name

► \_\_\_\_\_  
Signature of adopting parent

Date: \_\_\_\_\_  
Type or print your name

► \_\_\_\_\_  
Signature of adopting parent

# ADOPT-310

## Contact After Adoption Agreement

☐ Original ☐ Change

Clerk stamps date here when form is filed.

**DRAFT**  
**Not approved by**  
**the Judicial Council**  
**ADOPT-310.v10.071824.jh**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**

### 1 Adopting parents names:

a. \_\_\_\_\_

b. \_\_\_\_\_

Relationship to child: \_\_\_\_\_

Your address (skip this if you have a lawyer)

Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Your phone number: \_\_\_\_\_

Your lawyer (if you have one) (name, address, phone number, and State Bar number):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### 2 Information about the child

a. Child's name (after adoption): \_\_\_\_\_

b. Date of birth: \_\_\_\_\_ Age: \_\_\_\_\_

c. Is the child a dependent of Juvenile Court? ☐ No ☐ Yes

If yes, list juvenile court and juvenile case number and attach this form to your *Adoption Request* (form ADOPT-200) (Family Code, §§ 8714.5(d) and 8715):

County: \_\_\_\_\_ Case number: \_\_\_\_\_

d. Child's Lawyer (If the child has a lawyer, fill out below. If item 2c is yes, child must have a lawyer. See Family Code section 8616.5(d).)

Name of child's lawyer: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone number: \_\_\_\_\_ State Bar number: \_\_\_\_\_

- 3 The birth relatives below agree with the requesting parties in 1 about contact with the child after adoption. If the agreement is confidential, write "Confidential" instead of the person's name. Sibling information may include minor siblings, siblings who are dependents or nonminor dependents, and adult siblings. Consider completion of waiver forms (California Department of Social Services forms AD 904A or AD 904B). See <https://cdss.ca.gov/inforesources/forms-brochures/forms-alphabetic-list/a-d>.

If you need more space, attach a sheet of paper. Write "ADOPT-310, Item 3—Other Relatives" at the top.

#### Type of Contact (check all that apply):

 Visits  Phone  Email  Letter  Share Info  Other\*

Name	Relationship to Child	Visits	Phone	Email	Letter	Share Info	Other*
a.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

\*Explain type of contact on a sheet of paper. Write "ADOPT-310, Item 3—Other Types of Contact" at the top.

Number of pages attached: \_\_\_\_\_



Name of adopting parents: \_\_\_\_\_

Case Number: \_\_\_\_\_

- 4 If you have a signed, written agreement about Contact After Adoption, attach a copy.


Number of pages attached: \_\_\_\_\_


- 5 The parties have discussed the reasons for continued contact between the child and the specified relatives or other parties, considering the best interests of the child.


#### Notice


1. The adopting parents must file this form with the court before the finalization hearing or order of the court. Within 30 days of the adopting parents receiving a file-marked copy of this agreement, the adopting parents must provide a file marked copy to each person who signed the agreement as well as any licensed adopting agency that placed the child for adoption or consented to the adoption.
2. After the judge signs the Adoption Order for this child, the adoption is final. It can never be canceled or changed, even if anyone who signed this agreement:
  - Does not follow the agreement, and/or
  - Files form ADOPT-315 (to change, end, or enforce this agreement).
3. Before this agreement can be changed by the court, all of the people who signed it have to try to fix any problems with it through a dispute resolution program, like mediation.

- 6 Everyone involved in this agreement must sign below (including the child, if 12 or older, and the child's attorney).

Date: \_\_\_\_\_ *Type or print your name and relationship to child*  \_\_\_\_\_ *Sign your name*

Date: \_\_\_\_\_ *Type or print your name and relationship to child*  \_\_\_\_\_ *Sign your name*

Date: \_\_\_\_\_ *Type or print your name and relationship to child*  \_\_\_\_\_ *Sign your name*

Date: \_\_\_\_\_ *Type or print your name and relationship to child*  \_\_\_\_\_ *Sign your name*

Date: \_\_\_\_\_ *Type or print your name and relationship to child*  \_\_\_\_\_ *Sign your name*

Date: \_\_\_\_\_ *Type or print your name and relationship to child*  \_\_\_\_\_ *Sign your name*

If more relatives need to sign, attach a sheet of paper. Write "ADOPT-310, Item 6—Signatures of Other Relatives," at the top.

Number of pages attached: \_\_\_\_\_

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

\_\_\_\_\_  
*Judge (or Judicial Officer)*

**Family Law: Adoption Forms**

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
1.	California Lawyers Association The Executive Committee of the Family Law Section	A	FLEXCOM agrees with this proposal. As to the question posed regarding including room for the name of a third parent, FLEXCOM suggests it is not needed. It could create confusion in two-parent cases, and in cases where there are more than two parents an addendum is used in practice to note an additional parent.	The committee appreciates this feedback and agrees, adding in language to include an attachment for additional adoptive parents.
2.	Orange County Bar Association by Christina Zabat-Fran, President	A	YES, THERE SHOULD BE A SPACE OR REFERENCE TO AN ATTACHMENT TO INCLUDE ALL NAMES OF ALL ADOPTING PARENTS	The committee appreciates this feedback and has added language onto Form ADOPT-200, item 1, to include a note: For any additional adoptive parents, attach a sheet of paper, write “ADOPT-200, Item (1)”, and complete a-c).
3.	Superior Court of California, County of Los Angeles by Bryan Borys, Director of Research and Data Management	A	The following comments are representative of the Superior Court of California, County of Los Angeles (Court), and do not represent or promote the viewpoint of any particular judicial officer or employee.	No response required.
			In response to the Judicial Council of California’s “ITC SPR24-23 Family Law: Adoption Forms,” the Court agrees with the proposal and its ability to appropriately address its stated purpose.	The committee appreciates this comment.
			The Court agrees that there should be space on the request forms for more than two adoptive parents’ names.	The committee appreciates this feedback and has added language to include an attachment for additional adoptive parents.
			Furthermore, the Court would like to provide a suggestion for the new ADOPT-203, item 1, to reflect Adopting Parents and have additional lines for up to two additional parents, as there are three-parent adoptions.	The committee agrees and has added language onto Form ADOPT-203, item 1, to include a note: For any additional adoptive parents, attach a sheet of paper, write “ADOPT-203, Item (1)”, and completed a-c.

**Family Law: Adoption Forms**

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			Although the Court does not see any cost savings from the proposal, it anticipates minimal implementation requirements, which include but are not limited to 1) Training for staff; 2) Updating policies and procedures; 3) Updating forms and event codes in the case management system.	The committee appreciates this comment.
			Lastly, the Court agrees that three months from Judicial Council approval of this proposal until its effective date will provide sufficient time for implementation and that this proposal would work well in courts of different sizes.	The committee appreciates this comment.
4.	Superior Court of California, County of Orange by Katie Tobias, Operations Analyst, Family Law, and Juvenile Divisions	NI	Orange County utilizes the hearing box in the ADOPT-200 and completes the box at the time the adoption request is filed. Removing this box will impact the adoption case initiation process in juvenile.	The committee appreciates this feedback. While it had initially determined that the box may not be necessary as adoption hearings are typically not set at the time of filing the adoption request, the committee understands that keeping the hearing box within the document may be helpful to some courts and is recommending retaining the box.
			The removal of the current #4 on the ADOPT-200, Information about the child, specifically "section a. The child's new name will be:" is used for case initiation. First name and last initial of new name is used in creating the party in the case management system.	Although the committee initially determined that the box may not be necessary, after careful consideration of the comments, including this one, about how some courts use the child's adoptive name for case management purposes, the committee determined that leaving the option of



**Family Law: Adoption Forms**

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
				including the child's name after the adoption could be helpful, and therefore this information is recommended to remain in the form ADOPT-200.
			In addition, Orange County uses birth parent names to verify court-received consents for family law adoptions. Removing this will affect courtroom procedures for consent identification and verification.	The committee appreciates and considered this input but feels that removing the names of the birth parents on the form ADOPT-200 will reduce the possibility for confusion as to who needs to sign consents. Additionally, because there is follow-up information provided to the court, such as reports and investigations, those will identify the persons who have or may have parental rights and what types of documentation or consents are necessary. Also, inclusion of the birth parents' name is not required by the Family Code.
			Recommend modifying the language on Section 3 of the ADOPT-050-INFO form to state "The social worker will file the report with the court and send you or your attorney a copy." Also, within the Note on page 3 of the ADOPT-050-INFO form, the italicized form name "Adoption Order" does not include the form number. Recommend including the form number after the form name or replacing the form name with the form number for consistency.	The committee agrees with both comments and has revised the language to include "and your attorney" to Section 3 of the form ADOPT-050-INFO and has added "(form ADOPT-215)" after the form name on form ADOPT-050-INFO on page 3 within the Note.
			Recommend modifying the language on Section 9 of the ADOPT-210 form, checkbox c be revised to state "This form was signed by the judicial officer while the adopting parents or parent were attending a remote hearing."	The committee appreciates this feedback and has modified the proposed language to make it clearer that the purpose of checkbox c is to indicate that the adoptive parents signed a copy of the form while appearing remotely. The proposed revision reads: "This form was signed by the adopting parent or parents either before or while the

**Family Law: Adoption Forms**

All comments are verbatim unless indicated by an asterisk (\*).

Commenter	Position	Comment	Committee Response
			adopting parent or parents were attending a remote hearing and was acknowledged by the judicial officer. <i>(The judicial officer will date and sign the form below).</i> ”.
		On the ADOPT-215 form, Section 12 contains a possible error. Should this state "an additional parent", not "and addition parent"?	The committee appreciates this feedback and will make the correction to form ADOPT-215, item 12 to state: “additional.”
		<u>Does the proposal appropriately address the stated purpose?</u> Yes, the proposal appropriately addresses the stated purpose.	The committee appreciates this feedback.
		<u>Should there be space on the request forms for more than two adoptive parents’ names?</u> Yes, there should be for more than two adoptive parents' names.	As indicated above, the committee agrees and has added language to include an attachment for additional adoptive parents.
		<u>Would the proposal provide cost savings? If so, please quantify.</u> No, the proposal does not appear to provide any cost savings.	The committee appreciates this comment.
		<u>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</u> Implementation would require revising procedures, providing communication to judicial officers and staff, conducting staff training	The committee appreciates this information.

**Family Law: Adoption Forms**

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			(approximately 1-2 hours), and updating the case management system.	
			<u>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</u> Orange County would need six months to implement based off the requirements and potential changes to current juvenile procedures with the revision of the ADOPT-200 (see additional comments above).	The committee appreciates the concerns around implementation but has determined that implementation of the statutory provisions by January 1, 2025 is needed to ensure that forms are legally accurate.
			<u>How well would this proposal work in courts of different sizes?</u> Our court is a large court, and this could work for Orange County.	The committee appreciates this comment.
5.	Superior Court of California, County of Riverside	AM	Introducing a specific form for Stepparent Adoption Requests, such as the ADOPT-203, would greatly benefit litigants by providing them with a clear and distinct petition tailored to their circumstances. This specialization would enhance clarity and efficiency in the adoption process, ultimately benefiting both litigants and court personnel. Clear and understandable forms are crucial for ensuring accessibility and ease of use for all parties involved in the adoption process. The information contained in the information sheet provides the litigants with lots of information regarding the adoption process. This addition would further aid litigants in understanding the adoption process and their rights and responsibilities.	The committee appreciates this feedback and comment.

**Family Law: Adoption Forms**

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			ADOPT-050-INFO, Page 2 of 6, “Stepparent/Domestic Partner Adoptions” suggestion to number this as Section 1 with “Fill out court forms” as Subsection a. Add information that forms must be completed in black or blue ink	<p>The committee appreciates and considered this feedback, but decided not to include the proposed language. Although California Rules of Court, rule 2.106 requires the font on papers presented for filing be black or blue-black, rule 2.118 states that a clerk may not reject a filing that is in handwriting in a color other than black or blue-black.</p> <p>The committee recommends maintaining the current large font and bold text as identifying the sections with numbers for the subsections, rather than the suggested numbering of the sections and subsections. This is consistent with other Judicial Council plain language forms and improves readability.</p>
			ADOPT-050-INFO, Page 3 of 6, Section 2, remove the word “small” from the phrase “small filing fee.” The size of the fee is subjective to the individual(s) financial situation.	<p>The committee appreciates this feedback and has removed the word “small” and included the following: The court will charge a \$20.00 filing fee (set by Health and Safety Code section 103730).</p>
			ADOPT-050-INFO, Page 3 of 6, Section 2, Note: does not indicate whether or not the party will receive copies from the court	<p>The committee appreciates this feedback and has modified the form to include language that once the forms are filed with the Clerk, the adoptive parents and their attorney will receive filed copies.</p>
			ADOPT-050-INFO, Page 3 of 6, “Independent or Agency Adoptions in the United States” suggestion to number this as Section 2, with “Fill out court forms” as subsection a. Add information that forms must be completed in black or blue ink	<p>The committee appreciates and considered this feedback, but decided not to include the proposed language. Although California Rules of Court, rule 2.106 requires the font on papers presented for filing be black or blue-black, rule 2.118 states that a clerk may not reject a filing that is in</p>

**Family Law: Adoption Forms**

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	Commenter	Position	Comment	Committee Response
				<p>handwriting in a color other than black or blue-black.</p> <p>The committee recommends maintaining the current large font and bold text as headings identifying the sections with numbers for the individual items, rather than the suggested numbering of the sections and lettering of the items. This is consistent with other Judicial Council plain language forms and improves readability.</p>
			ADOPT-050-INFO, where filing fees are mentioned, also mention Fee Waivers	The committee appreciates this feedback and has incorporated language to include the actual filing fee for the adoption request of \$20 and additional language that the fee is set by Health and Safety Code section 103730.
			ADOPT-050-INFO, Page 4 of 6, item 6-“Go to court on the date of your hearing”, this is a good place to let petitioner know to bring a VS-44 Court Report of Adoption with Items 1 and 2 completed.	<p>The committee appreciates this suggestion. The following language will be added on page 3, item 4, under Stepparent/Domestic partner adoption: (last bullet) Completed and signed, California Department of Social Services form VS-44</p> <p>The language is only added to the Stepparent Adoption section because it is the adoption type most often filed by self-represented persons who may not know that the form VS-44 is completed by the court clerk after the adoption finalization hearing and is needed to generate the child’s new birth certificate.</p>

**Family Law: Adoption Forms**

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	Commenter	Position	Comment	Committee Response
			ADOPT-050-INFO, pages 5 and 6, the ICWA forms are in blue, suggesting a hyperlink, but there is no option to navigate to a hyperlink.	The committee appreciates this comment about hyperlinks. Once all updates are made to the text of the forms, the hyperlinks will be tested to ensure they are working properly.
			ADOPT-200-Adoption Request, Page 1 of 5, Instructions, the ADOPT forms are blue in the information section, suggesting a hyperlink, but there is no option to navigate to a hyperlink.	The committee appreciates this comment. Once all updates are made to the text of the forms, the hyperlinks will be tested to ensure they are working properly.
			ADOPT-200-Adoption Request, Page 1 of 5, Section 1, subsection d, part of the underline is missing in the Relationship to Child.	The committee appreciates this comment and has made the correction.
			ADOPT-200-Adoption Request, Page 4 of 5, the ADOPT forms are blue in the information section, suggesting a hyperlink, but there is no option to navigate to a hyperlink.	The committee appreciates this comment. Once all updates are made to the text of the forms, the hyperlinks will be tested to ensure they are working properly.
			ADOPT-203 -Stepparent Adoption Request, page 1 of 4, Box, and text indicating the box is informational	The committee appreciates this suggestion and has added the word “Instructions” at the top of the text within the box on form ADOPT-203.
			ADOPT-203 -Stepparent Adoption Request, page 1 of 4, Box, convert the ADOPT forms to hyperlinks.	The committee appreciates this comment. Once all updates are made to the text of the forms, the hyperlinks will be tested to ensure they are working properly.
			ADOPT-203 -Stepparent Adoption Request, page 3 of 4, section 9 second box, move second box to a separate line so that all the text pertaining to that box appears under it.	The committee appreciates this comment and modified form ADOPT-203 to incorporate this suggestion. Note: This item number is now item 10 as the hearing box was reincorporated into the form ADOPT-203.

**Family Law: Adoption Forms**

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	Commenter	Position	Comment	Committee Response
			ADOPT-215-Adoption Order, section 1, Does the address of the parents need to be filled out if they have a lawyer?	The committee appreciates this suggestion. Because this would be a substantive change to the proposal, the committee believes public comment should be sought before they are considered for adoption. The committee may seek to address this comment in a future proposal.
			ADOPT-215-Adoption Order, section 2 Information about the child. Having a line for “Child’s name after adoption” and then separate lines for first, middle and last is often confusing to staff. Can the first line “Child’s name after adoption” be removed.	The committee appreciates this suggestion and will remove the line after “Child’s name after adoption” on form ADOPT-215, item 2 and will keep the remainder of that section.
			ADOPT-215-Adoption Order, section 12, there is a typo. It should read this is an adoption involving an additional parent.	The committee appreciates this feedback and will make the correction to form ADOPT-215, item 12 to state: “additional.”
			ADOPT-310- Contact After Adoption Agreement, page 1 of 2, section 1, sub sections a and b, add an indication that this section should contain the “name”	The committee appreciates this suggestion and has updated form ADOPT-310 Contact After Adoption Agreement, page 1, item 1, caption to read: “Adopting parents’ names”
			<u>Does the proposal appropriately address the stated purpose?</u> Yes, the creating of a separate Stepparent Adoption Request (ADOPT-203) will make the filing of stepparent adoptions simpler, the updates to the ADOPT-050-INFO, ADOPT-200, ADOPT-210, ADOPT-215, ADOPT-230, and the ADOPT-310 make these forms easier to follow and address a lot of common issues and questions.	The committee appreciates these comments regarding operational impacts of form changes on the courts.

**Family Law: Adoption Forms**

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p><u>Should there be space on the request forms for more than two adoptive parent's names?</u>  Yes, this adjustment would accommodate various family structures and ensure inclusivity in the adoption process.</p>	As indicated above, the committee agrees and has added language to include an attachment for additional adoptive parents.
			<p><u>Would the proposal provide cost savings? If so, please quantify?</u>  There would be no cost savings.</p>	The committee appreciates this comment.
			<p><u>What would the implementation requirements be for courts-for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</u>  Additional training would be necessary for judges, court clerk's office, and courtroom staff (2-4 hours), new codes would need to be created in the case management system, desk procedures and training guides for adoptions would need to be modified.</p>	The committee appreciates this comment.
			<p><u>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</u>  Yes.</p>	The committee appreciates this feedback.
			<p><u>How well would this proposal work in courts of different sizes?</u>  The proposal should work for courts of all sizes.</p>	The committee appreciates this comment.



**Family Law: Adoption Forms**

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	Commenter	Position	Comment	Committee Response
6.	Superior Court of California, County of San Diego by Mike Roddy, Executive Officer	AM	Q: Does the proposal appropriately address the state purpose? <b>A: Yes.</b>	The committee appreciates this feedback.
			Q: Should there be space on the request forms for more than two adoptive parents' names? <b>A: No, we have not had a need for this. In a rare case where we did, the petitioners could put more than one name on a line.</b>	The committee appreciates this comment.
			Q: Would the proposal provide cost savings? If so, please quantify. <b>A: No.</b>	The committee appreciates this feedback.
			Q: What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? <b>A: Implementation will require training of staff, updates to the case management system and local packets, and revising internal procedures.</b>	The committee appreciates this feedback regarding implementation requirements for the courts.
			Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <b>A: Yes.</b>	The committee appreciates this feedback.
			Q: How well would this proposal work in courts of different sizes?	The committee appreciates this feedback.

**Family Law: Adoption Forms**

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	Commenter	Position	Comment	Committee Response
			<b>A: This proposal should work well, regardless of the size of the court.</b>	
			<b>ADOPT-050-INFO:</b> Recommend verifying the link to the Self-Help Guide is accurate.	The committee appreciates this comment. Once all updates are made to the text of the forms, the hyperlinks will be tested to ensure they are working properly.
			Suggest capitalizing “Department of Social Services.”	The committee appreciates this recommendation and will make the corrections to capitalize Department of Social Services wherever it appears on form ADOPT-050-INFO
			Suggest changing “will witness” to “to witness” in role of ASP.	The committee appreciates this suggestion but prefers to retain the proposed language.
			Propose modifying the Note following petitions to terminate parental rights to state: “(Note: In some courts, this can be filed within the adoption case but in other courts it is a separate court action.)”	The committee considered this suggestion and will make the change as suggested.
			<b>ADOPT-200:</b> In Instructions box, suggest changing “filing” to “filling” in the last sentence.	The committee appreciates this comment and has made the suggested correction.
			Item 5: propose adding a place for child’s name after adoption. Although not specified by statute, this is important information for the court, as it is	Although the committee initially determined that the box may not be necessary, after careful consideration of the comments, including this one, about how some courts use the child’s adoptive name for case management purposes, the

**Family Law: Adoption Forms**

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	Commenter	Position	Comment	Committee Response
			<p>the name by which the child is likely to be referred during the life of the case.</p> <p>Item 7: suggest changing “Welfare and Institutions Code adoptions” to “the adoption of a dependent child.”</p> <p>Item 11: Suggest removing readoption from title and 11c, as it is not necessary and leads to awkward “readoption adoption.”</p> <p>11a: ADOPT-126 is not required in every intercountry case (see CRC 5.490 – 5.493).</p> <p>Item 12: 12b: suggest rewording.</p> <p>12c: suggest rewording to: “filed before the adoption hearing.”</p>	<p>committee determined that leaving the option of including the child’s name after the adoption could be helpful, and therefore this information is recommended to remain in the form ADOPT-200.</p> <p>The committee appreciates this suggestion and modified Item 7 to include: “For adoptions of a dependent child under the Welfare and Institutions Code...”</p> <p>Item 11: The committee appreciates this suggestion and modified the wording to: This is an intercountry re-adoption. The adoption was finalized in another country before the child entered the United States with the adopting parent”</p> <p>Item 11(a): The committee appreciates this comment and will change the wording to include: (ADOPT-126 may be required to be filed with this request. See Cal. Rules of Court 5.490-5.493)</p> <p>Item 12(b): The committee appreciates this suggestion and changed the wording to include: is attached as required in Family Code section 8714.50 (dependent child agency adoption)</p> <p>12(c): The committee appreciates and incorporated this suggestion.</p>

**Family Law: Adoption Forms**

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>Additional Information Needed box: The format of item 15 on the existing form is more helpful to the court, in that it gives information about the birth parents and what will be done about their rights. Perhaps a simplified version of what is on the existing form would be more appropriate.</p> <p>Item 13: suggest referring to either “adopting parent” or “adopting parents” consistently.</p>	<p>Additional information needed box: The committee appreciates and considered this input but prefers to remove the names of the birth parents.</p> <p>Item 13: The committee appreciates this suggestion and will revise the form to consistently use adopting parents.</p>
			<p><b>ADOPT-203:</b></p> <p>Item 3:</p> <p>3a: suggest revising to: “lives” in this county.</p> <p>3c: Propose removing. Relinquishment generally only applies to agency adoptions and would not apply in a stepparent adoption.</p> <p>Item 4a: suggest changing “a child I am seeking to adopt” to “the child to be adopted.”</p> <p>Item 5: suggest adding a place for child’s name after adoption.</p> <p>Additional Information Needed box: Please see comment to form ADOPT-200.</p>	<p>Item 3(a): the committee has made the suggested revision.</p> <p>Item 3(c): the committee has removed the word relinquishment.</p> <p>Item 4a: The committee is retaining the circulated language as the active voice is preferred for plain language forms.</p> <p>Item 5: Although the committee initially determined that the box may not be necessary, after careful consideration of the comments, including this one, about how some courts use the child’s adoptive name for case management purposes, the committee determined that leaving the option of including the child’s name after the adoption could be helpful, and therefore this</p>

**Family Law: Adoption Forms**

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
				information is recommended to remain in the form ADOPT-200.  Additional information needed box: The committee appreciates and considered this input but prefers to remove the names of the birth parents in order to reduce the chance of confusion as to who needs to sign consents.
			<b>ADOPT-210:</b> In the signing instructions on page 1, suggest changing 8a to 9a.	The committee agrees with this suggestion and has incorporated it into the revised proposed forms.
			<b>ADOPT-215:</b> Item 8: suggest changing reference to item 13 to item 14.  Item 12: The revision to item 12 might introduce some ambiguity for stepparent adoptions. The existing version of item 12 was used only to add a new parent without affecting the rights of the existing parents. This new version makes it seem like it could or should be used in a stepparent adoption.	The committee appreciates and has incorporated the suggestion.  The committee appreciates this recommendation and will add the following after the first sentence in item 12: (not used for stepparent adoptions).
			<b>ADOPT-310:</b> Suggest revising reference to Family Code §8714.30 as this section does not exist.	The committee appreciates the comment and has revised the form to read: Family Code section 8714.5(d) and 8715

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** August 13, 2024

**Rules Committee action requested** [Choose from the drop-down menu below]:

**Recommend JC approval (has circulated for comment)**

**Title of proposal:** Probate Conservatorship: Care Plan

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*

Adopt form GC-355A; revise form GC-355

*Committee or other entity submitting the proposal:*

Probate and Mental Health Advisory Committee

*Staff contact (name, phone and e-mail):* Corby Sturges, 415-865-4507, [corby.sturges@jud.ca.gov](mailto:corby.sturges@jud.ca.gov)

*Identify project(s) on the committee's annual agenda that is the basis for this item:*

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda: The committee will develop a recommendation for revisions to form GC-355, Determination of Conservatee's Appropriate Level of Care, to incorporate the requirements for a care plan in Probate Code sections 2351.2 (added by SB 280 [Stats. 2023, ch. 705, § 1]) and 2352.5 and to make technical and conforming changes.

**Out of Cycle:** *If requesting September 1 effective date or out of cycle, explain why:*

**Additional Information for Rules Committee:** (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was

☒ reviewed by EGG on (date) June 27, 2024

☒ approved by Office Director (or Designee) (name) Audrey Fancy  
on (date) June 28, 2024

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **Form Translations** (check all that apply)

This proposal:

☐ includes forms that have been translated.

☐ includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)

☐ includes forms that staff will request be translated.

- **Form Descriptions** (for any report with new or revised forms)

☒ The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)
  - ☒ This proposal may require changes or additions to self-help web content.



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

Item No.: 24-XXX

For business meeting on September 20, 2024

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**Title**

Probate Conservatorship: Care Plan

**Agenda Item Type**

Action Required

**Rules, Forms, Standards, or Statutes Affected**

Adopt form GC-355A; revise form GC-355

**Effective Date**

January 1, 2025

**Recommended by**

Probate and Mental Health Advisory  
Committee

**Date of Report**

June 20, 2024

Hon. Jayne Chong-Soon Lee, Chair

**Contact**

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### Executive Summary

To implement recent legislation, the Probate and Mental Health Advisory Committee recommends revising one form and adopting one form for mandatory use by a probate conservator of the person to prepare and file the conservatorship care plan required by Probate Code section 2351.2, effective January 1, 2025. As required by Probate Code section 2352.5, the revised form also includes the conservator's determination of the conservatee's level of care.

### Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2025:

1. Retitle form GC-355 as *Confidential Conservatorship Care Plan—Probate* and revise the form to incorporate elements of the care plan required by section 2351.2(b) and provide instructions to the conservator for completing, delivering, and filing the plan.



2. Adopt *Confidential Medical Information Attachment to Confidential Conservatorship Care Plan—Probate* as form GC-355A to capture the confidential medical information required in the care plan by section 2351.2(b) separately from the other information in the plan, consistent with the requirement in section 2351.2(a)(1)(B) that confidential medical information be redacted from copies of the plan delivered to the conservatee’s spouse or registered domestic partner and relatives.

The recommended forms are attached at pages 7–14.

## **Relevant Previous Council Action**

The Judicial Council adopted *Determination of Conservatee’s Appropriate Level of Care* (form GC-355), effective July 1, 2011, for mandatory use to document and file the determination of the conservatee’s appropriate level of care required by Probate Code section 2352.5(c).<sup>1</sup> The council has never revised the form.

## **Analysis/Rationale**

Senate Bill 280 (Stats. 2023, ch. 705) added section 2351.2 to the Probate Code to require a conservator of the person, effective January 1, 2025, to file with the court a confidential “care plan” for the conservatee. The care plan must contain statutorily specified elements, including confidential medical information that must be further protected from disclosure to some of the required recipients of the care plan. The entire care plan is confidential. (§ 2351.2(e).)

To facilitate the preparation of the care plan, section 2351.2(c) requires the Judicial Council, also effective January 1, 2025, to develop and adopt a mandatory form for the conservator’s use to prepare the care plan. The statute requires this form to be combined with the form used to document the conservatee’s appropriate level of care as required by section 2352.5(b). (See also § 2352.5(c).) As noted above, form GC-355 must currently be used for the latter purpose.

## **Form GC-355**

The committee is recommending substantial revisions to form GC-355 to implement the requirements of Senate Bill 280 (Stats. 2023, ch. 705). The committee recommends retitling the form *Confidential Conservatorship Care Plan—Probate* to reflect its expanded scope and confidential status and revising it to incorporate all the statutorily required elements of the plan except for confidential medical information. The revised form retains the elements of the written determination of the conservatee’s appropriate level of care required by section 2352.5(b).

The revised form begins with a new set of instructions that guides the conservator of the person in completing the plan and outlines the steps required to sign, deliver, and file the plan.

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<sup>1</sup> Judicial Council of Cal., Advisory Com. Rep., *Probate Conservatorship: Determining the Conservatee’s Appropriate Level of Care* (Feb. 24, 2011), [www.courts.ca.gov/documents/20110429itema7.pdf](http://www.courts.ca.gov/documents/20110429itema7.pdf). Section 2352 was added to the Probate Code by Senate Bill 1116 (Stats. 2006, ch. 490, § 2), effective January 1, 2007.

All further statutory references are to the Probate Code unless otherwise specified.

(§ 2351.2(a).) The new instructions also discuss statutory exceptions to the requirement to file a plan and warn of the potential consequences of not filing a plan as required. (§ 2351.2(d) & (h).)

After the instructions, items 1 and 2 now ask for basic information such as the conservator's name, date of appointment, the date on which the proceedings began, and, as required by section 2352.5(b)(1), an evaluation of the conservatee's level of care on that date.<sup>2</sup> Item 3 then asks for information about the conservatee's current living arrangement, including the address, the date the conservatee began living there, a description of the home or facility, whether the living arrangement is the least restrictive residence appropriate for the conservatee, whether the conservator plans to move the conservatee within 12 months, and whether the residence is the conservatee's personal residence, as defined. (§ 2351.2(b)(1); see Cal. Rules of Court, rule 7.1063.)

Item 4 asks the conservator to provide information required by section 2352.5(b). Although this information is already included on existing form GC-355, the committee recommends restructuring it to integrate it into the care plan. If the conservatee is living in the personal residence, the conservator must describe the measures needed to allow the conservatee to stay in the residence. (§ 2352.5(b)(1).) If the conservatee is not living in the personal residence, the conservator must give the address of the personal residence and either describe the plan to help the conservatee return to live in the personal residence or, if the conservatee will not be able to return to live in the personal residence in the foreseeable future, explain the reasons for that inability. (§ 2352.5(b)(2).)

The balance of the revised form, with one exception, seeks information required by SB 280. Items 5 and 6 ask the conservator to describe the conservatee's current care, to state whether that care is sufficient to meet the conservatee's needs, and, if it is not, to describe the care arranged or planned to meet the conservatee's needs. (§ 2351.2(b)(2).) Item 7 updates item 3b on the existing form, asking whether a professional has assessed the conservatee's needs and, if so, directing the conservator to attach a copy of the evaluation with confidential medical information redacted. The conservator must then, in items 8 and 9, describe their visitation schedule with the conservatee, their actions to ensure that the conservatee is able to exercise the rights to visitation and communication with family and friends, and the conservatee's normal social and recreational activities. (§ 2351.2(b)(4) & (5).)

In item 10, the conservator must identify any special problems raised by the court investigator, the court, or an interested person and describe how the conservator has addressed or plans to address those problems. (§ 2351.2(b)(6).) To the extent the conservator has access to the

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<sup>2</sup> The date of the commencement of the proceedings is also important because the conservatee's permanent residence on that date is deemed the conservatee's personal residence for purposes of the conservatorship proceedings. (See Cal. Rules of Court, rule 7.1063.)

information, item 11 asks the conservator to describe the conservatee's financial needs, giving estimated monthly expenses.<sup>3</sup> (§ 2351.2(b)(7).)

### **Form GC-355A**

To implement the statute's mandate that the conservatorship care plan include confidential medical information (§ 2351.2(b)(3) & (8); see also § 2351.2(b)(2) & (7)) and that such information be redacted from copies of the plan delivered to the conservatee's spouse or domestic partner and any relatives (§ 2351.2(a)(2)(B)), the committee recommends adopting *Confidential Medical Information Attachment to Confidential Conservatorship Care Plan—Probate* (form GC-355A). The conservator would use the attachment to describe the status of the conservatee's health, any medications currently prescribed, and any medical treatments received, supports provided, or devices used. (§ 2351.2(b)(3).) The attachment would also include the required list of all health care providers caring for the conservatee with license type and number, contact information, and a description of the treatment provided (§ 2351.2(b)(8)) and any other confidential medical information the conservator wishes to report.<sup>4</sup>

### **Delivery of the care plan**

On completing the plan, the conservator must deliver a copy, including form GC-355A, to the conservatee and the conservatee's attorney, any conservator of the estate, and that conservator's attorney. (See § 2351.2(a)(2)(A).) Unless the court has determined that delivery of the plan will result in harm to the conservatee, the conservator must also deliver a copy *without* form GC-355A to the conservatee's spouse or registered domestic partner and each relative within the first degree (parent or child) or, if the conservatee does not have any of those, to relatives within the second degree (siblings, grandchildren, grandparents) to the greatest extent possible. (§ 2351.2(a)(2)(A) & (B).)

These complex statutory requirements and prohibitions require detailed instructions to the conservator. The last two pages of revised form GC-355 provide a proof of delivery by mail and instructions intended to assist the conservator in properly completing the delivery requirements. These instructions, and additional instructions on form GC-355A, emphasize that the conservator should discuss medical information exclusively on form GC-355A. The delivery instructions also make clear that form GC-355A is to be delivered only to the conservatee, the conservatee's attorney, the conservator of the estate, and the attorney for the conservator of the estate.

### **Policy implications**

The recommended action is needed to conform to changes in the law. In addition, the form revisions and addition of the new form will improve service to the public and create greater transparency in the care of conservatees.

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<sup>3</sup> The statute lists "food, entertainment, rent or mortgage, transportation, utilities, medication, clothing, and other relevant health care and living expenses" as examples of expenses to be included. § 2351.2(b)(7).

<sup>4</sup> The discussion of the conservatee's level of care and financial needs may also touch on confidential medical information.

## **Comments**

The recommended amendments and revisions circulated for public comment in the spring 2024 invitation-to-comment cycle. The committee received six comments. Two commenters agreed with the recommendation as circulated, three commenters agreed with suggested modifications, and one commenter did not indicate a position. A chart of comments and the committee's responses is attached at pages 15–20.

Two commenters suggested adopting form GC-335A as a standalone form instead of an attachment to form GC-355, and one commenter suggested adding space for a file stamp to the attachment. The committee does not believe the statute authorizes the use of two separate standalone forms for the care plan. The statutory requirements seem to reflect a legislative intent to require the conservator to complete and file a single, unified care plan. The language limiting this intent—the requirement to redact confidential medical information (CMIA) from copies of the form delivered to specified persons—does not appear to contemplate a separate standalone form. In addition, requiring submission of CMIA on a separate standalone form greatly increases the probability that the conservator will not complete, file, and deliver that form at all and, thus, will omit required information from the plan. However, to assist conservators and clerks more easily to distinguish between the forms to ensure that confidential information is not improperly disclosed, the committee has added a standard caption, including a file stamp box, to form GC-355A for the assignment of a file number different from that assigned to form GC-355. The committee has also added instructions to the clerk to give each form a different file number to promote easy distinction between them.

Commenters also requested clarification on whether and how many times a limited conservator was required to file the forms. Because the governing statutes, sections 2351.2 and 2352.5, exclude some but not all limited conservators from the duty to file a care plan or part of one, complete clarity has been elusive. The committee has revised the form consistent with the commenters' suggestions and made further revisions in the spirit of those suggestions.

## **Alternatives considered**

The committee did not consider taking no action, because SB 280 mandated the adoption or revision of forms for the care plan. The committee considered recommending revisions to form GC-355 that contained all the required elements of the care plan, including confidential medical information. That would have left the redaction of such information from some but not all copies of the care plan up to the conservator. Because most conservators of the person are not professionals, however, and might have difficulty determining which information to redact, the committee decided that recommending adoption of an attachment on which to provide medical information would reduce the likelihood of overly broad or narrow redaction and the inadvertent disclosure of private health information. As discussed above, the committee also considered recommending a separate standalone form for provision of confidential medical information in the plan.

## **Fiscal and Operational Impacts**

Conservators of the person will need to complete and file the form. Courts may need to program their case management systems to accept filing of the form, though conservators have used form GC-355 to file the determination of level of care required by section 2352.5 since 2011. The costs associated with the proposed form result from the underlying statutory requirements.

## **Attachments and Links**

1. Forms GC-355 and GC-355A, at pages 7–14
2. Chart of comments, at pages 15–20
3. Link A: Prob. Code, § 2351.2,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PROB&sectionNum=2351.2](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=2351.2)
4. Link B: Prob. Code, § 2352.5,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PROB&sectionNum=2352.5](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=2352.5)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY   <b>DRAFT 070324</b> <b>Not approved by</b> <b>the Judicial Council</b>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CONSERVATORSHIP OF THE PERSON <input type="checkbox"/> AND ESTATE OF (name):	
<b>CONFIDENTIAL CONSERVATORSHIP CARE PLAN—PROBATE</b> <input type="checkbox"/> Initial <input type="checkbox"/> Update <input type="checkbox"/> Limited Conservatorship	CASE NUMBER:
<p style="text-align: center;"><b>To the Conservator of the Person</b></p> <p>Use this form and <i>Confidential Medical Information Attachment</i> (form GC-355A) to prepare a care plan for the conservatee. Complete each item on this form and items 1–4 on form GC-355A unless one of the following two exceptions applies to you:</p> <ul style="list-style-type: none"> <li>• If you are a limited conservator who is the conservatee's parent or child, you are required to complete this form once, within 120 days of appointment, and only items 1–4. The other items are optional unless the court ordered you to complete one or more.</li> <li>• If you are the Director of Developmental Services or the director's designee and the conservatee has developmental disabilities and is a regional center consumer, you must complete items 1, 3a–3f, and 5–12 on this form and items 1–4 on form GC-355A.</li> </ul> <p><b>Note:</b> If you are a limited conservator who is <b>not</b> the conservatee's parent or child and is <b>not</b> the state Director of Developmental Services or the director's designee, you must complete each item on this form and items 1–4 on form GC-355A.</p> <p><b>Do not discuss confidential medical information on this form.</b> Discuss confidential medical information only on <i>Confidential Medical Information Attachment</i> (form GC-355A); deliver form GC-355A with this form only to the conservatee, the conservatee's attorney, the conservator of the estate, and that conservator's attorney as instructed on page 6.</p> <p>When you have finished the care plan:</p> <ul style="list-style-type: none"> <li>• <b>Sign</b> the completed care plan on page 4 of this form and page 2 of <i>Confidential Medical Information Attachment</i> (form GC-355A);</li> <li>• <b>Deliver</b> the care plan to the persons and in the manner described in the instructions on page 6; and</li> <li>• <b>File</b> the care plan, including form GC-355A, with a completed Proof of Delivery by Mail (page 5) with the court:             <ul style="list-style-type: none"> <li>○ <b>no later than 120 days after</b> the date of the court order appointing you conservator (initial plan);</li> <li>○ <b>no later than 10 days before</b> a hearing to consider whether to continue or terminate the conservatorship (updated plan); or</li> <li>○ <b>as directed</b> by the court.</li> </ul> </li> </ul> <p>For more information about developing, completing, and filing a care plan, see chapters 4 and 6 of the <a href="#">Handbook for Conservators</a>.</p> <p><b>WARNING:</b> If you do not file a completed care plan by the applicable deadline, the court can remove you as conservator, order you to pay a penalty of up to \$500, and, if you are a professional fiduciary, refer you to the Professional Fiduciaries Bureau for investigation.</p>	

1. I, (name):  
am the conservator of the person of the conservatee named above. I was appointed on (date of order):
  
2. a. These conservatorship proceedings began on (date of filing of first petition for appointment of conservator):  
 b. The conservatee's care on that date ☐ was ☐ was not sufficient to meet the conservatee's needs for the reasons given ☐ below ☐ on Attachment 2b.
  
3. a. The conservatee is currently living at the following address (street, city, state, and zip code; if it is a care facility, give the name):  
  
 Telephone number: Email address:  
 b. The conservatee has been living at this address since (date):

CONSERVATORSHIP OF (name):	CASE NUMBER:
CONSERVATEE	

3. c. The home or care facility identified in item 3a is (check all that apply):
- (1) ☐ The conservatee's single family home, condominium, or apartment.
  - (2) ☐ A relative's or friend's single family home, condominium, or apartment.
  - (3) ☐ An acute care (a) ☐ hospital (b) ☐ psychiatric hospital.
  - (4) ☐ A skilled nursing facility.
  - (5) ☐ A ☐ licensed ☐ unlicensed care facility that provides (if you know):
    - (a) ☐ intermediate care for adults with developmental disabilities.
    - (b) ☐ residential care for older adults.
    - (c) ☐ assisted-living services (with 7 or more beds).
    - (d) ☐ board and care (with 6 or fewer beds).
  - (6) ☐ Another residence described ☐ below. ☐ on Attachment 3c.
- d. ☐ The home or care facility described above uses a ☐ secured (locked) perimeter ☐ delayed egress system to regulate the departure of residents.
- e. ☐ The home or care facility described above ☐ is ☐ is **not** the least restrictive residence appropriate for the conservatee for the reasons given ☐ below. ☐ on Attachment 3e.
- f. ☐ I ☐ plan ☐ do **not** plan to move the conservatee or change the conservatee's residence within the next 12 months for the reasons given ☐ below. ☐ on Attachment 3f.
- g. The residence described above
- (1) ☐ **is** the conservatee's **personal residence** because the conservatee understands or believes, or appears to understand or believe, that it was their permanent residence on the date in item 2; **or** the conservatee cannot form or communicate an understanding or belief about their permanent residence, and it is the residence they last understood or believed, or appeared to understand or believe, to be their permanent residence.
  - (2) ☐ **is not** the conservatee's **personal residence** because the conservatee understands or believes, or last understood or believed, that a **different** home or care facility was their permanent residence on the date in item 2.  
The conservatee's personal residence is located at (street, city, state, and zip code, and, if a care facility, name):
  - (3) ☐ **is not** the conservatee's **personal residence** because the conservatee does not understand or believe, and has never understood or believed, that they had a permanent residence on the date in item 2.
4. a. ☐ The conservatee is living in their personal residence. The measures necessary to allow the conservatee to stay in that residence are described (check all that apply): ☐ below ☐ on Attachment 4a  
☐ in item 5 ☐ in item 6 ☐ in Confidential Medical Information Attachment (form GC-355A).
- b. (1) ☐ The conservatee is not living in their personal residence but **will** be able to return to live in that residence in the foreseeable future. My plan to help the conservatee return to live in their personal residence is described (check all that apply): ☐ below ☐ in Attachment 4b(1) ☐ in item 5 ☐ in item 6  
☐ in Confidential Medical Information Attachment (form GC-355A).
- (2) ☐ The conservatee is not living in their personal residence and will **not** be able to return to live in that residence in the foreseeable future for the reasons described ☐ below. ☐ on Attachment 4b(2).

CONSERVATORSHIP OF (name):  CONSERVATEE	CASE NUMBER:
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5. The conservatee is currently receiving the following care or assistance. (Check all that apply; you may provide additional information about any item in the space after "other care or assistance" or on Attachment 5j. **Note: Do not discuss confidential medical information on this form. Discuss that information only in Confidential Medical Information Attachment (form GC-355A).**)

- a. ☐ No care or assistance.
- b. ☐ Light housekeeping help.
- c. ☐ Personal caregivers ☐ for \_\_\_\_\_ hours per day. ☐ 24-hour care.
- d. ☐ Assistance with daily living skills.
- e. ☐ Nursing care.
- f. ☐ Meal preparation assistance.
- g. ☐ Assistance with medication: ☐ Administering. ☐ Setup only.
- h. ☐ Assistance with mobility: ☐ Hands-on. ☐ Standby only.
- i. ☐ In-home hospice services.
- j. ☐ Other care or assistance, as described ☐ below. ☐ on Attachment 5j.

6. a. ☐ The conservatee's current care and treatment are sufficient to meet the conservatee's needs. I plan to continue the care and treatment described in item 5 and in *Confidential Medical Information Attachment* (form GC-355A).
- b. ☐ The conservatee's current care and treatment are **not** sufficient to meet the conservatee's needs. I have arranged or plan to arrange the care described (check all that apply): ☐ below ☐ on Attachment 6b ☐ in item 3b of *Confidential Medical Information Attachment* (form GC-355A) to meet the conservatee's needs.  
**(Note: Do not discuss confidential medical information on this form. Discuss that information only in form GC-355A.)**

7. ☐ The conservatee's care needs have been evaluated by a professional. A copy of the evaluation, including a description of the professional's qualifications, is included as Attachment 7.

**IMPORTANT:** You must attach and file a completed form GC-355A even if you also attach a professional evaluation.

If the professional evaluation includes confidential medical information, make sure to redact (block out so no one can read) that information from all copies except the copies delivered to the conservatee, the conservatee's attorney, the conservator of the estate, and the conservator of the estate's attorney.

A professional evaluation of the conservatee's care needs is not required, but is recommended if the circumstances and the conservatee's condition warrant it and the conservatee can afford it.

**Note:** Include any written evaluation by a professional fiduciary appointed as conservator or proposed for appointment.



CONSERVATORSHIP OF (name):  CONSERVATEE	CASE NUMBER:
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8. a. (1) ☐ I live with the conservatee.  
 (2) ☐ I plan to visit the conservatee on the schedule described ☐ below. ☐ on Attachment 8a.

- b. The steps that I plan to take to ensure that the conservatee is able to visit and communicate with family and friends, consistent with the conservatee's preferences, are described ☐ below. ☐ on Attachment 8b.

9. a. ☐ The conservatee engages in the social or recreational activities described, including location, ☐ below. ☐ on Attachment 9a.

- b. ☐ The conservatee is not able to engage in social or recreational activities for the reasons explained ☐ below. ☐ on Attachment 9b.

10. a. ☐ Any problems brought to my attention by the court, the investigator, or an interested person and my plans to address each of those problems are described ☐ below. ☐ on Attachment 10a.

- b. ☐ No specific problems have been brought to my attention.

11. a. The conservatee's estimated monthly expenses, to the extent I have access to the information needed to estimate them, in each category listed in Probate Code section 2351.2(b)(7), are stated ☐ below. ☐ on Attachment 11a.

- b. ☐ Except for the expenses stated in item 11a, I do not have access to the information needed to estimate the conservatee's monthly expenses.

12. Number of pages attached: \_\_\_\_\_

Date:

\_\_\_\_\_  
 (TYPE OR PRINT NAME OF CONSERVATOR OF THE PERSON)

 \_\_\_\_\_  
 (SIGNATURE OF CONSERVATOR OF THE PERSON)

CONSERVATORSHIP OF (name): _____ <div style="text-align: right; margin-top: 10px;">CONSERVATEE</div>	CASE NUMBER: _____
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**PROOF OF DELIVERY BY MAIL**

1. I am over the age of 18. I am the appointed conservator of the conservatee named above, the conservator's attorney, or an employee of the conservator's attorney. I am a resident of or employed in the county where the mailing occurred.
2. My residence or business address is (*specify*): \_\_\_\_\_
3. I delivered a copy of this form (GC-355) and *Confidential Medical Information Attachment* (form GC-355A) to each person named in items 1 to 4 below the signature line. I delivered a copy of this form but not form GC-355A to the persons named in items 5 through 8 below or on any attachment to this Proof of Delivery. I enclosed each copy in an envelope addressed as shown below **and**
  - a. ☐ **deposited** the sealed envelope on the date and at the place shown in item 4 with the United States Postal Service with the postage fully prepaid.
  - b. ☐ placed the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
4. a. Date mailed: \_\_\_\_\_ b. Place mailed (*city, state*): \_\_\_\_\_

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

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

\_\_\_\_\_  
 (TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

\_\_\_\_\_  
 (SIGNATURE OF PERSON COMPLETING THIS FORM)

**NAME AND ADDRESS OF EACH PERSON TO WHOM A COPY OF THE PLAN WAS MAILED**

Name and relationship  
to conservatee

Address  
(number, street, city, state, and zip code)

1. \_\_\_\_\_  
     The conservatee
2. \_\_\_\_\_  
     The conservatee's attorney
3. \_\_\_\_\_  
     The conservator of the estate (if not you)
4. \_\_\_\_\_  
     The attorney for the conservator of the estate


**ALERT:** Do **not** deliver a copy of the care plan to any person if the court found that delivery to that person would pose a risk of harm to the conservatee. Do not, under **any** circumstances, deliver a copy of form GC-355A to anyone except the persons in 1–4.

5. \_\_\_\_\_  
     The conservatee's spouse  
     or registered domestic partner
6. \_\_\_\_\_  
     Relationship: \_\_\_\_\_
7. \_\_\_\_\_  
     Relationship: \_\_\_\_\_
8. \_\_\_\_\_  
     Relationship: \_\_\_\_\_
9. \_\_\_\_\_  
     Relationship: \_\_\_\_\_


☐ Continued on an attachment. (*List the name, mailing address, and relationship to the conservatee of each additional person.*)

CONSERVATORSHIP OF (name):	CASE NUMBER:
CONSERVATEE	
<b>INSTRUCTIONS FOR DELIVERING COPIES OF          CONFIDENTIAL CONSERVATORSHIP CARE PLAN—PROBATE BY MAIL</b>	

You (the conservator, your attorney, or an employee of your attorney) must deliver a copy of *Confidential Conservatorship Care Plan—Probate* (this form and *Confidential Medical Information Attachment* (form GC-355A)) to each living person in item 1, below. You must also deliver a copy of this form **without** form GC-355A to each living person in each applicable category in item 2, below.

You may send each copy of the care plan by mail; these instructions describe how to do that. Alternatively, you may deliver a copy to someone in person or send a copy electronically to someone who has consented to receive electronic service and provided an electronic service address on *Consent to Electronic Service and Notice of Electronic Service Address* (form EFS-005-CV).

1. **Who must receive the mailing:** You must mail a copy of this form (GC-355) and *Confidential Medical Information Attachment* (form GC-355A) to each of the following persons:
  - a. The conservatee;
  - b. The conservatee's attorney;
  - c. The conservator of the estate (if the court appointed one); and
  - d. The attorney for the conservator of the estate.
2. You must **also** mail a copy of this form but **not** form GC-355A to each of the persons in the following categories. If the court found that delivery of the care plan to one or more of those persons will result in harm to the conservatee, do not mail a copy of either the care plan or the attachment to that person or those persons.
  - a. The conservatee's spouse or domestic partner;
  - b. All the conservatee's relatives in the first degree (parents and children 12 years of age and older);
  - c. If the conservatee has no spouse or registered domestic partner *and* no relatives in the first degree, then all the relatives in the second degree (siblings, grandchildren 12 years of age and older, grandparents);
  - d. If the conservatee has a child, sibling, or grandchild under 12 years of age, then a parent, guardian, or other person having legal custody of the child, sibling, or grandchild with whom the child, sibling, or grandchild resides.
3. **When the mailing must be completed:** If the care plan is an initial plan, you must complete the mailing described above no later than the end of the 120th day after the filing date of the *Order Appointing Probate Conservator* issued in your case. If the care plan is an update, you must complete the mailing no later than the end of the 10th day before the hearing to consider terminating the conservatorship or no later than the date the court orders.
4. **Before you mail:** Make enough copies of pages 1–4 of this form to be able to send one to each person in the categories in items 1 and 2, above. Make enough copies of form GC-355A to be able to send one to each person in item 1, above.  
**IMPORTANT:** Do **not** send *Confidential Medical Information Attachment* (form GC-355A) to anyone except the persons in item 1.
5. **Fill out Proof of Delivery by Mail:** You (the conservator) or your attorney must fill out the Proof of Delivery by Mail on page 5 of this form, including the names, relationships to the conservatee, and mailing addresses of the persons in the categories in items 1 and 2, above, who are entitled to receive a copy of the plan. If the Proof of Delivery by Mail does not have enough space for the names, relationships, and addresses of all the persons who will receive a copy of the plan, you must show the additional names, relationships, and addresses on one or more additional pages and attach those pages to the Proof of Delivery.  
 After completing the mailing as described in item 6 below, you or your attorney must date and sign the Proof of Delivery by Mail on page 5 of this form.
6. **How to mail:** You (the conservator), your attorney of record, or an employee of the attorney, must do the following:
  - a. Place copies of this form and, to the persons specified in item 1 above, form GC-355A in sealed envelopes with postage fully prepaid addressed to each person at the address shown for that person on the Proof of Delivery by Mail on page 5 of this form or on attached additional pages.
  - b. Deposit (mail) the sealed envelope(s) with the United States Postal Service on the date and from the place (city and state) shown in item 4 at the top of the Proof of Delivery by Mail on page 5 of this form.
7. **File the care plan:** You (the conservator or your attorney) must file with the court the original *Confidential Conservatorship Care Plan—Probate* (this form **and** *Confidential Medical Information Attachment*) and a signed and dated Proof of Delivery by Mail (page 5 of this form) with any additional address pages attached.

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):		<b>FOR COURT USE ONLY</b>  <b>DRAFT 062724</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CONSERVATORSHIP OF (name): CONSERVATEE		
<b>CONFIDENTIAL MEDICAL INFORMATION ATTACHMENT TO          CONFIDENTIAL CONSERVATORSHIP CARE PLAN—PROBATE</b>		CASE NUMBER:

**To the conservator of the person:** Complete items 1–4; complete item 5 if you want to discuss additional confidential medical information; sign at the bottom of page 2; and file this form with *Confidential Conservatorship Care Plan—Probate* (form GC-355). Follow the instructions for delivery and filing on page 6 of form GC-355. Do not file this form without form GC-355.

**To the clerk:** Give this form a file number different from the number assigned to the primary form, *Conservatorship Care Plan—Probate* (form GC-355), to ensure that the confidential medical information contained in this form is not improperly disclosed.

- The conservatee has been diagnosed with the following physical or mental health conditions (*check all that apply*):
  - ☐ No known health conditions.
  - ☐ Physical health conditions described  
☐ below. ☐ on Attachment A1b.
  - ☐ Mental health conditions described  
☐ below. ☐ on Attachment A1c.
- The conservatee is receiving or using the following medical treatment, medications, supports, or devices for one or more of the conditions described in item 1. (*Complete all that apply.*)
  - ☐ No medical treatment, medications, supports, or devices.
  - ☐ All medical treatments and the conditions treated by each are described ☐ below. ☐ on Attachment A2b.
  - ☐ All medications taken and the conditions treated by each are described ☐ below. ☐ on Attachment A2c.
  - ☐ All services and supports received, including the reason for each, are described ☐ below. ☐ on Attachment A2d.
  - ☐ All devices used and the purpose of each are described ☐ below. ☐ on Attachment A2e.

CONSERVATORSHIP OF (name):  CONSERVATEE	CASE NUMBER:
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3. a. ☐ The medical treatment, medications, supports, and devices described in item 2 are sufficient to meet the conservatee's current and foreseeable medical needs.
- b. ☐ The additional medical treatment, medications, supports, or devices described ☐ below ☐ on Attachment A3b are necessary to meet the conservatee's current and foreseeable medical needs.

4. The following health care providers are currently providing treatment or care to the conservatee (*give name, professional license type [e.g., physician, cardiologist or other specialist, dentist, psychotherapist] and license number, and contact information for each; if you know, describe the treatment and care provided*):

a. Name: \_\_\_\_\_ License number: \_\_\_\_\_  
 Professional license type: \_\_\_\_\_  
 Mailing address: \_\_\_\_\_

Telephone number: \_\_\_\_\_ Email address: \_\_\_\_\_  
 Treatment or care provided (*if known*): \_\_\_\_\_

b. Name: \_\_\_\_\_ License number: \_\_\_\_\_  
 Professional license type: \_\_\_\_\_  
 Mailing address: \_\_\_\_\_

Telephone number: \_\_\_\_\_ Email address: \_\_\_\_\_  
 Treatment or care provided (*if known*): \_\_\_\_\_

c. Name: \_\_\_\_\_ License number: \_\_\_\_\_  
 Professional license type: \_\_\_\_\_  
 Mailing address: \_\_\_\_\_

Telephone number: \_\_\_\_\_ Email address: \_\_\_\_\_  
 Treatment or care provided (*if known*): \_\_\_\_\_

☐ Additional providers listed on Attachment A4.

5. ☐ Additional confidential medical information is discussed ☐ below. ☐ on Attachment A5.

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

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

 \_\_\_\_\_  
 (SIGNATURE)

## SPR24-28

### Probate Conservatorship: Care Plan (Adopt form GC-355A, revise form GC-355)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
1.	Joint Rules Subcommittee (JRS), on behalf of the Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC)	AM	It is suggested that GC-355A not be an attachment to GC-355, but instead be filed separately as a stand-alone form, with its own instructions for service. This would make it easier for filers to be clearer on who gets what form.	<p>The committee appreciates this comment and has modified recommended form GC-355A, though not precisely as the commenter suggested.</p> <p>The statutory requirements seem to reflect a legislative intent to require the conservator to complete and file a single, unified care plan. The language limiting this intent—the requirement to redact confidential medical information (CMIA) from copies of the form delivered to specified persons—does not require a separate standalone form. In addition, requiring submission of CMIA on a separate standalone form greatly increases the probability that the conservator will not complete, file, and deliver that form at all and thus omit required information from the plan.</p> <p>However, to assist conservators and clerks more easily to distinguish between the forms to ensure that confidential information is not improperly disclosed, the committee has added a standard caption, including a file stamp box, to form GC-355A for the assignment of a file number different from that assigned to form GC-355. The committee has also added instructions to the clerk to give each form a different file number to promote easy distinction between them.</p>
2.	Orange County Bar Association by Christina Zabat-Fran, President	A	This proposal appropriately addresses the stated purpose of implementing the conservatorship care plan requirements of Probate Code § 2351.2, and the care plan forms with instructions appropriately address the statute's mandates to provide medical information in the	The committee appreciates this comment. No further response required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

## SPR24-28

### Probate Conservatorship: Care Plan (Adopt form GC-355A, revise form GC-355)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			plan while maintaining the full confidentiality of that information.	
3.	Superior Court of Los Angeles County by Bryan Borys, Director of Research and Data Management	AM	<p>The Court agrees with the proposal in SPR24-28, “Probate Conservatorship: Care Plan,” if modified.</p> <p>It is suggested that GC-355A not be an attachment to GC-355, but instead be filed separately as a stand-alone form, with its own instructions for service. This would make it easier for filers to be clearer on who gets what form.</p>	<p>The committee appreciates these comments.</p> <p>The committee appreciates this comment and has modified recommended form GC-355A, though not precisely as the commenter suggested.</p> <p>The statutory requirements seem to reflect a legislative intent to require the conservator to complete and file a single, unified care plan. The language limiting this intent—the requirement to redact confidential medical information (CMIA) from copies of the form delivered to specified persons—does not require a separate standalone form. In addition, requiring submission of CMIA on a separate standalone form greatly increases the probability that the conservator will not complete, file, and deliver that form at all and thus omit required information from the plan.</p> <p>However, to assist conservators and clerks more easily to distinguish between the forms to ensure that confidential information is not improperly disclosed, the committee has added a standard caption, including a file stamp box, to form GC-355A for the assignment of a file number different from that assigned to form GC-355. The committee has also added instructions to the clerk to give each form a different file number to promote easy distinction between them.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

## SPR24-28

### Probate Conservatorship: Care Plan (Adopt form GC-355A, revise form GC-355)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
4.	Superior Court of Orange County	NI	Page 2 of GC-335A is missing the A in the header.  Are these forms for use in both General and Limited Conservatorships of the Person?	The committee appreciates this comment and has corrected the omission.  The form is for use by both limited and general conservators to file a care plan to the extent required by statute. The committee has revised recommended form GC-355 in an attempt clarify the application of these statutory requirements.
5.	Superior Court of Riverside County	A	The proposal addresses the stated purpose and the statute's mandate regarding medical information and confidentiality.  Would the proposal provide cost savings? If so, please quantify. <b>A: No cost savings</b>  What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? <b>A: Update procedure, clerk alert, training of staff, update existing CMS code/description, create new CMS code.</b>  Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <b>A: Depend on vendor time tables. No sooner than 3 but up to 6 months may be needed.</b>	The committee appreciates this comment. No further response is required.  No further response is required.  No further response is required.  No further response is required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated



## SPR24-28

### Probate Conservatorship: Care Plan (Adopt form GC-355A, revise form GC-355)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>How well would this proposal work in courts of different sizes?</p> <p><b>A: This proposal should work well in courts of different sizes.</b></p> <p><i>Additional comments:</i> Can the name of the form be changed to remove “care”? The proposed form name can easily be mistaken for CARE Court.</p> <p>Also, Form GC-355A indicates it is a mandatory form, but form GC-355 allows for other options; this could be confusing.</p> <p>Since parties may file form GC-355A separately (not as an attachment), there should be space for a file stamp.</p>	<p>No further response is required.</p> <p>The committee does not recommend the suggested change. Probate Code section 2351.2 expressly requires the conservator of the person to develop a “care plan” and file it with the court. The form’s number, GC-355, and revised title, <i>Confidential Conservatorship Care Plan—Probate</i>, should clearly indicate that the form is intended for use in probate conservatorship proceedings, not in proceedings under the CARE Act.</p> <p>The committee has modified its recommendation to make clear that form GC-355A must be filed as part of <i>every</i> completed care plan. To the extent that the commenter is referring to item 7, regarding a professional evaluation, the conservator would be expected to file <i>both</i> that evaluation <i>and</i> a completed form GC-355A with form GC-355.</p> <p>The committee intends, and the instructions on page 1 and in item 7 on page 6 of form GC-355 make clear, that the conservator must file both forms GC-355 and GC-355A together. The care plan is not complete without both forms. However, to assist conservators and clerks more easily to distinguish between the forms to ensure that confidential information is not improperly disclosed, the committee has added a standard caption, including a file stamp box, to form GC-355A for the assignment of a file number different</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

## SPR24-28

### Probate Conservatorship: Care Plan (Adopt form GC-355A, revise form GC-355)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
				form that assigned to form GC-355. The committee has also added instructions to the clerk to give each form a different file number to promote easy distinction between them.
6.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	<p>Q: Does the proposal appropriately address the state purpose? A: <b>Yes.</b></p> <p>Q: Does the proposed division of the care plan into a primary form to be delivered to all recipients and a confidential medical information attachment to be delivered only to designated recipients appropriately address the statute's mandates to provide medical information in the plan and to maintain the confidentiality of that information? A: <b>Yes.</b></p> <p>Q: Would the proposal provide cost savings? If so, please quantify. A: <b>No.</b></p> <p>Q: What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? A: <b>Implementation will require training of staff, updates to the case management system to rename the form and add a tracking mechanism for the reoccurring requirement.</b></p>	<p>The committee appreciates the comment. No further response is required.</p> <p>No further response is required.</p> <p>No further response is required.</p> <p>No further response is required.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

## SPR24-28

### Probate Conservatorship: Care Plan (Adopt form GC-355A, revise form GC-355)

All comments are verbatim unless indicated by an asterisk (\*).

Commenter	Position	Comment	Committee Response
		<p>Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <b>A: Yes.</b></p>	No further response is required.
		<p>Q: How well would this proposal work in courts of different sizes? <b>A: This proposal should work well, regardless of the size of the court.</b></p>	No further response is required.
		<p><b>General Comments</b> Probate Code section 2351.2(h) indicates these requirements do not apply to a limited conservator appointed for a developmentally disabled adult, if the limited conservator is a relative within the first degree of the conservatee; however, revised form GC-355 does not clearly indicate that these conservators must only file this revised form “initially” within 120-days after appointment to comply with Probate Code section 2352.5.</p>	<p>The committee appreciates this comment and has modified the instructions to indicate more clearly that:</p> <ul style="list-style-type: none"><li>• a limited conservator who is the conservatee’s relative within the first degree—that is, the conservatee’s parent or child—must complete only items 1–4 on form GC-355 and do so only one time, within 120 days of appointment;</li><li>• the state Director of Developmental Services or the director’s designee who is the conservator or limited conservator of a conservatee who has a developmental disability and is a regional center consumer must complete items 1, 3a–3f, and 5–12 on form GC-355 and items 1–4 on form GC-355A;</li><li>• a limited conservator who does not fall within the previous two descriptions must complete every item on form GC-355 and items 1–4 on form GC-355A.</li></ul>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** August 13, 2024

**Rules Committee action requested** [Choose from the drop-down menu below]:

**Recommend JC approval (has circulated for comment)**

**Title of proposal:** Probate Conservatorship: Confidential Declaration Forms

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*

Adopt form GC-325; revise form GC-335; revoke and replace form GC-335A

*Committee or other entity submitting the proposal:*

Probate and Mental Health Advisory Committee

*Staff contact (name, phone and e-mail):* Corby Sturges, 415-865-4507, [corby.sturges@jud.ca.gov](mailto:corby.sturges@jud.ca.gov)

*Identify project(s) on the committee's annual agenda that is the basis for this item:*

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda: Recent legislation, including Assembly Bill 1194 (Stats. 2021, ch. 417) and Assembly Bill 1663 (Stats. 2022, ch. 894), modified the probate conservatorship process to clarify the standards for appointment of a conservator, to increase court oversight of a conservator after appointment, to add to the information that the conservator and the court must provide to a conservatee, and to enact a framework for supported decisionmaking. As a result, many conservatorship forms are, either subtly or more clearly, out of date. The committee will develop a recommendation for revisions to multiple conservatorship forms to bring them into conformity with current law.

**Out of Cycle:** *If requesting September 1 effective date or out of cycle, explain why:*

This report recommends approval of one form (GC-335A) that did not circulate for public comment. The committee nevertheless recommends that the proposal be approved without recirculation. The content of recommended form GC-335A circulated as Part III of recommended form GC-335. Commenters did not object to the content itself, but expressed reservations about including this content in the mandatory form. The committee therefore recommends placing the content in an optional attachment to the mandatory form.

**Additional Information for Rules Committee:** (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was

☒ reviewed by EGG on (date) July 16, 2024

☒ approved by Office Director (or Designee) (name) Audrey Fancy  
on (date) July 17, 2024

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **Form Translations** (check all that apply)

This proposal:

☐ includes forms that have been translated.

☐ includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)

☐ includes forms that staff will request be translated.

- **Form Descriptions** (for any report with new or revised forms)
  - ☒ The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).
- **Self-Help Website** (check if applicable)
  - ☒ This proposal may require changes or additions to self-help web content.



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-155*

For business meeting on September 20, 2024

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**Title**

Probate Conservatorship: Confidential  
Declaration Forms

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2025

**Rules, Forms, Standards, or Statutes Affected**

Adopt form GC-325; revise form GC-335;  
revoke and replace form GC-335A

**Date of Report**

July 23, 2024

**Recommended by**

Probate and Mental Health Advisory  
Committee  
Hon. Jayne Chong-Soon Lee, Chair

**Contact**

Corby Sturges, 415-865-4507  
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### Executive Summary

The Probate and Mental Health Advisory Committee recommends adopting one form, revising one form, and revoking and replacing one form for use as declarations regarding the abilities and capacities of a probate conservatee or proposed conservatee. This recommendation updates the forms to conform to the law as amended by recent legislation, including Assembly Bill 1194 (Stats. 2021, ch. 417) and Assembly Bill 1663 (Stats. 2022, ch. 894), and makes the forms easier for professional declarants to use to communicate their conclusions to the court.

### Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2025:

1. Adopt *Confidential Declaration on Medical Ability to Attend Hearing—Probate Conservatorship* (form GC-325) for use by a medical or religious practitioner to make a declaration regarding a person's ability to attend a hearing;

2. Revise *Capacity Declaration—Conservatorship* (form GC-335) to:

- Retitle the form as *Confidential Capacity Assessment and Declaration—Probate Conservatorship*;
- Remove the content regarding the medical ability of a conservatee or proposed conservatee to attend a hearing;
- Focus a clinician’s assessment and declaration on the aspects of a person’s mental capacity relevant to the issues raised in the proceeding in which the declaration is to be filed;
- Use language that allows clearer communication of clinical conclusions to legal audiences; and
- Add content regarding capacity to consent to placement and medication to treat major neurocognitive disorders that is currently on form GC-335A; and

3. Revoke *Major Neurocognitive Disorder Attachment to Capacity Declaration—Conservatorship* (form GC-335A) and replace with a new optional form, *Everyday Activities Attachment to Confidential Capacity Assessment and Declaration—Probate Conservatorship* (form GC-335A), to allow a clinician or other professional to offer conclusions regarding the person’s ability to perform everyday activities.

The recommended forms are attached at pages 12–23.

## **Relevant Previous Council Action**

The Judicial Council most recently revised forms GC-335 and GC-335A, effective January 1, 2019, in response to legislation that updated statutory terminology used in these forms from “dementia” to “major neurocognitive disorder.” The council approved *Capacity Declaration—Conservatorship* (form GC-335) as an optional form, effective July 1, 1998, and adopted it for mandatory use with all other probate forms then existing, effective January 1, 2000. The council also revised form GC-335 and adopted form GC-335A as *Dementia Attachment to Capacity Declaration—Conservatorship*, effective January 1, 2004, based on changes in the law.

## **Analysis/Rationale**

Assembly Bill 1194 (Stats. 2021, ch. 417) and Assembly Bill 1663 (Stats. 2022, ch. 894) recently amended several conservatorship statutes to promote self-determination by persons under conservatorship (conservatees) and persons who are the subject of petitions for appointment of a conservator (proposed conservatees).<sup>1</sup> This recommendation promotes the statutory goals by framing the forms to allow clinicians and other experts to provide more detailed information and conclusions that will, in turn, allow a court to make more accurate determinations about a (proposed) conservatee’s abilities, capacities, and needs and issue orders

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<sup>1</sup> Most of the issues discussed in this report can be raised either in a petition for appointment of a conservator and in a separate petition filed after appointment or in both. See, e.g., § 1890(a). This report uses “(proposed) conservatee” when the discussion applies equally to a proposed conservatee and a conservatee.

that limit the intrusions on a (proposed) conservatee’s autonomy to those necessary to protect those other rights and interests.<sup>2</sup>

## Legal background

The conservatorship provisions of the Probate Code, both individually and as a whole, require the court to consider the abilities, capacities, and needs of a conservatee or proposed conservatee to determine whether a conservatorship is needed and what powers and duties to grant the conservator.<sup>3</sup> To grant a petition for appointment of a conservator, even if the petition is unopposed, the court must find that the statutory conditions for appointment have been proven by clear and convincing evidence.<sup>4</sup> In addition, the code bars appointment of a conservator absent an express judicial finding, after consideration of the proposed conservatee’s “abilities and capacities with current and possible supports,”<sup>5</sup> that “the granting of the conservatorship is the least restrictive alternative needed for the protection of the conservatee.”<sup>6</sup>

To make these determinations and issue appropriate orders protecting a proposed conservatee’s interests while preserving their autonomy to the extent possible, the court needs evidence of the proposed conservatee’s ability to perform everyday activities related to the functions identified in section 1801(a) and (b). The court can receive that evidence from a variety of sources,<sup>7</sup> one of which is *Confidential Supplemental Information* (form GC-312). The petitioner or proposed conservator must file form GC-312 setting forth facts addressing the proposed conservatee’s ability, among other things, to perform the activities specified in section 1801(a) and (b).<sup>8</sup> Form GC-312 must also discuss alternatives to conservatorship considered or tried by the petitioner and give reasons that the alternatives are not suitable or did not meet the proposed conservatee’s needs.<sup>9</sup>

Before a hearing on a petition for appointment of a conservator, the court investigator must review form GC-312, gather and review medical reports, determine whether the investigator believes that the proposed conservatee suffers from any mental function deficits that significantly

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<sup>2</sup> See, e.g., Judicial Council of Cal., Advisory Com. Rep., *Probate Conservatorship: Less Restrictive Alternatives* (July 17, 2023), <https://jcc.legistar.com/View.ashx?M=F&ID=12246541&GUID=2D040B09-36A5-4157-85D0-428F176C4608>.

<sup>3</sup> See Prob. Code, §§ 1800.3, 1801, 1872–1873, 1880–1881, 1890, 2351, 2358, 2402, 2450; see also *id.*, §§ 1850, 1863, 2102, 2113. All subsequent statutory references are to the Probate Code unless otherwise specified.

<sup>4</sup> § 1801(e).

<sup>5</sup> § 1800.3(c), added by AB 1663 (Stats. 2022, ch. 553, § 5).

<sup>6</sup> §§ 1800.3(b), 1801.

<sup>7</sup> The court hears and determines “the matter of the establishment of a conservatorship according to the law and procedure relating to the trial of civil actions.” § 1827. See section 1863(a), applying the same procedures to a hearing to determine whether to terminate or continue a conservatorship.

<sup>8</sup> § 1821(a)(1)(A) (the inability of the proposed conservatee to provide properly for their own needs for physical health, food, clothing, or shelter), (E) (the proposed conservatee’s substantial inability to manage their own financial resources or to resist fraud or undue influence).

<sup>9</sup> § 1821(a)(1)(C).



impair the proposed conservatee’s ability to understand and appreciate the consequences of any of the functions or activities in section 1801(a) and (b), and report to the court on all these issues.<sup>10</sup>

At a hearing on the petition, any party may present lay testimony based on personal observation of the proposed conservatee performing or attempting to perform activities related to the functions in section 1801(a) and (b). A party may also present expert testimony that identifies any mental function deficits that significantly impair the proposed conservatee’s ability to understand and appreciate the consequences of the functions and activities specified in section 1801(a) and (b).<sup>11</sup> In many cases, a petitioner initially offers such expert testimony in the form of a “capacity declaration” attached to the petition or to form GC-312.<sup>12</sup> If the petition is unopposed, the court must receive the capacity declaration as evidence in lieu of live expert testimony.<sup>13</sup>

When the court is asked to impose a legal disability based on a (proposed) conservatee’s lack of capacity to perform a type of act or make a category of decision, the petitioner must present evidence of the existence of one or more mental function deficits that significantly impair the (proposed) conservatee’s “ability to understand and appreciate the consequences of [their] actions with regard to the type of act or decision in question.”<sup>14</sup> For example, appointment of a conservator of the person does not give the conservator exclusive authority to consent to the conservatee’s nonemergency medical treatment unless the court has determined that the conservatee lacks the capacity to give or withhold informed consent to medical treatment and grants the conservator that power.<sup>15</sup> A determination that a conservatee lacks medical consent capacity must meet the requirements in section 1881 and be supported by a capacity declaration executed by “a licensed physician, or a licensed psychologist [practicing] within the scope of [their license].”<sup>16</sup>

### **Existing form GC-335**

Currently, a single mandatory form, *Capacity Declaration—Conservatorship* (form GC-335), serves as the vehicle for different classes of experts to provide the court with their conclusions

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<sup>10</sup> § 1826(a)(4)(A), (B) and (a)(9), (10). The duty to perform many of these functions is contingent on an appropriation “identified for [that] purpose.” (See § 1826(h).) Most courts perform as many as their resources permit.

<sup>11</sup> See section 811(a) for a list of relevant mental functions. See, generally, sections 810–813 for the legal framework of a judicial determination of lack of capacity.

<sup>12</sup> As used in this report, “declaration” includes an affidavit. Cal. Rules of Court, rule 1.6(21).

<sup>13</sup> § 1022. The petitioner and the court may not know until the hearing is called whether the petition will be opposed. See section 1043, authorizing an interested person to appear and make a response or objection in writing at or before the hearing or orally at the hearing.

<sup>14</sup> §§ 811–812.

<sup>15</sup> §§ 1880, 2354.

<sup>16</sup> § 1890(c).

relevant to several different statutory determinations. After seeking information about the declarant's identity, qualifications, and relationship with the person assessed, the form provides the framework for a declaration required to establish the medical inability of a (proposed) conservatee to attend one of several statutorily specified hearings at which they would otherwise be required to appear or be produced.<sup>17</sup>

The balance of the existing form serves as the declaration of an expert clinician regarding the (proposed) conservatee's mental capacity to give or refuse informed consent to all forms of medical treatment. Item 6 of the form calls for an assessment of the person's mental functions and identification of any deficits in those functions. Item 7 then asks the clinician for their opinion on whether the (proposed) conservatee has or lacks the capacity to consent to medical treatment. If a petition seeks authority to place the person in a secured-perimeter residential care facility because of a major neurocognitive disorder (NCD) or to administer medication for care and treatment of major NCDs, the clinician must also complete and attach *Major Neurocognitive Disorder Attachment to Capacity Declaration—Conservatorship* (form GC-335A) to document their conclusions regarding the conservatee's capacity to give or withhold informed consent to placement or medication, or both, as well as additional statutorily required determinations.<sup>18</sup>

A single form serving both as a declaration regarding a person's medical ability to attend a hearing and as a declaration regarding a person's mental capacity to perform actions or make decisions is not desirable for several reasons. First, the statutory qualifications required to complete the first declaration are distinct from, though they overlap with, those required to execute the second declaration.<sup>19</sup> Medical inability to attend a hearing may be established by the declaration of a "licensed medical practitioner" or, if the person is an adherent of a religion that calls for reliance on prayer alone for healing, the declaration of an accredited practitioner of that religion who is treating the person. On the other hand, where the law requires a declaration to support a judicial determination that a person lacks legal capacity, that declaration must be executed by a "licensed physician, or a licensed psychologist [practicing] within the scope of [their] licensure."<sup>20</sup> The specification of a physician or psychologist in item 3a of the existing form imposes unwarranted restrictions on the practitioners qualified to complete the declaration on medical ability to attend a hearing. Furthermore, the parenthetical instruction in item 3b authorizing a religious practitioner to complete only the declaration on medical ability to attend a hearing is easily overlooked. Completion and submission of the capacity declaration in items 6 and 7 by a religious practitioner would waste time and resources; it could, if unnoticed,

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<sup>17</sup> E.g., §§ 1825(a)(2) & (b), 1860.5(e)(2), 1863(b)(1)(B) & (b)(2), 1893(b), 2253(d)(1) & (e), 2356.5(f)(2). See §§ 1956, 2250.4(b), 3141.

<sup>18</sup> See section 2356.5(b), on placement; section 2356.5(c), on medication; and section 2356.5(f)(3), on the requirement of a declaration addressing required findings, including lack of capacity.

<sup>19</sup> Compare, for example, section 1893(b), specifying the qualifications required to complete a declaration on medical ability to attend a hearing, with section 1890(c), specifying the qualifications required for execution of a capacity declaration.

<sup>20</sup> §§ 1890(c), 2356.5(f)(3).

inappropriately influence the court's determinations in proceedings in which it is received as evidence.

Second, the declaration on medical ability to attend a hearing must address issues and contain conclusions different from those in a capacity declaration. A person's medical ability to attend a hearing depends primarily on their physical health on and around the date of the hearing.<sup>21</sup> A person's legal capacity to make a decision or perform an act depends on whether the person suffers from any mental function deficits; whether those deficits significantly impair the person's ability to understand the consequences of the action or decision; the frequency, severity, and duration of any periods of impairment; and the kind of act or decision at issue.<sup>22</sup>

Third, the governing statutes expressly provide that the declaration on medical ability is evidence *only* of the person's inability to attend the hearing. The court must not consider that declaration in determining whether the person has or lacks legal capacity to perform an act or make a decision.<sup>23</sup> A capacity declaration is material to the court's determination of that very issue. In a contested proceeding, the court *may* receive a capacity declaration as evidence of a conservatee's abilities, capacities, and needs if the parties so stipulate. In an uncontested proceeding or when required by statute, the court *must* receive a capacity declaration as evidence of a conservatee's abilities, capacities, and needs. Separating these two forms will promote the proper use and independent consideration of each.

### **Recommended revisions**

The committee therefore recommends revising form GC-335 to focus on a clinician's assessment of a (proposed) conservatee's mental capacity. This recommendation includes the following:

- Adopting a new form, *Confidential Declaration on Medical Ability to Attend Hearing—Probate Conservatorship* (form GC-325), for a declaration regarding a (proposed) conservatee's medical ability to attend a hearing;<sup>24</sup>
- Revising form GC-335 to:
  - Provide clearer instructions;
  - Give the clinician the opportunity to document their assessment of a (proposed) conservatee's mental functioning in more detail and to connect any mental function deficits to the impairment of the (proposed) conservatee's ability to perform everyday activities; and

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<sup>21</sup> "Emotional or psychological instability is not good cause for the absence of the proposed conservatee from the hearing unless, by reason of such instability, attendance at the hearing is likely to cause serious and immediate *physiological* damage to the proposed conservatee." § 1825(c), *italics added*; for application of the same requirement to different hearings, see §§ 1860.5(e)(3), 1863(b)(3), 1893(b), 2253(d)(1).

<sup>22</sup> §§ 811–813.

<sup>23</sup> §§ 1825(b), 1860.5(e)(2), 1863(b)(2), 1893(b), 2253(e).

<sup>24</sup> See *supra* note 14 and accompanying text.

- Move items from form GC-335A for the clinician’s opinion on the capacity of a person with a major NCD, such as dementia, to give or withhold informed consent to placement in a secured-perimeter residential care facility for the elderly or the administration of medications appropriate for the care and treatment of a major NCD, or both;<sup>25</sup> and
- Revoking form GC-335A as no longer needed and replacing it with new, optional *Everyday Activities Attachment to Confidential Capacity Assessment and Declaration—Probate Conservatorship* (form GC-335A) to allow the clinician or another professional to discuss any impairment of the (proposed) conservatee’s ability to perform activities that are related to judicial determinations of issues raised in the proceeding.

### ***New form GC-325***

The committee recommends adopting *Confidential Declaration on Medical Ability to Attend Hearing—Probate Conservatorship* (form GC-325) as a separate, standalone form for mandatory use and clarifying the practitioners authorized to complete the form. The committee recommends adding a nurse practitioner, a physician assistant, and a registered nurse to the list of practitioners expressly authorized to complete the declaration. In response to comment, the committee recognizes that this is not an exhaustive list of licensed medical providers who might be qualified to complete the declaration. The committee has therefore modified the recommended form to add a separate check box and fillable field for a practitioner not otherwise specified to enter their qualifications. The committee also recommends adding a field for an accredited religious practitioner to provide the name of their accrediting religious organization.

### ***Form GC-335***

The committee recommends retitling *Capacity Declaration—Conservatorship* (form GC-335) as *Confidential Capacity Assessment and Declaration—Probate Conservatorship* and revising it substantially. As described above, to support a judicial determination that a person lacks legal capacity to perform an act or make a decision, the law requires evidence that the person has a deficit in at least one of many specified mental functions and a correlation between the deficit or deficits and the action or decision in question such that the deficit, alone or together with other mental function deficits, significantly impairs the person’s ability to understand and appreciate the consequences of the type of action or decision in question.<sup>26</sup> The recommended revisions to form GC-335 expand the opportunity for the clinician to describe an impairment resulting from a mental function deficit and explain how an impairment affects the person’s ability to make the decisions or perform the actions that are the subject of the judicial capacity determination. The form also uses language in Parts I and II that can help a clinician apply their clinical conclusions to the legal issues on which those conclusions are brought to bear in Part III.

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<sup>25</sup> § 2356.5(b) & (c).

<sup>26</sup> § 811(a) & (b). The diagnosis of a mental or physical disorder, without more, is not sufficient to warrant a judicial determination that a person lacks the capacity to perform an act or make a decision. § 811(c).

The recommended revisions add several elements to form GC-335, including:

- A new introductory section that includes:
  - An explanation of the form's purpose;
  - A checklist for the petitioner to specify what issues they would like the clinician to address in the assessment and declaration;
  - New items for the clinician's use to provide background about their history with the assessed person, the date and duration of the most recent examination of the person; and the bases for the conclusions of the assessment; and
- An expanded assessment report that gives the clinician the opportunity to:
  - Discuss the general state of the (proposed) conservatee's physical and mental health (Part I);
  - Provide a more detailed assessment of the (proposed) conservatee's mental functions (Part II), including a new option to indicate whether the (proposed) conservatee has a *mild* deficit in each function, an option to indicate whether any temporary or reversible factors may be causing or contributing to an apparent mental function deficit or impairment, and an option to discuss any impairment of the (proposed) conservatee's ability to perform everyday activities; and
  - Apply the determinations in Parts I and II to the applicable legal standards and give their professional opinion on the (proposed) conservatee's capacity to give or withhold informed consent to medical treatment generally, to a specific medical treatment, and, if applicable, to placement in a secured-perimeter residential care facility for the elderly or administration of medication for treatment of major NCDs currently addressed on form GC-335A (Part III).

The committee intends its proposed revisions to allow clinicians to communicate the information and opinions courts need to make informed determinations using language that courts will be able to use and apply to the cases before them.<sup>27</sup>

### ***Existing form GC-335A***

As discussed above, the committee recommends moving from form GC-335A to form GC-335 the information and conclusions relevant to a judicial determination that a person lacks capacity to give or withhold informed consent (1) to placement in a secured-perimeter residential care facility because of a major NCD and (2) to administration of medication for treatment of major NCDs. As a result, the determinations regarding capacity to consent to treatment for major NCDs

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<sup>27</sup> Because of the extent of the recommended revisions to form GC-335, the customary practice of indicating such revisions with highlights would be more distracting than helpful. The committee has therefore not highlighted the revisions on this form.

are no longer necessary in the form attachment. The committee therefore recommends revoking existing form GC-335A.

### ***New form GC-335A***

The committee recommends approving *Everyday Activities Attachment to Confidential Capacity Assessment and Declaration—Probate Conservatorship* (form GC-335A) for optional use by a clinician or assessment team member to document conclusions regarding a (proposed) conservatee's abilities.

The new, optional everyday activities attachment now addresses a (proposed) conservatee's ability to perform activities of daily living—such as preparing meals and eating for adequate nutrition, maintaining adequate hygiene, and protecting themselves from harm—and instrumental activities of daily living—such as using cash or checks, paying monthly bills, obtaining and using a credit card, choosing and directing caregivers, admitting themselves to a health-care facility, managing their own medication, maintaining a reasonably safe and clean home, or accessing transportation. These conclusions, whether admitted into evidence as an attachment to form GC-335 or as the subject of live testimony, would support the court's legal determinations about a (proposed) conservatee's ability to perform the functions described in section 1801(a) and (b) and the court's decisions whether to order the establishment or continuation of a conservatorship; what type of conservatorship, if any, to order; and what powers and duties to grant the conservator or withhold from them.

For the reasons discussed above, the committee proposed revoking existing form GC-335A in the invitation to comment. The committee did not propose replacing form GC-335A at that time. The content of recommended form GC-335A was instead proposed and circulated as Part III of recommended form GC-335. The committee received no objections to this content itself, but commenters did express concern about its inclusion in a mandatory form. These commenters thought that parties could infer that form GC-335 constituted the only permissible method of presenting evidence of a person's ability to perform everyday activities. To avoid the risk of this false inference, the committee recommends approval of form GC-335A for optional use to present evidence of a person's abilities without recirculating the proposal.

### **Policy implications**

The recommended action is needed to conform to the law, including recent statutory amendments. In addition, the new and revised forms, particularly the division of elements of form GC-335 into separate forms, will improve service to the public and enable courts to issue conservatorship orders tailored more specifically to the needs of (proposed) conservatees.

### **Comments**

The proposed revisions circulated for public comment from April 2 to May 3, 2024, as part of the spring invitation-to-comment cycle. The committee received eight comments. Four commenters agreed with the proposal, and four commenters did not indicate a position but suggested multiple changes to improve the recommendation.

A chart of comments and committee responses is attached at pages 24–50.

The committee asked for specific comment on whether adding a box to allow indication of a hearing date to the caption of forms GC-325 and GC-335 would be useful. Commenters generally thought that adding a hearing date box to form GC-335 would be useful, though the Superior Court of San Diego County observed that filing parties often leave the hearing date field in captions blank. The committee has added a hearing date field to the caption of form GC-335 notwithstanding the San Diego court’s observation. In light of the hearing date field in item 1a of form GC-325, commenters were divided on whether to add a hearing date box to form GC-325. Because the committee intends a party to be able to obtain a declaration on the form before filing a petition or file the form with a petition before a hearing has been set, it does not recommend adding a hearing date box to the caption of form GC-325. The committee concluded that retaining the hearing date field in item 1a, juxtaposed with the option in item 1b of completing the declaration before a petition is filed or a hearing is set, would more clearly highlight that choice.

General comments fell into two overlapping categories. Many commenters suggested shortening form GC-335 because many elements on the circulated form were unnecessary and the length of the form as circulated (10 pages) would deter petitioners from seeking to obtain a capacity declaration when one was required and would deter clinicians from agreeing to perform an assessment and complete a declaration.

Several commenters suggested removing the section on the (proposed) conservatee’s ability to perform everyday activities in original Part III and the section 1801 findings in original Part IV for two reasons. First, evidence bearing on those issues can be provided by persons other than physicians or psychologists, and commenters thought that the inclusion of those items on a form that only physicians and psychologists were authorized to complete could be read to imply the contrary. Second, commenters thought that inclusion of those issues in the mandatory capacity declaration form alongside issues for which a capacity declaration is statutorily required could be interpreted to require the filing of a capacity declaration in support of every petition for appointment of a conservator. The committee does not intend to promote that interpretation of the law.

The committee has responded to these concerns by removing some elements—including the (proposed) conservatee’s residence information and the instructions to the clinician from the introduction and the conclusions regarding judicial findings required by section 1801(a) and (b) from original Part IV—from the form entirely and moving original Part III, on everyday activities, to recommended optional form GC-335A and replacing it, as suggested by the Superior Court of Riverside County, with a single question in Part II about impairment of the ability to perform everyday activities by a mental function deficit (item 19). The committee recommends approval of form GC-335A for optional use by a broader range of health-care professionals to give their opinion on a (proposed) conservatee’s ability to perform everyday

activities. Part III of form GC-335 continues to provide the opportunity for physicians and psychologists to give their opinions on issues that require their expertise.<sup>28</sup>

In response to another comment by the Superior Court of Riverside County, the committee has modified item 1 and items 20–23 on form GC-335 to indicate more clearly that items 20–23 should be completed only if the petitioner has checked the corresponding box in item 1.

### **Alternatives considered**

The committee considered taking no action but determined that some elements on form GC-335 were inconsistent with the law and needed revision to conform. The committee considered maintaining a separate attachment for major NCD declarations but determined that that information would be more appropriate as part of the principal capacity declaration form. On the other hand, the committee considered and circulated for comment a proposed version of form GC-335 that included both conclusions about a person’s ability to perform everyday activities and conclusions about the ultimate determinations of fact required for appointment of a conservator. The committee determined that the conclusions about ability to perform everyday activities would be more appropriately provided on an optional attachment to forestall the false inference that a capacity declaration completed by a physician or psychologist was necessary to establish the inability to perform those activities. The committee also determined that asking a clinician or other assessor to opine on the ultimate issues of fact risked confusing the legal determination reserved to the court with the clinical conclusions that serve as evidence supporting the legal determination. The committee therefore modified its recommendation to remove those items from form GC-335.

### **Fiscal and Operational Impacts**

The proposed new and revised forms are not likely to have a significant fiscal or operational effect on the courts. Courts will need to update their case management systems and train staff on the purpose and effect of the forms, but these effects are typical of any change to forms.

### **Attachments and Links**

1. Forms GC-325, GC-335, and GC-335A, at pages 12–23
2. Chart of comments, at pages 24–50

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<sup>28</sup> The Superior Court of Riverside County also suggested removing from form GC-335 the item addressing a conservatee’s capacity to give or withhold informed consent to a specific form of medical treatment because petitions under section 2357 seeking a determination that a conservatee lacks that capacity are exceedingly rare. The committee determined that those petitions are filed more frequently in other counties than in Riverside County and so recommends keeping that item as item 20 on form GC-335.



ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b> <b>FILE IN CONFIDENTIAL FOLDER</b>  <b>DRAFT 071624</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	
<b>CONFIDENTIAL DECLARATION ON MEDICAL ABILITY TO ATTEND HEARING—PROBATE CONSERVATORSHIP</b>	CASE NUMBER:

*The person requesting the declaration must complete item 1.*

1. A petition that requires a hearing
  - a. ☐ has been filed in the conservatorship proceeding named above and set for hearing on (date):
  - b. ☐ will be filed in the conservatorship proceeding named above.

**INSTRUCTIONS TO DECLARANT (PRACTITIONER)**

The (proposed) conservatee is expected to attend the hearing, but may be excused if medically unable to attend. *Please complete items 2–6, below, to give your professional opinion whether the (proposed) conservatee is medically able to attend.*

**Note:** Emotional or psychological instability does not qualify as medical inability to attend unless, because of that instability, attending the hearing is likely to cause the (proposed) conservatee serious and immediate physiological damage.

**DECLARANT'S CONTACT INFORMATION AND QUALIFICATIONS**

2. Name:
3. Office address, telephone number, and email:
4. a. ☐ I am a California-licensed ☐ physician ☐ psychologist ☐ nurse practitioner ☐ physician assistant  
☐ registered nurse ☐ other medical practitioner (specify):  
 My license number is:
  - b. ☐ I am an accredited practitioner of a religion that calls for reliance on prayer alone for healing. The (proposed) conservatee is an adherent of my religion and is under my treatment.  
 Accrediting religious organization (name):
5. a. I last examined the (proposed) conservatee on (date):  
 b. The (proposed) conservatee ☐ is ☐ is **not** a patient under my ongoing care and treatment.

**MEDICAL ABILITY TO ATTEND COURT HEARING**

6. a. ☐ The (proposed) conservatee is medically able to attend a court hearing (check all that apply):  
☐ in person ☐ remotely.
  - b. ☐ The (proposed) conservatee is medically unable to attend a court hearing (check one):  
 (1) ☐ from (date): until (date):  
 (2) ☐ for the foreseeable future.
  - c. **Factual basis for conclusion** (Supporting facts are stated ☐ below ☐ in Attachment 6c.)

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

Date:

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



\_\_\_\_\_  
(SIGNATURE OF DECLARANT)

## GC-335

## PETITIONER'S INSTRUCTIONS TO CLINICIAN

- Note to petitioner:** Provide a copy of the petition to the clinician who will be assessing the person named in item 2 for the clinician's reference. Do **not** attach *Confidential Supplemental Information* (form GC-312).

Name: \_\_\_\_\_

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

Telephone number: \_\_\_\_\_ Email address: \_\_\_\_\_

Date of birth: \_\_\_\_\_

Highest level of education completed (*grade or degree*): \_\_\_\_\_

Marital or partnership status: ☐ single ☐ married/partnered ☐ dissolved ☐ widowed

Preferred language: \_\_\_\_\_ ☐ speaks ☐ reads ☐ writes

**TO THE CLINICIAN:** Provide your contact and license information below.

3. a. Name: \_\_\_\_\_  
b. Office address: \_\_\_\_\_  
Telephone number: \_\_\_\_\_ Email address: \_\_\_\_\_
4. a. ☐ I am a California-licensed physician. License no: \_\_\_\_\_  
b. ☐ I am a California-licensed psychologist practicing within the scope of my license. License no: \_\_\_\_\_  
☐ I have at least two years' experience diagnosing major neurocognitive disorders (including dementia).  
c. I have been practicing as a licensed physician or psychologist for \_\_\_\_\_ years.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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**Information about the assessment**

5. a. The person named in item 2 ☐ is ☐ is **not** a patient under my continuing care and treatment.  
 b. I have known this person for (specify length of time in months or years):
  
6. a. Date of the examination on which this assessment is based or, if based on multiple examinations, the date I most recently examined the person:  
 b. Time spent in most recent examination:
  
7. My responses to the questions and prompts on this form are based on (check all that apply):
  - a. ☐ My examination of this person for the purpose of assessing the person's abilities and capacities.
  - b. ☐ Multiple examinations of this person for purposes of general health care and medical treatment.
  - c. ☐ Administration of standardized examinations or tools that measure the person's mental functioning. All tests administered and dates of administration are listed ☐ below ☐ in Attachment 7c.
  
  - d. ☐ My review of the person's medical records.
  - e. ☐ Discussions with other practitioners responsible for providing health care to the person. These discussions are described ☐ below ☐ in Attachment 7e.
  
  - f. ☐ Discussions with team members or other professionals who participated in the person's assessment. These discussions are described ☐ below ☐ in Attachment 7f.
  
  - g. ☐ Discussions with the person's family or friends; names and relationships are given ☐ below ☐ in Attachment 7g.
  
  - h. ☐ Other sources of information, which are described ☐ below ☐ in Attachment 7h.

**REPORT OF ASSESSMENT**

*If a question or prompt does not apply to an ability or capacity checked in item 1 or your assessment does not address a question or prompt, please check the appropriate box in that item or, if there is no box, leave the item blank. Secure or destroy your copy of the petition. Do not send it to the court.*

**PART I. GENERAL PHYSICAL AND MENTAL HEALTH** This part describes the general state of the physical and mental health of the person named in item 2. ☐ Information focused on the effect of the person's health on their mental function is given in items 16–18.

**8. Physical health**

- a. Overall physical health is: ☐ Excellent ☐ Good ☐ Fair ☐ Poor ☐ I don't know
- b. Overall physical health is likely to: ☐ Improve ☐ Remain stable ☐ Deteriorate ☐ I don't know  
☐ The person should be reevaluated in \_\_\_\_\_ weeks.
- c. Chronic conditions that require ongoing care and treatment are listed ☐ below ☐ in Attachment 8c.

**9. Mental health**

- a. Overall mental health is: ☐ Excellent ☐ Good ☐ Fair ☐ Poor ☐ I don't know
- b. Overall mental health is likely to: ☐ Improve ☐ Remain stable ☐ Deteriorate ☐ I don't know  
☐ The person should be reevaluated in \_\_\_\_\_ weeks.
- c. All known diagnosed mental health disorders (current *Diagnostic and Statistical Manual of Mental Disorders*) are listed ☐ below ☐ in Attachment 9c.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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**PART II. MENTAL FUNCTIONING** This part documents the existence and extent of any deficits found by my assessment of the mental functioning of the person described in item 2. Deficits are indicated in items 10–14 as follows:

**a** = no deficit; **b** = mild deficit; **c** = moderate deficit; **d** = major deficit or no function; **e** = not applicable or not assessed

**10. Alertness and attention** (ability to recognize and react to a stimulus)

- a. Level of arousal or consciousness (deficit may be shown by lethargy, lack of response without constant stimulation, or stupor)
- ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- b. Orientation to:
- (1) Time (When? Year, month, day, hour)      ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- (2) Place (Where? State, city, address)      ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- (3) Person (Who? Name, relationship)      ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- (4) Situation (What? How? Why?)      ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- c. Ability to attend to and concentrate on tasks (ability to attend to a stimulus; concentrate on a stimulus over brief time periods)
- ☐ a      ☐ b      ☐ c      ☐ d      ☐ e

Notes:

**11. Information processing**

- a. Memory
- (1) Immediate recall      ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- (2) Short-term memory and learning (the ability to encode, store, and retrieve information)
- ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- (3) Long-term memory (ability to remember information from the past)
- ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- b. Understanding (the ability to receive and accurately process information given in written, spoken, visual, or other media)
- ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- c. Communication (the ability to express oneself and indicate preferences in speech, writing, signs, pictures, etc.)
- ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- d. Visual-spatial reasoning (recognition of familiar objects; spatial perception, problem solving, and design)
- ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- e. Quantitative reasoning (the ability to understand basic quantities and make simple calculations)
- ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- f. Verbal reasoning (the ability to compare options, to reason using abstract concepts, and to reason logically about outcomes)
- ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- g. Executive functioning (the ability to plan, organize, and carry out actions (assuming physical ability) in one's own rational self-interest)
- ☐ a      ☐ b      ☐ c      ☐ d      ☐ e

Notes:

**12. Thought processes**

- a. Organization of thinking (deficit may be demonstrated by severely disorganized, nonsensical, or incoherent thinking)
- ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- b. Correspondence of thoughts to reality (deficit may be demonstrated by hallucinations or delusions)
- ☐ a      ☐ b      ☐ c      ☐ d      ☐ e
- c. Control of thoughts (deficit may be demonstrated by uncontrollable, repetitive, or intrusive thoughts)
- ☐ a      ☐ b      ☐ c      ☐ d      ☐ e

Notes:

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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**a** = no deficit; **b** = mild deficit; **c** = moderate deficit; **d** = major deficit or no function; **e** = not applicable or not assessed

13. **Ability to modulate mood and affect** (deficit may be demonstrated by pervasive and persistent or recurrent mood or affect inappropriate in kind or degree to the circumstances) ☐ **a** ☐ **b** ☐ **c** ☐ **d** ☐ **e**  
 Notes:

14. **Ability to accept and cooperate with appropriate care or assistance** (deficit may be demonstrated by inability to acknowledge illness or disorder, acting without regard for consequences, or inability or refusal to accept appropriate care)  
☐ **a** ☐ **b** ☐ **c** ☐ **d** ☐ **e**  
 Notes:

15. **Variation** (some or all of the deficits noted above vary in frequency, severity, or duration):  
☐ Yes ☐ No ☐ I don't know Variation of deficits is described ☐ below ☐ in Attachment 15.

**Possible Temporary or Reversible Causes of Mental Function Deficits**

**16. Medications**

- a. Is the person currently taking any medication—prescription or nonprescription—that may impair the person's mental functioning?  
☐ Yes ☐ No ☐ I don't know ☐ Not applicable  
 If yes, each of those medications, with dosage and treatment indications, is listed ☐ below ☐ in Attachment 16a.

Name	Dosage/Schedule	Indications
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- b. ☐ Each medication listed in item 16a can impair a person's mental functioning as explained  
☐ below ☐ in Attachment 16b.

17. **Reversible causes** Have temporary or reversible causes of mental impairment been considered, assessed, diagnosed, or treated?  
☐ Yes ☐ No ☐ I don't know All causes considered are discussed ☐ below ☐ in Attachment 17.

18. **Physical or emotional factors** Are there physical or emotional factors (e.g., hearing, vision, or speech impairment; bereavement; or others) present that could diminish the person's capabilities and that could improve with time, treatment, or assistive devices?  
☐ Yes ☐ No ☐ I don't know  
☐ Applicable physical or emotional factors are described ☐ below ☐ in Attachment 18.

**Effect on Ability to Perform Everyday Activities**

19. In my professional opinion, the mental function deficits, if any, identified in items 10–14 ☐ will ☐ will not significantly impair the person's ability to perform some or all activities of daily living (e.g., eating, cooking, toileting, bathing, dressing) or instrumental activities of daily living (e.g., shopping, scheduling appointments, paying bills, using a credit card or checks, taking medication). More details about specific activities and reasons for my opinion are given (*check all that apply*):  
☐ below ☐ in Attachment 19 ☐ in the attached *Everyday Activities Attachment* (form GC-335A).

☐ I do not have enough information to form an opinion on this issue.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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**PART III. CAPACITY TO GIVE OR WITHHOLD INFORMED CONSENT** This part documents my professional conclusions about each issue checked in item 1. The conclusions are based on my assessment of the level of the person's mental functions described in Part II.

20. ☐ **Capacity to give or withhold informed consent to medical treatment specified in the petition** (Probate Code, § 2357.)

The following medical treatment has been recommended for the person (*describe*):

Based on my assessment of the person's applicable mental functions and abilities, it is my professional opinion that:

- a. ☐ The person **has** the capacity to give or withhold informed consent to the recommended medical treatment because the person can do **all** of the following: (1) respond knowingly and intelligently to questions about the treatment; (2) participate in the treatment decision by means of a rational thought process; and (3) understand (A) the nature and seriousness of the diagnosed disorder, (B) the nature of the recommended treatment, (C) the probable degree and duration of and benefits and risks of the recommended treatment, (D) the consequences of lack of treatment, and (E) the nature, risks, and benefits of any reasonable alternatives to the recommended treatment.
- b. ☐ The person **lacks** the capacity to give or withhold informed consent to the recommended medical treatment because the person **cannot do at least one** of the following: (1) respond knowingly and intelligently to questions about the treatment, (2) participate in the treatment decision by means of a rational thought process, or (3) understand at least one of the following: (A) the nature and seriousness of the diagnosed disorder, (B) the nature of the recommended treatment, (C) the probable degree and duration of and benefits and risks of the recommended treatment, (D) the consequences of lack of treatment, or (E) the nature, risks, and benefits of any reasonable alternatives to the recommended treatment.  
☐ These conclusions are further explained ☐ below ☐ in Attachment 20b.

c. ☐ I do not have enough information to form an opinion on this issue.

21. ☐ **Capacity to give or withhold informed consent to medical treatment generally** (Probate Code, §§ 811, 1881.)

Based on my assessment of the person's applicable mental functions and abilities, it is my professional opinion that:

- a. ☐ The person **has** the capacity to give or withhold informed consent to medical treatment because the person can do **all** of the following: (1) respond knowingly and intelligently to questions about at least some forms of medical treatment; (2) participate in at least some treatment decisions by means of a rational thought process; and (3) understand (A) the nature and seriousness of some diagnosed disorders, (B) the nature of some recommended treatments, (C) the probable degree and duration of and benefits and risks of at least some forms of treatment, (D) the consequences of lack of at least some forms of treatment, and (E) the nature, risks, and benefits of any reasonable alternatives to at least some forms of treatment.
- b. ☐ The person **lacks** the capacity to give or withhold informed consent to any form of medical treatment because **either** (1) the person is unable to respond knowingly and intelligently to questions about their medical treatment **or** (2) the person is unable to participate in treatment decisions by means of a rational thought process, which means the person cannot understand at least one of the following: (A) the nature and seriousness of any illness, disorder, or defect that they have or may develop; (B) the nature of any medical treatment that is or may be recommended by their health-care providers; (C) the probable degree and duration of any benefits and risks of any medical intervention that is or may be recommended by the person's health-care providers and the consequences of lack of treatment; or (D) the nature, risks, and benefits of any reasonable alternatives.

The person's lack of capacity to give or withhold informed consent is linked to one or more mental function deficits described in Part II.

☐ These conclusions are further explained ☐ below ☐ in Attachment 21b.

c. ☐ I do not have enough information to form an opinion on this issue.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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22. ☐ **Capacity to give or withhold informed consent to placement in a secured-perimeter residential facility for persons with major neurocognitive disorders** (Probate Code, § 2356.5.)
- a. ☐ The person has a major neurocognitive disorder (such as dementia) as defined in the current edition of the *Diagnostic and Statistical Manual of Mental Disorders*. See Part I of this form for more information.
- b. ☐ The person needs or would benefit from placement in a restricted and secure environment for the reasons (for example, wandering, violence, or rejecting care) explained ☐ below ☐ in Attachment 22b.
- c. Based on my assessment of the person's relevant mental functions and abilities, it is my professional opinion that:
- (1) ☐ The person **has** the capacity to give or withhold informed consent to this placement.
- (2) ☐ The person **lacks** the capacity to give or withhold informed consent to this placement. The mental function deficit or deficits described in Part II significantly impair the (proposed) conservatee's ability to understand and appreciate the consequences of giving consent to placement in a restricted, secured-perimeter residential facility.  
☐ These conclusions are further explained ☐ below ☐ in Attachment 22c.
- d. ☐ The proposed placement in a locked or secured-perimeter facility ☐ is ☐ is **not** the least restrictive environment appropriate to the person's needs.
- e. ☐ I do not have enough information to form an opinion on this issue.
23. ☐ **Capacity to give or withhold informed consent to administration of medication for treatment of major neurocognitive disorders** (Probate Code, § 2356.5.)
- a. ☐ The person has a major neurocognitive disorder (such as dementia) as defined in the current edition of the *Diagnostic and Statistical Manual of Mental Disorders*. See Part I of this form for more information.
- b. ☐ The person needs or would benefit from appropriate medications for the care and treatment of major neurocognitive disorders (including dementia). Any medications and the need or potential benefit of each are described ☐ below ☐ in Attachment 23b.
- c. Based on my assessment of the person's relevant mental functions and abilities, it is my professional opinion that:
- (1) ☐ The person **has** the capacity to give or withhold informed consent to the administration of medications appropriate for the care and treatment of major neurocognitive disorders (including dementia).
- (2) ☐ The person **lacks** the capacity to give or withhold informed consent to the administration of medications appropriate to the care and treatment of major neurocognitive disorders (including dementia). The mental function deficit or deficits described in Part III significantly impair the (proposed) conservatee's ability to understand and appreciate the consequences of giving consent to the administration of medications for the care and treatment of major neurocognitive disorders (including dementia).  
☐ These conclusions are further explained ☐ below ☐ in Attachment 23c.
- d. ☐ I do not have enough information to form an opinion on this issue.
24. ☐ Other information regarding my assessment of the person's mental functions, any deficits in those functions, and any resulting significant impairments to the person's ability to understand and appreciate the consequences of acts or decisions is given in Attachment 24.

25. Number of pages attached: \_\_\_\_\_

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

Date:

_____ (TYPE OR PRINT NAME)	<div style="display: flex; align-items: center; justify-content: center;">          _____          (SIGNATURE OF DECLARANT)       </div>
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CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name):	CASE NUMBER:
<input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	

**ATTACHMENT TO FORM GC-335, CAPACITY DECLARATION—CONSERVATORSHIP,  
ONLY FOR (PROPOSED) CONSERVATEE WITH A MAJOR NEUROCOGNITIVE DISORDER**

9. It is my opinion that the (proposed) conservatee ☐ HAS ☐ does NOT have a major neurocognitive disorder (such as dementia) as defined in the current edition of *Diagnostic and Statistical Manual of Mental Disorders*.
- a. ☐ **Placement of (proposed) conservatee.** (If the (proposed) conservatee requires placement in a secured-perimeter residential care facility for the elderly, please complete items 9a(1)–9a(5).)
- (1) The (proposed) conservatee needs or would benefit from placement in a restricted and secure facility because (state reasons; continue on Attachment 9a(1) if necessary):
  - (2) The (proposed) conservatee's mental function deficits, based on my assessment in item 6 of form GC-335, include (describe; continue on Attachment 9b(2) if necessary):
  - (3) ☐ The (proposed) conservatee HAS the capacity to give informed consent to this placement.
  - (4) ☐ The (proposed) conservatee does NOT have the capacity to give informed consent to this placement. The deficits in mental function assessed in item 6 of form GC-335 and described in item 9a(2) above significantly impair the (proposed) conservatee's ability to understand and appreciate the consequences of giving consent to placement in a restricted and secure environment.
  - (5) A locked or secured-perimeter facility ☐ is ☐ is NOT the least restrictive environment appropriate to the needs of the (proposed) conservatee.
- b. ☐ **Administration of medications.** (If the (proposed) conservatee requires administration of medications appropriate to the care and treatment of major neurocognitive disorders (including dementia), please complete items 9b(1)–9b(5).)
- (1) For the reasons stated in item 9b(5), the (proposed) conservatee needs or would benefit from the following medications appropriate to the care and treatment of major neurocognitive disorders (including dementia) (list medications; continue on Attachment 9b(1) if necessary):
  - (2) The (proposed) conservatee's mental function deficits, based on my assessment in item 6 of form GC-335, include (describe; continue on Attachment 9b(2) if necessary):
  - (3) ☐ The (proposed) conservatee HAS the capacity to give informed consent to the administration of medications appropriate to the care and treatment of major neurocognitive disorders (including dementia).
  - ☐ The (proposed) conservatee does NOT have the capacity to give informed consent to the administration of medications appropriate to the care and treatment of major neurocognitive disorders (including dementia). The deficits in mental function assessed in item 6 of form GC-335 and described in item 9b(2) above significantly impair the (proposed) conservatee's ability to understand and appreciate the consequences of giving consent to the administration of medications for the care and treatment of major neurocognitive disorders (including dementia).
  - (4) The (proposed) conservatee needs or would benefit from the administration of the medications listed in item 9b(1) because (discuss reasons; continue on Attachment 9b(5) if necessary):

10. Number of pages attached: \_\_\_\_\_

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

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

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

Page 1 of 1



This form is for optional use in a probate conservatorship proceeding, in conjunction with *Confidential Clinical Assessment and Declaration—Probate Conservatorship* (form GC-335), to indicate the ability of the person described in item 1 to perform activities of daily living and instrumental activities of daily living.

1. a. Name: \_\_\_\_\_  
 b. Address: \_\_\_\_\_  
 Telephone number: \_\_\_\_\_ Email address: \_\_\_\_\_  
 Date of birth: \_\_\_\_\_

2. a. Name: \_\_\_\_\_  
b. Office address: \_\_\_\_\_  
Telephone number: \_\_\_\_\_ Email address: \_\_\_\_\_

3. a. ☐ I am a California-licensed ☐ physician ☐ psychologist ☐ nurse practitioner ☐ physician assistant  
☐ registered nurse ☐ clinical social worker ☐ occupational therapist  
☐ other licensed professional (*specify profession*): \_\_\_\_\_  
b. My license number is: \_\_\_\_\_

4. Check the box or boxes that apply to you.

a. ☐ I am the clinician who conducted the assessment of the person named in item 1 documented on the *Confidential Clinical Assessment and Declaration—Probate Conservatorship* (form GC-335) to which this form is attached, and I completed that form. The conclusions and opinions given in this form are based on the same assessment.

b. ☐ I work or consult with the clinician who completed the *Confidential Clinical Assessment and Declaration—Probate Conservatorship* (form GC-335) to which this form is attached, and I participated in that clinician's assessment of the person named in item 1. The conclusions and opinions in this form are based on my participation in that assessment.

c. ☐ The conclusions and opinions given in this form are based on the application of my knowledge, experience, and training to my personal observations of the person named in item 1, as described below.

**Activities of Daily Living** (care of self and related activities)

5. **Maintain adequate hygiene** (for example, bathing, grooming, dressing, caring for teeth, going to the toilet)
- ☐ Able; fully independent      ☐ Able with advice and passive support      ☐ Able only with active assistance      ☐ Unable, even with assistance      ☐ I don't know
- Comments ☐ below ☐ in Attachment 5.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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**Activities of Daily Living** (care of self and related activities)

**6. Prepare meals and eat for adequate nutrition**

☐ Able; fully independent   
 ☐ Able with advice and passive support   
 ☐ Able only with active assistance   
 ☐ Unable, even with assistance   
 ☐ I don't know

Comments ☐ below ☐ in Attachment 6.

**7. Identify abuse or neglect and protect self from harm**

☐ Able; fully independent   
 ☐ Able with advice and passive support   
 ☐ Able only with active assistance   
 ☐ Unable, even with assistance   
 ☐ I don't know

Comments ☐ below ☐ in Attachment 7.

**Instrumental Activities of Daily Living**

**8. Financial** (if appropriate, note dollar limits)

a. Protect and spend small amounts of cash

☐ Able; fully independent   
 ☐ Able with advice and passive support   
 ☐ Able only with active assistance   
 ☐ Unable, even with assistance   
 ☐ I don't know

Comments ☐ below ☐ in Attachment 8a.

b. Manage and use checks; pay monthly bills

☐ Able; fully independent   
 ☐ Able with advice and passive support   
 ☐ Able only with active assistance   
 ☐ Unable, even with assistance   
 ☐ I don't know

Comments ☐ below ☐ in Attachment 8b.

c. Enter into a contract (including, for example, to buy, sell, or lease real property or to obtain and use a credit card)

☐ Able; fully independent   
 ☐ Able with advice and passive support   
 ☐ Able only with active assistance   
 ☐ Unable, even with assistance   
 ☐ I don't know

Comments ☐ below ☐ in Attachment 8c.

**9. Resist fraud or undue influence** (for example, has a history of being a victim of fraud or undue influence)

☐ Able; fully independent   
 ☐ Able with advice and passive support   
 ☐ Able only with active assistance   
 ☐ Unable, even with assistance   
 ☐ I don't know

Comments ☐ below ☐ in Attachment 9.

**10. Medical**

a. Choose and direct caregivers

☐ Able; fully independent   
 ☐ Able with advice and passive support   
 ☐ Able only with active assistance   
 ☐ Unable, even with assistance   
 ☐ I don't know

Comments ☐ below ☐ in Attachment 10a.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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**10. b. Admit self to health-care facility**

- ☐ Able; fully independent    
 ☐ Able with advice and passive support    
 ☐ Able only with active assistance    
 ☐ Unable, even with assistance    
 ☐ I don't know
- Comments ☐ below ☐ in Attachment 10b.

**c. Manage own medication (take proper dose as scheduled; refill or renew prescriptions as needed)**

- ☐ Able; fully independent    
 ☐ Able with advice and passive support    
 ☐ Able only with active assistance    
 ☐ Unable, even with assistance    
 ☐ I don't know
- Comments ☐ below ☐ in Attachment 10c.

**d. Contact help if ill or in an emergency**

- ☐ Able; fully independent    
 ☐ Able with advice and passive support    
 ☐ Able only with active assistance    
 ☐ Unable, even with assistance    
 ☐ I don't know
- Comments ☐ below ☐ in Attachment 10d.

**11. Home and community life**

**a. Maintain a reasonably safe and clean home or other living environment; arrange for home maintenance or repair**

- ☐ Able; fully independent    
 ☐ Able with advice and passive support    
 ☐ Able only with active assistance    
 ☐ Unable, even with assistance    
 ☐ I don't know
- Comments ☐ below ☐ in Attachment 11a.

**b. Recognize and avoid common hazards (for example, a hot stove or poisons)**

- ☐ Able; fully independent    
 ☐ Able with advice and passive support    
 ☐ Able only with active assistance    
 ☐ Unable, even with assistance    
 ☐ I don't know
- Comments ☐ below ☐ in Attachment 11b.

**c. Access transportation (for example, drive a car or use public transportation)**

- ☐ Able; fully independent    
 ☐ Able with advice and passive support    
 ☐ Able only with active assistance    
 ☐ Unable, even with assistance    
 ☐ I don't know
- Comments ☐ below ☐ in Attachment 11c.

**d. Initiate and follow a schedule of daily activities**

- ☐ Able; fully independent    
 ☐ Able with advice and passive support    
 ☐ Able only with active assistance    
 ☐ Unable, even with assistance    
 ☐ I don't know
- Comments ☐ below ☐ in Attachment 11d.

# CONFIDENTIAL

GC-335A

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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12. ☐ Other information regarding my assessment of the person's ability to perform activities of daily living or instrumental activities of daily living, including any significant impairments to that ability, is given ☐ below ☐ in Attachment 12.

13. Number of pages attached: \_\_\_\_\_

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

Date:

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

 \_\_\_\_\_  
(SIGNATURE OF DECLARANT)

## SPR24-29

### Probate Conservatorship: Confidential Declaration Forms (adopt form GC-325, revise form GC-335, and revoke and replace form GC-335A)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
1.	Philip C. Ladew, Deputy County Counsel Office of the County Counsel, County of Alameda	NI	<p>The Executive Summary and Origin of the Invitation to Comment states, in part:</p> <p>The new form for mandatory use would be used to certify that a conservatee, proposed conservatee, or person alleged to lack capacity is medically unable to attend a hearing that they would otherwise be required to attend. The revised form—also for mandatory use—would (1) expand the scope of the existing capacity declaration to allow the assessing clinician to provide additional information needed by the court to make the legal determinations at issue, and (2) incorporate other capacity determinations related to a conservatee’s treatment for a major neurocognitive disorder, such as dementia. The proposal is part of the committee’s project to update the conservatorship forms to conform to recent legislation promoting self-determination for persons subject to protective proceedings, including conservatorships.</p> <p>However, the additional information sought in the proposed revisions is assumed and overbroad; it is not necessarily “needed by the court”, nor are the determinations it targets necessarily “at issue.”</p> <p>Further, the Background states, “The Probate Code <i>requires</i> an assessment of the needs of a proposed conservatee to determine the appropriateness and extent of a conservatorship, to provide that the health and psychosocial needs of the proposed</p>	<p>The committee appreciates these comments. See below for responses to specific comments.</p> <p>The committee has modified its recommendation to reduce the amount of information sought on form GC-335 and thereby shorten the form significantly.</p> <p>The committee does not recommend a change to the proposed forms in response to this comment. To the extent the comment is responding to language in the Invitation to Comment, that memorandum does not necessarily reflect the</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR24-29

### Probate Conservatorship: Confidential Declaration Forms (adopt form GC-325, revise form GC-335, and revoke and replace form GC-335A)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>conservatee are met, and to set goals for increasing a conservatee's functional abilities to the extent possible." See Invitation to Comment, at FN 3, citing Prob. Code, § 1800(b) &amp; (c), emphasis added. This misstates the law.</p> <p>Contrary to this assertion, section 1800 of the Probate Code merely recites legislative intent and goals, and does not necessarily equate to a legal "requirement." See <i>Shamsian v. Department of Conservation</i> (2006) 136 Cal.App.4th 621, 633. Still, that legislative intent must be honored to the extent possible, which raises the question as to whether a more complete capacity declaration form is the proper vehicle for this assessment/determination and goal setting.</p> <p>The current statutory scheme provides that it is the <i>adversarial court process</i> (and not a capacity declaration) that allows for assessment and determination. Only a case specific inquiry into the needs of an individual and requirement of proof according to law can do this. A court is free to order further assessment as may be required, and a proposed conservatee has the right to request that the expense and effort be avoided. Therefore, a form, even a comprehensive affidavit from a physician or psychologist is extremely limited, and should always be viewed as such. Overreliance on a preprinted capacity declaration form promotes harm to the conservatee, and negates the very intent of the Legislature for reasons including those discussed below:</p>	<p>committee's final view of the forms to be recommended to the Judicial Council. The committee has taken the comment into account when drafting its report to the Judicial Council.</p> <p>The committee agrees that a case-specific inquiry into a (proposed) conservatee's abilities and capacities is needed to determine whether a conservatorship is needed and what the appropriate scope of the conservatorship should be. The recommended revisions—including separating the declaration on the ability to attend a hearing from the capacity declaration, specifying in item 1 of form GC-335 of the allegations that the petitioner is asking the capacity declaration to address, and expanding the range of possible responses to each item in part II—are intended to promote exactly that sort of inquiry. The preprinted elements of the form reflect the framework of legal provisions and factual categories into which a clinician would need to fit</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR24-29

### Probate Conservatorship: Confidential Declaration Forms (adopt form GC-325, revise form GC-335, and revoke and replace form GC-335A)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p><b>1. A capacity declaration is not mandatory in the first instance.</b></p> <p>It is true that a GC-335 is a <i>mandatory form</i> and must be used <i>if a capacity declaration is applicable, i.e., to be used</i>. See Cal. Rule of Court, rules 1.31 and 7.101.</p> <p>Probate Code section 811 states that to find incapacity to make a decision or do an act a court must have “evidence of a deficit” in one or more mental functions. Prob. Code § 810(a), 811(c). However, the law does not require that this “evidence of a deficit” be in the form of a declaration (nor should it). Indeed, if a matter is contested, a declaration cannot be used as evidence (absent stipulation or failure to object). See Prob. Code § 1022, See also <i>Estate of Bennett</i> (2008) 163 Cal.App.4th 1303.</p> <p>The law does require that the record be supported by a written declaration when the court issues an order determining that there is no form of medical treatment for which the conservatee has the capacity to give an informed consent. See Probate Code §§ 1880, 1890(c). Also, a declaration is required <i>to petition</i> for authority related to placement in a secured perimeter facility or for</p>	<p>their conclusions regarding a specific (proposed) conservatee. The committee has modified its recommendation to reduce the scope of the issues that a petitioner could ask the clinician to address using mandatory form GC-335.</p> <p>The committee does not recommend a change to the proposal in response to this comment. The existence of a mandatory form for use to prepare and file a capacity declaration does not preclude a party from offering <i>alternative</i> evidence regarding capacity in circumstances in which a declaration is not statutorily required or from offering <i>additional</i> evidence when a declaration is required.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR24-29

### Probate Conservatorship: Confidential Declaration Forms (adopt form GC-325, revise form GC-335, and revoke and replace form GC-335A)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>psychotropic medication. See Probate Code § 2356.5(f)(3). However, the law does not provide that the capacity declaration is admissible as evidence in these proceedings if contested.</p> <p>Indeed, there is no law requiring a capacity declaration be provided to begin conservatorship proceedings, nor should there be. The need for a conservatorship can (and often must) be proven without a capacity declaration. It is more effective and accurate to prove the appropriateness of a conservatorship with other evidence, like medical records and live testimony (as is the petitioner's option, and required in a contested hearing at the proposed conservatee's option).</p> <p>Currently, proposed conservators routinely file capacity declarations even when not statutorily required. The proposed capacity declaration will incentivize proposed conservators to not file the capacity declaration at all unless required to avoid undue expense and delay.</p> <p><b>2. A capacity declaration is not meant to be determinative, or complete evidence of a person's capacity.</b> The stated purpose of the proposed revised capacity declaration is to allow the court to make "fine-grained determinations about a person's abilities and needs and issue more narrowly tailored orders that limit the intrusions on a</p>	<p>The committee has modified its recommendation to reduce the length of form GC-335 by splitting it into two recommended forms—a mandatory form for use as a capacity declaration and an optional attachment for use to document conclusions about a person's ability to perform everyday activities—and deleting several additional items from the proposed form.</p> <p>The committee does not recommend a change to the proposal in response to this comment. The recommended revisions to form GC-335 do not affect the admissibility of a capacity declaration or the weight that a court may give to such a declaration if it is properly admitted.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



## SPR24-29

### Probate Conservatorship: Confidential Declaration Forms (adopt form GC-325, revise form GC-335, and revoke and replace form GC-335A)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>conservatee’s autonomy to those necessary to protect those other rights and interests.”</p> <p>However, a capacity declaration, no matter how long or comprehensive, is not the proper vehicle for this this purpose. It is indisputable that a capacity declaration—no matter how long and comprehensive—is an extremely limited tool, and only provides one provider’s assessment of an individual at one single moment in time. Indeed, a capacity declaration is not meant to be dispositive or a picture of a person’s complete and overall capacity, nor should it be. A capacity declaration is merely evidence that can be used by the court to support a finding of incapacity at an uncontested hearing. See Prob. Code § 1022. A Form GC-335, even if revised to be more comprehensive, will simply never be sufficient to provide a detailed picture of a person’s capacity.</p> <p>Creating a longer more comprehensive capacity declaration would presumably provide the court with more opinion data of the assessing professional. However, there are many reasons why such a revision is counterproductive, and potentially dangerous, for example:</p> <ol style="list-style-type: none"><li>1. Often, the capacity declaration is completed by a professional who is previously unfamiliar with the proposed conservatee (i.e., the opinion is made with limited knowledge, the assessment is based on a singular and short (maybe a 45-minute) moment in time, etc.</li></ol>	<p>The committee agrees that the proposed revisions to form GC-335, as circulated for comment, created a form that was too long and likely to defeat the intended purpose by making it more difficult for clinicians to complete. The committee has modified its recommendation to address this concern. However, the committee has no reason to think that the length or scope of the form will deter judicial officers or court investigators from performing their duties under the law.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR24-29

### Probate Conservatorship: Confidential Declaration Forms (adopt form GC-325, revise form GC-335, and revoke and replace form GC-335A)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>This proposed capacity declaration further invites secondhand information that may be unreliable;</p> <p>2. In a contested matter the declaration would be inadmissible, and thus useless;</p> <p>3. A more comprehensive capacity declaration could falsely signal to judges and others that the capacity declaration provides more value than it does (something perhaps evidenced by the suggested revision); it could signal that it can be relied upon and perhaps used as evidence when it cannot;</p> <p>4. The Court Investigator is tasked with gathering and reviewing relevant medical reports regarding the proposed conservatee from the proposed conservatee's primary care physician and other relevant mental and physical health care providers and making observations related to the need for conservatorship. See Prob. Code § 1826 (note, what is statutorily mandated may depend on legislative appropriation). This independent review is difficult, and time consuming, but is statutorily <i>a function of the court investigator</i>. Providing a more comprehensive Capacity Declaration could lead to a court investigator mainly relying on the Capacity Declaration;</p> <p>5. It could encourage judges to avoid further inquiry (e.g., through investigation and</p>	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR24-29

### Probate Conservatorship: Confidential Declaration Forms (adopt form GC-325, revise form GC-335, and revoke and replace form GC-335A)

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	Commenter	Position	Comment	Committee Response
			<p>assessment via the court investigator, or section 730 of the Evidence Code, etc.);</p> <p>6. As the number of providers willing to complete the current capacity declaration is limited, it will likely be difficult to find a provider willing to complete a longer capacity declaration, and even then, the current form can prove difficult to complete with legal sufficiency. Therefore, a longer capacity declaration will likely lead to delays and hindrances to providing assistance to elders and dependent adults who need the assistance of a conservator.</p> <p><b>3. A capacity declaration has very limited purposes and is <i>only for use by stipulation or in uncontested matters</i>—or for specific purposes related to healthcare decision making.</b></p> <p>Should a proposed conservatee wish to contest the imposition of a conservatorship or any related disability, then the proposed conservatee (who is entitled to counsel, including court-appointed counsel) can simply request a hearing, whereby the burden is on the petitioner to prove incapacity by clear and convincing (or in LPS matters, beyond a reasonable doubt) evidence. See <i>Conservatorship of O.B.</i> (2020) 9 Cal.5th 989, see also, Prob. Code §§ 1801, 1823(b)(7), 1828(a)(6), 1827. At any contested hearing, the capacity declaration is worthless, absent a stipulation that is be allowed into evidence. (See Prob. Code § 1022, compare Code of Civ. Pro. § 98, which is not</p>	<p>The committee intends and believes that the proposed revisions to form GC-335 will serve the purpose commended by the commenter. The fact that the <i>form</i> covers multiple issues does not signify that <i>every declaration</i> must cover all those issues. Item 1 on proposed form GC-335 requires the petitioner to specify the issues raised by the allegations in the petition. The specification of allegations in item 1 will focus the clinician's inquiry on abilities and capacities relevant to determining the facts at issue in the petition. In addition, the form provides ample opportunity for the clinician to indicate that they do not know the answer to a question, did not assess a mental function or capacity, or formed no opinion on a particular issue. It also requires the clinician to document their sources of information to allow the court to judge their admissibility and weight.</p>

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## SPR24-29

### Probate Conservatorship: Confidential Declaration Forms (adopt form GC-325, revise form GC-335, and revoke and replace form GC-335A)

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			<p>applicable in conservatorship matters.) This is especially true because the proposed revised capacity declaration invites heavy reliance on second-hand information fed to the declaring clinician. (See e.g., Para 8(d), 8(e), 8(f) and 8(g).)</p> <p>As mentioned, the law does require that the record be supported by a written declaration when the court issues an order determining that there is no form of medical treatment for which the conservatee has the capacity to give an informed consent. See Probate Code §§ 1880, 1890(c). Also, a declaration is required <i>to petition</i> for authority related to placement in a secured perimeter facility or for psychotropic medication. See Probate Code § 2356.5(f)(3). However, the law does not require that the capacity declaration cover all areas of capacity to make these determinations, nor is a capacity declaration admissible as evidence for determining these issues, if contested. See Prob. Code § 1022, see also <i>Estate of Bennett</i> (2008) 163 Cal.App.4th 1303.</p> <p>A conservatorship proceeding is a special proceeding, and not a limited civil matter. See Code Civ. Pro. §§ 22-23, 98. As such, a mere declaration cannot come into evidence without a failure to object, or stipulation by the proposed conservatee, or counsel acting on their behalf. See Evid. Code § 1220 et seq., see also <i>Walker v. Superior Court</i> (2021) 12 Cal.5th 177 and <i>Estate of Bennett</i> (2008) 163 Cal.App.4th 1303. Instead, the petitioner would need to introduce evidence in</p>	<p>Nothing in the committee’s recommendation affects the occasions for use of a capacity declaration, the duties of the probate investigator, or the ability of a petitioner to choose to obtain and file a declaration to support the allegations in their petition. As noted above, the petitioner bears the burden of showing, by clear and convincing evidence, that appointment of a conservator is warranted regardless of whether the petition is contested.</p>

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			<p>other forms, e.g., testimony from those with firsthand information and/or the assessing physician or psychologist, medical records, etc. It is here that targeted, and relevant information can come into evidence to allow any determinations, fine-grained or otherwise. With the medical provider on the witness stand, questions can be asked to drill down into the proposed conservatee's ability to "do a thing" or not. No capacity declaration or report will suffice for this purpose, no matter how long in pages, or attempt or to be comprehensive.</p> <p>It is indeed the adversarial process, by which a proposed conservatee and their attorney can test the appropriateness and limits of the requested disabilities. A proposed conservatee need merely voice an objection to a requested power, and the law provides that the petitioner must make sufficient proof. Moving away from this jurisprudence and statutory scheme is to invite overreliance on things like a capacity declaration.</p> <p><b>4. If disabilities are contested, it is in the best interests of the conservatee to have the points of disagreement identified, and the process seek targeted information, rather than requiring a comprehensive general capacity declaration at the outset.</b></p> <p>Probate Code section 1881(e) states, "<i>In the interest of minimizing unnecessary expense to the parties to a proceeding</i>", the court only needs to determine impairment and person's inability to</p>	<p>The committee does not recommend a change to the proposal in response to this comment. The committee's recommendation neither requires a party to file nor precludes a party from filing a capacity declaration "at the outset" or any other stage of a conservatorship proceeding. The opportunity offered to the clinician by the revised form to provide information and opinion on a wider range of matters does not require the clinician to opine on all of them. The form, as</p>

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			<p>give informed consent, “wherein the conservatee, after notice by the court of his or her right to object which, at least, shall include an interview by a court investigator pursuant to Section 1826 prior to the hearing on the petition, <i>does not object to the proposed finding of incapacity, or waives any objections.</i>” Prob. Code, § 1881, emphasis added.</p> <p>Many conservatorship petitions are uncontested. And, where there is a disagreement at to the imposition of a disability, that can often be settled by the parties, or set for hearing on that limited issue. In these instances, to require a comprehensive capacity declaration will merely increase the expense to the conservatee, and delay on an already overburdened assessment system. Unless there are more physicians or psychologists willing to perform assessments and complete capacity declarations, then access to the support of the conservatorship system will be severely affected for the worse. See, for example, Prob. Code § 1881(e).</p> <p>Interests of the proposed conservatee and the court’s time are better served by reserving the need for lengthy capacity declarations for those who contest some aspect of the conservatorship, and by asking the targeted question as to what points to assess before completing a comprehensive capacity declaration at the outset.</p>	<p>modified in response to other comments, makes clear that the clinician is expected to address only the issues relevant to the allegations identified in item 1 and provides ample opportunity for the clinician to indicate that they do not know the answer to a question, did not assess a mental function or capacity, or formed no opinion on a particular issue.</p>

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	Commenter	Position	Comment	Committee Response
			<p><b>5. If sufficient information as to capacity is not presented, the court may seek the targeted information it requires.</b></p> <p>In conservatorships, and the adversarial civil court process, the court has the authority, on its own motion and at any time, to get more information from any experts it deems necessary. See Evid. Code §§ 730, 300.</p> <p>Evidence Code section 730 provides, “When it appears to the court, at any time before or during the trial of an action, that expert evidence is or may be required by the court or by any party to the action, the court on its own motion or on motion of any party may appoint one or more experts to investigate, to render a report as may be ordered by the court, and to testify as an expert at the trial of the action relative to the fact or matter as to which the expert evidence is or may be required.”</p> <p>If the provided capacity declaration is insufficient for a purpose, or if the petitioner is unable to acquire sufficient evidence, the court has a statutory remedy in section 730 of the Evidence Code. A more comprehensive capacity declaration will only make courts less inclined to seek the targeted information needed, and instead rely on an overly broad, and untailored form completed by one doctor, who may not know the proposed conservatee prior, and who is assessing the proposed conservatee in only one session.</p>	<p>The committee does not recommend a change to form GC-335 in response to this comment. The committee’s recommendation has no effect on the court’s authority to appoint an expert under Evidence Code section 730.</p>

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			<p><b>6. The suggested revised Capacity Declaration needs to be pared down and revised further.</b></p> <p>The revision is exceedingly long and complicated. Additionally, it asks for a declaration as to the ultimate issue without first qualifying the declarant as an expert or identifying whether those opinions are within common experience. See Evid. Code § 801. The declaration also asks for opinion on matters that are necessarily outside the firsthand knowledge of the declarant, particularly in Part III and Part IV. A professional assessor would not have the ability to discern many of these questions. Further, the form contains logical extremes that are nonsensical. For example, item 21.c.4. requesting opinion on “use of public transportation” noting “unable no matter what type of assistance”—since someone can be carried onto a conveyance, extreme assistance will virtually always enable the use, making questions like these impossible to answer. Also, the purpose of this question is unclear in the context of a conservatorship. For another example: the meaning of “passive support” vs. “active assistance” is unclear (e.g., is handing someone a toothbrush passive or active?) Also, see item 21.c. an assessing professional will need to guess as to what a “reasonably safe and clean home” might be, and the standard will deviate. This 10-page declaration will serve to frustrate medical practitioners, resulting in an unwillingness to complete an evaluation, or if they are willing, undue expense for a proposed conservatee.</p>	<p>As noted above, the committee has modified its recommendation to reduce the length of form GC-335.</p>

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			Also, while the form uses unclear terms and asks somewhat irrelevant things, the form does not ask about the more relevant issues, e.g., a person's capacity to make or revoke a trust, consent to marriage, possess a firearm, etc.	In the interest of reducing the length of recommended form GC-335, as suggested by this and other commenters, the committees does not recommend adding any further elements to it.
			<b>GC-325, Confidential Declaration on Medical Ability to Attend Hearing—Probate Conservatorship.</b> 1. In the caption box—it is unclear as to what “other” refers. In a conservatorship matter the only party that needs this declaration is a proposed conservatee or conservatee (see for example item 7 on the suggested form). Others are determined unable to attend per usual means.  2. In item 1.a. There is no need to check boxes and type in the title of the petition.  And in 1.b, the date of the hearing is not given, so the doctor has no indication of when the hearing will be so as to discern ability to attend, if that is important. Perhaps just state: “1. One or more court hearings will be required in the conservatorship proceeding named above.” For the date, the form could allow the declarant to provide a date range.	The committee agrees and has removed “other” from the caption of the recommended form.  The committee agrees in part with the suggested change and has removed the request for the title of the petition from item 1a. The committee recommends retaining the check boxes in item 1 to distinguish proceedings in which a petition has been filed and a hearing set from proceedings in which a petition has not been filed or a hearing set when the declaration is completed.  The committee does not recommend a change to the form in response to this comment. The date of the hearing is not given in item 1b because, if that item is checked, the petition has yet not been filed and a hearing has not been set. Even without knowing the hearing date, the practitioner should still be able to complete item 6a or 6b, as they are independent of a specific hearing date. The

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			<p>3. For item 6. It does not appear that the term, “licensed medical practitioner” as used in Probate Code section 1825 is defined in law, however, most certainly is not limited to the list in the form (i.e., physician, nurse practitioner, physician’s assistant, or psychologist acting within the scope of my license). Perhaps a chiropractor, a nurse, dentist, acupuncturist, etc. This term should be defined by law, or at least a rule of court, not my way of limited check boxes on a mandatory form. Also, a psychologist would presumably be limited to opining on inability due to emotional or psychological inability, has further limitations. See Prob. Code § 1825.</p> <p>4. For item 6. If the licensee is required to put a license number, the religious practitioner should also name their accreditor. Licenses can be verified only, whereas verification of religious accreditation is presumably more difficult.</p> <p>5. For item 8. For remote appearances, it is rare that one would be unable to appear on a screen without assistance. A court rule or statute</p>	<p>committee agrees that allowing the declarant to provide a date range is appropriate; item 6b(1) of the recommended form currently allows the declarant to do precisely that; item 6b(2) allows the declarant to indicate that the (proposed) conservatee will be medically unable to attend a hearing for the foreseeable future.</p> <p>The committee agrees that the list is not exhaustive. To accommodate additional categories of practitioners, the committee has modified its recommendation to add a check box for <i>registered nurse</i> and a check box and fillable field for a practitioner to specify another licensed profession that might qualify but is not listed. The committee does not recommend removing licensed psychologist from the list of practitioners in item 4a. All professionals listed are expected to practice within the scope of their respective licenses.</p> <p>The committee agrees that a space for the religious practitioner to give the name of the accrediting religious organization would be useful and has added one to item 4b of the recommended form.</p> <p>The committee recommends removing the options “in person” and “remotely” from item 6b(1) and (2). To excuse a person’s attendance at a hearing,</p>

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			<p>should address what medical inability means for this purpose—does it mean unable without assistance? In conservatorships, the petitioner can often assist with the proposed conservatee’s appearance. However, if the proposed conservatee is unwilling to allow the assistance, that can be impossible.</p> <p>6. For item 8.c. Clarity should be brought regarding the fact that “emotional or psychological instability is not good cause for the absence of the proposed conservatee from the hearing unless, by reason of such instability, attendance at the hearing is likely to cause serious and immediate physiological damage to the proposed conservatee.” See Prob. Code, § 1825.</p>	<p>the statute requires an unqualified declaration that the person is unable to attend because of medical inability regardless of the manner in which the hearing might be conducted. Including the manner of attendance in item 6b is therefore not appropriate. The manner of conducting the hearing may be relevant to an explanation of how the person might be able <i>to attend</i> the hearing and is therefore properly included in item 6a. The remaining questions raised by this comment are beyond the scope of the proposal.</p> <p>The committee does not recommend a change to the form in response to this comment. The instructions to the declarant (practitioner), which restate the quoted statutory limit on medical inability, provide sufficient guidance to the declarant.</p>
2.	Orange County Bar Association by Christina Zabat-Fran, President	A	<p>This proposal appropriately addresses the stated purpose of revising and creating new probate conservatorship forms related to the conservatee's mental capacities for attending hearings and for the conservatee's care treatments. It is a necessary part of the committee’s on-going project to update forms to conform to recent legislation promoting self-determination for persons subject to protective proceedings.</p> <p>The OCBA recommends that a box be added to both forms for the petitioner to complete to</p>	<p>The committee appreciates this comment.</p> <p>The committee does not recommend adding a date field to the caption of form GC-325. As other</p>

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			indicate the next scheduled hearing date for use by the court, the parties, and the preparers for proper timing and understanding.	commenters have indicated, the date field in item 1a is sufficient to indicate the hearing date if one has been set. Adding a hearing date to the caption could also cause some users to infer incorrectly that the form could be filed only if a hearing had been set. The committee intends that a party be able to obtain and file the declaration on this form even if a hearing has not yet been set. The committee agrees that a hearing date box on form GC-335 would be helpful and has added one to the caption of that form.
3.	Superior Court of Orange County by Sean Lillywhite	NI	<p><i>What is filing timeframe required for the new GC-325?</i></p> <ul style="list-style-type: none"><li><i>Is this form to be filed with the petition (when the case is initiated), or can this form be filed after the petition but before the hearing just like the current GC-335?</i></li></ul> <p><i>Date box potentially added to GC-325 and GC-335.</i></p> <ul style="list-style-type: none"><li><i>Adding a date field on both the revised GC-335 and new GC-325 will be helpful for the public, as they can take this in consideration to file the form on time. However, the current GC-335 does not have a space for the hearing date, and adding the date field will impact training and enhancement to the CMS in relation to the automatic date stamps for the hearing or making this a manual entry for staff at the time of filing.</i></li></ul>	<p>The committee appreciates the court's comments.</p> <p>The committee intends for a party to file the form before a hearing but is not aware of a reason to require the form to be filed with a petition. Neither a statute nor a rule of court prescribes a deadline for filing the affidavit/declaration regarding medical ability to attend a hearing.</p> <p>The committee does not recommend adding a date field to the caption of form GC-325. As other commenters have indicated, the date field in item 1a is sufficient to indicate the hearing date if one has been set. Adding a hearing date to the caption could also cause some users to infer incorrectly that the form could be filed only if a hearing had been set. The committee intends that a party be able to obtain and file the declaration on this form even if a hearing has not yet been set. The date of the declaration is also in the signature block. The committee agrees that a hearing date box on form</p>

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			<p><i>Suggestions for improving readability for GC-325:</i></p> <ul style="list-style-type: none"> <li><i>Is the “Instructions” section to be filled out by the petitioner or by court staff? Including language clarifying the party responsible for completing this section would be helpful. As it currently stands, it could be interpreted as either.</i></li> <li><i>In the “Declarant’s Information” section, it would be beneficial to add wording specifying the “declarant” as the “mental health professional”. This clarification is important as the term “declarant” may be confusing for self-represented parties.</i></li> </ul>	<p>GC-335 would be helpful and has added one to the caption of that form.</p> <p>The committee has modified its recommendation to eliminate the need for completion of the instructions on form GC-325 by stating them in static text and to indicate expressly that the person requesting the completion of the form must complete item 1.</p> <p>The committee agrees and has modified its recommendation to indicate in the heading to the instructions that the declarant is expected to be a practitioner and to complete items 2–6. Item 4 makes clear that the declarant must be a licensed medical practitioner or an accredited practitioner of a religion that calls for reliance on prayer alone for healing.</p>
			<p><b>1. Does the proposal appropriately address the stated purpose?</b>  <b>Response:</b> <i>Yes</i></p> <p><b>2. Would adding a space to the caption box on form GC-325, form GC-335, or both, for use to indicate a hearing date be useful?</b>  <b>Response:</b> <i>Yes</i></p> <p><b>3. Would the proposal provide cost savings?</b>  <b>Response:</b> <i>Yes</i>  <b>If yes, explain:</b> <i>The cost implications would manifest in the reduced number of hearings</i></p>	<p>No response required.</p> <p>See response above to the comment suggesting addition of a date field to the caption box of the forms.</p> <p>The committee shares the commenter’s hope that the recommended revisions will lead to reduced costs.</p>

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			<p><i>necessitated for the conservatee's attendance. Additionally, these forms are designed to furnish Judicial Officers with comprehensive information essential for informed decision-making regarding the conservatee's level of care, even in instances where the proposed conservatee does not have the ability to attend the hearing as noted by a mental health professional (GC-325). This enables the case to progress without the need for repetitive continuances, optimizing the allocation of the court's time and resources.</i></p> <p><b>4. What are the implementation requirements for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management system, or modifying case management system.</b></p> <p><b>Response:</b></p> <ul style="list-style-type: none"><li>• <i>Legal Processing Specialist Training (approx. 2 – 4 hrs.)</i></li><li>• <i>Revision of Petition for Appointment of Probate Conservatorship Procedure (approx. 5 hrs.).</i></li><li>• <i>Informational meetings with other Probate Departments and/or their supervisors (approx. 3 hrs.).</i></li><li>• <i>CMS Updates (Please note that these estimates are based on current technology staff availability, which subject to change):</i></li></ul>	No further response required.

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			<ul style="list-style-type: none"><li>▪ <i>Revision of current CMS filing entry for GC-335 (approx. 2 weeks) plus testing (approx. 1 day).</i></li><li>▪ <i>Addition of CMS filing entry for GC-325 (approx. 2 weeks) plus testing (approx. 1 day).</i></li></ul> <p><b>5. Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</b> <i>Response: No, a timeframe of at least four months would be more feasible for the implementation. The implementation necessitates the involvement of the technology department, which operates on its own set of timeframes and schedules. In addition to testing and resolution of any issues within the CMS.</i></p> <p><b>6. How well would this proposal work in courts of different sizes?</b> <i>Response: With no associated costs and sufficient planning coupled with ample preparation time, the operational impact can be effectively mitigated, and the proposal would work for courts of different sizes.</i></p>	<p>No further response required.</p> <p>No further response required.</p>
4.	Superior Court of Placer County by Naslie Rezaei, Court Services Analyst	A	One of the questions posed by the advisory committee was “would adding a space to the caption box on form GC-325, form GC-335, or both, for use to indicate a hearing date be useful?”	

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			<p>Adding a caption box to GC-335 for the hearing date would be useful as there is currently no space to write the hearing date for reference by the litigant or the court.</p> <p>Adding a caption box to GC-325 for the hearing date would not be as necessary. Number 1 on the GC-325 states “A petition that requires a hearing has been filed in the conservatorship proceeding named above and set for hearing on _____”; this could be utilized to easily locate the hearing date. As such, there wouldn't be as much of a need for a hearing box in the caption.</p>	<p>The committee agrees and has modified its recommendation accordingly.</p> <p>The committee agrees and does not recommend adding a date field to the caption of form GC-325. As other commenters have indicated, the date field in item 1a is sufficient to indicate the hearing date if one has been set. Adding a hearing date to the caption could also cause some users to infer incorrectly that the form could be filed only if a hearing had been set. The committee intends that a party be able to obtain and file the declaration on this form even if a hearing has not yet been set.</p>
5.	Superior Court of Riverside County by Sarah Hodgson, Chief Deputy of Legal Services/General Counsel	NI	<p>The proposal addresses the stated purpose.</p> <p>We recommend adding a space in the caption box on both forms for the hearing information. The Court has also prepared an additional response separately attached for consideration to this Invitation to Comment.</p> <p>Would the proposal provide cost savings? If so, please quantify.</p>	<p>The committee appreciates these comments.</p> <p>The committee agrees that a hearing date box on form GC-335 would be helpful and has added one to the caption of that form. However, the committee does not recommend adding a date field to the caption of form GC-325. As other commenters have indicated, the date field in item 1a is sufficient to indicate the hearing date if one has been set. Adding a hearing date to the caption could also cause some users to infer incorrectly that the form could be filed only if a hearing had been set. The committee intends that a party be able to obtain and file the declaration on this form even if a hearing has not yet been set.</p>

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			<p><b>A: No cost savings</b></p> <p>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</p> <p><b>A: Update procedure, clerk alert, training of staff, update existing CMS code/description, create new CMS code.</b></p> <p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p><b>A: Depend on vendor time tables. No sooner than 3 but up to 6 months may be needed.</b></p> <p>How well would this proposal work in courts of different sizes?</p> <p><b>A: This proposal should work well in courts of different sizes.</b></p> <p><u>Further comments:</u>  Conservatorship litigants and counsel experience great difficulty obtaining completed capacity declarations from physicians using the present form. Any change to this form should be focused on improving this situation. The proposed amended form would exacerbate this situation, resulting in further delays before vulnerable conservatees can receive assistance from a</p>	<p>No further response required.</p> <p>No further response required.</p> <p>No further response required.</p> <p>No further response required.</p>

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	Commenter	Position	Comment	Committee Response
			<p>conservator.</p> <p>We propose shortening the length of the form and clarifying that some portions may not be required.</p> <p><i>Length of Form</i> The current version of the Capacity Declaration is 3 pages. The major neurocognitive disorder attachment adds another page, for a total of 4 pages. The proposed amended form splits the current form into two, for a total of 10 pages. Six pages have been added to the form. The following factors are responsible for the longer length. If these factors are addressed, nearly 4 pages of the proposed amended form can be eliminated.</p> <p><i>Additional Procedures</i> The existing form addresses three statutory procedures that require a declaration by a physician: (1) excuse from attending the hearing (Probate Code 1825(b)), (2) exclusive medical consent (Probate Code 1881), and (3) major neurocognitive disorder medication and placement (Probate Code 2356.5).</p> <p>The new form adds five new items:</p> <ul style="list-style-type: none"><li>• Ability to provide properly for the conservatee's own needs for physical health, food, clothing or shelter (Probate Code 1801(a))</li><li>• Ability to stay or return to live safely in their own residence (Probate Code 2352, 2352.5)</li></ul>	<p>The committee has reduced the length of recommended form GC-335 as described below in response to specific comments.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR24-29

### Probate Conservatorship: Confidential Declaration Forms (adopt form GC-325, revise form GC-335, and revoke and replace form GC-335A)

All comments are verbatim unless indicated by an asterisk (\*).

Commenter	Position	Comment	Committee Response
		<ul style="list-style-type: none"><li>• Capacity to give or withhold medical consent to medical treatment specified in a petition (Probate Code 2357)</li><li>• Ability to manage the conservatee's own financial resources properly (Probate Code 1801(b))</li><li>• Ability to resist fraud or undue influence (Probate Code 1801(b))</li><li>• These items are represented by a portion of item 1 and all of items 22, 23, 24, and 28 on the proposed new form, representing 1.5 pages of space.</li></ul> <p><i>Physician Declaration Not Required</i> Four of these five procedures do not require a physician declaration. The petitioner, family members, probate investigators, or other lay witnesses can provide this evidence. See Probate Code 1826(a)(4).</p> <p><i>Rarely Used</i> A declaration from a physician is required for a petition under Probate Code 2357. In the past several decades, we have received less than 5 such petitions. The detriments of extending the length of the form outweigh any benefits to accommodate this rarely-used procedure.</p> <p><i>Daily Living Activities</i> Probate Code 811 requires evidence of a mental function deficit, a correlation between the deficit and significant impairment of the person's ability to understand and appreciate the consequences of</p>	<p>The committee has modified its recommendation to remove the items that do not require the declaration of a physician or psychologist. The commenter is correct that evidence regarding these determinations is available from other sources, including lay witnesses.</p> <p>The committee does not recommend removing this item from the form. Courts in other counties may receive more frequent petitions under section 2357, and this item by itself does not significantly increase the form's length.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR24-29

### Probate Conservatorship: Confidential Declaration Forms (adopt form GC-325, revise form GC-335, and revoke and replace form GC-335A)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>the person's act or decision, and the extent of the impairment (i.e. frequency, severity, and duration).</p> <p>The existing form addresses deficits and extent of impairment, but only briefly addresses correlation by asking the ultimate questions required by the statute.</p> <p>The proposed new form adds more than two pages to address correlation by assessing ability to complete activities of daily living and instrumental activities of daily living. Although this information is relevant and helpful, in almost all cases, physicians will lack personal knowledge on these topics. Again, this evidence can be provided by the petitioner, family members, the probate investigator, and other lay witnesses. Substantial space is taken by these items. These items should be replaced with a single question whether the physician is aware of any ADLs or IADLs that have been significantly impaired by a mental function deficit.</p> <p><i>Duplicative Data</i> Item 2(b) requests data concerning the current placement of the proposed conservatee. This takes almost 1/6 of a page. Petitioner provides this data both before and after appointment. See <i>Confidential Supplemental Information</i> (form GC-312), <i>CARE Plan</i> (form GC-355). The physician often will not have personal knowledge concerning this issue.</p>	<p>The committee has modified its recommendation to remove the items asking the clinician to offer opinions on the (proposed) conservatee's ability to perform activities and instrumental activities of daily living from recommended form GC-335 and replaced them with a single item, as suggested. The committee also recommends revoking form GC-335A as currently used and approving a replacement form GC-335A for optional use as an attachment and placing the questions and prompts regarding the (proposed) conservatee's ability to perform everyday activities on that form.</p> <p>The committee agrees that item 2b is duplicative and has deleted it from recommended form GC-335.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR24-29

### Probate Conservatorship: Confidential Declaration Forms (adopt form GC-325, revise form GC-335, and revoke and replace form GC-335A)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<i>Instructions</i> Item 3 provides instructions, taking over 1/6 of a page. These instructions are not necessary, and should be eliminated to shorten the form.  <i>Optional Portions</i> Items 22 to 29 may not be needed, based on whether the appropriate boxes in item 1 are checked. Items 22 to 29 should be modified to indicate this.	<p>The committee agrees that the instructions in item 3 of form GC-335 are unnecessarily repetitive and has modified its recommendation to remove them from the form. To the extent appropriate, the committee has revised the instructions for completing specific parts and items on the form.</p> <p>The committee agrees that form GC-335 should indicate more clearly that the clinician should complete only those items in revised part III that correspond to items checked in item 1 of the form and has modified its recommendation accordingly.</p>
6.	Superior Court of San Diego County by Mike Roddy, Executive Officer	A	<p>Q: Does the proposal appropriately address the state purpose? <b>A: Yes.</b></p> <p>Q: Would adding a space to the caption box on form GC-325, form GC-335, or both, for use to indicate a hearing date be useful? <b>A: No, hearing dates in the caption are often left blank by the filing party. Having the hearing date as item #1 of the new GC-325 will be helpful to the declarant.</b></p> <p>Q: Would the proposal provide cost savings? If so, please quantify. <b>A: No.</b></p>	<p>The committee appreciates these comments.</p> <p>No further response required.</p> <p>The committee has modified its recommendation to add a box for the hearing date to form GC-335, but agrees with the commenter that the field in item 1 on form GC-325 is sufficient to indicate the hearing date if a hearing has been set.</p> <p>No further response required.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SPR24-29

### Probate Conservatorship: Confidential Declaration Forms (adopt form GC-325, revise form GC-335, and revoke and replace form GC-335A)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>Q: What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</p> <p><b>A: Implementation will require training of staff, updates to the case management system to rename the existing form and adding a new form. Additionally, form packets will need to be updated.</b></p> <p>Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p><b>A: Yes.</b></p> <p>Q: How well would this proposal work in courts of different sizes?</p> <p><b>A: This proposal should work well, regardless of the size of the court.</b></p> <p>No additional Comments.</p>	<p>No further response required.</p> <p>No further response required.</p> <p>No further response required.</p>
7.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) (TCPJAC/CEAC Joint Rules Subcommittee)	A	<p>The JRS notes the following impact to court operations:</p> <ul style="list-style-type: none"><li>• Potentially will require an update of local rules.</li><li>• Results in additional training, which requires the commitment of staff time and court resources.</li></ul>	<p>The committee appreciates these comments and has taken them into consideration in making its recommendation. No further response is required.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**SPR24-29****Probate Conservatorship: Confidential Declaration Forms** (adopt form GC-325, revise form GC-335, and revoke and replace form GC-335A)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>The JRS also notes that the proposal will require additional legal staff and judicial officer training to understand the legal impact/meaning of the revised and new forms' information as the information applies to the court's analysis of a conservatorship petition under the Probate Code.</p> <p>It is necessary to update or revise these forms to comply with the changes to the law regarding probate conservatorships. An update will also allow the forms' queries and solicitation of the assessing medical provider's opinions and how the opinions are presented in the form, to align to the current scientific/medical knowledge and research about mental capacity and capabilities more closely, as they relate to probate conservatorship proceedings.</p>	
8.	Jessica Chia Wojewidka, Deputy County Counsel Office of the County Counsel, County of Alameda	NI	* See the comments of Philip C. Ladew, Deputy County Counsel, Office of the County Counsel, County of Alameda, beginning on page 24. Jessica Chia Wojewidka's comments duplicate those comments word for word.	The committee appreciates these comments. Please refer to the committee responses to the comments of Philip C. Ladew, beginning on page 24.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** August 13, 2024

**Rules Committee action requested** [Choose from the drop-down menu below]:

**Recommend JC approval (has circulated for comment)**

**Title of proposal:** Probate Guardianship: Participation of a Minor Ward in Court

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*

Amend Cal. Rules of Court, rule 7.1016

*Committee or other entity submitting the proposal:*

Probate and Mental Health Advisory Committee

*Staff contact (name, phone and e-mail):* Corby Sturges, 415-865-4507, [corby.sturges@jud.ca.gov](mailto:corby.sturges@jud.ca.gov)

*Identify project(s) on the committee's annual agenda that is the basis for this item:*

Annual agenda approved by Rules Committee on (date): January 15, 2024

Project description from annual agenda: The committee will develop a recommendation to amend California Rules of Court, rule 7.1016 to implement amendments to Family Code section 3042 as they apply to probate guardianships of the person. Under Probate Code section 1514(b)(1), Family Code sections 3020–3032 and 3040–3049, including section 3042, govern the probate court in appointing a guardian of the person. In 2021, Senate Bill 654 (Stats. 2021, ch. 768, § 2) amended Family Code section 3042, which sets conditions on a child's participation and testimony in a family law custody proceeding. The statutory amendments changed those conditions and required the Judicial Council to develop or amend rules of court to implement the section no later than January 1, 2023. The council amended rule 5.250, effective January 1, 2023, to fulfill this mandate with respect to family law child custody proceedings. Because rule 7.1016 implements the requirements of Family Code section 3042 as they apply to guardianships of the person, that rule should have also been amended by January 1, 2023, but it was not.

**Out of Cycle:** *If requesting September 1 effective date or out of cycle, explain why:*

**Additional Information for Rules Committee:** (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was

☒ reviewed by EGG on (date) May 23, 2024

☒ approved by Office Director (or Designee) (name) Audrey Fancy

on (date) June 13, 2024

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **Form Translations** (check all that apply)

This proposal:

☐ includes forms that have been translated.

☐ includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)



☐ includes forms that staff will request be translated.

- **Form Descriptions** (for any report with new or revised forms)
  - ☐ The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).
- **Self-Help Website** (check if applicable)
  - ☐ This proposal may require changes or additions to self-help web content.



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-151*

For business meeting on September 20, 2024

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**Title**

Probate Guardianship: Participation of a  
Minor Ward in Court

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2025

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rule 7.1016

**Date of Report**

July 3, 2024

**Recommended by**

Probate and Mental Health Advisory  
Committee

Hon. Jayne Chong-Soon Lee, Chair

**Contact**

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### Executive Summary

The Probate and Mental Health Advisory Committee recommends amending rule 7.1016 of the California Rules of Court to conform to Senate Bill 654 (Stats. 2021, ch. 768, § 2), which amended Family Code section 3042 to place additional conditions on a minor child's participation in court or testimony in proceedings, including probate *guardianships of the person*, that address child custody or visitation. The committee also recommends amending the rule to conform more closely to statute by limiting its application to specified proceedings and expanding its protections to apply to wards who are parties, as well as to express its requirements more clearly.

### Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council amend California Rules of Court, rule 7.1016, effective January 1, 2025, to:

1. Bar a court from permitting a ward to address the court in the presence of the parties absent a finding on the record that doing so would be in the ward's best interest;
2. Require specified professionals to inform the court if they become aware that a ward has changed their mind about addressing the court;
3. Expand the rule's protections to apply to wards who are parties;
4. Limit the scope of the rule's application to proceedings; and
5. Express the rule's requirements more clearly.

### **Relevant Previous Council Action**

Effective January 1, 2012, the Judicial Council adopted California Rules of Court, rule 5.250 to implement the requirements in Family Code section 3042 that govern a child's participation and testimony in proceedings to determine child custody and visitation.<sup>1</sup> Rule 5.250 applies to family law custody and visitation proceedings. The Judicial Council adopted rule 7.1016, effective January 1, 2013, to implement Family Code section 3042's requirements in proceedings for appointment of a probate guardian of the person.<sup>2</sup>

Effective January 1, 2023, the Judicial Council amended rule 5.250 in response to amendments to Family Code section 3042 by Senate Bill 654 (Stats. 2021, ch. 768, § 2).<sup>3</sup> Amending rule 7.1016 was not considered at that time.

### **Analysis/Rationale**

Family Code section 3042 governs a child's participation and testimony in a proceeding to determine child custody or visitation. A probate guardianship of the person gives custody of a minor child to an adult other than the child's parent.<sup>4</sup> Probate Code section 1514(b)(1) provides that, "[i]n appointing a guardian of the person, the court is governed by" Family Code sections 3020–3032 and 3040–3049, including section 3042, "relating to custody of a minor."

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<sup>1</sup> Fam. Code, § 3042, as amended by Assem. Bill 1050 (Stats. 2010, ch. 187, § 1). See Judicial Council of Cal., Advisory Com. Rep., *Family Law: Children's Participation and Testimony in Family Court Proceedings* (Oct. 6, 2011). All further unspecified references to rules are to the California Rules of Court.

<sup>2</sup> Judicial Council of Cal., Advisory Com. Rep., *Probate Guardianships: Testimony and Alternatives to Testimony of Wards and Proposed Wards in Guardianship Cases* (Aug. 29, 2012).

<sup>3</sup> Judicial Council of Cal., Advisory Com. Rep., *Family Law: Child Custody and Visitation in Cases Involving Abuse by Parent and Child Testimony* (Sept. 2, 2022), pp. 2–3, 7, 9, <https://jcc.legistar.com/View.ashx?M=F&ID=11204080&GUID=A2EE8E73-47E5-40A6-8441-C95EC7CE60D2>.

<sup>4</sup> The Probate Code authorizes the court to appoint two types of guardian, as needed. A guardian *of the person* has care, custody, and control of the child. (Prob. Code, § 2351(a).) A guardian *of the estate* is charged with managing the child's money and property. (*Id.*, § 2401(a).)

The recommended amendments to rule 7.1016 would implement the changes to Family Code section 3042 made by SB 654 as they apply to probate guardianships. SB 654 made two significant changes to section 3042. First, it barred a court from permitting a child to address the court regarding custody or visitation in the presence of the parties unless the court found that doing so in the parties' presence would be in the child's best interest and stated the reasons for that finding on the record. (Fam. Code, § 3042(f).) The amendment also required the court to provide a way to obtain the child's input out of the presence of the parties. (*Id.*, § 3042(f)(1).) The recommended amendments to rule 7.1016(e)(1)–(3) implement these statutory changes in proceedings for appointment or removal of a guardian of the person.

Second, SB 654 amended section 3042 to impose a duty on the child's attorney, an evaluator, an investigator, or a child custody recommending counselor to indicate, as soon as feasible, to the judge, the parties or their attorneys, and other professionals serving on the case if a child has changed their preference about addressing the court. (*Id.*, § 3042(h).) The recommended amendments to rule 7.1016(c) implement those statutory changes as they apply to probate guardianships.

Amended Family Code section 3042 both shields children from having to provide testimony in front of their parents or caregivers and provides assurances that the court will learn if the child changes their mind about addressing the court. (See Fam. Code §§ 3042(f) and (h).) Amending rule 7.1016 to conform to these statutory changes will avoid confusion and ensure that children in probate guardianship proceedings are afforded the same protections as those in family law custody and visitation proceedings.

The committee also recommends amending the rule so that its provisions apply to a ward regardless of whether the ward is a party. The protections in rule 7.1016(c)–(e) and (g) currently apply only to a ward who is *not* a party. The absence from Family Code section 3042 of language clearly excluding children who are parties from participating in custody proceedings indicates that the Legislature did not intend to exclude them. The statutory silence is not attributable to any want of authority for child parties in family law custody proceedings. A child may be a party to a custody proceeding brought in the context of a Domestic Violence Prevention Act case (Fam. Code, §§ 6211(e)–(f), 6229, 6301(a)) or an action under the Uniform Parentage Act (Fam. Code, § 7630(a)). (See generally Fam. Code, §§ 3021(e)–(f), 3022.) A ward may also be a party to a probate guardianship proceeding. Given the absence of a clear reason for excluding wards who are parties, proposed amendments to rule 7.1016(c)–(e) and (g) would extend their application to a ward who is a party and wishes to participate or testify in a hearing.<sup>5</sup>

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<sup>5</sup> Excluding a ward who is a party from the scope of the rule's protections could be problematic for another reason. Probate Code section 1043(b) authorizes an interested person to appear and make a response or objection orally at a hearing. Under this statute and prevailing probate practice, a ward who was not a party and who responded or objected to a guardianship petition (in other words, expressed a preference) would by virtue of their participation become a party to the proceeding. Rule 7.1016(a)(2) therefore treats a ward as a party if the ward files a petition or makes a response or objection in a guardianship proceeding. And it does not make sense to afford the protections of Family Code section 3042 to a ward before they have begun to address the court but not afterward.

The committee, however, recommends that the rule continue to separately address situations in which a ward who is a party receives a discovery request or is called as a witness by another party. (Rule 7.1016(h).) Those situations are beyond the scope of Family Code section 3042 because they may entail a ward's unwilling participation or testimony. Nevertheless, a rule governing the participation and testimony of a ward in a guardianship proceeding would be incomplete without addressing these possibilities.

The committee also recommends amending rule 7.1016(d) to distinguish more clearly between a ward 12 years of age or older, who *must* be permitted to address the court *unless* doing so would not be in the ward's best interest, and a ward younger than 12 years old, who *may* be permitted to address the court *if* doing so would be in the ward's best interests.<sup>6</sup>

Further recommended amendments would eliminate the distinction in existing rule 7.1016 between a "proceeding," to which the rule applies, and "[an]other matter subject to this rule," which, as used, is actually *not* subject to the rule but a matter to which the court may, in its discretion, apply all or part of the rule.<sup>7</sup> The amendments would instead specify expressly that the rule applies to a ward's participation and testimony in a hearing on appointment or removal of a guardian of the person, parental visitation of a ward during a guardianship of the person, or the termination of a guardianship of the person.<sup>8</sup> (Rule 7.1016(b)(1).) The court would have discretion to apply the rule's provisions to the participation or testimony of a ward in any other hearing in a guardianship of the person or of the estate. (Rule 7.1016(b)(2).)

### **Policy implications**

Several of the recommended amendments to rule 7.1016 are required to conform to law. Others, by expanding the scope of the rule's protections to all wards and clarifying its provisions, promote the council's goals of (1) delivering the highest quality of justice and service to the public; (2) fostering the fair, timely, effective, and efficient processing and resolution of cases; and (3) making court procedures easier to understand.

### **Comments**

The recommended rule amendments circulated for public comment from March 29 to May 3 in the spring 2024 invitation-to-comment cycle. The committee received four comments. Three commenters agreed with the proposal as circulated, and one did not indicate a position. The committee has reviewed the comments and does not recommend any changes to the rule as circulated for comment.

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<sup>6</sup> Rule 7.1016(d)(2)–(3). This distinction aligns with, but is not limited to, the Probate Code's authorization of a minor child 12 years of age or older to file a petition for appointment of a guardian for themselves and thereby become a party. (Prob. Code, § 1510(a))

<sup>7</sup> See rule 7.1016(a)(2) & (b)(2), as adopted, effective January 1, 2013.

<sup>8</sup> See Prob. Code, § 1514(b)(1), providing that Family Code sections 3020–3032 and 3040–3049, including section 3042, govern the probate court in appointing a guardian of the person.

The Joint Rules Subcommittee (JRS) of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee agreed with the proposed amendments while expressing concerns about burdens on court investigators and other professionals. These comments, however, targeted longstanding elements of Family Code section 3042 that, in some cases, have been addressed in rule 7.1016 since its adoption, effective January 1, 2013. The recommended rule amendments, by clarifying the limits of professionals' duties and narrowing the rule's application to specific proceedings, should alleviate these concerns to some extent.

JRS's comment also described the detrimental effects on children of testifying in the presence of their parents about custody and visitation. The recommended rule amendments, by implementing SB 654's amendments of Family Code section 3042, address these concerns as well.

A chart of comments is included at pages 15–19.

### **Alternatives considered**

The committee did not consider taking no action because SB 654's amendments to Family Code section 3042 require amendments to rule 7.1016. The committee considered limiting its recommendation to amendments strictly necessary to conform to SB 654's changes to Family Code section 3042. On reviewing the rule, however, the committee determined that additional amendments were needed to bring the rule into conformity with existing law by expanding its protections to include wards who are parties and limiting the proceedings to which it applies.

### **Fiscal and Operational Impacts**

The amendments to rule 7.1016 should not have a significant fiscal or operational impact on the courts. Most of the changes to court processes and related training are attributable to the statutory amendments in SB 654; their fiscal impact is expected to be minimal. Courts may have already begun these updates, as SB 654 took effect on January 1, 2022. To the extent that the recommended amendments to rule 7.1016 are not required by statute, they may work to make processing of guardianship proceedings more efficient.

### **Attachments and Links**

1. Cal. Rules of Court, rule 7.1016, at pages 6–14
2. Chart of comments, at pages 15–19
3. Link A: Fam. Code, § 3042,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=FAM&sectionNum=3042](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM&sectionNum=3042)
4. Link B: Prob. Code, § 1514,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PROB&sectionNum=1514](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=1514)

Rule 7.1016 of the California Rules of Court is amended, effective January 1, 2025, to read:

**Rule 7.1016. Participation and testimony of wards in guardianship proceedings**  
**(Prob. Code, § 1514(b)(1); Fam. Code, § 3042)**

**(a) Definitions**

As used in this rule, ~~the following terms have the meanings specified:~~

- (1) “Ward” includes a “proposed ward.”
- (2) ~~A “proceeding” is a matter before the court for decision in a probate guardianship of the person that concerns appointment or removal of a guardian, visitation, determination of the ward’s place of residence, or termination of the guardianship by court order.~~
- (3) ~~“Party,” as used in this rule to~~ when referring to the a ward, means indicates a ward who has filed a petition or ~~opposition~~ made a response or objection to a petition ~~concerning a proceeding or other matter subject to this rule in a~~ probate guardianship proceeding.

**(b) Purpose and scope of rule**

- (1) This rule applies ~~Family Code section 3042~~ to the participation and testimony of the a ward in a proceeding in a probate hearing on:
  - (A) Appointment or removal of a guardianship of the person, including appointment of a successor guardian;
  - (B) Parental visitation of a ward in a guardianship of the person; or
  - (C) Termination of a guardianship of the person. The testimony of other minors in a guardianship case is governed by Evidence Code sections 765(b) and 767(b).
- (2) The court may, in its discretion, may apply all or part of this rule, in whole or in part, to the participation and testimony of a ward in a hearing in a guardianship of the estate or ~~in a matter before the court in a guardianship of the person that is not a proceeding within the meaning of this rule. The phrase “or other matter subject to this rule” following the term “proceeding” is a reference to the matters described in this paragraph~~ a hearing in a guardianship of the person on a matter not described in (1).

- 1 (3) ~~No statutory mandate, rule, or practice requires a ward who is not a party to~~  
2 ~~the proceeding or other matter subject to this rule to participate in~~ This rule  
3 ~~does not require a ward to address the~~ court or prohibits ~~him or her~~ a ward  
4 ~~from doing so. When a ward desires to participate but is not a party to the~~  
5 ~~proceeding or other matter subject to this rule, the court must balance the~~  
6 ~~protection of the ward, the statutory duty to consider the wishes of and other~~  
7 ~~input from the ward, and the probative value of the ward's input while~~  
8 ~~ensuring all parties' due process rights to challenge evidence relied on by the~~  
9 ~~court in making decisions affecting the ward in matters covered by the rule.~~
- 10
- 11 (4) ~~This rule rather than r~~Rule 5.250, on children's participation and testimony in  
12 ~~family court proceedings, applies in~~ does not apply to probate guardianship  
13 proceedings.
- 14
- 15 (5) Nothing in this rule limits the application of Evidence Code sections 765(b)  
16 and 767(b) to the testimony of a minor in a guardianship proceeding.
- 17

18 (c) **Determining whether ~~the nonparty~~ a ward wishes to address the court or has**  
19 **changed their preference about addressing the court**

20

- 21 (1) The following persons must inform the ~~court~~ judicial officer if they ~~have~~  
22 ~~information indicating~~ are aware that a ward ~~who is not a party~~ wishes to  
23 address the court ~~in a proceeding or other matter subject to this rule:~~
- 24
- 25 (A) The ward's ~~counsel~~; attorney or guardian ad litem;
- 26
- 27 (B) A court or county guardianship investigator;
- 28
- 29 (C) A child custody recommending counselor who provides  
30 recommendations to the judicial officer under Family Code section  
31 3183; or
- 32
- 33 (D) An expert appointed by the court under Evidence Code section 730 to  
34 assist the court in the matter; ~~or~~
- 35
- 36 (E) ~~The ward's guardian ad litem.~~
- 37
- 38 (2) ~~The following persons~~ A party to the proceeding or a party's attorney may  
39 inform the ~~court~~ judicial officer if they ~~have information indicating~~ that a  
40 ward ~~who is not a party~~ wishes to address the ~~court in a proceeding or other~~  
41 ~~matter subject to this rule:~~ court.
- 42
- 43 (A) ~~A party in the guardianship case; and~~



(B) ~~An attorney for a party in the guardianship case.~~

(3) In the absence of information indicating that a ward ~~who is not a party~~ wishes to address the court ~~in a proceeding or other matter subject to this rule~~, the judicial officer may inquire whether the ward wishes to do so.

(4) If a ward informs any of the persons specified in (1) that the ward has changed their preference about addressing the court, that person must, as soon as feasible, inform the parties or their attorneys, the ward's attorney or guardian ad litem, the court investigator, and the judicial officer of that change.

(d) **~~Guidelines for determining~~ Determining whether addressing the court is in the ~~nonparty~~ a ward's best interest**

(1) ~~When~~ If a ward ~~who is not a party indicates that he or she~~ wishes to address the court, the judicial officer must consider whether ~~involving~~ permitting the ward ~~in the proceeding or other matter subject to this rule~~ to address the court is in the ward's best interest.

(2) If the ward is 12 years old or older, the judicial officer must ~~hear from~~ permit the ward to address the court unless the court ~~makes a finding~~ finds that addressing the court is not in the ward's best interest and states the reasons for that finding on the record.

(3) If the ward is younger than 12 years of age, the court may permit the ward to address the court if the court finds that addressing the court is appropriate and in the ward's best interest.

(4) In determining whether addressing the court is in the ward's best interest, the judicial officer should consider the following:

(A) Whether the ward is of sufficient age and capacity to form an intelligent preference as to the matter to be decided;

(B) Whether the ward is of sufficient age and capacity to understand the nature of testimony;

(C) Whether ~~information has been presented indicating that~~ the ward may be at risk of emotionally harm if ~~he or she is~~ permitted or denied the opportunity to address the court; ~~or that~~

- 1           (D) Whether the ward may benefit from addressing the court;  
2
- 3           ~~(D)~~ (E) Whether the subjects areas about which the ward is anticipated to  
4           address the court are relevant to the court's decision ~~the court must~~  
5           make;  
6
- 7           ~~(E)~~ (F) Whether ~~the~~ appointment of ~~counsel under Probate Code section 1470~~  
8           an attorney or a guardian ad litem for the ward would be helpful to the  
9           determination or ~~would be~~ necessary to protect the ward's interests; and  
10
- 11           ~~(F)~~ (G) Whether any other factors weigh in favor of or against ~~having~~  
12           permitting the ward to address the court, taking into consideration the  
13           ward's desire to do so.  
14
- 15       (e) **Guidelines for receiving testimony and other input from the nonparty a**  
16       **ward**  
17
- 18           ~~(1) No testimony of a ward may be received without such testimony being heard~~  
19           ~~on the record or in the presence of the parties. This requirement may not be~~  
20           ~~waived.~~  
21
- 22           ~~(2) On deciding to take the testimony of a ward who is not a party in a~~  
23           ~~proceeding or other matter subject to this rule, the judicial officer should~~  
24           ~~balance the necessity of taking the ward's testimony in the courtroom with~~  
25           ~~parents, the guardian or proposed guardian, other parties, and attorneys~~  
26           ~~present with the need to create an environment in which the ward can be open~~  
27           ~~and honest. In each case in which a ward's testimony will be taken, the~~  
28           ~~judicial officer should consider:~~  
29
- 30           ~~(A) —Where the testimony will be taken;~~  
31
- 32           ~~(B) —Who should be present when the testimony is taken;~~  
33
- 34           ~~(C) —How the ward will be questioned; and~~  
35
- 36           ~~(D) —Whether a court reporter is available in all instances, but especially~~  
37           ~~when the ward's testimony may be taken outside the presence of the~~  
38           ~~parties and their attorneys. If the court reporter will not be available,~~  
39           ~~whether there are other means to collect, preserve, transcribe, and make~~  
40           ~~the ward's testimony available to parties and their attorneys.~~  
41
- 42           (1) Unless the court determines that permitting a ward to address the court in the  
43           presence of the parties would be in the ward's best interest and states the

1 reasons for that finding on the record, the court must not permit the ward to  
2 address the court in the presence of the parties.

3  
4 (2) In determining the best interest of the ward under (1), the court must consider  
5 whether addressing the court in the presence of the parties is likely to be  
6 detrimental to the ward.

7  
8 (3) If the court does not permit the ward to address the court in the presence of  
9 the parties, the court must provide an alternative method for the ward to  
10 address the court so that the court can obtain input directly from the ward on  
11 the record. If a court reporter is not available, the court must provide other  
12 means to obtain the ward's input and make it available to the parties and their  
13 attorneys.

14  
15 (3) (4) ~~In taking testimony from a ward who is not a party to the proceeding or~~  
16 ~~other matter subject to this rule, the court must take exercise the special care~~  
17 ~~required by Evidence Code sections 765(b) and 767(b) to the extent that~~  
18 ~~those sections apply. In addition, if~~ If the ward is not represented by an  
19 attorney and the court does not appoint one, the court must inform the ward  
20 in an age-appropriate manner about the ~~limitations on the~~ confidentiality of  
21 testimony and that the information provided to the court will be on the record  
22 and provided to the parties in the case.

23  
24 (4) (5) ~~In the process of listening to and inviting the ward's input, the court must~~  
25 ~~allow but not require the ward to state a preference regarding the matter to be~~  
26 ~~decided in the proceeding or other matter subject to this rule and should~~  
27 ~~provide information in an age-appropriate manner about the process by which~~  
28 ~~the court will make a decision.~~

29  
30 (5) (6) ~~In any case in which a ward who is not a party to the proceeding or other~~  
31 ~~matter subject to this rule will be called to testify, the court must consider the~~  
32 ~~appointment of counsel for the ward under Probate Code section 1470 and~~  
33 ~~may consider the appointment of a guardian ad litem~~ appointing an attorney  
34 or a guardian ad litem for the ward. ~~In addition to satisfying the requirements~~  
35 ~~for minor's counsel under rule 7.1101, minor's counsel~~ The ward's attorney  
36 or guardian ad litem must:

37  
38 (A) Provide information to the ward in an age-appropriate manner about the  
39 ~~limitations on the confidentiality of testimony and indicate to the ward~~  
40 ~~the possibility that the~~ information provided to the court will be on the  
41 record and provided to the parties in the case;  
42

- 1 (B) ~~Allow but not require the ward to state a preference regarding the~~  
2 ~~issues to be decided in the proceeding or other matter subject to this~~  
3 ~~rule, and p~~Provide information to the ward in an age-appropriate  
4 manner about the process by which the court will make a decision;  
5
- 6 (C) If appropriate, provide the ward with an orientation to the courtroom or  
7 other place where the ward will testify; and  
8
- 9 (D) Inform the parties and the court about the ward's desire to testify or  
10 otherwise provide input.  
11
- 12 (6) (7) If the court precludes ~~the calling of a ward who is not a party from testifying~~  
13 ~~as a witness in a proceeding or other matter subject to this rule, the court~~  
14 must provide alternatives to testimony for the court to obtaining information  
15 about the ward's preferences or other input from the ward. These alternatives  
16 may include:  
17
- 18 (A) ~~A~~ Participation of a court or county guardianship investigator  
19 ~~participating~~ in the case under Probate Code section 1513 or 1513.2;  
20
- 21 (B) Appointment of a child custody evaluator or investigator under  
22 Evidence Code section 730;  
23
- 24 (C) Appointment of counsel or a guardian ad litem for the ward;  
25
- 26 (D) ~~Admissible~~ Receipt of admissible evidence provided by the ward's  
27 parents, parties, or witnesses in the proceeding or other matter subject  
28 to this rule;  
29
- 30 (E) ~~Information provided by~~ Receipt of information from a child custody  
31 recommending counselor authorized under Family Code section 3183  
32 to make a recommendation to the court; and  
33
- 34 (F) ~~Information provided~~ Receipt of information from a child interview  
35 center or professional to avoid unnecessary multiple interviews.  
36
- 37 (7) (8) If the court precludes ~~the calling of a ward who is not a party from testifying~~  
38 ~~as a witness in a proceeding or other matter subject to this rule and specifies~~  
39 ~~one of the other~~ an alternatives to testimony, the court must require that the  
40 information ~~or evidence~~ obtained by through these alternative means and  
41 provided by a professional (other than counsel for the ward or counsel for any  
42 party) or a other nonparty:  
43

- 1 (A) Be documented in writing and fully document reflect the views  
2 expressed by the ward's views on the matters on which he or she  
3 wished to express an opinion to be decided;  
4  
5 (B) Describe the ward's input in sufficient detail to assist the court in  
6 making its decision;  
7  
8 (C) Be obtained and provided to the court and to the parties by a person  
9 who will be available for testimony and cross-examination; and  
10  
11 (D) Be filed in the confidential portion of the case file.  
12

13 **(f) Responsibilities of court-connected or appointed professionals—~~all wards~~**  
14

15 A child custody evaluator, an expert witness appointed under Evidence Code  
16 section 730, an investigator, or a child custody recommending counselor or other  
17 custody mediator who is appointed or assigned to meet with obtain information  
18 from a ward and provide the information to the court and the parties must:  
19

- 20 (1) ~~Provide information to~~ Inform the ward in an age-appropriate manner about  
21 the ~~limitations on the~~ confidentiality of testimony and ~~the possibility that~~  
22 information provided to the professional ~~may~~ will be shared with the court on  
23 the record and provided to the parties in the case;  
24  
25 (2) ~~Allow but not require the ward to state a preference regarding the issues to be~~  
26 ~~decided in the proceeding or other matter subject to this rule, and provide~~  
27 ~~information~~ Inform the ward in an age-appropriate manner about the process  
28 by which the court will make a decision; ~~and~~  
29  
30 (3) Allow but not require the ward to state a preference regarding the issues to be  
31 decided by the court; and  
32  
33 (3) (4) ~~Provide to~~ Give the other parties ~~in the case~~ information about how best to  
34 support ~~the interest of~~ the ward during the court process.  
35

36 **(g) ~~Methods of p~~Providing information to parties and supporting nonparty wards**  
37

38 Courts should provide information to the parties and information and support to the  
39 a ward who is not a party to the proceeding or other matter subject to this rule when  
40 if the ward wants to participate or testify. Methods of providing information or  
41 support may include:  
42

- (1) ~~Having~~ Directing court or county guardianship investigators ~~and or~~ experts appointed under Evidence Code section 730 to meet jointly or separately with the parties and their attorneys to discuss alternatives to having the ward provide direct testimony;
  - (2) Providing an orientation for the ward ~~about~~ to the court process and the role of the judicial officer in making decisions, ~~how the~~ setup of the courtroom or chambers ~~will be set up where the ward will testify or address the court, and what the process of participating or testifying will entail;~~
  - (3) Providing information to parties before the ward participates or testifies so that they can consider the possible effect of participating or testifying on the ward ~~not participating in the proceeding or other matter subject to this rule;~~
  - (4) Appointing ~~counsel under Probate Code section 1470~~ an attorney or a guardian ad litem for the ward to assist in the provision of information to the ward concerning his or her decision to participate ~~in the proceeding~~ or testify;
  - (5) Including information in guardianship orientation presentations and publications about the options available to a ward ~~who is not a party to the proceeding or other matter subject to this rule~~ to participate or testify or not to do so, and the consequences of a ward's decision ~~whether~~ to become a party to the proceeding ~~or other matter subject to this rule;~~ and
  - (6) Providing an interpreter for the ward.
- (h) **If a ward is a party ~~to the proceeding~~**
- (1) A ward who is a party ~~to the proceeding or other matter subject to this rule~~ is subject to the law of discovery ~~applied~~ applicable to parties in civil actions and may be called as a witness by any other party unless the court makes a finding that ~~providing information in response~~ requiring the ward to respond to discovery requests or testifying as a witness ~~is~~ would not be in the ward's best interest and states the reasons for that finding on the record.
  - (2) The court must consider appointing ~~counsel under Probate Code section 1470~~ an attorney or a guardian ad litem for a ward who is a party ~~to the proceeding or other matter subject to this rule~~ if the ward is not represented by counsel.
  - (3) In determining whether ~~providing information in response~~ requiring a ward to respond to discovery requests or testifying as a witness ~~is~~ would be in the ward's best interest, the judicial officer should consider ~~the following:~~

- 1 (A) Whether ~~information has been presented indicating that~~ the ward may  
2 be at risk of emotionally harm if ~~he or she is permitted or denied the~~  
3 ~~opportunity to provide information in response~~ required to respond to  
4 discovery requests or ~~by testimony~~ testify;  
5  
6 (B) Whether the subjects ~~areas about which~~ that the ward's responses or  
7 testimony is anticipated to provide information in response to discovery  
8 requests or by testimony are expected to address are relevant to the  
9 court's decision ~~the court must make~~; and  
10  
11 (C) Whether any other factors weigh in favor of or against ~~having~~ requiring  
12 the ward ~~provide information in response to respond~~ to discovery  
13 requests or ~~by testimony~~ testify.  
14  
15 (4) In taking testimony from a ward ~~who is a party to the proceeding or other~~  
16 ~~matter subject to this rule~~, the court must ~~take~~ exercise the special care  
17 required by Evidence Code sections 765(b) and 767(b) to the extent that  
18 those sections apply. ~~In addition, if~~ If the ward is not represented by an  
19 attorney and the court does not appoint one, the court must inform the ward  
20 in an age-appropriate manner about the ~~limitations on the~~ confidentiality of  
21 testimony and that the information provided to the court will be on the record  
22 and provided to the parties in the case.  
23

24 (i) **Education and training of ~~judicial officers and court staff~~**

25  
26 Education and training ~~content~~ for court staff and judicial officers should include  
27 information on:  
28

- 29 (1) A ward's<sup>2</sup> participation in proceedings or other matters subject to this rule,  
30 guardianship hearings;  
31  
32 (2) Methods other than direct testimony for receiving input from a ward to give  
33 relevant information and input to the court;  
34  
35 (3) Procedures for taking a ward's testimony; consistent with the safeguards in  
36 this rule, Family Code section 3042, and Evidence Code sections 765(b) and  
37 767(b); and  
38  
39 (4) The differences in the application of this rule to wards who are parties and  
40 those who are not ~~parties to the proceeding or other matters subject to this~~  
41 rule.  
42

## SPR24-30

### Probate Guardianship: Child's Participation in Court (amend Cal. Rules of Court, rule 7.1016)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
1.	Orange County Bar Association by Christina Zabat-Fran, President	A	The proposed form appropriately addresses the stated purpose.	The committee appreciates this comment. No further response required.
2.	Superior Court of Riverside County by Sarah Hodgson, Chief Deputy of Legal Services/General Counsel	NI	<p>The proposal addresses the stated purpose.</p> <p>Would the proposal provide cost savings? If so, please quantify. <b>A: No cost savings</b></p> <p>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? <b>A: Update procedure, clerk alert, training of staff, update existing CMS code/description, create new CMS code. FCS and CCRC cost impact would be determined by the FCS Manager.</b></p> <p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <b>A: Depend on vendor time tables. No sooner than 3 but up to 6 months may be needed.</b></p> <p>How well would this proposal work in courts of different sizes? <b>A: This proposal should work well in courts of different sizes.</b></p>	The committee appreciates these comments. No further response required.
3.	Superior Court of San Diego County by Mike Roddy, Executive Officer	A	<p>Q: Does the proposal appropriately address the state purpose?</p> <p><b>A: Yes.</b></p>	The committee appreciates these comments. No further response required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated



## SPR24-30

### Probate Guardianship: Child's Participation in Court (amend Cal. Rules of Court, rule 7.1016)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>Q: Would the proposal provide cost savings? If so, please quantify.</p> <p>A: <b>No.</b></p> <p>Q: What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</p> <p>A: <b>Implementation will require training of staff and Judicial Officers.</b></p> <p>Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>A: <b>Yes.</b></p> <p>Q: How well would this proposal work in courts of different sizes?</p> <p>A: <b>This proposal should work well, regardless of the size of the court.</b></p>	
4.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) (TCPJAC/CEAC Joint Rules Subcommittee)	A	<p>The JRS also notes the following impact to court operations:</p> <ul style="list-style-type: none"><li>• Potential need to update/revise Local Rules</li><li>• Additional training of court investigators and court-appointed attorneys on the requirements of new CRC, rule 7.1016, and</li></ul>	<p>The committee appreciates the JRS's comments.</p> <ul style="list-style-type: none"><li>• No response required.</li><li>• The committee notes that, although it would be a best practice, neither the statute nor the rule specifically requires a court investigator</li></ul>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

## SPR24-30

### Probate Guardianship: Child's Participation in Court (amend Cal. Rules of Court, rule 7.1016)

All comments are verbatim unless indicated by an asterisk (\*).

Commenter	Position	Comment	Committee Response
		<p>related Family Law section 3042, e.g., knowing to ask minor ward's preference; minor ward's right to address the court in camera or in open court; assessing whether addressing the court would be in minor ward's best interest, etc.</p> <ul style="list-style-type: none"><li>• There will need to be either a court investigator and/or court-appointed counsel in every guardianship so the minor ward has someone to ask them their preference and report that preference to the court and/or the minor's desire to address the court.</li><li>• Additional court investigator and court-appointed attorney tasks, e.g., asking minor ward's preference; alerting court to minor's desire to address the court in camera or in open court; assessing whether addressing the court would be in minor ward's best interest, etc.</li></ul> <p><b><u>Additional Comments</u></b> The intent of this proposal could largely be achieved via non-statutory applications, under the Probate court's duty to determine what is in the best interests of the minor, and to use its permissive/discretionary powers to perform or</p>	<p>or a child's attorney to ask the child whether the child wishes to address the court. Professionals having information about a ward's wish to address the court have had the duty to inform the court of that wish since the rule's adoption in 2013. The committee recognizes the burden of the duties imposed on the court investigator by the statute and, by extension, the rule. But the California Rules of Court must not be inconsistent with statute.</p> <ul style="list-style-type: none"><li>• See response above.</li><li>• See response above.</li></ul> <p>The committee does not recommend a change to the proposal in response to this comment. The comment addresses policy considerations resolved by the Legislature in amendments to Family Code section 3042 enacted by Assembly Bill 1050,</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

## SPR24-30

### Probate Guardianship: Child's Participation in Court (amend Cal. Rules of Court, rule 7.1016)

All comments are verbatim unless indicated by an asterisk (\*).

Commenter	Position	Comment	Committee Response
		<p>direct that investigation. There is no legal barrier to the judge, the court investigator, or minor's counsel asking the minor their preference for custody or visitation—provided the minor has the ability to understand the gravity of the question. And there is likewise no barrier to the judge deciding to hear from a minor in open court, or in camera if there are concerns that the minor would not be able to speak freely in open court.</p> <p>The detail that might need to be statutory/required is the existence of a court officer (court appointed counsel or a court investigator, etc.) who is responsible for asking the minor, prior to the hearing, if they have a preference and reporting the response to the court.</p> <p>There is concern that overzealous application of a statutory process for a minor child to express their preference of custody or visitation to the court will force a child to express an opinion on the court record they are not fully prepared to make or be held to in the long term, and which may be overemphasized by competing parties or the court. A minor does not always know what is in their best interests, or the full scope of their options, particularly when they are still dependent on the adults in their life and/or have already faced instability or insecure caregiver</p>	<p>operative January 1, 2012. AB 1050 also required the Judicial Council to adopt a rule of court to implement its provisions. The council adopted rule 7.1016, effective January 1, 2013, in response to this mandate as it applies to probate guardianships of the person. The amendments to rule 7.1016 recommended in this proposal respond to further amendments to Family Code section 3042 enacted by Senate Bill 654 (Stats. 2021, ch. 768, § 2).</p> <p>The committee does not recommend a change to the proposal in response to this comment. Family Code section 3042 and rule 7.1016 do not require anyone to ask a child whether the child wishes to address the court. (See Fam. Code, § 3042(g); Cal. Rules of Court, rule 7.1016(c).) The statute authorizes the judicial officer to ask the child directly if no one has indicated that the child wishes to address the court. (See Fam. Code, § 3042(g).)</p> <p>The committee does not recommend a change to the proposal in response to this comment. The statute and the rule make clear that they do not require a “child to express to the court a preference or to provide other input regarding custody or visitation.” (Fam. Code, § 3042(i); see Cal. Rules of Court, rule 7.1016(b)(3).) SB 654's amendments to Family Code section 3042 and corresponding amendments to rule 7.1016 further protect the child by barring the court from permitting a child to address the court regarding custody or visitation <i>in the presence of the parties</i></p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

## SPR24-30

### Probate Guardianship: Child's Participation in Court (amend Cal. Rules of Court, rule 7.1016)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			relationships.	without an express judicial finding that doing so would be in the child's best interest; requiring the court to provide an alternative to addressing the court in the presence of the parties; and requiring all persons who have a duty to inform the judicial officer if the child wishes to address the court also to inform the judicial officer if the child changes their mind. ( <i>Id.</i> , § 3042(f), (h); Cal. Rules of Court, rule 7.1016(c), (e).)

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** August 13, 2024

**Rules Committee action requested** [Choose from the drop-down menu below]:

**Recommend JC approval (has circulated for comment)**

**Title of proposal:** Juvenile Law: Restraining Orders

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*

Adopt Cal. Rules of Court, rule 5.632; amend rules 5.620, 5.625, and 5.630; adopt form JV-249; revise forms JV-245, JV-247; JV-250, JV-255, JV-257, JV-258, JV-259, JV-260, JV-265, JV-268, and JV-272

*Committee or other entity submitting the proposal:*

Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and e-mail):* Kerry Doyle, 415-865-8791, [kerry.doyle@jud.ca.gov](mailto:kerry.doyle@jud.ca.gov)

*Identify project(s) on the committee's annual agenda that is the basis for this item:*

Annual agenda approved by Rules Committee on (date): October 26, 2023, amended February 9, 2024

Project description from annual agenda:

Item 4. Forms to Implement AB 1621 (Gipson) Firearms: unserialized firearms (Stats. 2022, ch. 76) in Juvenile Proceedings Effective July 1, 2022, California barred (1) the sale, possession, and purchase of the unserialized parts and kits used to build ghost guns, until they are treated as firearms under federal law, and (2) the possession of existing ghost guns that have not been serialized pursuant to California law after a six-month period. This law prohibits persons subject to a restraining order from possessing or owning certain firearm parts, including a "firearm precursor part," which the law redefines. The civil restraining order forms have been updated to implement AB 1621. Effective January 1, 2024, the domestic violence restraining order forms will mirror the civil forms. This proposal will update the juvenile forms, including the two request forms (JV-245, JV-248), the two TRO forms (JV-250, JV-255) and the two Restraining Order After Hearing forms (JV-255, JV-265). The joint info form DV-800-INFO/JV-270-INFO will have the new language as of January 1, 2024.

Item 11. Protective Orders and Other Forms: Implementation of Assembly Bill 92 Develop recommendations for form revisions to implement Assembly Bill 92 (Stats. 2023, Ch. 232). Under the statute, any person prohibited from possessing firearms is, also prohibited from possessing, owning, or buying body armor. This advisement needs to be added to forms in the Domestic Violence, Juvenile, Criminal, Civil Harassment, Elder Abuse, Workplace Violence, School Violence, and Gun Violence form series.

**Out of Cycle:** *If requesting September 1 effective date or out of cycle, explain why:*

**Additional Information for Rules Committee:** (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)  
This report or invitation to comment was
  - ☒ reviewed by EGG on (date) 6/27/24
  - ☒ approved by Office Director (or Designee) (name) Anna Maves

on (date) July 10, 2024

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **Form Translations** (check all that apply)

This proposal:

- ☐ includes forms that have been translated.
- ☐ includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- ☐ includes forms that staff will request be translated.

- **Form Descriptions** (for any report with new or revised forms)

☒ The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

☐ This proposal may require changes or additions to self-help web content.



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-159*

For business meeting on September 20, 2024

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**Title**

Juvenile Law: Restraining Orders

**Agenda Item Type**

Action Required

**Rules, Forms, Standards, or Statutes Affected**

Adopt Cal. Rules of Court, rule 5.632; amend rules 5.620, 5.625, and 5.630; adopt form JV-249; revise forms JV-245, JV-247, JV-250, JV-255, JV-257, JV-258, JV-259, JV-260, JV-265, JV-268, and JV-272

**Effective Date**

January 1, 2025

**Date of Report**

July 29, 2024

**Contact**

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**Recommended by**

Family and Juvenile Law Advisory  
Committee  
Hon. Stephanie E. Hulse, Chair

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### Executive Summary

The Family and Juvenile Law Advisory Committee recommends amending several California Rules of Court, and revising several forms to conform to recent statutory changes that impact juvenile restraining orders. Assembly Bill 1621 (Gipson; Stats. 2022, ch. 76) redefines “firearm precursor parts” and Assembly Bill 92 (Connolly; Stats. 2023, ch. 232) specifies that a person who is prohibited from possessing firearms is also prohibited from possessing, owning, or buying body armor. The committee also proposes a new notice of hearing form that is separate from the temporary restraining order forms and a new rule clarifying the requirement that the juvenile court that has jurisdiction of a child or youth must hear requests for restraining orders initiated by or brought against the child or youth.

### Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2025:

1. Adopt rule 5.632 to clarify the requirement that the juvenile court that has jurisdiction of a child must hear requests for civil harassment, work violence prevention, and domestic violence protective orders;
2. Amend rules 5.620, 5.625, and 5.630 to remove “Notice of Court Hearing and” from the titles of forms JV-250 and JV-260 referenced in those rules, and add a reference to recommended new *Notice of Court Hearing* (form JV-249) in rules 5.625 and 5.630;
3. Amend rule 5.630 to clarify that a restraining order may be terminated by using *Order to Change or End Restraining Order After Hearing—Juvenile* (form JV-257) and to add that when a juvenile dependency case is closed, *Juvenile Restraining Order After Hearing* (form JV-255) may be modified under rule 5.92;
4. Adopt *Notice of Court Hearing* (form JV-249) as a mandatory form to provide notice of a court hearing on a restraining order request;
5. Revise *Request for Juvenile Restraining Order* (form JV-245) with the new definition of firearm precursor part and with information on a potential order prohibiting the possession of body armor;
6. Revise *Response to Request for Juvenile Restraining Order* (form JV-247) to include a reference to the recommended new *Notice of Court Hearing* (form JV-249) and to add an item on the prohibition on body armor;
7. Revise *Notice of Court Hearing and Temporary Restraining Order—Juvenile* (form JV-250) with a new title, *Temporary Restraining Order—Juvenile*. The form would also be revised to include, the new definition of firearm precursor part, and an order prohibiting the possession of body armor. It would also be revised to remove the notice portion of the form;
8. Revise *Juvenile Restraining Order After Hearing* (form JV-255) to include the new definition of firearm precursor part and to include an order prohibiting the possession of body armor;
9. Revise *Change to Restraining Order After Hearing—Juvenile* (form JV-257) with a new title, *Order to End or Change Restraining Order After Hearing*, and convert the form into a plain language form;
10. Revise *Request for Juvenile Restraining Order Against a Child* (form JV-258) to include the new definition of firearm precursor part, add information on a potential order prohibiting body armor, and remove “Notice of Court Hearing and” from the title of form JV-260 in the instructional box at the end of the form;
11. Revise *Response to Request for Juvenile Restraining Order Against a Child* (form JV-259) at item 9 to remove “Notice of Court Hearing and” from the title of form JV-260 and to add a new item on the prohibition on body armor;



12. Revise *Notice of Court Hearing and Temporary Restraining Order Against a Child* (form JV-260) with a new title, *Temporary Restraining Order Against a Child*, revise the form to include the new definition of firearm precursor part and an order prohibiting the possession of body armor, and remove the notice portion of the form;
13. Revise *Juvenile Restraining Order After Hearing—Against a Child* (form JV-265) with a new title, *Juvenile Restraining Order Against a Child—Order After Hearing*, and include in the form the new definition of firearm precursor part and an order prohibiting the possession of body armor;
14. Revise *Proof of Personal Service* (form JV-268) to include recommended new *Notice of Court Hearing* (form JV-249) and to remove “Notice of Court Hearing and” from the titles of forms JV-250 and JV-260 and to remove the CLETS identifier on the footer of the form; and
15. Revise *Prohibited Items Finding and Orders* (form JV-272) to remove “Notice of Court Hearing and” from the titles of forms JV-250 and JV-260.

The proposed new and amended rules and new and revised forms are attached at pages 9–67.

### **Relevant Previous Council Action**

The Judicial Council provides forms and instructions for use in juvenile protective order matters. The forms have been revised when changes to the law required revisions and to respond to suggestions made by the public, judicial officers, and court professionals. The juvenile restraining order forms (JV-250 and JV-255) were last revised in 2023. The request form (JV-245) was last revised in 2023. The request to continue form (JV-251) was last revised in 2023. The response form (JV-247) was last revised in 2024.

The Judicial Council adopted what are now rules 5.620, 5.625, and 5.630, effective January 1, 2000, as rules 1429.1, 1429.3, and 1429.5, respectively. The three rules were renumbered effective January 1, 2007. To reflect statutory changes, rule 5.620 has been amended four times, rule 5.625 has been amended three times, and rule 5.630 has been amended five times.<sup>1</sup>

The council previously acted to implement AB 1621 by approving revisions reflecting the new statutes to Domestic Violence forms and forms for various other civil restraining orders, effective January 1, 2023, and criminal law restraining order forms, effective March 1, 2023.<sup>2</sup>

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<sup>1</sup> All further rule references are to the California Rules of Court unless indicated otherwise.

<sup>2</sup> <https://jcc.legistar.com/View.ashx?M=F&ID=11229751&GUID=A9339929-3ABD-4F35-BE6D-672A0C40FAD0>; <https://jcc.legistar.com/View.ashx?M=F&ID=11205465&GUID=ACE8A41E-6217-4FC9-9B8A-E3ED80D7145F>; <https://jcc.legistar.com/View.ashx?M=F&ID=11461123&GUID=89F39689-D073-494C-9390-2A55F4C5AEC0>; <https://jcc.legistar.com/View.ashx?M=F&ID=11460928&GUID=058F0EC3-4C6A-47B7-BF10-DFCA23C91E70>.

## Analysis/Rationale

This proposal is needed to implement two new laws, AB 1621 and AB 92. Additionally, the committee recommends creating a new notice of court hearing form and removing the notice portions of the current temporary restraining orders and adopting a new rule of court.

### Recommended Changes to the California Rules of Court

The committee recommends that a new rule of court be added to the chapter containing rules regarding juvenile restraining orders. Rule 5.632 would clarify the requirement that the juvenile court that has jurisdiction of a child or youth must hear requests for civil harassment, work violence prevention, and domestic violence protective orders. Although the committee has been moving away from repeating statutory requirements in the rules of court, the committee believes it is important to include the requirements that are enumerated in the Code of Civil Procedure<sup>3</sup> because they may go unnoticed by juvenile court judges and lawyers who primarily refer to on the Welfare and Institutions Code.

The committee recommends that three rules of court—rules 5.620, 5.625, and 5.630—be amended to remove “Notice of Court Hearing and” from the titles of forms JV-250 and JV-260 referenced in those rules, and adding “Notice of Court Hearing” as a separate form title, in light of the committee’s proposed new notice form. The discussion of those forms is contained below.

The committee also recommends that the option to terminate a restraining order using *Change to Restraining Order After Hearing—Juvenile* (form JV-257) be added to rule 5.630. The requirement to create a new restraining order after a modification would remain in the rule, which would continue to ensure that the new restraining order information is entered into the California Law Enforcement Telecommunications System (CLETS) database.

The committee also recommends amending rule 5.630 to contain a cross reference to the new recommended rule 5.92, which governs which forms must be filed in family court to terminate or modify a juvenile court restraining order after the juvenile court case is dismissed.

### AB 1621

AB 1621 went into effect immediately upon approval on June 30, 2022. It expanded the prohibition on persons subject to a restraining order from possessing or owning certain firearm parts to include a “firearm precursor part,” which it redefined.<sup>4</sup> Changes are needed to a number of forms to implement the new definition of firearm precursor part.<sup>5</sup>

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<sup>3</sup> Code Civ. Proc., § 374.5.

<sup>4</sup> Pen. Code, § 16531(a).

<sup>5</sup> The definition of firearm precursor part recommended for forms in the JV series is the same definition used in the current domestic violence, criminal, and civil restraining orders.

The new definition of firearm precursor part has been added to form JV-245 at items 6 and 13, form JV-250 at item 5, form JV-255 at item 7, form JV-258 at item 6, form JV-260 at item 5, and form JV-265 at item 7.

## **AB 92**

Effective January 1, 2024, under AB 92 a person prohibited from possessing firearms under state law is also prohibited from possessing, owning, or buying body armor.<sup>6</sup> When advising a person of the firearm prohibition, courts must also advise them of the prohibition from possessing, owning, or buying body armor.<sup>7</sup> The new law also requires the prohibited person to relinquish body armor that they possess.<sup>8</sup>

The body armor prohibitions or information about them has been added to form JV-245 at item 14, form JV-247 at item 14, form JV-250 at item 8, form JV-255 at item 11, form JV-258 at item 11, form JV-259 at item 10, form JV-260 at item 8, and form JV-265 at item 11.<sup>9</sup>

## ***Notice of Court Hearing (form JV-249)***

Currently, the notice of hearing is combined with the temporary restraining order forms. This creates confusion and makes the temporary orders difficult to read and enforce because there are several items to which the order applies only if the temporary orders are granted. For example, on the current *Notice of Court Hearing and Temporary Restraining Order—Juvenile* (form JV-250) the warnings to the restrained person are titled “To the Person in 2, if 5b is checked.” Similarly, the instructions to law enforcement are titled “Instructions for Law Enforcement, if 5b is checked.” Having these caveats on the forms make the forms difficult to understand and follow. Separating out the notice of hearing, and any order denying the temporary restraining order, from the temporary restraining orders themselves would make the orders easier to issue, understand, and enforce. Separate notice and order forms would also make the juvenile forms consistent with other civil restraining order types, and the content of the proposed form mirrors the content of those other Judicial Council forms.

## ***Order to Change or End Restraining Order After Hearing—Juvenile (form JV-257)***

The committee recommends changing this form to a plain language form so that it is consistent with the other juvenile restraining order forms. The changes to this form are therefore substantial and are not highlighted on the form.

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<sup>6</sup> Pen. Code, § 31360(b)(1), (2).

<sup>7</sup> Pen. Code, § 31360(b)(2).

<sup>8</sup> *Ibid.*

<sup>9</sup> The committee recommends adding a stand-alone item for body armor prohibitions that reads: “You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.” This same language is being recommended on all domestic violence, civil, and criminal protective order forms by this and other Judicial Council advisory committees.

The committee recommends changing the name of this form from *Change to Restraining Order After Hearing—Juvenile* to *Order to Change or End Restraining Order After Hearing—Juvenile* to indicate that it is an order form and can also be used to terminate a restraining order.

### ***Juvenile Restraining Order Against a Child—Order After Hearing (form JV-265)***

In addition to the addition of the body armor prohibition item discussed above, the committee recommends revising *Juvenile Restraining Order After Hearing—Against a Child* (form JV-265) with a new title, *Juvenile Restraining Order Against a Child—Order After Hearing*. This title change would make the title of this form consistent with the request and response form titles<sup>10</sup> and with the civil and domestic violence restraining order forms that use “Order After Hearing” at the end of the form titles.

### **Policy implications**

The recommended amended rules and revised forms will include the definition of firearm precursor part that is used on other protective order form types, as well as implement the new statutory prohibitions on body armor. As discussed above, at the same time, the committee is recommending making the notice of a court hearing a stand-alone form, which will make it easier to complete, understand, and enforce.

### **Comments**

This proposal circulated for comment as part of the spring 2024 invitation-to-comment cycle from March 29 through May 3, 2024, to the standard mailing list for family and juvenile law proposals. Included on the list were appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, trial court administrators and clerks, attorneys, family law facilitators and self-help center staff, legal services attorneys, social workers, probation officers, Court Appointed Special Advocates (CASA) programs, and other juvenile and family law professionals. One individual and six organizations, including two superior courts, provided comment: two agreed with the proposal, four agreed with the proposal if modified, and one did not indicate a position.

The committee received comments from three commenters that the prohibited items on the order forms should include body armor. The committee chose not to make this change because the prohibited items section on the forms relate solely to the findings that the court must make under Family Code section 6322.5, which refers to firearms and ammunition and does not include body armor.<sup>11</sup>

One youth advocacy organization disagreed with the proposed new rule 5.632. As circulated for public comment, the rule applied to children and youth. The organization stated that Code of

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<sup>10</sup> The request form is *Request for Juvenile Restraining Order Against a Child* (form JV-258) and the response form is *Response to Request for Juvenile Restraining Order Against a Child* (form JV-259).

<sup>11</sup> That section applies to these forms because application for a juvenile restraining order is made in the manner provided in Family Code section 6300 which applies all of Part 4 to the issuance of restraining orders and Part 4 includes section 6322.5.

Civil Procedure section 374.5, which is the basis for the proposed rule, only applies to minors, not all children or youth under the jurisdiction of the juvenile court. California law defines “minor” as a person under 18 years of age.<sup>12</sup> Rule 5.502(46) defines “youth” as a person who is at least 14 years of age but not yet 21 years of age. Rule 5.502(5) defines “child” as a person under 18 years of age. Rule 5.502 does not define “minor.” The committee agrees with the comment that the rule should not reference youth and recommends replacing “child or youth” with “child” in rule 5.632, since its definition in the rules aligns with the definition of “minor” in statute.

The committee received several comments suggesting minor edits for clarity, such as clarifying applicable code sections and minor changes to improve readability and grammar. The committee agreed with most of those suggestions and has incorporated them into the revisions that it is recommending for adoption by the council.

A chart with the full text of the comments received and the committee’s responses is attached at pages 68–86.

### **Alternatives considered**

The committee considered recommending a rule that specified how notice of hearing must be provided. The committee sought specific comment on whether the California Rules of Court should be amended to require notice in a specified way. Only one commentator thought the rules should be amended to govern notice. Because there was not a large amount of support for a statewide rule in this area, the committee decided not to recommend amending the rules to proscribe notice but to let notice continue to be controlled by provisions of the Family Code for requests based on domestic violence and the Code of Civil Procedure for requests not based on domestic violence.<sup>13</sup>

The committee considered not creating a new separate notice of hearing form. However, the committee concluded that the new form would be of assistance to parties, the courts, and law enforcement by making the temporary order forms easier to complete and understand. Separate notice and order forms would also make the juvenile forms consistent with other civil restraining order types, and the content of the proposed form mirrors the content of those other forms.

The committee considered maintaining the ability to document a change in restraining order on form JV-257. However, as discussed above the correct form to document any changes to the order must be on *Order After Hearing on Form JV-180*, Request to Change Court Order (form JV-184). Rule 5.630 requires that modifications to restraining orders be made in the manner provided in Welfare and Institutions Code section 388 or 778 and rule 5.570. The committee concluded that the procedures in section 388 or 778 and rule 5.570 should continue to be followed.

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<sup>12</sup> See Fam. Code, § 6500; Lab. Code, § 1286.

<sup>13</sup> See Fam. Code, § 6383; Code Civ. Proc., § 527; Cal. Rules of Court, rule 5.630(c).

All other amendments and revisions were necessary for the forms to correctly reflect recent statutory changes, and so the option of taking no action was not considered for them.

### **Fiscal and Operational Impacts**

The committee anticipates that this proposal will require courts to train court staff and judicial officers on the newly approved forms. Courts will also incur costs to incorporate the forms into their paper or electronic processes.

### **Attachments and Links**

1. Cal. Rules of Court, rules 5.620, 5.625, 5.630 and 5.632, at pages 9–11
2. Forms JV-245, JV-247, JV-249, JV-250, JV-255, JV-257, JV-258, JV-259, JV-260, JV-265, JV-268, and JV-272, at pages 12–67
3. Chart of comments, at pages 68–86
4. Link A: Assembly Bill 1621,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB1621](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1621)
5. Link B: Assembly Bill 92,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB92](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB92)

Rule 5.632 of the California Rules of Court is adopted and rules 5.620, 5.625, and 5.630 are amended, effective January 1, 2025, to read:

**Rule 5.620. Orders after filing under section 300**

**(a) \* \* \***

**(b) Restraining orders (§ 213.5)**

After a petition has been filed under section 300, and until the petition is dismissed or dependency is terminated, the court may issue restraining orders as provided in rule 5.630. A temporary restraining order must be prepared on ~~Notice of Court Hearing and Temporary Restraining Order—Juvenile~~ (form JV-250). An order after hearing must be prepared on *Juvenile Restraining Order After Hearing* (form JV-255).

**(c)–(e) \* \* \***

**Rule 5.625. Orders after filing of petition under section 601 or 602**

**(a) Restraining orders (§ 213.5)**

After a petition has been filed under section 601 or 602, and until the petition is dismissed or wardship is terminated, the court may issue restraining orders as provided in rule 5.630. A temporary restraining order must be prepared on ~~Notice of Court Hearing and Temporary Restraining Order—Juvenile~~ (form JV-250) or, if the restrained person is the subject of a petition under section 601 or 602, on ~~Notice of Court Hearing and Temporary Restraining Order Against a Child~~ (form JV-260). An order after hearing must be prepared on *Juvenile Restraining Order After Hearing* (form JV-255) or, if the restrained person is the subject of a petition under section 601 or 602, on ~~*Juvenile Restraining Order After Hearing—Against a Child*~~ *Juvenile Restraining Order Against a Child—Order After Hearing* (form JV-265).

**(b)–(c) \* \* \***

**Rule 5.630. Restraining orders**

**(a)–(b) \* \* \***

**(c) Application for restraining orders**

**(1)–(7) \* \* \***

Rule 5.632 of the California Rules of Court is adopted and rules 5.620, 5.625, and 5.630 are amended, effective January 1, 2025, to read:

- (8) The temporary restraining order must be prepared on ~~Notice of Court Hearing and Temporary Restraining Order—Juvenile~~ (form JV-250) or, if the restrained person is the subject of a petition under section 601 or 602, on ~~Notice of Court Hearing and Temporary Restraining Order Against a Child~~ (form JV-260), and must state on its face the date of expiration of the order.

**(d) Continuance**

(1)–(3) \* \* \*

- (4) Either *Order on Request to Reschedule Restraining Order Hearing* (form JV-253) or a new *Notice of Court Hearing and* (form JV-249) may be used to grant or deny a request for a continuance and, if granted, a Temporary Restraining Order—Juvenile (form JV-250) ~~must be used to grant or deny a request for continuance~~ may be issued. If the restrained person is the subject of a petition under section 601 or 602, either form JV-253 or a new *Notice of Court Hearing and* (form JV-249) may be used and, if granted, *Temporary Restraining Order Against a Child* (form JV-260) ~~must be used~~ may be issued.

**~~(f)~~(e) Hearing on application for restraining order**

(1)–(4) \* \* \*

**(f) Service of ~~restraining order~~ firearms prohibition forms**

When service of ~~Notice of Court Hearing and Temporary Restraining Order—Juvenile~~ (form JV-250), ~~Notice of Court Hearing and Temporary Restraining Order Against a Child~~ (form JV-260), *Juvenile Restraining Order After Hearing* (form JV-255), or ~~Juvenile Restraining Order After Hearing—Against a Child~~ Juvenile Restraining Order Against a Child—Order After Hearing (form JV-265) is made, it must be served with a blank *Receipt for Firearms, Firearm Parts, and Ammunition* (form DV-800/JV-270) and *How Do I Turn In, Sell, or Store Firearms, Firearm Parts, and Ammunition?* (form DV-800-INFO/JV-270-INFO). Failure to serve form JV-270 or JV-270-INFO does not make service of form JV-250, form JV-255, form JV-260, or form JV-265 invalid.

**~~(g)–(i)~~ \* \* \***

**(j) Modification of restraining order**



Rule 5.632 of the California Rules of Court is adopted and rules 5.620, 5.625, and 5.630 are amended, effective January 1, 2025, to read:

(1) When a juvenile court case is open a restraining order may be terminated or modified as follows:

(1) (A) A restraining order may be terminated or modified on the court's own motion or in the manner provided for in section 388 or 778, as appropriate, and rule 5.570.

(2) (B) A termination or modification order must be made on ~~Change to Restraining Order After Hearing~~ Order to Change or End Restraining Order After Hearing (form JV-257).

(3) (C) A modification order must also be made on a new Restraining Order After Hearing (form JV-255) or, if the restrained person is the subject of a petition under section 601 or 602, a new ~~Juvenile Restraining Order After Hearing—Against a Child~~ Juvenile Restraining Order Against a Child—Order After Hearing (form JV-265), ~~may be prepared in addition to form JV-257.~~

(2) When a juvenile court case is closed Restraining Order After Hearing (form JV-255) may be terminated or modified under rule 5.92.

**Rule 5.632. Civil harassment, workplace violence prevention, and domestic violence prevention orders**

A proceeding for the following orders initiated by or brought against a child who has previously been adjudged a dependent child or a ward of the juvenile court and who remains under juvenile court jurisdiction must be heard in the juvenile court that has jurisdiction of the child as required by Code of Civil Procedure section 374.5:

(1) An order prohibiting harassment under Code of Civil Procedure section 527.6;

(2) An order prohibiting violence in the workplace under Code of Civil Procedure section 527.8;

(3) A protective order under division 10 (beginning with section 6200) of the Family Code; and

(4) A protective order under Family Code sections 7710 and 7720.

**When to use this form**

Use this form to ask for a restraining order if a child in juvenile court needs protection, or you want a restraining order and you have a relationship to the child as listed in item 1b below. If you have a lawyer in this case, the lawyer should fill out this form. **Do not** use this form if you want a restraining order against a child in a juvenile justice (delinquency) case; instead use form JV-258, *Request for Juvenile Restraining Order Against a Child*.

**DRAFT**  
Not approved by  
the Judicial Council  
JV-245.v9.070124.jh

**1 Person in Need of Protection**

a. **Name:** \_\_\_\_\_

(If additional people need to be protected, list them in ④.)

**Age:** \_\_\_\_\_

b. **Relationship to child:**

- |   |   |
|---|---|
| <input type="checkbox"/> person in ① is the child | <input type="checkbox"/> child who lives in same household      |
| <input type="checkbox"/> parent                   | <input type="checkbox"/> present caregiver of child             |
| <input type="checkbox"/> guardian                 | <input type="checkbox"/> court-appointed special advocate       |
| <input type="checkbox"/> social worker            | <input type="checkbox"/> representative of Indian child's tribe |
| <input type="checkbox"/> probation officer        | <input type="checkbox"/> other: _____                           |

c. **Lawyer's information** (skip if you do not have a lawyer)

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm name: \_\_\_\_\_

d. **Ⓜ Address where you or your lawyer can receive court papers**

(This address will be used by the court and by the person in ② to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their address.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

e. **Your contact information** (optional) or **your lawyer's contact information**

(The court could use this information to contact you. If you don't want the person in ② to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information. If you don't have a lawyer, you may give your information but doing so is optional.)

Telephone: \_\_\_\_\_ Email Address: \_\_\_\_\_ Fax: \_\_\_\_\_

**2 Person to Be Restrained**

a. **Name:** \_\_\_\_\_

b. **Date of birth** (if known): \_\_\_\_\_ **Age** (give estimate if age unknown): \_\_\_\_\_

c. **Gender:** ☐ Male ☐ Female ☐ Nonbinary

d. **Race:** \_\_\_\_\_

e. **Relationship to person in ① a:** \_\_\_\_\_

**This is not a Court Order.**

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Fill in child's name

Child's name: \_\_\_\_\_

Court fills in case number when form is filed.

Case Number: \_\_\_\_\_

**3 Describe Why You Need a Restraining Order****a. Did the person in ② do any of these things to the person in ①?****Check all that apply***(Note: These are only some examples of why someone might need a restraining order.)*

- ☐ Physically hurt or tried to physically hurt
- ☐ Sexually abused or tried to sexually abuse
- ☐ Used or threatened to use gun or weapon
- ☐ Stalked
- ☐ Harassed by phone, online, or by any other means
- ☐ Isolated the person in ① from friends or family
- ☐ Kept the person in ① from eating or getting other basic needs
- ☐ Destroyed property (*examples: breaking phone, door, window*)
- ☐ Other (*please explain*): \_\_\_\_\_

**b. Give details about what the person in ② did that was abusive or harassing.** Start with the most recent incident, then write about any other incidents. Be sure to include details like dates and any emotional or physical harm. Details can also include how often something happened, what was said, or whether weapons were used, etc.

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- ☐ Check here if you need more space to describe abuse or harassment. Attach a sheet of paper and write “JV-245, Item 3” at the top.

**c. ☐ Check here if you know there is a report that supports your request that has been filed with the court, and complete the section below.**Who wrote the report and when was the report filed? (*Check all that apply.*)

- ☐ Social worker (*date report was filed*): \_\_\_\_\_
- ☐ Probation officer (*date report was filed*): \_\_\_\_\_
- ☐ Other (*name*): \_\_\_\_\_ (*date report was filed*): \_\_\_\_\_

**This is not a Court Order.**

**4 Do other people need protection from the person in 2 ?**

- ☐ No  
☐ Yes (*If yes, list them.*)

a. Full name	Age	Relationship to the child
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

b. Why do these people need protection?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- ☐ Check here if you need more space to list additional people or to describe why these people need protection. Attach a sheet of paper and write "JV-245, Item 4" at the top.

**5 Did you provide notice to the person in 2 of this request for a restraining order?**

(Skip this item if your request is based on domestic violence. To know what domestic violence is, see form [DV-500-INFO](#), page 2, "Am I Eligible?")

a. ☐ No (*If no, complete the section below.*)

- (1) ☐ I did not notify the person in 2 or their attorney because I am afraid that the person in 2 will threaten or harm the person in 1a if they receive notice of this request before protection can be granted (*explain*):

\_\_\_\_\_

\_\_\_\_\_

(2) ☐ Other (*describe*):

\_\_\_\_\_

\_\_\_\_\_

b. ☐ Yes (*If yes, complete the section below.*)

(1) Who did you notify? ☐ Person in 2 ☐ Lawyer of person in 2

(2) When did you provide notice? (*date*): \_\_\_\_\_ (*time*): \_\_\_\_\_ ☐ a.m. ☐ p.m.

(3) How did you provide notice? (*Check all that apply.*)

☐ Telephone (*area code and number*): \_\_\_\_\_

☐ Fax (*area code and number*): \_\_\_\_\_

☐ Email (*email address*): \_\_\_\_\_

☐ Other (*describe*): \_\_\_\_\_

**This is not a Court Order.**

**6 Does Person in 2 Have Firearms (Guns), Firearm Parts, or Ammunition?**

(A firearm includes a handgun, rifle, shotgun, and assault weapon. A firearm part means a receiver or frame or any item that may be used as or easily turned into a receiver or frame. Ammunition includes bullets, shells, cartridges, and clips.)

- a. ☐ I don't know  
 b. ☐ No  
 c. ☐ Yes (If you have information, complete the section below.)

	Describe firearms (guns), firearm parts, or ammunition	How many or what amount?	Location, if known
(1)	_____	_____	_____
(2)	_____	_____	_____
(3)	_____	_____	_____
(4)	_____	_____	_____
(5)	_____	_____	_____
(6)	_____	_____	_____

**Choose the Orders That You Want a Judge to Make**

In this section, you will choose the orders you want a judge to make now. Every situation is different.  
 Choose the orders that fit your situation.

☒ Check all the orders that you want a judge to make (order).

**7 ☐ Order to Not Abuse**

I ask the judge to order the person in 2 to not do the following things to any person listed in 1 or 4:  
 Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeated contact), or disturb the peace.

If this restraining order is needed to prevent domestic violence, "disturbing the peace" includes coercive control. For more information on what domestic violence, disturbing the peace, and coercive control mean, read form [DV-500-INFO](#), page 2, "Am I Eligible?"

**8 ☐ No-Contact Order**

I ask the judge to order the person in 2 to not contact any person listed in 1 or 4.

**This is not a Court Order.**

**9** ☐ **Stay-Away Order**

- a. I ask the judge to order the person in
- (2)**
- to stay away from the following persons and places:

*(Check all that apply)*

- |  |   |
|--|---|
| <input type="checkbox"/> Person listed in <b>(1)</b>           | <input type="checkbox"/> The vehicle of any protected person              |
| <input type="checkbox"/> Each person listed in <b>(4)</b>      | <input type="checkbox"/> The school or child care of any protected person |
| <input type="checkbox"/> The home of any protected person      | <input type="checkbox"/> Other <i>(please explain)</i> : _____            |
| <input type="checkbox"/> The workplace of any protected person |   |

- b. How far do you want the person to stay away from all the places you checked above?

- ☐
- 100 yards (300 feet)
- ☐
- Other
- (give distance in yards)*
- : \_\_\_\_\_

- c. Do you and the person in
- (2)**
- live together or live close to each other?

- ☐
- No
- ☐
- Yes
- (If yes, check one)*
- :
- 
- ☐
- Live together
- (If you live together, you can ask that the person in (2) move out in (10).)*
- 
- ☐
- Live in the same building, but not in the same home
- 
- ☐
- Live in the same neighborhood
- 
- ☐
- Other
- (please explain)*
- : \_\_\_\_\_

- d. Do you and the person in
- (2)**
- have the same workplace or go to the same school?

- ☐
- No
- ☐
- Yes
- (If yes, check all that apply)*
- :
- 
- ☐
- Work together at
- (name of company)*
- : \_\_\_\_\_
- 
- ☐
- Go to the same school
- (name of school)*
- : \_\_\_\_\_
- 
- ☐
- Other
- (please explain)*
- : \_\_\_\_\_

**10** ☐ **Order to Move Out**

(You can make this request if the person in **(2)** lives with the child who is in juvenile court, **and** the person in **(1)** is the child in juvenile court, or has care, custody, and control of the child in juvenile court. Complete the section below if you want to ask for this order.)

- a. I ask the judge to order the person in
- (2)**
- to move out of the home, located at:

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

- b. What right does person in
- (1)**
- have to live at the address listed above?

*(Check all that apply.)*The person in **(1)**:

- |   |  |
|---|--|
| <input type="checkbox"/> owns the home.                                 | <input type="checkbox"/> has lived at the address for _____ years, _____ months. |
| <input type="checkbox"/> is on the lease.                               | <input type="checkbox"/> pays for some or all of the rent or mortgage.           |
| <input type="checkbox"/> lives at the address with a child in this case | <input type="checkbox"/> other <i>(please explain)</i> : _____                   |

**This is not a Court Order.**

**11** ☐ **Visitation with Children**

Check this box if you have a child or children with the person in **(2)** and want the judge to make orders to protect your children.

a. ☐ The requested orders are:

---



---



---

b. ☐ The requested orders are in the attached form JV-205, *Visitation (Parenting Time) Order—Juvenile*.

c. ☐ The requested orders are in the attached document (*specify form or document*): \_\_\_\_\_

**12** ☐ **Protect Animals**

a. (You may ask the judge to protect any animals that belong to the person in **(1)** or anyone who lives with that person.)

	Name ( <i>or other way to ID animal</i> )	Type of animal	Breed ( <i>if known</i> )	Color
(1)	_____	_____	_____	_____
(2)	_____	_____	_____	_____
(3)	_____	_____	_____	_____
(4)	_____	_____	_____	_____

b. I ask the judge to protect the animals listed above by ordering the person in **(2)** to:

(*Check all that apply*)

(1) ☐ Stay away from the animals by at least:

☐ 100 yards (300 feet) ☐ Other (*give distance in yards*): \_\_\_\_\_

(2) ☐ **Not** take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.

(3) ☐ Give me sole possession, care, and control of the animals because:

(*Check all that apply*)

☐ Person in **(2)** abuses the animals. ☐ I take care of these animals.

☐ I purchased these animals. ☐ Other (*please explain*): \_\_\_\_\_

**This is not a Court Order.**

### Automatic Orders if the Judge Grants Restraining Order

In this section are orders that the person in (2) would have to follow if the judge grants a restraining order.

**13 No Firearms (Guns), Firearm Parts, or Ammunition**

- Turn in, sell, or store any firearms (guns), firearm parts, or ammunition that they have or control.
- Prohibited from buying firearms (guns), firearm parts, and ammunition.

**14 No Body Armor**

- Not own, possess, or buy body armor.
- Relinquish any body armor in their possession.

**15 Cannot Look for Protected People and Others**

Not allowed to look for the address or location of any person protected by the restraining order or the location or the address of family members, caretakers, or guardians of the protected people unless the court finds good cause to not make this order.

**16 Additional Pages**


If you used additional paper or forms, enter the number of extra pages attached to this form: \_\_\_\_\_

**17 Your Signature**

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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


\_\_\_\_\_  
*Type or print your name*

 \_\_\_\_\_  
*Sign your name*

**18 Your Lawyer's Signature (if you have one)**

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

\_\_\_\_\_  
*Lawyer's name*

 \_\_\_\_\_  
*Lawyer's signature*

### Your Next Steps

**1 You must complete at least two additional forms:**

- [Form JV-250](#), *Temporary Restraining Order—Juvenile (only items 1, 2, and 3)*
- [Form CLETS-001](#), *Confidential Information for Law Enforcement*
- **If you are asking for child visitation orders and did not write the request on this form**, you must complete for JV-205, *Visitation (Parenting Time) Order—Juvenile*, or attach another document with the requested visitation plan.

**2 Turn in your completed forms to the court. Find out when your forms will be ready for pickup.**



**Use this form** if someone has asked for a restraining order against you, and you want to respond in writing. If you have a lawyer in this case, the lawyer should fill out this form. You will need a copy of the form JV-245, *Request for Juvenile Restraining Order*, that was filled out by the person who asked for a restraining order against you. There is no cost to file this form with the court.

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**JV-247.v8.070124.jh**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in child's name*

**Child's name:**

*Fill in case number:*

**Case Number:**

**1 Name of Person Asking for Protection:**

*(See form JV-245, item 1 a):*

**2 Your Name:**

**! Address where you can receive court papers**

**(This address will be used by the court and by the person in 1 to send you official court dates, orders, and papers.** For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, work with them to fill out this form and give their information.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**! Your contact information (optional)**

**(The court may use this information to contact you. If you don't want the person in 1 to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)**

Email Address: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Your lawyer's information (if you have one)**

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

**3 Your Hearing Date (Court Date)**



Your hearing date is listed on form JV-249, *Notice of Court Hearing*. If you do not agree to having a restraining order against you, attend your hearing. If you do not attend your hearing, the judge could grant a restraining order that could last up to three years.

**This is not a Court Order.**



**How to complete this form:** To answer the questions below, look at the form JV-245 filled out by the person in ①. Tip: When the restraining order forms say “the person in ②,” that means you, and “the person in ①” means the person who is asking for a restraining order against you.

**4 Information About You** (see ② on form JV-245)

The person in ① listed your name, age, gender, and date of birth. If any of the information is incorrect, use the space below to give the correct information.

---

**5 Your Relationship to the Person in ①**

In item ② of form JV-245, has the person in ① correctly described your relationship with them?

☐ Yes ☐ No If no, what is your relationship with the person in ①?:

---

**6 ☐ Other Protected People**

If the judge grants a restraining order, it can protect more than one person. See item ④ on form JV-245 to see if the person in ① is asking for other people to be protected by the restraining order.

a. ☐ I agree to the order requested.

b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: 

---

---

**7 ☐ Order to Not Abuse** (see ⑦ on form JV-245)

a. ☐ I agree to the order requested.

b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: 

---

---

**8 ☐ No-Contact Order** (see ⑧ on form JV-245)

a. ☐ I agree to the order requested.

b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: 

---

---

**9 ☐ Stay-Away Order** (see ⑨ on form JV-245)

a. ☐ I agree to the orders requested.

b. ☐ I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: 

---

---

**This is not a Court Order.**

**10** ☐ **Order to Move Out** (see 10 on form JV-245)

- a. ☐ I agree to the order requested.
- b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

\_\_\_\_\_

**11** ☐ **Visitation of Children** (see 11 on form JV-245)

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

\_\_\_\_\_

You can also complete form JV-205, *Visitation (Parenting Time) Order—Juvenile*, and attach it to this form.

**12** ☐ **Protect Animals** (see 12 on form JV-245)

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

\_\_\_\_\_

**13** ☐ **Firearms (Guns), Firearm Parts, or Ammunition** (see 13 on form JV-245)

If you were served with form JV-250, *Temporary Restraining Order—Juvenile*, you must follow the orders in 5 on form JV-250. You must file a receipt with the court from a law enforcement agency or a licensed gun dealer within 48 hours after you received form JV-250. You may use [form DV-800/JV-270](#), *Receipt for Firearms, Firearm Parts, and Ammunition*.

☒ Check all that apply

- a. ☐ I do not own or have any prohibited items (firearms (guns), prohibited firearm parts, or ammunition).
- b. ☐ I have turned in all prohibited items that I have or control to law enforcement or sold/stored them with a licensed gun dealer. A copy of the receipt showing that I turned in, sold, or stored the prohibited items (check all that apply):
- ☐ is attached    ☐ has already been filed with the court.
- c. ☐ I ask for an exception to carry a firearm for work only. (You will have to show the judge that your work requires you to have a firearm, and that your employer cannot reassign you to another position where a firearm is not needed. If you are a peace officer, there are additional requirements.)

(Give details, like what your job is and why you need a firearm: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**This is not a Court Order.**

**14 No Body Armor** (see 14 on form JV-245)

If you were served with form JV-250, *Temporary Restraining Order—Juvenile*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply)

- a. ☐ I do not own or have any body armor.
- b. ☐ I have relinquished all body armor that I have in my possession.
- c. ☐ I was granted an exception, or will ask for an exception, to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (Attach a copy of the letter granting permission, if you have one.)

**15 Cannot Look for Protected People** (see 15 on form JV-245)

- a. ☐ I agree to the order.
- b. ☐ I do not agree to the order.

Explain why you disagree, or describe a different order that you would agree to:

---

---

**16** ☐ **Additional Reasons I Do Not Agree With the Request** (optional)

Explain why you do not agree to any of the orders requested by the person in 1 (give specific facts and reasons):

---

---

---

---

---

---

☐ Check here if you need more space. Attach a sheet of paper and write “JV-247, Additional Reasons I Do Not Agree” at the top.

**17 Additional Pages**

Number of pages attached to this form, if any: \_\_\_\_\_

**18 Your Signature**

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

\_\_\_\_\_  
Type or print your name



\_\_\_\_\_  
Sign your name

**19 Your Lawyer's Signature** (if you have one)

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

\_\_\_\_\_  
Lawyer's name



\_\_\_\_\_  
Lawyer's signature

**This is not a Court Order.**

**Instruction:** The person asking for a restraining order must complete items ① and ②. The court will complete the rest of this form.

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### ① Person Asking for Protection

Name: \_\_\_\_\_

Your lawyer (if you have one for this case)

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

### ② Person to Be Restrained

Name: \_\_\_\_\_

### ③ Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in ②:

Court fills in case number when form is filed.

Case Number: \_\_\_\_\_



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

Name and address of court, if different from above: \_\_\_\_\_

You may attend your court date remotely, such as by phone or video conference. For more information, go to the court's website for the county listed above. To find the court's website, go to [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).

### To the person in ②:

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant a restraining order that could last up to three years. After you receive a copy of the order, you could be arrested if you violate the order.

### ④ Temporary Restraining Orders (Any orders granted are attached on ☐ form JV-250 ☐ form JV-260)

a. Temporary Restraining Orders (any order requested under Welfare and Institutions Code section 213.5) (Check one)

- (1) ☐ All **granted** until the court hearing.
- (2) ☐ All **denied** until the court hearing. (Reasons for denial are given below in b.)
- (3) ☐ Partly **granted** and partly **denied** until the court hearing. (Reasons for denial are given in b.)

- 4 b. (1) ☐ The request is based on domestic violence and the reasons for denial of some or all of the orders requested are:
- (a) ☐ The facts given in the request do not show reasonable proof of a past act or acts of abuse. (Family Code sections 6300, 6320, and 6320.5.)
- (b) ☐ The facts given in the request do not give enough detail about the most recent incidents of abuse, including what happened, the dates, who did what to whom, or any injuries or history of abuse.
- (c) ☐ Other reasons for denial: \_\_\_\_\_
- (2) ☐ The request is not based on domestic violence and the reasons for denial of some or all of the personal conduct and stay-away orders as requested are:
- (a) ☐ The facts as stated do not sufficiently show acts of violence, threats of violence, or a course of conduct that seriously alarmed, annoyed, or harassed the person in ① and caused substantial emotional distress.
- (b) ☐ Other reasons for denial: ☐ As stated on Attachment 4b.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

5 **Service of Documents by the Person in ①**

At least ☐ five ☐ \_\_\_\_\_ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this form (JV-249, *Notice of Court Hearing*) to the person in ② along with a copy of all the forms indicated below:

- a. ☐ JV-245, *Request for Juvenile Restraining Order* (file-stamped)
- b. ☐ JV-250, *Temporary Restraining Order* (file-stamped), **if granted**
- c. ☐ JV-247, *Response to Request for Juvenile Restraining Order* (blank form)
- d. ☐ JV-258, *Request for Juvenile Restraining Order Against a Child*
- e. ☐ JV-259, *Response to Request for Juvenile Restraining Order Against a Child*
- f. ☐ JV-260, *Temporary Restraining Order Against a Child* (file-stamped), **if granted**
- g. ☐ Other (specify): \_\_\_\_\_
- h. ☐ Other (specify): \_\_\_\_\_

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



\_\_\_\_\_  
*Judicial Officer*

**To the Person in ①:**

- The court cannot grant a long-term restraining order unless the person in ② has been personally given (served) a copy of your request and any temporary orders. To show that the person in ② has been served, the person who served the forms must fill out form JV-268, *Proof of Personal Service*.
- If you are unable to serve the person in ② in time, you may ask for more time to serve the documents.

**To the Person in ②:**

- If you want to respond in writing, mail a copy of your completed form JV-247, *Response to Request for Juvenile Restraining Order*, or form JV-259, *Response to Request for Juvenile Restraining Order Against a Child*, to the person in ① and file it with the court. You cannot mail form JV-247 or JV-259 yourself. Someone age 18 or older—**not you**—must do it.
- To show that the person in ① has been served by mail, the person who mailed the form must fill out a proof of service form. Form JV-510, *Proof of Personal Service—Juvenile*, may be used. File the completed form with the court before the hearing and bring a copy with you to the hearing.
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask the judge to reschedule your court date.
- Whether or not you respond in writing, attend the hearing if you want the judge to hear from you before making an order at the hearing and tell the judge why you agree or disagree with the orders requested. Bring any evidence or witnesses you have.
- **At the hearing, the judge may make restraining orders against you that could last up to three years.**
- **The judge may also make other orders about your children, and may again order you to turn in, sell, or store any firearms (guns), firearm parts, or ammunition that you own or have.**

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Disability Accommodation Request* (form MC-410). (Civil Code section 54.8.)

(Clerk will fill out this part.)

Clerk's Certificate  
[seal]

**—Clerk's Certificate—**

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

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

**Instruction:** The person asking for a restraining order must complete items ①, ②, and ③ only. The court will complete the rest of this form.

☐ Original Order      ☐ Amended Order

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① **Protected Person** (name): \_\_\_\_\_

② **Restrained Person**

\*Full Name: \_\_\_\_\_

\*Gender: ☐ M ☐ F ☐ Nonbinary

\*Age: \_\_\_\_\_ (Give estimate, if age unknown.)

Date of Birth: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_

Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_

\*Race: \_\_\_\_\_

Relationship to person in ①: \_\_\_\_\_

Address of restrained person: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Type, number, and location of firearms, firearm parts, or ammunition that restrained person may have: \_\_\_\_\_

(Information that has a star (\*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Fill in child's name

Child's name: \_\_\_\_\_

Court fills in case number when form is filed.

Case Number: \_\_\_\_\_

③ ☐ **Other Protected People**

In addition to the person named in ①, the people listed below are protected by the orders listed in ⑧ through ⑫.

Full name	Age	Relationship to child
_____	_____	_____
_____	_____	_____
_____	_____	_____

☐ Check here if you need to list more people. List them on a separate piece of paper, write "JV-250, Other Protected People" at the top, and attach it to this form.

④ **Your Hearing Date (Court Date)**



This order expires at the end of the hearing listed below:

Hearing Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m. ☐ p.m.

This order must be enforced throughout the United States. See page 6.

This is a Court Order.





**To the Person in ②**

The judge has granted temporary orders. See items ⑤ through ⑮. If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

If the judge makes a restraining order at the hearing that has the same orders as in this form, you will get a copy of that order by mail at the address in ②. If this address is not correct, or to find out if the orders were made permanent, contact the court.

**⑤ No Firearms (Guns), Firearm Parts, or Ammunition**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. **Prohibited items are:**
  - (1) Firearms (guns);
  - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
  - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, stored, or sold. (You may use [form DV-800/JV-270](#), *Receipt for Firearms, Firearm Parts, and Ammunition*.) If law enforcement served you with the restraining order, you must immediately surrender any prohibited items you have upon request by the officer. Within 48 hours, you must give a copy of the receipt to that law enforcement agency.

**⑥ ☐ Restrained Person Has Prohibited Items**

The court finds that you have the following prohibited items:

**a. Firearms and firearm parts**

Description	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

**This is a Court Order.**

**6 b. Ammunition**

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

☐ Check here to list additional items. List them on a separate piece of paper, write “JV-250, Restrained Person Has Prohibited Items” at the top, and attach it to this form.

**7 ☐ Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

In addition to the hearing listed in item ④, you must attend the court hearing listed below to prove that you have properly turned in, sold, or stored all prohibited items (described in ⑤b) you still have or own, including any items listed in ⑥. If you do not attend the court hearing listed below, a judge may find that you have violated the restraining order and notify a prosecuting attorney of the violation.



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

Name and address of court, if different from court address listed on page 1

**8 No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**9 Cannot Look for Protected People and Others**

You must not take any action to look for any person protected by this order or a protected person’s family members, caretakers, or guardians, including their addresses or locations.

☐ If checked, this order was **not granted** because the judge found good cause not to make the order.

**10 Order to Not Abuse ☐ Not requested ☐ Denied until the hearing ☐ Granted as follows:**

**You must not do the following things to the person in ① and any person listed in ③:**

Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeated contact), or disturb the peace.

☐ (If this box is checked, this case involves domestic violence and you must not do any of the actions listed below.)

• “Disturb the peace” means to destroy someone’s mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.

**This is a Court Order.**



- 10** • “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to health information.

**11 No-Contact Order**    ☐ Not requested    ☐ Denied until the hearing    ☐ Granted as follows:

- a. You must **not contact**    ☐ the person in **1**    ☐ the persons in **3**  
directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.
- b. ☐ Exception to 11a:
- (1) ☐ You may have brief and peaceful contact with the person in **1** only to communicate about your children for court-ordered visits.
- (2) ☐ You may have contact with your children only during court-ordered contact or visits.
- (3) ☐ Other (*explain*): \_\_\_\_\_
- c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

**12 Stay-Away Order**    ☐ Not requested    ☐ Denied until the hearing    ☐ Granted as follows:

- a. You must stay at least (*specify*): \_\_\_\_\_ yards away from (*check all that apply*):
- |   |  |
|---|--|
| <input type="checkbox"/> Person in <b>1</b> .                     | <input type="checkbox"/> School of person in <b>1</b> .  |
| <input type="checkbox"/> Home of person in <b>1</b> .             | <input type="checkbox"/> Persons in <b>3</b> .           |
| <input type="checkbox"/> Job or workplace of person in <b>1</b> . | <input type="checkbox"/> Children's school or childcare. |
| <input type="checkbox"/> Vehicle of person in <b>1</b> .          | <input type="checkbox"/> Other ( <i>explain</i> ): _____ |
- b. ☐ Exception to 12a:
- The stay-away orders do not apply:
- (1) ☐ For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.
- (2) ☐ For you to contact or visit with your children for court-ordered contact or visits.
- (3) ☐ Other (*explain*): \_\_\_\_\_

**13 Order to Move Out**    ☐ Not requested    ☐ Denied until the hearing    ☐ Granted as follows:

You must take only personal clothing and belongings needed until the hearing and move out immediately from (*address*): \_\_\_\_\_

**This is a Court Order.**

**14** ☐ **Visitation With Children** ☐ **Not requested** ☐ **Denied until the hearing** ☐ **Granted as follows:**

The court has ordered visitation with the children in this case.

a. ☐ The visitation orders are (*specify*):

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b. ☐ The orders are in the attached form JV-205, *Visitation (Parenting Time) Order—Juvenile*.

c. ☐ The orders are in an attached document (*specify*):

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**15** **Protect Animals** ☐ **Not requested** ☐ **Denied until the hearing** ☐ **Granted as follows:**

a. ☐ You must stay at least \_\_\_\_\_ yards away from the animals listed below.

b. ☐ You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals listed below.

c. ☐ The person in ① is given the sole possession, care, and control of the animals listed below.

Name ( <i>or other way to ID animal</i> )	Type of animal	Breed ( <i>if known</i> )	Color
---	----------------	---------------------------	-------

<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>

**16** **Service**

a. ☐ **No other service is needed.** The person in ② attended the juvenile court hearing on (*date*): \_\_\_\_\_ when these orders were made.

b. ☐ **The person in ② must be personally served** with a copy of this order, a blank copy of *Response to Request for Juvenile Restraining Order* (form JV-247), and *Request for Juvenile Restraining Order* (form JV-245), if form JV-245 was filed, by (*date*): \_\_\_\_\_

**17** **Enter Restraining Order Into Database**

Within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

a. ☐ The court will enter the order into CLETS.

b. ☐ The court or someone it designates will send a copy of this order to a local law enforcement agency.

If the court designates someone, provide their name: \_\_\_\_\_

**18** ☐ **Attached Pages**

Number of pages attached to this seven-page form: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*

**This is a Court Order.**

**Certificate of Compliance With Violence Against Women Act 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), 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.**

**Instructions for Law Enforcement**

This order is effective when made. It is enforceable 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 the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

**Duties of Officer Serving This Order**

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in (5), or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer’s name and law enforcement agency.

**Arrest Required if Order Is Violated**

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

**If the Protected Person Contacts the Restrained Person**

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

**This is a Court Order.**

## Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item (11) is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment) then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

*(The clerk will fill out this part.)*

### —Clerk's Certificate—

*Clerk's Certificate*  
[seal]

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

Date:

Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

Clerk stamps date here when form is filed.

☐ Original Order ☐ Amended Order

**DRAFT**  
**Not approved by**  
**the Judicial Council**  
**JV-255.v7.070124.jh**

**1 Protected Person (name):** \_\_\_\_\_

**2 Restrained Person**

**\*Full Name:** \_\_\_\_\_  
**\*Gender:** ☐ M ☐ F ☐ Nonbinary  
**\*Age:** \_\_\_\_\_ (Give estimate, if age unknown.)  
Date of Birth: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_  
Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_  
**\*Race:** \_\_\_\_\_  
Relationship to person in **1**: \_\_\_\_\_  
Address of restrained person: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
(Information that has a star (\*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

**Superior Court of California, County of**

Fill in child's name

**Child's name:**

Court fills in case number when form is filed.

**Case Number:**

**3** ☐ **Other Protected People**

In addition to the person in **1**, the following persons are protected by orders as indicated in items **11** through **15**.

Full name	Relationship to person in <b>1</b>	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

☐ Check here if you need to list more people. List them on a separate piece of paper, write "JV-255, Other Protected People" at the top, and attach it to this form.

**4 Expiration Date**

This restraining order, except the orders noted below,\* end on:

(date): \_\_\_\_\_ at (time): \_\_\_\_\_ ☐ a.m. ☐ p.m. or ☐ midnight

**\*Custody and visitation orders remain in effect after the restraining order ends. Custody and visitation orders usually end when the child is 18.**

- If no date is written, the restraining order ends three years after the date of the hearing in item **5**a.
- If no time is written, the restraining order ends at midnight on the expiration date.

**This order must be enforced throughout the United States. See page 6.**

**This is a Court Order.**



**5 Hearing**

- a. The hearing was on (date): \_\_\_\_\_ with (name of judicial officer): \_\_\_\_\_
- b. These people were at the hearing (check all that apply):
- ☐ The person in ① ☐ The lawyer for the person in ① (name): \_\_\_\_\_
- ☐ The person in ② ☐ The lawyer for the person in ② (name): \_\_\_\_\_

**6 ☐ Future Court Hearing**

- ☐ The person in ① ☐ The person in ② must attend court on:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m. ☐ p.m.

Department: \_\_\_\_\_ to review (list issues): \_\_\_\_\_

Name and address of court if different than on page 1: \_\_\_\_\_

**To the Person in ②**

The court has granted a long-term restraining order. See ⑦ through ⑱. If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

**7 No Firearms (Guns), Firearm Parts, or Ammunition**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. Prohibited items are:
- (1) Firearms;
- (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
- (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, stored, or sold. (You may use [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition](#).) If law enforcement served you with the restraining order, you must immediately surrender any prohibited items you have upon request by the officer. Within 48 hours, you must give a copy of the receipt to that law enforcement agency.
- f. ☐ Limited Exemption: The judge has made the necessary findings to grant an exemption under Family Code section 6389(h). Under California law, the person in ② is not required to relinquish this firearm (make, model, and serial number of firearm): \_\_\_\_\_ but must have it only during scheduled work hours and while traveling to and from their place of work. Even if exempt under California law, the person in ② may be subject to federal prosecution for possessing or controlling a firearm.

**This is a Court Order.**



**8 ☐ Restrained Person Has Prohibited Items**

The court finds that you have the following prohibited items:

**a. Firearms and firearm parts**

Description	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

**b. Ammunition**

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

- ☐ Check here to list additional items. List them on a separate piece of paper, write “JV-255, Restrained Person Has Prohibited Items” at the top, and attach it to this form.

**9 ☐ Restrained Person Has Not Complied With Surrendering Prohibited Items**

- a. The court finds that you have not fully complied with the orders previously granted on (date): \_\_\_\_\_ The court has not received a receipt or proof of compliance for all the items listed in (8).

**b. Notify Prosecutor**

The court will immediately notify the following prosecuting agency of this violation.

(prosecuting agency): \_\_\_\_\_

**10 ☐ Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

You must attend the court hearing in (6) to prove that you have properly turned in, sold, or stored all prohibited items (described in (7)b) you still have or own, including any items listed in (8). If you do not attend the court hearing listed in (6), a judge may find that you have violated the restraining order and notify a prosecuting attorney of the violation.

**This is a Court Order.**

**11 No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**12 Cannot Look for Protected People and Others**

You must not take any action to look for any person protected by this order or a protected person's family members, caretakers, or guardians, including their addresses or locations.

☐ If checked, this order was not granted because the court found good cause not to make this order.

**13 ☐ Order to Not Abuse**

**You must not do the following things to the person in ① and any person listed in ③:**

Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeated contact), or disturb the peace.

☐ (If this box is checked, this case involves domestic violence and you must not do any of the actions listed below.)

- “Disturb the peace” means to destroy someone’s mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone’s reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone’s contraception, birth control, pregnancy, or access to health information.

**14 ☐ No-Contact Order**

- a. You must **not contact** ☐ the person in ①, ☐ the persons in ③, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.
- b. ☐ Exception to 14a:
  - (1) ☐ You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.
  - (2) ☐ You may contact or visit with your children only during court-ordered contact or visits.
  - (3) ☐ Other (explain): \_\_\_\_\_
- c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

**This is a Court Order.**

**15** ☐ **Stay-Away Order**a. You **must** stay at least (*specify*): \_\_\_\_\_ yards away from (*check all that apply*):☐ The person in ①.☐ School of person in ①.☐ Home of person in ①.☐ Persons in ③.☐ Job or workplace of person in ①.☐ Children's school or childcare.☐ Vehicle of person in ①.☐ Other (*specify*): \_\_\_\_\_b. ☐ Exception to 15a:

The stay-away orders do not apply:

(1) ☐ For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.(2) ☐ For you to contact or visit with your children for court-ordered contact or visits.(3) ☐ Other (*explain*): \_\_\_\_\_**16** ☐ **Order to Move Out**You must move out immediately from (*address*): \_\_\_\_\_**17** ☐ **Visitation With Children**

The judge has ordered visitation with the children in this case.

a. ☐ The orders are:

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b. ☐ The orders are in the attached form JV-205, *Visitation (Parenting Time) Order—Juvenile*.c. ☐ The orders are in an attached document (*specify other form or document*): \_\_\_\_\_**18** ☐ **Protect Animals**a. ☐ You must stay at least \_\_\_\_\_ yards away from the animals listed below.b. ☐ You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals listed below.c. ☐ The person in ① is given the sole possession, care, and control of the animals listed below.Name (*or other way to ID animal*)

Type of animal

Breed (*if known*)

Color

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**This is a Court Order.**

**19 Service***(Check a or b)*

- a. ☐ **No other proof of service is needed.** The person in ② attended the hearing on *(date)*: \_\_\_\_\_.
- b. ☐ **The person in ② did not attend the hearing.** Proof of service of form JV-245 and form JV-250 was presented to the court. *(Check all that apply):*
- (1) ☐ This order can be served by mail. The judge's orders in this form are the same as the orders in form JV-250 except for the expiration date. The person in ② must be served (given) a copy of this order, either by mail or in person.
- (2) ☐ This order must be personally served. The judge's orders in this form are different from the orders in form JV-250. The person in ② must be personally served (given) a copy of this order.
- (3) ☐ The court has scheduled a firearms and ammunition compliance hearing. The person in ① must have a copy of this order served on the person in ② by:
- (A) ☐ Personal service by *(date)*: \_\_\_\_\_
- (B) ☐ Mail at the person in ②'s last known address by *(date)*: \_\_\_\_\_

**20 Enter Restraining Order Into Database**

Within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

- a. ☐ The court will enter the order into CLETS.
- b. ☐ The court or someone it designates will send a copy of this order to a local law enforcement agency.
- If the court designates someone, provide the person's name: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer***Certificate of Compliance With Violence Against Women Act**

This restraining (protective) order meets all "full faith and credit" requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994), 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 each jurisdiction throughout the 50 states of the 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.**

**This is a Court Order.**

JV-255, Page 6 of 8



## Instructions for Law Enforcement

### Start Date and End Date of Orders

The orders *start* on the earlier of the following dates:

- The hearing date in item (5)a on page 2; or
- The date next to the judge's signature on page 6.

The orders *end* on the expiration date in item (4) on page 1. If no date is listed, they end three years from the hearing date in item (5)a on page 2.

### Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in (6), or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

### Enforcing the Restraining Order in California

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, in the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

### Notice/Proof of Service

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Penal Code section 836(c)(1); Family Code section 6383.)

Consider the restrained person "served" (notified) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was at the restraining order hearing or was informed of the order by an officer. (Family Code section 6383; Penal Code section 836(c)(2).) An officer can obtain information about the contents of the order in the California Restraining and Protective Order System (CARPOS). (Family Code section 6381(b), (c).)

### Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

**This is a Court Order.**

## Instructions for Law Enforcement

### Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 14 is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

Clerk's Certificate  
[seal]

### —Clerk's Certificate—

I certify that this *Juvenile Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

Clerk stamps date here when form is filed.

**DRAFT**

**Not approved by  
the Judicial Council  
JV-257.v8.072624.jh  
Changes are substantial and  
therefore not highlighted.**

Fill in court name and street address:

**Superior Court of California, County of**

Fill in child's name

**Child's name:**

Court fills in case number when form is filed.

**Case Number:****1 Protected Person (name):** \_\_\_\_\_**2 Restrained Person (name):** \_\_\_\_\_**3 Court's Order***(check a or b)*a. ☐ *The court has changed the (check one):*(1) ☐ *Juvenile Restraining Order After Hearing, form JV-255. The new orders are listed on form JV-255, and attached to this form.*(2) ☐ *Juvenile Restraining Order Against a Child—Order After Hearing, form JV-265. The new orders are listed on form JV-265, and attached to this form.*b. ☐ *The court has ended the (check one):*(1) ☐ *Juvenile Restraining Order After Hearing, form JV-255.*(2) ☐ *Juvenile Restraining Order Against a Child—Order After Hearing, form JV-265.***4 Hearing**a. The hearing was on *(date)*: \_\_\_\_\_  
with *(name of judicial officer)*: \_\_\_\_\_b. These people attended the hearing *(check all that apply)*:☐ The person in **1** ☐ The lawyer for the person in **1** *(name)*: \_\_\_\_\_☐ The person in **2** ☐ The lawyer for the person in **2** *(name)*: \_\_\_\_\_**5 Enter Restraining Order Into Database**

Within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

a. ☐ The court will enter the order into CLETS.b. ☐ The court or someone it designates will send a copy of this order to a local law enforcement agency.

If the court designates someone, provide the person's name: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer***This is a Court Order.**

*(The clerk will fill out this part.)*

*Clerk's Certificate*  
*[seal]*

**—Clerk's Certificate—**

I certify that this *Order to Change or End Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**



**When to use this form**

Use this form if you want a restraining order **against a child or youth** in a juvenile justice (delinquency) case. If you have a lawyer in this case, the lawyer should fill out this form for you. If you want a restraining order in a juvenile case but against someone who is not the child, use form JV-245, *Request for Juvenile Restraining Order*.

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**1 Person in Need of Protection**

a. **Name:** \_\_\_\_\_  
(If you are a lawyer asking for a restraining order for someone else, like a victim in this case, write your name below in ①e. If additional people need to be protected, list them in ④.)

b. **Age:** \_\_\_\_\_

c. **! Address where you can receive court papers**  
(This address will be used by the court and by the person in ② to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their address.)

Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

d. **Contact Information**  
(The court could use this information to contact you. If you don't want the person in ② to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer give their information.)

Telephone: \_\_\_\_\_ Email Address: \_\_\_\_\_ Fax: \_\_\_\_\_

e. ☐ **Lawyer Making This Request** (if not the person in ①a)

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Firm Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in child's name*

**Child's name:**

*Court fills in case number when form is filed.*

**Case Number:**

**2 Child or Youth to Be Restrained**

a. **Name:** \_\_\_\_\_

b. **Date of birth** (if known): \_\_\_\_\_ **Age** (give estimate, if age unknown): \_\_\_\_\_

c. **Gender:** ☐ Male ☐ Female ☐ Nonbinary

d. **Race:** \_\_\_\_\_

e. **Relationship to person in ①a:** \_\_\_\_\_

**This is not a Court Order.**

### 3 Describe Why You Need a Restraining Order

a. Did the person in ② do any of these things to the person in ①a?



**Check all that apply**

*(Note: These are only some examples of why someone might need a restraining order.)*

- ☐ Physically hurt or tried to physically hurt
- ☐ Sexually abused or tried to sexually abuse
- ☐ Used or threatened to use gun or weapon
- ☐ Stalked
- ☐ Harassed by phone, online, or by any other means
- ☐ Isolated the person in ①a from friends or family
- ☐ Kept the person in ①a from eating or getting other basic needs
- ☐ Destroyed property *(examples: breaking phone, door, window)*
- ☐ Other *(please explain):* \_\_\_\_\_

b. Give details about what the person in ② did that was abusive or harassing. Start with the most recent incident, then write about any other incidents. Be sure to include details like dates and any emotional or physical harm. Details can also include how often something happened, what was said, or whether weapons were used, etc.

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- ☐ Check here if you need more space to describe abuse or harassment. Attach a sheet of paper and write "JV-258, Item 3" at the top.

c. ☐ Check here if you know there is a report that supports your request that has been filed with the court, and complete the section below.

Who wrote the report and when was the report filed? *(Check all that apply.)*

- ☐ Social worker *(date report was filed):* \_\_\_\_\_
- ☐ Probation officer *(date report was filed):* \_\_\_\_\_
- ☐ Other *(name):* \_\_\_\_\_ *(date report was filed):* \_\_\_\_\_

**This is not a Court Order.**



**4 Do Other People Need Protection From the Person in ②?**

- ☐ No  
☐ Yes (If yes, give their information below.)

a. Full name Age Relationship to the child


b. Why do these people need protection?


**5 Did You Provide Notice to the Person in ② of This Request for a Restraining Order?**

(Skip this item if your request is based on domestic violence. To know what domestic violence is, see form [DV-500-INFO](#), page 2, "Am I Eligible?")

a. ☐ **No** (If no, complete the section below.)

(1) ☐ I did not notify the person in ② or their lawyer because I am afraid that the person in ② will threaten or harm the person in ①a if they receive notice of this request before protection can be granted (explain):

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(2) ☐ Other (describe):

--

b. ☐ **Yes** (If yes, complete section below.)

(1) Who did you notify? ☐ Person in ② ☐ Lawyer of person in ②

(2) When did you provide notice? (date): \_\_\_\_\_ (time): \_\_\_\_\_ ☐ a.m. ☐ p.m.

(3) How did you provide notice? (Check all that apply.)

☐ Telephone (list number): \_\_\_\_\_ ☐ Fax (list number): \_\_\_\_\_

☐ Email or other electronic means (specify): \_\_\_\_\_

☐ Other (describe): \_\_\_\_\_

**6 Does the Person in ② Have Firearms (Guns), Firearm Parts, or Ammunition?**

(A firearm includes a handgun, rifle, shotgun, and assault weapon. A firearm part means a receiver or frame or any item that may be used as or easily turned into a receiver or frame. Ammunition includes bullets, shells, cartridges, and clips.)

a. ☐ I don't know

b. ☐ No

c. ☐ Yes (If you have information, complete the section below.)

	Describe firearms, firearm parts, or ammunition	How many or what amount?	Location, if known
(1)			
(2)			

**This is not a Court Order.**



**Choose the Orders That You Want a Judge to Make**

In this section, you will choose the orders you want a judge to make now. Every situation is different.  
Check all the orders that you want the judge to make (order).

**7 ☐ Order to Not Abuse**

I ask the judge to order the person in (2) to not threaten, stalk, or disturb the peace of me or anyone listed in (4).

If this restraining order is needed to prevent domestic violence, “disturbing the peace” includes coercive control. For more information on what domestic violence, disturbing the peace, and coercive control mean, read form [DV-500-INFO](#), page 2, “Am I Eligible?”

**8 ☐ No-Contact Order**

I ask the judge to order the person in (2) to not contact me or any person listed in (4).

**9 ☐ Protect Animals**

- a. (You may ask the judge to protect animals that you own or are keeping for others, animals that the people in (4) own or are keeping for others, and animals that anyone who lives with you or the people in (4) own or are keeping for others.)

	Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
(1)	_____	_____	_____	_____
(2)	_____	_____	_____	_____
(3)	_____	_____	_____	_____
(4)	_____	_____	_____	_____

- b. I ask the judge to protect the animals listed above by ordering the person in (2) to:  
(Check all that apply)

- (1) ☐ Stay away from the animals by at least:  
☐ 100 yards (300 feet)    ☐ Other (give distance in yards): \_\_\_\_\_
- (2) ☐ **Not** take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- (3) ☐ Give me possession, care, and control of the animals because (check all that apply):  
☐ Person in (2) abuses the animals.    ☐ I take care of these animals.  
☐ I purchased these animals.    ☐ Other (please explain): \_\_\_\_\_

**This is not a Court Order.**

**Automatic Orders if the Judge Grants Restraining Order**

In this section are orders that the person in ② would have to follow if the judge grants a restraining order.

**10 No Firearms (Guns), Firearm Parts, or Ammunition**

- Turn in, sell, or store any firearms (guns), firearm parts, or ammunition that they have or control.
- Prohibited from buying firearms (guns), firearm parts, and ammunition.

**11 No Body Armor**

- Not own, possess, or buy body armor.
- Relinquish any body armor in their possession.

**12 Cannot Look for Protected People and Others**

Not allowed to look for the address or location of any person protected by the restraining order or the location or the address of family members, caretakers, or guardians of the protected people unless the court finds good cause to not make this order.

**13 Additional Pages**

If you used additional paper or forms, enter the number of extra pages attached to this form: \_\_\_\_\_

**14 Your Signature**

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Sign your name*

**15 Your Lawyer's Signature (if you have one)**

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

\_\_\_\_\_  
*Lawyer's name*



\_\_\_\_\_  
*Lawyer's signature*

**Your Next Steps****1 You must complete two additional forms:**

- [Form JV-260](#), *Temporary Restraining Order Against a Child (only items 1, 2, and 3)*
- [Form CLETS-001](#), *Confidential Information for Law Enforcement*

**2 Turn in your completed forms to the court. Find out when your forms will be ready for pickup.**

**This is not a Court Order.**

**Use this form** if someone has asked for a restraining order against you, and you want to respond in writing. If you have a lawyer in this case, the lawyer should fill out this form. You will need a copy of form JV-258, *Request for Juvenile Restraining Order Against a Child*, that was filled out by the person who asked for a restraining order against you. There is no cost to file this form with the court.

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**1 Name of Person Asking for Protection:**

*(See form JV-258, item ①):*

*Fill in court name and street address:*

**Superior Court of California, County of**

**2 Your Name:**

**! Address where you can receive court papers**

**(This address will be used by the court and by the person in ① to send you official court dates, orders, and papers.** For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, work with your lawyer to fill out this form and give your lawyer's information.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

*Fill in child's name*

**Child's name:**

*Fill in case number:*

**Case Number:**

**! Your contact information (optional)**

(The court could use this information to contact you. If you don't want the person in ① to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Email Address: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Your lawyer's information (if you have one)**

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

**3 Your Hearing Date (Court Date)**



Your hearing date is listed on form JV-249, *Notice of Court Hearing*. If you do not agree to having a restraining order against you, go to your hearing. If you do not attend your hearing, the judge could grant a restraining order that could last up to three years.

**This is not a Court Order.**



**How to complete this form:** To answer the questions below, look at the form JV-258 filled out by the person in ①. Tip: When the restraining order forms say “the person in ②” that means you, and the “person in ①” means the person who is asking for a restraining order against you.

**④ Information About You** (see ② on form JV-258)

The person in ① listed your name, age, gender, and date of birth. If any of the information is incorrect, use the space below to give the correct information.

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**⑤ ☐ Other Protected People**

If the judge grants a restraining order, it can include other people. See ④ on form JV-258 to see if the person in ① is asking for other people to be protected by the restraining order.

a. ☐ I agree to the order requested.

b. ☐ I do not agree to the order requested.

Explain why you disagree and/or describe a different order that you would agree to:

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**⑥ ☐ Order to Not Abuse** (see ⑦ on form JV-258)

a. ☐ I agree to the order requested.

b. ☐ I do not agree to the order requested.

Explain why you disagree and/or describe a different order that you would agree to:

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**⑦ ☐ No-Contact Order** (see ⑧ on form JV-258)

a. ☐ I agree to the order requested.

b. ☐ I do not agree to the order requested.

Explain why you disagree and/or describe a different order that you would agree to:

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**⑧ ☐ Protect Animals** (see ⑨ on form JV-258)

a. ☐ I agree to the orders requested.

b. ☐ I do not agree to the orders requested.

Explain why you disagree and/or describe a different order that you would agree to:

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**This is not a Court Order.**

**9 Firearms (Guns), Firearm Parts, or Ammunition** (see 6 on form JV-258)

If you were served with form JV-260, *Temporary Restraining Order Against a Child*, you must follow the orders in 6 on form JV-260. You must file a receipt with the court from a law enforcement agency or a licensed gun dealer within 48 hours after you received form JV-260. You may use [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition](#).

☒ Check all that apply

- a. ☐ I do not own or have any prohibited items (guns, firearms, prohibited firearm parts, or ammunition).
- b. ☐ I have turned in all prohibited items that I have or control to law enforcement or sold them to or stored them with a licensed gun dealer. A copy of the receipt showing that I turned in, sold, or stored the prohibited items (check all that apply):
- ☐ is attached    ☐ has already been filed with the court.
- c. ☐ I ask for an exception to carry a firearm for work only. (You will have to show the judge that your work requires you to have a firearm, and that your employer cannot reassign you to another position where a firearm is not needed. If you are a peace officer, there are additional requirements.)  
(Give details, like what your job is and why you need a firearm:)
- 
- 

**10 No Body Armor** (see 11 on form JV-258)

If you were served with form JV-260, *Temporary Restraining Order Against a Child*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply)

- a. ☐ I do not own or have any body armor.
- b. ☐ I have relinquished all body armor that I have in my possession.
- c. ☐ I was granted an exception, or will ask for an exception, to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (Attach a copy of the letter granting permission, if you have one.)

**11 Cannot Look for Protected People** (see 12 on form JV-258)

- a. ☐ I agree to the order.
- b. ☐ I do not agree to the order.

Explain why you disagree and/or describe a different order that you would agree to:

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**This is not a Court Order.**



**12** ☐ **Additional Reasons I Do Not Agree With the Request** *(optional)*Explain why you do not agree to any of the orders requested by the person in **1** *(give specific facts and reasons)*:

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☐ Check here if you need more space. Attach a sheet of paper, and write “JV-259, Additional Reasons I Do Not Agree” at the top.**13** **Additional Pages**

Number of pages attached to this form, if any: \_\_\_\_\_

**14** **Your Signature**

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

\_\_\_\_\_  
*Type or print your name*\_\_\_\_\_  
*Sign your name***15** **Your Lawyer's Signature** *(if you have one)*

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

\_\_\_\_\_  
*Lawyer's name*\_\_\_\_\_  
*Lawyer's signature***This is not a Court Order.**

**Instruction:** Use this form if you want a restraining order **against a child or youth** in a juvenile justice (delinquency) case. The person asking for a restraining order must complete ①, ②, and ③ only. The court will complete the rest of this form.

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**the Judicial Council**  
**JV-260.v9.070124.jh**

① **Protected Person** (name): \_\_\_\_\_

② **Restrained Person**

\*Full Name: \_\_\_\_\_

\*Gender: ☐ M ☐ F ☐ Nonbinary

\*Age: \_\_\_\_\_ (Give estimate, if age unknown.)

Date of Birth: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_

Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_

\*Race: \_\_\_\_\_

Relationship to person in ①: \_\_\_\_\_

Address of restrained person: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Type, number, and location of firearms or ammunition:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Information that has a star (\*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

**Superior Court of California, County of**

Fill in child's name

**Child's name:**

Court fills in case number when form is filed.

**Case Number:**

③ **Other Protected People**

In addition to the person named in ①, the people listed below are protected by the orders listed in ⑨ through ⑪.

Full name	Age	Relationship to child
_____	_____	_____
_____	_____	_____
_____	_____	_____

☐ Check here if you need to list more people. List them on a separate piece of paper, write "JV-260, Other Protected People" at the top, and attach it to this form.

④ **Your Hearing Date (Court Date)**



**This order expires at the end of the hearing listed below:**

Hearing Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m. ☐ p.m.

**This order must be enforced throughout the United States. See page 5.**

**This is a Court Order.**

To the Person in 2

The judge has granted temporary orders. See items 5 through 11. If you do not obey these orders, you can be charged with a crime, go to juvenile hall, jail, or prison, and/or pay a fine.

If the judge makes a restraining order at the hearing that has the same orders as in this form, you will get a copy of that order by mail at the address in 2. If this address is not correct, or to find out if the orders were made permanent, contact the court.

5 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. Prohibited items are:
- (1) Firearms (guns);
- (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
- (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, sold, or stored. (You may use [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition.](#)) If law enforcement served you with the restraining order, you must give a copy of the receipt to that law enforcement agency.

6 ☐ Restrained Person Has Prohibited Items

The court finds that you have the following prohibited items:

a. Firearms and firearm parts

Description	Location, if known	Proof of compliance was received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

This is a Court Order.



**6 b. Ammunition**

Description	Amount, if known	Location, if known	Proof of compliance was received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

☐ Check here if you need more space to list items. List them on a separate piece of paper, write “JV-260, Restrained Person Has Prohibited Items” at the top, and attach it to this form.

**7 ☐ Court Hearing to Review Firearms, Firearm Parts, and Ammunition Compliance**

In addition to the hearing listed in item ④, you must attend the court hearing listed below to prove that you have properly turned in, sold, or stored all prohibited items (described in ⑤b) you still have or own, including any items listed in ⑥. If you do not attend the court hearing listed below, a judge may find that you have violated the restraining order and notify a prosecuting attorney of the violation.



Date: \_\_\_\_\_ Dept.: \_\_\_\_\_  
Time: \_\_\_\_\_ Room: \_\_\_\_\_  
Name and address of court, if different from court address listed on page 1  
\_\_\_\_\_  
\_\_\_\_\_

**8 No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**9 Cannot Look for Protected People and Others**

You must not take any action to look for any person protected by this order or a protected person's family members, caretakers, or guardians, including their addresses or locations.

☐ If checked, this order was **not granted** because the judge found good cause not to make the order.

**10 Order to Not Abuse** ☐ Not requested ☐ Denied until the hearing ☐ Granted as follows:

**You must not threaten, stalk, or disturb the peace of the person in ① and any person listed in ③.**

☐ (If this box is checked, this case involves domestic violence and you must not do any of the actions listed below.)

- “Disturb the peace” means to destroy someone’s mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone’s reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone’s contraception, birth control, pregnancy, or access to health information.

**This is a Court Order.**

**11 No-Contact Order**    ☐ Not requested    ☐ Denied until the hearing    ☐ Granted as follows:

- a. You must **not contact**    ☐ the person in ①    ☐ the persons in ③  
directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.
- b. ☐ Exception to 11a:
- (1) ☐ You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.
- (2) ☐ You may have contact with your children only during court-ordered contact or visits.
- (3) ☐ Other (*explain*): \_\_\_\_\_
- c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

**12 Protect Animals**    ☐ Not requested    ☐ Denied until the hearing    ☐ Granted as follows:

- a. ☐ You must stay at least \_\_\_\_\_ yards away from the animals listed below.
- b. ☐ You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals, listed below.
- c. ☐ The person in ① is given the sole possession, care, and control of the animals listed below.

Name ( <i>or other way to ID animal</i> )	Type of animal	Breed ( <i>if known</i> )	Color
_____	_____	_____	_____
_____	_____	_____	_____

**13 Service**

- a. ☐ **No other service is needed.** The person in ② attended the hearing on (*date*): \_\_\_\_\_ when these orders were made.
- b. ☐ **The person in ② must be personally served** with a copy of this order, a blank copy of *Response to Request for Juvenile Restraining Order Against a Child* (form JV-259), and *Request for Juvenile Restraining Order Against a Child* (form JV-258), if form JV-258 was filed, by (*date*): \_\_\_\_\_

**14 ☐ Enter Restraining Order Into Database**

Within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

- a. ☐ The court will enter the order into CLETS.
- b. ☐ The court or someone it designates will send a copy of this order to a local law enforcement agency.  
If the court designates someone, provide that person's name: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer***This is a Court Order.**

**Certificate of Compliance With Violence Against Woman Act 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), 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 each jurisdiction throughout the 50 states of the 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.**

**Instructions for Law Enforcement**

This order is effective when made. It is enforceable 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 the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

**Duties of Officer Serving This Order**

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in **(5)**, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer’s name and law enforcement agency.

**Arrest Required if Order Is Violated**

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

**If the Protected Person Contacts the Restrained Person**

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

**This is a Court Order.**

**Instructions for Law Enforcement****Conflicting Orders—Priorities for Enforcement**

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item (11) is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

*(The clerk will fill out this part.)*

*Clerk's Certificate*  
[seal]

**—Clerk's Certificate—**

I certify that this *Temporary Restraining Order Against a Child* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

☐ Original Order      ☐ \_\_\_\_\_ Amended Order

**DRAFT**  
**Not approved by**  
**the Judicial Council**  
**JV-265.v9.070124.jh**

**1 Protected Person (name):** \_\_\_\_\_

**2 Restrained Person (Child or Youth)**

**\*Full Name:** \_\_\_\_\_  
**\*Gender:** ☐ M    ☐ F    ☐ Nonbinary  
**\*Age:** \_\_\_\_\_ (Give estimate, if age unknown.)  
 Date of Birth: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_  
 Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_  
**\*Race:** \_\_\_\_\_  
 Relationship to person in **1**: \_\_\_\_\_  
 Address of restrained person: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 (Information that has a star (\*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

**Superior Court of California, County of**

Fill in child's name

**Child's name:**

Court fills in case number when form is filed.

**Case Number:**

**3** ☐ **Other Protected People**

In addition to the person in **1**, the following persons are protected by orders as indicated in items **12** through **14**.

Full name	Relationship to person in <b>1</b>	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

☐ Check here if you need to list more people. List them on a separate piece of paper, write "JV-265, Other Protected People" at the top, and attach it to this form.

**4 Expiration Date**

This restraining order, except the orders noted below,\* end on:

(date): \_\_\_\_\_ at (time): \_\_\_\_\_ ☐ a.m.    ☐ p.m.    ☐ midnight.

**\*Custody and visitation orders remain in effect after the restraining order ends. Custody and visitation orders usually end when the child is 18.**

- If no date is written, the restraining order ends three years after the date of the hearing in item **5** a.
- If no time is written, the restraining order ends at midnight on the expiration date.

**This order must be enforced throughout the United States. See page 6.**

**This is a Court Order.**



**5 Hearing**

- a. The hearing was on (date): \_\_\_\_\_ with (name of judicial officer): \_\_\_\_\_
- b. These people were at the hearing (check all that apply):
- ☐ The person in ①    ☐ The lawyer for the person in ①    (name): \_\_\_\_\_
- ☐ The person in ②    ☐ The lawyer for the person in ②    (name): \_\_\_\_\_

**6 ☐ Future Court Hearing**

- ☐ The person in ①    ☐ The person in ② must attend court on:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m.    ☐ p.m.

Department: \_\_\_\_\_ to review (list issues):

\_\_\_\_\_

Name and address of court if different than on page 1:

\_\_\_\_\_

\_\_\_\_\_

**To the Person in ②**

The court has granted a long-term restraining order. See ⑦ through ⑮. If you do not obey these orders, you can be charged with a crime, go to juvenile hall, jail, or prison, and be fined.

**7 Firearms (Guns), Firearm Parts, or Ammunition**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. Prohibited items are:
- (1) Firearms;
- (2) Firearm parts, meaning, receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
- (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, stored, or sold. (You may use [form DV-800/JV-270](#), *Receipt for Firearms, Firearm Parts, and Ammunition*.) If law enforcement served you with the restraining order, you must immediately surrender any prohibited items you have upon request by the officer. Within 48 hours, you must give a copy of the receipt to that law enforcement agency.

**This is a Court Order.**

**8 ☐ Restrained Person Has Prohibited Items**

The court finds that you have the following prohibited items:

**a. Firearms and/or firearm parts**

Description	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

**b. Ammunition**

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

☐ Check here if you need more space to list items. List them on a separate piece of paper, write “JV-265, Restrained Person Has Prohibited Items” at the top, and attach it to this form.

**9 ☐ Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that you have not fully complied with the orders previously granted on (date): \_\_\_\_\_

The court has not received a receipt or proof of compliance for all the items listed in (8).

**b. Notify Prosecutor**

The court will immediately notify the following prosecuting agency of this violation

(prosecuting agency): \_\_\_\_\_

**10 ☐ Court Hearing to Review Firearms, Firearm Parts, and Ammunition Compliance**

You must attend the court hearing in (6) to prove that you have properly turned in, sold, or stored all prohibited items (described in (7)b) you still have or own, including any items listed in (8). If you do not attend the court hearing in (6), a judge may find that you have violated the restraining order and notify a prosecuting attorney of the violation.

**This is a Court Order.**

JV-265, Page 3 of 7



**11 No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**12 Cannot Look for Protected People and Others**

You must not take any action to look for any person protected by this order or a protected person's family members, caretakers, or guardians, including their addresses or locations.

☐ If checked, this order was not granted because the court found good cause not to make this order.

**13 ☐ Order to Not Abuse**

**You must not threaten, stalk, or disturb the peace of the person in ① and any person listed in ③.**

☐ (If this box is checked, this case involves domestic violence and you must not do any of the actions listed below.)

- “Disturb the peace” means to destroy someone’s mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone’s reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone’s contraception, birth control, pregnancy, or access to health information.

**14 ☐ No-Contact Order**

a. You must **not contact** ☐ the person in ①, ☐ the persons in ③, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.

b. ☐ Exception to item 14a:

- (1) ☐ You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.
- (2) ☐ You may contact or visit with your children only during court-ordered contact or visits.
- (3) ☐ Other (explain): \_\_\_\_\_

c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

**This is a Court Order.**

JV-265, Page 4 of 7

**15** ☐ **Protect Animals**

- a. ☐ You must stay at least \_\_\_\_\_ yards away from the animals listed below.
- b. ☐ You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals listed below.
- c. ☐ The person in (1) is given the sole possession, care, and control of the animals listed below.

Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**16** **Service***(Check a or b)*

- a. ☐ **No other proof of service is needed.** The person in (2) attended the hearing on *(date)*: \_\_\_\_\_.
- b. ☐ **The person in (2) did not attend the hearing.** Proof of service of form JV-258 and form JV-260 was presented to the court. *(Check all that apply):*
- (1) ☐ This order can be served by mail. The judge's orders in this form are the same as the orders in form JV-260 except for the expiration date. The person in (2) must be served (given) a copy of this order either by mail or in person.
- (2) ☐ This order must be personally served. The judge's orders in this form are different from the orders in form JV-260. The person in (2) must be personally served (given) a copy of this order.
- (3) ☐ The court has scheduled a firearms and ammunition compliance hearing. The person in (1) must have a copy of this order served on the person in (2) by:
- (A) ☐ Personal service by *(date)*: \_\_\_\_\_
- (B) ☐ Mail at the person in (2)'s last known address by *(date)*: \_\_\_\_\_

**17** **Enter Restraining Order Into Database**

Within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

- a. ☐ The court will enter the order into CLETS.
- b. ☐ The court or someone it designates will send a copy of this order to a local law enforcement agency.

If the court designates someone, provide the person's name: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*

**This is a Court Order.**

JV-265, Page 5 of 7



### Certificate of Compliance With Violence Against Women Act

This restraining (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 each jurisdiction throughout the 50 states of the 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.**

### Instructions for Law Enforcement

#### Start Date and End Date of Orders

The orders *start* on the earlier of the following dates:

- The hearing date in (5)a on page 2; or
- The date next to the judge’s signature on page (5).

The orders *end* on the expiration date in item (4) on page 1. If no date is listed, they end three years from the hearing date in item (5)a on page 2.

#### Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in (7), or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer’s name and law enforcement agency.

#### Enforcing the Restraining Order in California

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, in the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

#### Notice/Proof of Service

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Penal Code section 836(c)(1); Family Code section 6383.)

Consider the restrained person “served” (notified) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was at the restraining order hearing or was informed of the order by an officer. (Family Code section 6383; Penal Code section 836(c)(2).) An officer can obtain information about the contents of the order in the California Restraining and Protective Order System (CARPOS). (Family Code section 6381(b), (c).)

**This is a Court Order.**

JV-265, Page 6 of 7

## Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

## Conflicting Orders—Priorities for Enforcement

**If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority** (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item (14) is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

*(The clerk will fill out this part.)*

Clerk's Certificate  
[seal]

### —Clerk's Certificate—

I certify that this *Juvenile Restraining Order After Hearing—Against a Child* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

Clerk stamps date here when form is filed.

**DRAFT**  
**Not approved by**  
**the Judicial Council**  
**JV-268.v3.070124.jh**

**1 Name of Party Asking for Protection:**

**2 Name of Party to Be Restrained:**

**3 Notice to Server**

You must:

- Be 18 years of age or older.
- Not be listed in item ① or ② of form JV-245, *Request for Juvenile Restraining Order*, or JV-258, *Request for Juvenile Restraining Order Against a Child*.
- Give a copy of all documents checked in ④ to the person in ② (you cannot send them by mail). Then complete and sign this form, and give it to the party in ①.

**4 I gave the party in ② a copy of all the documents checked:**

- a. ☐ JV-245, *Request for Juvenile Restraining Order*
- b. ☐ JV-249, *Notice of Court Hearing*
- c. ☐ JV-258, *Request for Juvenile Restraining Order Against a Child*
- d. ☐ JV-250, *Temporary Restraining Order—Juvenile*
- e. ☐ JV-260, *Temporary Restraining Order Against a Child*
- f. ☐ JV-251, *Request to Reschedule Restraining Order Hearing*
- g. ☐ JV-253, *Order on Request to Reschedule Restraining Order Hearing*
- h. ☐ JV-255, *Juvenile Restraining Order After Hearing*
- i. ☐ JV-265, *Juvenile Restraining Order After Hearing—Against a Child*
- j. ☐ Other (specify): \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Fill in child's name

**Child's name:**

Court clerk fills in case number when form is filed.

**Case Number:**

**5 I personally gave copies of the documents checked above to the party in ② on:**

- a. Date: \_\_\_\_\_ b. Time: \_\_\_\_\_ ☐ a.m. ☐ p.m.
- c. At this address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**6 Server's Information**

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 (If you are a registered process server):  
 County of registration: \_\_\_\_\_ Registration number: \_\_\_\_\_

**7 I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.**

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

Type or print server's name

Server to sign here

DRAFT Not approved by the Judicial Council JV-272.v4.051624.jh

This form is attached to (check one): ☐ JV-250 ☐ JV-255 ☐ JV-260 ☐ JV-265 ☐ Other: \_\_\_\_\_**1 Restrained Person Has Prohibited Items**

The court finds that the restrained person has prohibited items as follows:

- a. ☐ Listed on form JV-250, *Temporary Restraining Order—Juvenile*
- b. ☐ Listed on form JV-260, *Temporary Restraining Order Against a Child*
- c. ☐ Listed on form JV-255, *Juvenile Restraining Order After Hearing*
- d. ☐ Listed on form JV-265, *Juvenile Restraining Order Against a Child—Order After Hearing*
- e. ☐ Listed below:

**Firearms (guns) and/or firearm parts**

Description	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____
(5) _____	_____	<input type="checkbox"/> (date): _____
(6) _____	_____	<input type="checkbox"/> (date): _____

**Ammunition**

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____
(5) _____	_____	_____	<input type="checkbox"/> (date): _____
(6) _____	_____	_____	<input type="checkbox"/> (date): _____

- ☐ Check here if you need more space to list items. List them on a separate piece of paper, write “JV-272, Restrained Person Has Prohibited Items” at the top, and attach it to this form.





**2 ☐ Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

The restrained person must attend the court hearing listed below to prove that all prohibited items have been properly turned in, sold, or stored. If the restrained person does not attend the court hearing listed below, a judge may find that the restrained person has violated the restraining order and notify a prosecuting attorney of the violation.



Name and address of court, if different from court address listed on the front of this order

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

**3 ☐ Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that the restrained person has not fully complied with (obeyed) the orders previously granted on (date): \_\_\_\_\_. The court has not received a receipt or proof of compliance for all the items listed in **1**.

b. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation (prosecuting agency): \_\_\_\_\_.

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

\_\_\_\_\_  
*Judicial Officer*

**This is a Court Order.**

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
1.	California Department of Justice by Brittany Phillips, Investigative Database Services Section Manager	AM	<p>The JV-250, JV-255, JV-260, and JV-265 did not update the “Restrained Person has Prohibited Items” sections to include body armor.</p> <p>CA DOJ recommends that the JV-250, JV-255, JV-260, and JV-265 “Restrained Person has Prohibited Items” sections be updated to include a body armor subsection. The information presented in this section of the forms is reflected in the CARPOS Restrained Firearm Group (RFG) data field. By ensuring body armor is included, users will update the RFG field, and therefore any inquiring law enforcement agency will have the information regarding body armor and its whereabouts for officer safety purposes. While we recognize relinquishment is not required to have the same process, the suggestion is to add a body armor subsection which will provide at least two lines for Body Armor description, amount if known, and location if known.</p>	The committee did not include body armor because the enumerated items in those relate to the findings that the court must make under Family Code section 6322.5, which refers solely to firearms and ammunition and does not include body armor. That section applies to these forms because application for a juvenile restraining order is made in the manner provided in Family Code section 6300 which applies all of Part 4 to the issuance of restraining orders and Part 4 includes section 6322.5. While the committee agrees that it would be helpful for law enforcement to have information regarding body armor and its location, the committee chose to include only the findings required by statute.
2.	California Lawyers Association, Family Law Section Executive Committee	A	FLEXCOM agrees with this proposal.	No response required.
3.	Giffords Law Center to Prevent Gun Violence by Julia Weber, Esq., MSW, Consultant	AM	<p>Giffords appreciates and agrees with elevating the availability of firearm-prohibiting remedies (civil harassment and workplace violence prevention) for the juvenile court to ensure greater access to these critical, lifesaving policies.</p> <p>On JV-247, page 3 #13, the exemption should include a reference to a particular firearm pursuant to what the exemption permits.</p>	<p>The committee appreciates this commentor’s input.</p> <p>The committee notes that the order itself (form JV-255) requires the court to indicate the particular firearm that the exemption applies to but agrees that more information on the response form (form</p>

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
				JV-247) could be helpful. The committee will consider changing this item in a future cycle, which could also include asking the respondent for details of the firearm for which the exemption is sought (e.g., serial number, make of firearm).
			On JV-250, #6 and JV-255, #11, body armor should be included as a prohibited item.	As discussed above, the committee did not include body armor because the enumerated items relate to the findings that the court must make under Family Code section 6322.5, which refers solely to firearms and ammunition and does not include body armor.
			As noted for another proposal, we recommend the adoption of an information sheet that provides photos of various firearms and prohibited items so that if a detailed description is hard for a party to provide, the info sheet might aid and improve their ability to provide details on the form. A copy of such form has been provided to Judicial Council staff for consideration.	Because this suggestion would entail important substantive changes to the proposal, the committee believes public comment should be sought before it is considered for adoption. The committee may consider this suggestion during a future rules cycle.
4.	Norman J Valdez	AM	The ownership of body armor by a minor or an adult should not be a restriction under the law. There are many places throughout California that Gun Violence is out of control. as such the court would be denying a person some personal safety.	Assembly Bill 92 (Connolly; Stats. 2023, ch. 232), now codified at Penal Code section 31360, prohibits a person who is prohibited from possessing firearms from possessing, owning, or buying body armor.
5.	Superior Court of California, County of Los Angeles	A	The following comments are representative of the Superior Court of California, County of Los Angeles (Court), and do not represent or promote	No response required.

## SPR 24-22

### Juvenile Law: Restraining Orders (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
	by Bryan Borys, Director of Research and Data Management		the viewpoint of any particular judicial officer or employee.	
			In response to the Judicial Council of California's "ITC SPR24-22 Juvenile Law: Restraining Orders," the Court agrees with the proposal and its ability to appropriately address its stated purpose	No response required.
			The Court agrees that the Rules of Court should be amended to require notice in a specified way.	This is the only affirmative comment in response to the question of whether the rules should be amended to specify a notice requirement. Because there was not a large amount of support for a statewide rule in this area, the committee concluded to not recommend amending the rules to proscribe notice but to let notice continue to be controlled by provisions of the Family Code for requests based on domestic violence and the Code of Civil Procedure for requests not based on domestic violence.
			Although the Court does not see any cost savings from the proposal, it anticipates minimal implementation requirements, which include but are not limited to: 1) Training for staff; 2) Updating policies and procedures; 3) Updating macros, event codes, and forms in the case management system.	The committee appreciates this information. No response required.
			Lastly, the Court agrees that three months from Judicial Council approval of this proposal until its effective date will provide sufficient time for implementation and that this proposal would work well in courts of different sizes.	No response required.

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

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	Commenter	Position	Comment	Committee Response
6.	Superior Court of California, County of San Diego by Mike Roddy, Executive Office	AM	Q: Does the proposal appropriately address the stated purpose? <b>A: Yes.</b>	No response required.
			Q: Should the rules of court be amended to require notice in a specified way? <b>A: No.</b>	Only one commentator thought the rules should be amended to include notice. Because there was not a large amount of support for a statewide rule in this area, the committee concluded to not recommend amending the rules to proscribe notice but to let notice continue to be controlled by provisions of the Family Code for requests based on domestic violence and the Code of Civil Procedure for requests not based on domestic violence.
			Q: Would the proposal provide cost savings? If so, please quantify. <b>A: No.</b>	No response required.
			Q: What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? <b>A: Implementation will require training staff, updates to the case management system, and revising internal procedures. In addition, courts would need to inform their judicial officers and their justice partners (child welfare agency, probation department, tribal agencies, attorney offices, CASA offices, et al.) of the amended rules of court and the new forms.</b>	The committee appreciates this information. No response required.

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

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	Commenter	Position	Comment	Committee Response
			Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <b>A: Yes.</b>	No response required.
			Q: How well would this proposal work in courts of different sizes? <b>A: This proposal should work well, regardless of the size of the court.</b>	No response required.
			<b>CRC 5.630(f):</b> Propose italicizing titles of the Judicial Council forms.	The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.
			<b>JV-245:</b> Page 1, left footer: suggest adding WIC § 213.6, FC §§ 6380, 6389; deleting WIC § 345.  Item 5.a.(1): should the sentence be revised to add “or a person in 4a” after the person in 1a?  Item 6: should body armor be added to this item?	The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.  Code of Civil Procedure section 527 allows an exception to notice only for injury to the applicant, not other protected persons.  These items relate to the findings that the court must make under Family Code section 6322.5. The statute does not include body armor. It refers to firearms and ammunition.
			<b>JV-247:</b> Page 1, left footer: suggest adding PC § 136.2, FC §§ 6320, 6321, 6322. Item 13: suggest adding “ – Juvenile” to reflect the title of JV-250.	The committee does not agree with the suggestion to add Penal Code section 136.2 to the footer of this juvenile court form as that section governs orders protecting victims and witnesses in criminal court cases. The committee agrees with the remaining suggestions and has incorporated them

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

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	Commenter	Position	Comment	Committee Response
				into the revisions that it is recommending for adoption.
			<p><b>JV-250:</b> Item 2: suggest adding firearm parts and body armor.</p> <p>Item 3: suggested edits: “the people listed below are protected by the orders list in 85 through 4+15.” Item 4, boxed text below hearing date: suggest changing from page 5 to page 6. Boxed text at the top of page 2: Suggest changing 14 to 15 (second sentence). Suggest adding a period after “address in 2.” Item 16.b: suggest changing “Oder” to “Order.”</p> <p>Page 6, Duties of Officer, first bullet: suggest adding “or 8” after “items listed in 5.”</p>	<p>As discussed above, this item relates to the findings that the court must make under Family Code section 6322.5. The statute does not include body armor. It refers to firearms and ammunition. The committee agrees with the suggestion to add firearm parts to this item and has incorporated it into the revisions that it is recommending for adoption</p> <p>Item 3 lists the orders that protect other people. The orders in items 5-7 relate to firearm relinquishment so the committee declines the suggestion to add them to Item 3. The orders in items 13-15 are not protective orders so the committee declines the suggestion to add them to item 3. The committee agrees to add item 12, the stay away order, to this item and has incorporated it into the revisions that it is recommending for adoption. This addition would make item 3 consistent with the parallel DV form item. Item 3 would now read: “...the people listed below are protected by the order listed in 8 through 12.</p> <p>The duty of an officer to ask if a restrained person in in possession of prohibited items is governed by Family Code section 6389 which does not include body armor. The committee does not agree to add item 8, which addresses body armor, to the section of Duties of Officer.</p>

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

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	Commenter	Position	Comment	Committee Response
			<p><b>JV-255:</b> Item 3: suggest changing “items 11 through 14” to “items 7 through 18.”</p> <p>Item 6, boxed text, second sentence: propose changing 17 to 18. Item 15b: suggest changing “Exception to 14a” to Exception to 15a.” Page 7, second bullet point: suggest changing page 5 to page 6. Page 8, paragraph 2: suggest changing “Item 13” to “Item 14.”</p>	<p>This item lists the orders that protect other people. Items 7-10 relate to firearm relinquishment and item 16-18 are not protective orders. The committee agrees to add item 15, the stay away order to item 3 on this form and has incorporated it into the revisions that it is recommending for adoption. This addition would make item 3 consistent with the parallel DV form item.</p> <p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p>
			<p><b>JV-257:</b> Page 2, right footer: suggesting changing JV-255 to JV-257.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p><b>Forms JV-258, JV-259, JV-260 and JV-265 (forms for restraining orders against a child or youth):</b> The restrained person in these forms will be a person under 18 years of age. Should the items dealing with prohibited firearms be worded differently because persons under 18 years of age are already prohibited by law from possessing such items unless an exception applies? (See Pen. Code, §§ 29610, 29615.)</p>	<p>Because this suggestion would entail important substantive changes to the proposal, the committee believes public comment should be sought before it is considered for adoption. The committee may consider this suggestion during a future rules cycle.</p>
			<p><b>JV-258:</b></p>	



**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

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	Commenter	Position	Comment	Committee Response
			<p>Page 1, left footer: suggest adding Family Code §§ 6218, 6322.5, and 6380 to citations.</p> <p>Item 5.a.(1): Should the sentence be revised to add “a person in 4a?”</p> <p>Item 6: Should body armor be added to this item?</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>Code of Civil Procedure section 527 allows an exception to notice only for injury to the applicant, not other protected persons.</p> <p>This item relates to the findings that the court must make under Family Code section 6322.5. The statute does not include body armor. It refers to firearms and ammunition.</p>
			<p><b>JV-259:</b></p> <p>Page 1, left footer: suggest adding Family Code §6322.5 to citations.</p> <p>Item 9: suggest adding items 5 and 7. “. . . you must follow the orders in 5, 6, and 7 on form JV-260.”</p> <p>Item 11: suggest changing item 11 to item 12 on form JV-258.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee declines to implement this suggestion as items 5 and 7 are not orders.</p> <p>The committee agrees with this suggestion that item 11 on the JV-259 should refer to item 12 on the JV-258 and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p><b>JV-260:</b></p> <p>Item 3: suggest changing “orders listed in 8 through 10” to “orders listed in 9 through 11.”</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>Page 1, left footer: suggest adding Family Code §6322.5 to citations.</p> <p>Page 5, Duties of Officer, first bullet: suggest adding “or 8” after “items listed in 5.”</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The duty of an officer to ask if a restrained person in in possession of prohibited items is governed by Family Code section 6389 which does not include body armor. The committee prefers to continue to limit the list to only those items included in the statute does not agree to add item 8.</p>
			<p><b>JV-265:</b>  Title: propose changing title to: Juvenile Restraining Order Against a Child – Order After Hearing.  Note: If this change is adopted, conforming changes will need to be made to:  -- CRC 5.625(a), 5.630(f), 5.630(j)(3),  -- form JV-257, item 3 (second check box),  -- form JV-265, page 7 (clerk’s certificate),  -- form JV-268, item 4.i., and  -- the center footers on each page of form JV-265.</p> <p>Item 3: suggest changing “items 11 through 13” to “items 12 through 14.”</p> <p>Item 6, boxed text: suggest changing “See 7 through 14” to “See 7 through 15.”  Page 6, Start and End Date of Orders, second bullet point: suggest changing “the judge’s</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p>

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

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	Commenter	Position	Comment	Committee Response
			signature on this page” to “the judge’s signature on page 5.”  Page 6, Duties of Officer, first bullet: suggest adding “or 11” after “items listed in 7.”  Page 7, paragraph 2: suggest changing “Item 13” to “Item 14.”	The duty of an officer to ask if a restrained person in in possession of prohibited items is governed by Family Code section 6389 which does not include body armor. The committee does not agree to add item 11, which addresses body armor, to the section of Duties of Officer.  The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.
			<b>JV-268:</b> Item 4: should the forms be listed in numerical order?	This is the proof of service form. The committee decided to list the forms that may be served closer to the order in which they would be made and served rather than in numerical order. This mirrors the way the forms are listed on the DV proof of service form.
			<b>JV-272:</b> Title and footers: suggest adding an “s” to “Finding.” “Prohibited Findings and Orders.” Item 1: should check boxes be added for “Listed on form JV-255” and “Listed on form JV-265,” as they are also listed on the first line as forms to which JV-272 may be attached? Page 1, left footer: suggest adding CRC 5.630 to citations. Page 2: should there be a place at the bottom of this page for the date and signature of the judicial officer?	The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.
7.	Youth Law Center,	N/I	Dear Judicial Council,	See responses below.

SPR 24-22

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

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	Commenter	Position	Comment	Committee Response
	San Francisco, by Marisa Lopez-Scott, Senior Attorney		Youth Law Center (YLC) appreciates the opportunity to review and comment on the Judicial Council Invitation to Comment SPR24-22 Juvenile Law: Restraining Orders. Youth Law Center supports the proposed changes if modified and we have provided specific comments on proposed Rule 5.632. We have also provided feedback regarding the current statutory scheme for protection orders for youth under the jurisdiction of the juvenile court to raise issues particular to nonminor dependents and youth subject to a 601 or 602 petition.	
			<u>About Youth Law Center</u> YLC is a nonprofit legal advocacy organization that has worked for four decades to transform foster care and juvenile justice systems across the nation so every child and youth can thrive. YLC's advocacy aims to ensure children and youth are not only protected from harm and dangerous conditions in systems but also receive the support, opportunities, and love they need to grow up healthy and happy. We pursue these goals through child-focused, research-informed advocacy strategies including litigation, policy reform, media advocacy, collaborative system-change projects, training and advice, and public education.	The committee appreciates the background on this commentor. No response required.
			<u>Feedback on Proposed Rule 5.632</u> We are not in agreement with proposed Rule 5.632, and would request the attached line edits for the reasons contained below. We have separated our comments by minors and nonminors since they present different issues.	See response below.

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

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	Commenter	Position	Comment	Committee Response
			<p><i>Nonminor Dependents</i></p> <p>The Federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) and California’s Fostering Connections to Success Act (AB 12, 2010), expanded the definition of “foster child” to include youth ages 18-21 (see 42 U.S.C. Section 675(8)(B) and Welf. &amp; Inst. Code Section 11400(v)). Though these youth can remain under the jurisdiction of the juvenile court as nonminor dependents, Welf. &amp; Inst. Code Section 303(d)(1) and Rule of Court 5.900(c) state that:</p> <p style="padding-left: 40px;">[n]othing in this code, including, but not limited to, Sections 340, 366.27, and 369.5, shall be construed to provide legal custody of a person who has attained 18 years of age to the county welfare or probation department <i>or to otherwise abrogate any other rights that a person who has attained 18 years of age may have as an adult under California law. A nonminor dependent shall retain all of his or her legal decisionmaking authority as an adult.</i> (emphasis added)</p> <p>By contrast, on its face, Code of Civil Procedure Section 374.5 (which is the basis for proposed Rule 5.632) only applies to <i>minors</i>, not all children or youth under the jurisdiction of the juvenile court. CCP 374.5 states that:</p> <p style="padding-left: 40px;">[a] proceeding initiated by or brought against a <i>minor</i> for any of the injunctions or orders described in paragraph (1) of</p>	<p>The committee agrees that section 374.5 only applies to minors. See response below.</p>

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

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	Commenter	Position	Comment	Committee Response
			<p>subdivision (b) of Section 372 or subdivision (a) of Section 374 shall be heard in the court assigned to hear those matters; except that, if the <i>minor</i> bringing the action or against whom the action is brought has previously been adjudged a dependent child or a ward of the juvenile court, the matter shall be heard in the juvenile court having jurisdiction over the <i>minor</i>. (emphasis added).</p> <p>CCP 374.5 was adopted in 1998, well before extended foster care and therefore only contemplated minors being under the jurisdiction of the juvenile court. Additionally, CCP 374.5 is situated in the chapter "Disability of Party" (e.g. minors, individuals who are conserved etc.) and nonminor dependents as legal adults are not presumed to have any of these "disabilities" simply by remaining under the jurisdiction of the juvenile court.</p> <p>Thus, for nonminor dependents subject to a dependency petition in the juvenile court, the legal authority for proposed rule 5.632 would be Welf. &amp; Inst. Code Section 213.5(a) (granting exclusive jurisdiction to the juvenile dependency court), not CCP 374.5. However, based on our comments below, we believe that a more thorough review and revision of the current statutory scheme may be needed to fully protect the decisionmaking rights of nonminor dependents.</p>	

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

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	Commenter	Position	Comment	Committee Response
			<p><i>Minors</i></p> <p>The proposed Rule 5.632 is mostly correct as it applies to minors under the jurisdiction of the juvenile court; however, we request that the phrase “child or youth” in the proposed rule be changed to “minor” in accordance with Code of Civil Procedure 374.5 to not create confusion around its application to nonminor dependents. We note that there may be some issues when a parenting minor seeks family court custody orders in another court and may want to request a restraining order in conjunction with those proceedings to then have to make that request in the juvenile court; however, Code of Civil Procedure Section 374.5 is mandatory. This may require a legislative fix in the future.</p>	<p>The committee agrees with the recommendation to remove “youth” from rule 5.632. California law defines “minor” as a person under 18 years of age.<sup>1</sup> Rule 5.502(46) defines “youth” as a person who is at least 14 years of age but not yet 21 years of age. Rule 5.502(5) defines “child” as a person under 18 years of age. Rule 5.502 does not define “minor.” The committee agrees with the comment that the rule should not reference youth and has replaced “child or youth” with “child” in rule 5.632, since its definition in the rules aligns with the definition of “minor” in statute.</p>
			<p><u>Comments on Current Protective Order Laws and Rules for Youth Under the Jurisdiction of Juvenile Courts</u></p> <p>We found an overall gap and inconsistencies in the protective order laws and court rules with regards to nonminor dependents and youth subject to a 601 or 602 petition. We recommend that the judicial council undertake a thorough review of these sections to ensure that they provide youth with the appropriate rights and protections, including ensuring the legal decisionmaking capabilities of nonminor dependent adults.</p> <p><i>Nonminor Dependents</i></p>	<p>The committee appreciates this background information. Any clarity to Welfare and Institutions Code section 213.5 would need to come from the legislature and is outside the rulemaking authority of the Judicial Council.</p>

<sup>1</sup> See Fam. Code § 6500; Labor Code §1286.

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

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	Commenter	Position	Comment	Committee Response
			<p>Welf. &amp; Inst. Code Section 213.5(a) and Rule of Court 6.530(a)(1) give the juvenile dependency court exclusive jurisdiction to hear protective orders for children under the jurisdiction of the dependency court. While Section 213.5 has been updated a few times since the passage of AB 12 (extended foster care), it has not been fully updated with nonminor dependents in mind. Thus, the term “child” in this subsection seems to mean minor rather than all foster children, which creates a result that is in conflict with laws that affirm the legal decisionmaking rights of nonminor dependents.</p> <p>There are many reasons why a nonminor dependent may not want to request a protective order in the juvenile court, especially for pregnant and parenting foster youth. Foster youth experience higher levels of unintended pregnancy than youth who are not in foster care.</p> <ul style="list-style-type: none"> <li>● A <a href="#">study in three Midwestern states</a> showed <i>one-third</i> of foster youth reported having been pregnant, with two thirds of those responding reporting that the pregnancy was unplanned.</li> <li>● In California, by the age of 19, <a href="#">foster youth are more than twice as likely as their peers not in foster care to experience a pregnancy</a>, with two-thirds of those youth describing the pregnancies as unintended.</li> <li>● In Los Angeles County alone, there are currently over 400 youth in foster care</li> </ul>	



**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

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			<p>who are parenting young children of their own.</p> <p>In addition to higher rates of unintended pregnancy, foster youth are at a disproportionate risk of child welfare contact when they become parents:</p> <ul style="list-style-type: none"> <li>• Studies within Los Angeles County have found that a maternal history of maltreatment is the single <b>strongest predictor</b> of allegations of offspring maltreatment by age five.</li> <li>• While 10 percent of babies born in California are reported to child protective services by the age of three, a recent study shows that rate jumping to <b>53 percent</b> of children born to mothers who are in foster care at the time of birth. This percentage climbs to a staggering <b>68 percent</b> of young mothers in foster care with histories of unstable placements and mental health needs.</li> </ul> <p>Parenting foster youth and their children are at heightened risk of over surveillance by the child welfare system, and requiring them to make any requests for protective orders in the juvenile court may further place their children at risk of removal when in fact, a protective order can be a vital prevention and protective measure. Additionally, requiring a nonminor dependent to file the</p>	

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	Commenter	Position	Comment	Committee Response
			<p>protective order in the juvenile court may also create confusion in cases where the nonminor dependent seeks family court custody orders in another court for their own child and may also want to request a DVRO as a part of those proceedings.</p> <p>Finally, youth in the child welfare system are <b>particularly vulnerable</b> to experiencing intimate partner violence in adolescence and early adulthood due to their own histories of trauma and witnessing intimate partner violence as children.</p> <p>Nonminor dependents should be able to choose whether to request the protective order in the juvenile court, or in any other court permitted to make such orders, to respect their decisionmaking rights. Therefore clarity is needed with regards to Welf. &amp; Inst. Code Section 213.5(a).</p> <p><i>Youth Subject to a Petition under Welf. &amp; Inst. Code Section 601 and 602</i></p> <p>Under Welf. &amp; Inst. Code Section 213.5(b), for youth subject to a Section 601 or 602 petition, the juvenile court <i>does not</i> have exclusive jurisdiction to issue protective orders. (See Section 213.5(b) “[a]fter 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,..., <i>the juvenile court may issue ex parte orders...</i>” in contrast to Section 213.5(a) “[a]fter 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</p>	<p></p> <p>As discussed above, the committee agrees with the recommendation to remove “youth” from rule 5.632 and has replaced it with “child” in the revisions it is recommending for adoption.</p>

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

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			<p>dependency is terminated,..., <i>the juvenile court has exclusive jurisdiction to issue ex parte orders...</i> (emphasis added)). Despite these different Welf. &amp; Inst. Code provisions, Code of Civil Procedure 374.5 is protective of minors who are subject to a 601 or 602 petition, but not nonminor dependents. This is particularly troublesome when a restraining order may be brought against a nonminor dependent in another court where the youth does not have the protection of right to counsel like they do in the juvenile court. Additionally, nonminor dependents subject to a 601 or 602 petition may have the ability to seek a restraining order in another court since the delinquency court does not have exclusive jurisdiction, while dependent foster youth would not.</p> <p>Thus, we ask the judicial council to undertake a review of the current rules of court and Welfare and Institutions Code to make them consistent across each section to ensure that the legal decisionmaking rights of nonminors are protected and that youth subject to a 601 or 602 petition do not have disparate protections and rights than dependent youth.</p> <p>We thank you again for this opportunity to provide feedback on SPR24-22. If you have further questions about these concerns, please contact us to discuss further. Thank you.</p>	<p>Any amendments to Welfare and Institutions Code section 213.5 or Code of Civil Procedure section 374.5 would need to come from the legislature and is outside the rulemaking authority of the Judicial Council.</p> <p>No response required.</p>

**Juvenile Law: Restraining Orders** (amend Cal. Rules of Court, rule 5.632: amend rules 5.620, 5.625, and 5.630)

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	Commenter	Position	Comment	Committee Response
			<p>Line Edits on Proposed Rule 5.632</p> <p>Rule 5.632. Civil harassment, workplace violence prevention, and domestic violence prevention orders</p> <p>A proceeding for the following orders initiated by or brought against a <u>minor</u> <del>child or youth</del> who is under juvenile court jurisdiction must be heard in the juvenile court that has jurisdiction of the <u>minor</u> <del>child or youth</del> as required by Code of Civil Procedure section 374.5:</p> <p>(1) An order prohibiting harassment under Code of Civil Procedure section 527.6;</p> <p>(2) An order prohibiting violence in the workplace under Code of Civil Procedure section 527.8;</p> <p>(3) A protective order under division 10 (beginning with section 6200) of the Family Code; and</p> <p>(4) A protective order under Family Code sections 7710 and 7720.</p>	<p>The committee agrees with the recommendation to remove “youth” from rule 5.632. California law defines “minor” as a person under 18 years of age.<sup>2</sup> Rule 5.502(46) defines “youth” as a person who is at least 14 years of age but not yet 21 years of age. Rule 5.502(5) defines “child” as a person under 18 years of age. Rule 5.502 does not define “minor.” The committee agrees with the comment that the rule should not reference youth and recommends replacing “child or youth” with “child” in rule 5.632, since its definition in the rules aligns with the definition of “minor” in statute.</p>

<sup>2</sup> See Fam. Code § 6500; Labor Code §1286.

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** August 13, 2024

**Rules Committee action requested** [Choose from the drop-down menu below]:

**Recommend JC approval (has circulated for comment)**

**Title of proposal:** Protective Orders: Implementation of SB 459

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*

Amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms DV-105(A), FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO

*Committee or other entity submitting the proposal:*

Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and e-mail):* Frances Ho, 415-865-7662, frances.ho@jud.ca.gov and

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*Identify project(s) on the committee's annual agenda that is the basis for this item:*

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda: Item 1b. Requires the Judicial Council, by January 1, 2025, to develop forms to be used to modify an order issued under the Domestic Violence Prevention Act

**Out of Cycle:** *If requesting September 1 effective date or out of cycle, explain why:*

**Additional Information for Rules Committee:** (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

1. Form DV-105(A) was not part of this proposal in the Invitation to Comment but was included in a separate proposal, Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92. In light of comments received, the committee deferred the piece of that proposal that related to form DV-105(A). As such, form DV-105(A) has been pulled from that proposal and added to this proposal as the recommended changes also implement SB 459. No commenters objected to, or specifically commented on, the recommended changes to form DV-105(A).

2. Rule 5.92(a)(3) was not a part of the proposal in the Invitation to Comment but was included in the Judicial Council report. Rule 5.92 generally relates to the use of Request for Order (FL-300) and other forms for cases filed in family court. In light of the committee's recommendations in a concurrent report titled Juvenile Law: Restraining Orders, in which the committee is recommending that rule 5.630 (Restraining Orders) be amended to provide the process to change or end a restraining order when a juvenile court case is still open, rule 5.92(a)(3) will provide direction to family court professionals, parties and their attorneys about when form FL-300, form DV-300, and other forms, are required to request to change or end Juvenile Restraining Order After Hearing (form JV-255) when the juvenile dependency case has been dismissed and the restraining order is still in effect. Rule 5.630 will cross-reference rule 5.92.

Placing the recommended language in rule 5.92(a)(3), instead of in rule 5.630, will make the rule more comprehensive with respect to the procedures and the permitted use of form FL-300 (and other forms) relating to both domestic violence and juvenile law restraining order requests in family court.

3. Minor changes to rule 5.92 and Information Sheet for Request for Order (form FL-300-INFO) were not a part of the proposal in the Invitation to Comment. The committee's recommendation is to include a short statement that Income and Expense Declaration (form FL-150) is not required when asking for attorney's fees and costs under the Domestic Violence Prevention Act (specifically, as described in Family Code section 6344). The committee recognized that the rule and information sheet were inadvertently omitted from the recommendation made to implement Assembly Bill 2369 (Stats. 2022, ch. 591), effective January 1, 2024, in the report titled Domestic Violence: Form Changes to Implement

(05/20/24)

New Laws (August 23, 2023). Although the recommended changes to rule 5.92 and form FL-300-INFO were not circulated for public comment, the committee believes that they are noncontroversial and align with the revisions to form DV-100 that were adopted by the Judicial Council after receiving no objection in the public comment process.

#### **Additional Information for JC Staff**

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was

☒ reviewed by EGG on *(date)* 6.26.24

☒ approved by Office Director (or Designee) *(name)* Anna Maves  
on *(date)* 7.8.24

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **Form Translations** (check all that apply)

This proposal:

☒ includes forms that have been translated.

☐ includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)

☒ includes forms that staff will request be translated.

- **Form Descriptions** (for any report with new or revised forms)

☒ The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

☒ This proposal may require changes or additions to self-help web content.



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-156*

For business meeting on September 20, 2024

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**Title**

Protective Orders: Implementation of SB 459

**Agenda Item Type**

Action Required

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms DV-105(A), FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO

**Effective Date**

January 1, 2025

**Date of Report**

July 29, 2024

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**Recommended by**

Family and Juvenile Law Advisory  
Committee

Hon. Stephanie E. Hulse, Chair

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### Executive Summary

To implement Senate Bill 459 (Stats. 2023, ch. 874), the Family and Juvenile Law Advisory Committee recommends the adoption of a new series of domestic violence restraining order forms to allow either party to request to change or end a domestic violence restraining order. The proposal also recommends changes to existing family law forms and a family law rule of court to reflect the new proposed process. The recommended changes will help parties, attorneys, and court professionals understand the procedures to modify or terminate orders made in a domestic violence restraining order.

### Recommendation

To implement the requirements of SB 459, the Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2025:

1. Amend rule 5.92 of the California Rules of Court, to reflect that new forms are to be used for requesting a modification of an existing domestic violence restraining order, and to reflect other recent changes in law;
2. Revise one and adopt eight new domestic violence (DV) forms:
  - *City and State Where Children Lived* (form DV-105(A));
  - *Request to Change or End Restraining Order* (form DV-300);
  - *Request to Change Child Custody and Visitation Orders* (form DV-305);
  - *Notice of Court Hearing and Temporary Order to Change or End Restraining Order* (form DV-310);
  - *Request to Reschedule Hearing to Change or End Restraining Order* (form DV-315);
  - *Order to Reschedule Hearing to Change or End Restraining Order* (form DV-316);
  - *Response to Request to Change or End Restraining Order* (form DV-320);
  - *Response to Request to Change Child Custody and Visitation Orders* (form DV-325); and
  - *Order on Request to Change or End Restraining Order* (form DV-330);
3. Approve one new DV form:
  - *How Do I Ask to Change or End a Domestic Violence Restraining Order?* (form DV-300-INFO);
4. Revise four family law (FL) forms to clarify they are not to be used to request a modification of an existing domestic violence restraining order:
  - *Request for Order* (form FL-300);
  - *Information Sheet for Request for Order* (form FL-300-INFO);
  - *Responsive Declaration to Request for Order* (form FL-320); and
  - *Information Sheet: Responsive Declaration to Request for Order* (form FL-320-INFO); and
5. Revoke two existing forms:
  - *Findings and Order to Terminate Restraining Order After Hearing (CLETS–CANCEL)* (form DV-400); and
  - *How Do I Ask to Change or End a Domestic Violence Restraining Order After Hearing?* (form DV-400-INFO).

The proposed amended rule and new and revised forms are attached at pages 12–56.

### **Relevant Previous Council Action**

The Judicial Council previously adopted, approved, revised, and amended domestic violence forms and family law rules and forms, effective July 1, 2016, to establish procedures for requesting and recording modification or termination of orders issued in *Restraining Order After Hearing* (form DV-130) under Family Code section 6345. The council adopted the following relevant forms: *Findings and Order to Terminate Restraining Order After Hearing*



(CLETS–CANCEL) (form DV-400) and *How Do I Ask to Change or End a Domestic Violence Restraining Order After Hearing?* (form DV-400-INFO). In addition, the Judicial Council revised the following relevant forms: *Request for Order* (form FL-300), *Request for Order* (form FL-300), *Information Sheet for Request for Order* (form FL-300-INFO), *Responsive Declaration to Request for Order* (form FL-320), and *Information Sheet: Responsive Declaration to Request for Order* (form FL-320-INFO) to reflect those procedures.<sup>1</sup>

## **Analysis/Rationale**

SB 459 requires the council to create one or more specific forms for the purpose of modifying a restraining order based on domestic violence no later than January 1, 2025.<sup>2</sup> Currently, litigants seeking to modify or terminate a domestic violence restraining order or to respond to such a request must use family law forms (form FL-300 and form FL-320).

### **Domestic violence forms**

To comply with SB 459, the committee recommends the adoption and approval of new forms in the DV series that will allow either party to request to change or end a domestic violence restraining order that has been issued after a noticed hearing. A description of each new form and changes to existing forms is provided below.

### **Request to Change or End Restraining Order (form DV-300)**

This form can be used by either party to ask to change or end a domestic violence restraining order that has been granted after a noticed hearing and that is still in effect. This form could also be used to ask to change or end a restraining order, based on domestic violence, issued by a juvenile dependency court, after the juvenile case has closed.<sup>3</sup> This form and other DV-300 series forms would not be used when a party seeks to change an order that was (1) granted in a domestic violence restraining order that remains in effect even after the restraining order has expired, like a child custody order,<sup>4</sup> or (2) made in a separate family law case. In those situations, the party would continue to use *Request for Order* (form FL-300).

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<sup>1</sup> Judicial Council of Cal., Advisory Com. Rep., *Domestic Violence: Request to Modify or Terminate Domestic Violence Restraining Orders; Family Law: Changes to Request for Order Rules and Forms* (Oct. 13, 2015), <https://jcc.legistar.com/View.ashx?M=F&ID=4102087&GUID=CDCF9602-7D6A-42C6-9056-505665197C34>.

<sup>2</sup> Fam. Code, § 6345(e).

<sup>3</sup> To change or end a juvenile restraining order within an open juvenile dependency case, parties would follow the process provided in rule 5.630(j).

<sup>4</sup> Under Family Code section 6340, custody, visitation, and support orders made through a domestic violence restraining order survive the termination of the restraining order.

### **How Do I Ask to Change or End a Domestic Violence Restraining Order? (*form DV-300-INFO*)**

This information sheet answers questions that parties might have about this process, including when to use a different process. On page 3, the form gives step-by-step instructions on how to make a request to change or end a domestic violence restraining order.

### **Request to Change Child Custody and Visitation Orders (*form DV-305*)**

This form is an attachment to the request to change or end a restraining order (form DV-300). A party would complete this form to ask the court to change a child custody or visitation order made in a domestic violence restraining order matter if the restraining order is still in effect. The committee notes that it is proposing a format for visitation on this form that is simpler than the format on *Request for Child Custody and Visitation Orders* (form DV-105), which is used to request child custody and visitation in the initial restraining order request. For this new process, it would be simpler for the party seeking a change to a visitation order to explain how the order should be changed rather than listing what the proposed order should be. If the request is granted, the court would list the visitation order in detail on form DV-140.

### **Notice of Court Hearing and Temporary Order to Change or End Restraining Order (*form DV-310*)**

This form provides both parties with notice of the court hearing on the request to change or end the restraining order, as well as the court's decision on a request for temporary orders, if applicable.

### ***Request and order to reschedule court hearing (forms DV-315 and DV-316)***

Either party may use form DV-315 to ask the court to reschedule the court hearing. The court would use form DV-316 to issue its decision on a request to reschedule the court hearing. Form DV-316 is substantially similar to other orders to reschedule a court hearing (forms DV-116 and DV-716). However, the committee notes one option in the service section of form DV-316 that is not provided on forms DV-116 or DV-716. Statute requires that if the restrained party is seeking the modification or termination, that party must serve the protected party before the hearing, generally by personal service.<sup>5</sup> Because the court has the authority under that statute to allow the restrained party to serve the protected party by an alternative method of service—authority not provided in the statutes supporting DV-116 and DV-716--, the committee has included this option in item 5b(3) on form DV-316.

### **Response to Request to Change or End Restraining Order (*form DV-320*)**

This form would be used by the party responding to the request to change or end the restraining order. The form allows the party to indicate whether they agree or disagree with the request to change or end the restraining order, with the option of providing the reasons for their position or proposing another change in the order that they would agree to.

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<sup>5</sup> Fam. Code, § 6345(d).

***Response to Request to Change Child Custody and Visitation Orders (form DV-325)***

This form is an attachment to the response (form DV-320). This form would be used by the party responding to a request to change or end child custody and visitation orders submitted on form DV-305. The form allows the party to indicate whether they agree or disagree with each order requested by the party seeking to change or end these orders.

***Order on Request to Change or End Restraining Order (form DV-330)***

After a noticed hearing on a request to change or end a domestic violence restraining order, the court would issue its decision and any applicable orders on this form. If the court grants the request to change the Restraining Order After Hearing, the court must also sign a new form DV-130 and attach it to this form. If the court changes or ends the restraining order, the court must enter this order into the mandatory law enforcement database (CARPOS/CLETS)<sup>6</sup> or transmit the order to the responsible law enforcement agency.

***City and State Where Children Lived (form DV-105(A))***

The form has been revised so that it can be used by either party in a request to change or end the restraining order after hearing.

***Findings and Order to Terminate Restraining Order After Hearing (CLETS– CANCEL) (form DV-400) and How Do I Ask to Change or End a Domestic Violence Restraining Order After Hearing? (form DV-400-INFO)***

The committee recommends revoking these two forms. If the council adopts form DV-330, form DV-400 would no longer be needed to issue the court's decision on a request to change or end a restraining order. Form DV-400-INFO would no longer be needed, as proposed form DV-300-INFO provides parties with information about the process.

***Family law rule and forms***

***Rule 5.92, Request for court order; responsive declaration***

This rule specifies the requirements for filing a request for order (and a response to the request) in a family law case. It includes directions as to the forms that must be used to request that the court modify or terminate domestic violence restraining orders in form DV-130.

To update the rule to reflect the procedure required by the new law, the committee recommends amending subdivision (a)(2) to mandate the use of two different forms for the request to change or end the restraining order. Form FL-300 is to be used to ask to change or end the court orders in form DV-130 (for example, child custody, visitation (parenting time), or child support) after the restraining order expires. Form DV-300 is to be used for the same purpose while the restraining order (form DV-130) is still in effect. The rule will also

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<sup>6</sup> CARPOS (California Restraining and Protective Order System), formerly known as DVROS, is a database maintained by the California Department of Justice and is accessible via CLETS, the California Law Enforcement Telecommunications System. All restraining orders, including any modifications or terminations, must be entered into CARPOS under Family Code section 6380.

mandate the use of two forms to respond to the request to change or end the restraining order (form FL-320 and form DV-320, respectively).

In addition, the committee recommends that new subdivision (a)(3) be included in rule 5.92 to recognize that form FL-300 will also be used when a juvenile dependency action has been dismissed (closed) and a party seeks to change or end the restraining order granted in *Juvenile Restraining Order After Hearing* (form JV-255). Specifically, the committee recommends that the rule require that (1) form DV-300 be used to ask that the court change or end the order if it was granted under the Domestic Violence Prevention Act (DVPA), (2) form FL-300 be used to ask the court to change or end the restraining order if it was granted under the Code of Civil Procedure, and (3) form FL-320 or form DV-320 be used to respond to the request to change or end the order in form JV-255.

### **Request for Order (form FL-300)**

This form is used by parties in family law cases to ask for court orders. The committee recommends changing the form to remove the request for the court to change or end domestic violence restraining orders in form DV-130 because form FL-300 would no longer be used to make that request. Specifically, the committee recommends (1) deleting, on page 1, the “Domestic Violence Order” check box in the caption, (2) adding a note under the caption on page 1 that directs the user to forms FL-300-INFO (for help with completing form FL-300) and DV-300-INFO (for help with completing form DV-300), (3) deleting the information under item 3 on page 1 directing the user to forms FL-300-INFO and DV-400-INFO, and (4) deleting item 7 (“Domestic Violence Order”) and renumbering items 8, 9, and 10.

### **Information Sheet for Request for Order (form FL-300-INFO)**

This form provides information about how to complete *Request for Order* (form FL-300). The committee recommends that items 1 and 2 on page 1 of the form be revised to align with the changes proposed to form FL-300 and the new DV forms described above.

The committee recommends minor changes to the instructions on page 1 including (1) specifying in item 2 that the referenced petition is for a *family law* case and (2) adding “these forms” to the end of items 3d, 3e, and 3f, to be consistent with the other entries in item 3). The changes on page 2 include redrafting and reformatting item 4 to make the item easier to read and updating the image of form FL-300. The recommended changes to pages 3 and 4 include using gender neutral terms to replace binary pronouns.

### **Responsive Declaration to Request for Order (form FL-320)**

This form is used by a party to file a response to the court orders requested in *Request for Order* (form FL-300). The committee recommends deleting item 7 (“Domestic Violence Order”) and renumbering items 8, 9, and 10.

### **Information Sheet: Responsive Declaration to Request for Order (*form FL-320-INFO*)**

This form provides information about how to complete *Responsive Declaration to Request for Order* (form FL-320). The committee recommends changes to this form to implement SB 459. On page 1, item 3 would include a new bullet point to let the party know not to use form FL-320 to respond to *Request to Change or End Restraining Order* (form DV-300) but to, instead, use *Response to Request to End or Change Restraining Order* (form DV-320).

In addition, on page 2, the committee recommends (1) changing item 6 to reflect that form FL-320 has eight items (after deleting item 7 (“Domestic Violence Order”)), (2) updating the image of form FL-320, and (3) moving the heading (“Complete the top part (caption) of the form”) to item 5, as it was inadvertently placed above item 5 in the current form.

### **Policy implications**

In addition to implementing legislative changes, this proposal contributes to the implementation of Goal I, “Access, Fairness, Diversity, and Inclusion,” of the Judicial Council’s *Strategic Plan for California’s Judicial Branch* by helping to make forms easier to complete and understand for self-represented litigants.

### **Comments**

This proposal was open for public comment from April 2 through May 3, 2024. Nine commenters responded to the proposal. Three agreed with the proposal; three agreed, if modified; two did not indicate a position; and one disagreed with the proposal. The commenters were the Superior Courts of Los Angeles, Orange, San Diego, and Ventura Counties; Community Legal Aid SoCal; the California Lawyers Association; the Family Violence Appellate Project; the Orange County Bar Association; and the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee.

Most commenters supported many of the proposed changes. One commenter, the Family Violence Appellate Project, did not agree with the proposal, stating that a separate set of forms should be designed for the protected party as the proposed forms may make it easier for the restrained party to seek modification or termination. The committee believes the recommended forms fulfill the requirements of SB 459 and the council’s goal of providing forms that are fair and accessible.

Some of the more significant changes made in response to comments are described below. All comments and the committee’s responses are provided in the attached chart of comments at pages 63–83.

### ***Form DV-300***

In light of comments received regarding how litigants should indicate the modifications they are seeking, the committee recommends using a narrative format for the item that asks the

requester to describe the changes sought.<sup>7</sup> Using a narrative format, rather than a template format, provides the requester more flexibility to include any order the court has authority to grant or modify under the Domestic Violence Protection Act.

### ***Temporary orders made on an ex parte basis<sup>8</sup>***

The committee recommends including an item that would allow the requester to indicate whether they are asking for immediate orders (i.e., on an ex parte basis). The committee believes that the court has the authority to make immediate orders on an ex parte basis in the following situations: (1) when the protected party needs more protection, (2) to prevent immediate harm to a child in the case, and (3) if there is an immediate risk that a child in the case will be removed from California. The committee sought specific comment on whether other circumstances would allow the court to issue immediate orders on an ex parte basis. Commenters did not identify another basis for the court's authority. However, some commenters did note that the item does not capture the situations in which the court *cannot* grant a request on an ex parte basis. In light of these comments, the committee has included an instruction in this item that the court cannot change or end a restraining order at the restrained person's request without proper notice to the protected party and a noticed hearing, as required under Family Code section 6345(d).

### ***Form DV-330***

In response to a comment, the committee recommends allowing the court to indicate the status of any child custody, visitation, and support orders after terminating the restraining order after hearing.

### ***Family law rule and forms: changes to rule 5.92, form FL-300, and form FL-300-INFO***

One commenter proposed amending rule 5.92 to clarify that "[form DV-300] must be used to request a modification or termination of all orders made in a Restraining Order After Hearing (form DV-130)."

In response and after discussion, the committee recommends that rule 5.92(a) be subdivided into 5.92(a)(2)(A) and (B) to reflect that (1) form DV-300 must be filed when a party seeks to modify orders in form DV-130 when the restraining order is still in effect, including any orders for child custody, child support, spousal or domestic partner support, property, or other orders; and (2) after the restraining order in form DV-130 has expired, form FL-300 must be used when the party wants to modify any orders that remain in effect, such as child custody, child support, spousal or domestic partner support, property, or other orders that remain in effect. In addition, the committee recommends that the rule list the forms that must be used to respond to the requests.

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<sup>7</sup> Form DV-300, item 3b(1).

<sup>8</sup> Form DV-300, item 3b(4).

Further, the committee considered the need for a new provision in rule 5.92 about filings made in family court to change or end *Juvenile Restraining Order After Hearing* (form JV-255) after the juvenile dependency case is closed. The consideration was made in light of the committee's recommendations in a concurrent report.<sup>9</sup> In that report, the committee is recommending that rule 5.630 (Restraining orders) be amended to provide the process to change or end a restraining order when a juvenile court case is still open. Rule 5.630(j) will reference mandated forms and will cross-reference rule 5.92 for required procedures and forms when a juvenile dependency court case is closed and a party files an action in family court seeking to change or end the restraining order in form JV-255.

To this end, the committee recommends that rule 5.92 include a subdivision (a)(3) to specify the forms that must be used when the juvenile case is closed and the party seeks to change or end the order granted under either the DVPA in the Family Code or Code of Civil Procedure. The subdivision will also identify the forms to be used to respond to the request.

The committee determined that rule 5.92(a)(3) is needed to provide more complete direction to family court professionals (court clerks, judicial officers, Self-Help Center staff, and others) and to parties and their attorneys in family court about the filing procedures and forms needed to request, and respond to a request, to end or change restraining orders that may be filed in family court.

Having the procedures in rule 5.92 relating to a request to change or end a juvenile restraining order is important because the rule relates to the use of *Request for Order* (form FL-300). Form FL-300 is not used in juvenile court proceedings. Placing the recommended language in rule 5.92(a)(3), instead of in rule 5.630, will make the rule more comprehensive with respect to the procedures and the permitted use of form FL-300 in family court.

In addition to the recommendation to amend to rule 5.92, the committee recommends revising *Request for Order* (form FL-300) and *Information Sheet for Request for Order* (form FL-300-INFO) to include information about using the forms to request changes to the restraining order in forms DV-130 and JV-255. The recommended change to *Request for Order* (form FL-300) is to add a note on page 1 under the caption. In form FL-300-INFO, additional bullet points are recommended to the first page.

#### ***Other minor changes to rule 5.92 and form FL-300-INFO***

On further review of the rule while making its recommendations, the committee recognized the need to align the rule and information sheet with the changes that the Judicial Council

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<sup>9</sup> Judicial Council of Cal., Advisory Com. Rep., *Juvenile Law: Restraining Orders* (July 29, 2024).

adopted to implement a prior law, Assembly Bill 2369 (Stats. 2022, ch. 591), effective January 1, 2024.<sup>10</sup> AB 2369 repealed and added Family Code section 6344.<sup>11</sup>

To implement the new law, the Judicial Council adopted and revised certain domestic violence forms, including *Request for Domestic Violence Order* (form DV-100), to remove the requirement that the petitioner file an *Income and Expense Declaration* (form FL-150) in support of a request for attorney's fees and costs orders. This change was, and remains, relevant to both rule 5.92 and form FL-300-INFO because they instruct the parties to complete and file form FL-150 when a party is seeking an order for the other party to pay their attorney's fees and costs.

Rule 5.92 and form FL-300-INFO should also have been revised along with the DV forms to implement AB 2369, but revisions to this rule and information sheet were inadvertently omitted from the prior recommendations that included revisions to form DV-100. To implement AB 2369, the committee recommends amending rule 5.92(b)(2) and revising form FL-300-INFO to specify that form FL-150 is not required, as previously described.

Although the recommended changes to rule 5.92 and form FL-300-INFO were not circulated for public comment, the committee believes that they are noncontroversial. The recommended changes to the rule and information sheet align with the revisions to form DV-100. In the report to the Judicial Council, with respect to form DV-100, the committee received comments from courts and legal organizations that the committee's recommendations appropriately address the stated purpose of the proposal. Further, no commenters objected to the committee's recommendation to delete the requirement in form DV-100 that the petitioner seeking attorney's fees and costs file *Income and Expense Declaration* (form FL-150). Finally, the Judicial Council adopted the committee's recommended revisions to form DV-100, effective January 1, 2024, as required to implement AB 2369.

Based on the foregoing, and because the committee is recommending minor changes to rule 5.92 and form FL-300-INFO to correctly reflect the statute, the committee believes that these recommendations are therefore within the Judicial Council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

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<sup>10</sup> Judicial Council of Cal., Advisory Com. Rep., *Domestic Violence: Form Changes to Implement New Laws* (Aug. 23, 2023), <https://jcc.legistar.com/View.ashx?M=F&ID=12246297&GUID=A32FA16D-5D75-405D-B35B-DD9E454992A4>.

<sup>11</sup> AB 2369 required the court in a domestic violence restraining order proceeding to, on request, award attorney's fees or costs to a prevailing petitioner, or to a prevailing respondent if the prevailing respondent can show "by a preponderance of the evidence" that the petition or request was "frivolous or solely intended to abuse, intimidate, or cause unnecessary delay."



## **Responsive Declaration to Request for Order (form FL-320) and Information Sheet: Responsive Declaration to Request for Order (*form FL-320-INFO*)**

The committee received no comments about the changes to these forms and recommends the revisions as proposed in the invitation to comment.

### **Alternatives considered**

Many of the proposed revisions are required by statutory changes, so the committee did not consider the alternative of no action.

As stated above, one commenter suggested that the committee recommend a separate set of forms that would be used by the protected party only. The committee did not adopt this approach but will monitor implementation and determine whether recommendations in the future are needed. Another commenter suggested creating a separate set of forms for terminating the restraining order. The committee did not adopt this approach, as other protective order form sets combine the request to modify or terminate into one set of forms (e.g., CH-600 series for civil harassment). The committee will monitor implementation of the DV-300 series to determine whether a different approach for the DV form set is needed.

The committee also considered utilizing existing continuance forms (DV-115, DV-116, DV-715, and DV-716) instead of proposing new continuance forms (DV-315 and DV-316). However, the committee rejected this approach because creating a form that would work for multiple processes would make the forms more complicated, with more options to choose from. Instead, the committee decided that a separate continuance form set for this new process would be more user-friendly.

### **Fiscal and Operational Impacts**

Commenting courts noted that resources would be needed to provide training, revise internal procedures, and update form packets and case management systems. One court indicated that six months for implementation might be needed to update guided interviews (programs available online to help litigants complete court forms). The committee does not recommend delaying implementation as the law requires that the new forms be available no later than January 1, 2025.

### **Attachments and Links**

1. Cal. Rules of Court, rule 5.92, at pages 12–13
2. Forms DV-105(A), DV-300, DV-300-INFO, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, DV-330, DV-400, DV-400-INFO, FL-300, FL-300-INFO, FL-320, and FL-320-INFO, at pages 14–62
3. Chart of comments, at pages 63–83
4. Link A: Sen. Bill 459 (Stats. 2023, ch. 874),  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB459](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB459)

Rule 5.92 of the California Rules of Court is amended, effective January 1, 2025, to read:

**Rule 5.92. Request for court order; responsive declaration**

**(a) Application**

(1) In a family law proceeding under the Family Code:

(A) The term “request for order” has the same meaning as the terms “motion” or “notice of motion” when they are used in the Code of Civil Procedure;

(B) A *Request for Order* (form FL-300) must be used to ask for court orders, unless another Judicial Council form has been adopted or approved for the specific request; and

(C) A *Responsive Declaration to Request for Order* (form FL-320) must be used to respond to the orders sought in form FL-300, unless another Judicial Council form has been adopted or approved for the specific purpose.

(2) In an action under the Domestic Violence Prevention Act, ~~a *Request for Order* (form FL-300) must be used to request a modification or termination of all orders made after a hearing on~~ *Restraining Order After Hearing* (form DV-130);

(A) While the restraining order in a *Restraining Order After Hearing (Order of Protection)* (form DV-130) is still in effect, *Request to Change or End Restraining Order* (form DV-300) must be used to ask that the court modify or terminate the orders granted in form DV-130, including any orders for child custody, child support, spousal or domestic partner support, property, or other orders.

(B) After the restraining order in a *Restraining Order After Hearing (Order of Protection)* (form DV-130) expires, *Request for Order* (form FL-300) must be used to ask that the court modify or terminate any orders in form DV-130 that remain in effect, such as child custody, child support, spousal or domestic partner support, property, or other orders.

(C) To respond to the request described in:

(i) Subdivision (a)(2)(A), *Response to Request to Change or End Restraining Order* (form DV-320) must be used.

(ii) Subdivision (a)(2)(B), *Response to Request for Order* (form FL-320) must be used.

(3) In a case initiated in the juvenile dependency court, if the court granted *Juvenile Restraining Order After Hearing* (form JV-255), the juvenile case has been closed (dismissed), and the restraining order is still in effect:

(A) *Request to Change or End Restraining Order* (form DV-300) must be used to ask that the court modify or terminate the order if it was granted under the Domestic Violence Prevention Act.

(B) *Request for Order* (form FL-300) must be used to ask that the court modify or terminate the order if it was granted under the Code of Civil Procedure.

(C) To respond to the request described in:

(i) Subdivision (a)(3)(A), *Response to Request to Change or End Restraining Order* (form DV-320) must be used.

(ii) Subdivision (a)(3)(B), *Response to Request for Order* (form FL-320) must be used.

~~(3)~~ (4) \* \* \*

**(b) Request for order; required forms and filing procedure**

(1) The *Request for Order* (form FL-300) must set forth facts sufficient to notify the other party of the moving party's contentions in support of the relief requested.

(2) Except in actions under Family Code section 6344, in which a party seeks an order for attorney's fees and costs, when a party seeks orders for spousal or domestic partner support, attorney's fees and costs, or other orders relating to the parties' property or finances:

(A) The party must complete an *Income and Expense Declaration* (form FL-150) and file it with the *Request for Order* (form FL-300); and

(B) \* \* \*

**(c)–(g)** \* \* \*

**DV-105(A) City and State Where Children Lived**

Case Number: \_\_\_\_\_

**1** This form is attached to *(check one)*:

- ☐ DV-105 *(For person in ①): Use this form if you have children that have not lived together for the last five years.)*
- ☐ DV-125 *(For person in ②): Use this form to list where your children have lived for the last five years.)*
- ☐ DV-305 *(Use this form if you have children who have not lived together for the last five years.)*
- ☐ DV-325 *(Use this form to list where your children have lived for the last five years.)*

**2** List where the child or children have lived for the last five years. Start with their current location.

a. Name of child or children: \_\_\_\_\_

b. <u>Dates (month/year)</u>		<u>City and State</u> <i>(include tribal land, if applies)</i>	<u>Children lived with (check all that apply):</u>		
			<u>Person</u> <u>in ①</u>	<u>Person</u> <u>in ②</u>	<u>Other (relationship</u> <u>to child)</u>
From: _____	To present		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/> Check here if this address is private (confidential). List the state only.			
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**3** List another child or children who have not lived with the child or children listed above. List where they have lived for the last five years. Start with their current location.

a. Name of child or children: \_\_\_\_\_

b. <u>Dates (month/year)</u>		<u>City and State</u> <i>(include tribal land, if applies)</i>	<u>Children lived with (check all that apply):</u>		
			<u>Person</u> <u>in ①</u>	<u>Person</u> <u>in ②</u>	<u>Other (relationship</u> <u>to child)</u>
From: _____	To present		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/> Check here if this address is private (confidential). List the state only.			
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- ☐ Check here to list other children with a different residence history than the children you've already listed. Use another form DV-105(A) and attach it to this form.

**This is not a Court Order.**

New Draft

6.28.24

Draft Not approved by  
the Judicial Council**Instructions**

Use this form to ask a judge to change or end a domestic violence restraining order (form DV-130) that is still in effect (not expired). You can also use this form to ask to change or end a juvenile restraining order (form JV-255) based on domestic violence, if the juvenile case has been closed. For more information on this process, read form [DV-300-INFO](#), *How Do I Ask to Change or End a Domestic Violence Restraining Order?* Do not use this form to ask to change or end orders made in a separate family law case (a case with a different case number than your restraining order). For more information, read form [FL-300-INFO](#), *Information Sheet for Request for Order*.

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number:

**Case Number:****1 Your Information**

a. Name: \_\_\_\_\_

b. Who are you in this case? (Check one):

☐ Protected person ☐ Restrained person

c. Is this your first request to change or end the restraining order?

☐ Yes ☐ No (How many times have you made a request?): \_\_\_\_\_d. **!** Address where you can receive court papers

(This address will be used by the court and the other party to send you official court dates, orders, and papers. You may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

e. **!** Your contact information (optional)

(The court could use this information to contact you. If you don't want the other party to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Telephone: \_\_\_\_\_ Email Address: \_\_\_\_\_ Fax: \_\_\_\_\_

f. Your lawyer's information (if you have one)

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

**2 Information About Your Case**

a. The other party in this case is (full name): \_\_\_\_\_

b. The current order expires on (date): \_\_\_\_\_

(Attach a copy of the current restraining order (form DV-130, DV-330, DV-730, or JV-255).)

**This is not a Court Order.**

### 3 Request

- a. ☐ I ask the judge to end all the orders granted in the restraining order (form DV-130, DV-330, or JV-255).
- b. ☐ I ask the judge to change or end some of the orders in the restraining order (form DV-130, DV-330, or JV-255).

*(If you checked b, complete section below)*

**(1) Describe the changes that you want the judge to make to the restraining order**

(For example, you can identify the order by name (stay-away order) and say "I ask for the stay-away order to be changed to ...")

This image shows a single sheet of white paper with horizontal blue or grey ruling lines, typical of notebook paper. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**(2) Do you want the judge to change orders for child custody or visitation?**

- ☐ Does not apply to my case. I do not have a child with the other party in this case.
- ☐ No.
- ☐ Yes. (If yes, you must complete form DV-305 and attach it to this form.)

**This is not a Court Order.**

**3 b. (3) Do you want to add people to, or remove people from, the restraining order?***(listed on form DV-130, item 3, or JV-255, item 3)*☐ No☐ Yes *(complete section below)*

<u>Full name</u>	<u>Age</u>	<u>Relationship to you</u>	<u>Lives with you?</u>	<u>Request to:</u>
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Add <input type="checkbox"/> Remove
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Add <input type="checkbox"/> Remove
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Add <input type="checkbox"/> Remove
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Add <input type="checkbox"/> Remove

☐ Check this box if you need to list more people. Use a separate piece of paper and write "DV-300, Other Protected people" at the top. Turn it in with this form.

Explain why the people listed above should be added or removed.

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**(4) Do you want the judge to change the restraining order immediately?**

(Usually, a judge makes a decision at a court hearing, when both sides have a chance to speak and give evidence. In some situations, a judge may make orders immediately (1) if you are the protected party and temporary orders are needed for more protection, (2) to prevent immediate harm to a child in this case, or (3) if there is an immediate risk that a child in this case will be taken out of California. If you are the restrained party, the judge cannot end or change the restraining order before the protected party has been properly served with this request and there has been a court hearing on your request.)

☐ No.☐ Yes. *(If yes, complete section below.)*

Describe the orders you are asking the judge to make immediately.

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Explain why you need orders immediately.

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**This is not a Court Order.**





**8 Your Signature**

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Sign your name*

**9 Your Lawyer's Signature** *(if you have one)*

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

\_\_\_\_\_  
*Lawyer's name*



\_\_\_\_\_  
*Lawyer's signature*

**Your Next Steps**

- After you complete this form, complete items 1 and 2 of form [DV-310](#), *Notice of Court Hearing and Temporary Order to Change or End Restraining Order*.
- File this form and form DV-310 with the court clerk. **You must do this before your restraining order expires.**
- Once you get your forms back from the court, follow the judge's orders on how to serve the other side (look at form DV-310, item 5). Have an adult (not you or anyone protected by the restraining order) serve the other side with a copy of your forms. You can also ask the sheriff to personally serve the papers, and they will do this for free. See form SER-001, *Request for Sheriff to Serve Court Papers*. Learn more about service at [www.selfhelp.courts.ca.gov/DV-restraining-order/change-end/serve-request](http://www.selfhelp.courts.ca.gov/DV-restraining-order/change-end/serve-request).
- After the other side has been served, have the person who served your papers complete a form and file the completed form with the court:
  - If the papers were personally served, have your server complete form [DV-200](#), *Proof of Personal Service*.
  - If the papers were served by mail, have your server complete form [DV-250](#), *Proof of Service by Mail*.
- If you are asking to change child support or spousal support, you must also complete form [FL-150](#), *Income and Expense Declaration*. If you are only asking for child support, you may be eligible to fill out a simpler form, [FL-155](#), *Financial Statement (Simplified)*. Read form [DV-570](#) to see if you are eligible. Before your court date, turn in your completed form to the court and serve a copy on the other party.

**This is not a Court Order.**



**DV-300-INFO****How Do I Ask to Change or End a Domestic Violence Restraining Order?****Who can make a request?**

The protected person or the restrained person can ask the judge to change or end the restraining order. Other people protected by the restraining order (listed on form DV-130, item 3, or JV-255, item 3) cannot ask to change or end the order.

**How do I ask to change or end a domestic violence restraining order?**

You will need to complete court papers and file them with the court. After you file your court papers, you will get a court date and have the other party served. You must attend your court date for the judge to decide whether to grant your request. See page 3 for step-by-step instructions.

**What if I want to renew my restraining order?**

If you are the protected person, you can ask the court to renew your restraining order. You must make your request before your restraining order expires. For information on how to renew your restraining order, read form [DV-700-INFO](#), *How Do I Ask the Court to Renew My Restraining Order?*

**What if my restraining order has expired?**

If the Restraining Order After Hearing (form DV-130, DV-730, or JV-255) has expired, do not follow the steps on page 3.

- If you need another restraining order, you will need to make a new request. Read form [DV-505-INFO](#), *How to Ask for a Domestic Violence Restraining Order*.
- If the restraining order included child custody, visitation (parenting time), child support, spousal support, support for a domestic partner, or property orders, these orders remain in effect and can be changed by a judge. For information on how to ask to change these orders, read form [FL-300-INFO](#), *Information Sheet for Request for Order*.

**Is there a court fee?**

No. There is no court fee.

**How do I end or change a temporary restraining order?**

If you have a temporary restraining order (form DV-110 or DV-116) and you want to change or end the order, a lawyer or the court's self-help center may be able to help you. Do not use this process to change or end a temporary restraining order.

**What if I want to change or end a juvenile restraining order?**

If you have a restraining order based on domestic violence that was granted by a juvenile dependency court (form JV-255), and the juvenile case has been closed (dismissed), follow the steps on page 3 to ask to change or end the juvenile restraining order.

- If your juvenile case is still open, talk to your lawyer about how to change or end the restraining order.
- If you have a juvenile restraining order that was granted in a juvenile justice (delinquency) case (form JV-265), ask your lawyer or the prosecutor about how to change or end the restraining order.

**What if I want the judge to grant an order that was not included in the Restraining Order After Hearing?**

The judge may be able to grant the order if it is needed for more protection. Follow the steps on page 3 to make the request. You will need to describe the orders you want and explain why they are needed.

**When will my restraining order change or end?**

Only the court has the power to change or end the restraining order. The restraining order remains in effect and must be followed until a judge changes or ends the order.



**What orders can I ask to change or end?**

You can ask to change or end any order granted in a Restraining Order After Hearing, except for orders related to firearms, ammunition, or body armor. The judge cannot remove the restriction on having firearms, ammunition, or body armor. If you need to carry a firearm for your job, the judge may grant you a limited exception but there are strict requirements. Ask a lawyer or your court self-help center for more information.

**What if I want to change child custody orders?**

- If child custody orders were made through your restraining order, you can use this process to change these orders. Follow the steps on page 3.
- If custody or visitation orders were made in a separate family law case, do not follow the steps on page 3 of this form; read form [FL-300-INFO](#), *Information Sheet for Request for Order*.

Note that a special law applies to child custody orders when there has been domestic violence. For more information, go to [www.selfhelp.courts.ca.gov/domestic-violence-child-custody](http://www.selfhelp.courts.ca.gov/domestic-violence-child-custody).

**If I ask to end the restraining order, what will happen to the child custody, visitation, support, or property orders?**

If a judge ends the restraining order, any child custody, visitation (parenting time), child support, spousal support, support for a domestic partner, or property orders will remain in effect, unless the court also changes or ends those orders.

**Where can I find a self-help center?**

Free legal help is available at your court's self-help center. Find your local court's self-help center at [www.selfhelp.courts.ca.gov/find](http://www.selfhelp.courts.ca.gov/find). Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case and help you with the forms. Staff may also refer you to other agencies who may be able to help you.

**What if I need an interpreter?**

You may use form [INT-300](#) to request an interpreter or ask the clerk how you can request one.

**What if I have a disability and need an accommodation?**

You may use form [MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.

**Where can I find other help?**

The National Domestic Violence Hotline provides free and private safety tips. Help is available every day, 24 hours a day, and in over 100 languages. Visit online at [www.thehotline.org](http://www.thehotline.org) or call 1-800-799-7233 or 1-800-787-3224 (TTY).

**Confidential Address Program**

If you are a victim of domestic violence or live with a victim of domestic violence, there is a special program called Safe at Home that you can apply for. It is a free program that can help you keep your address private. To learn more about the program, go to [www.sos.ca.gov/registries/safe-home](http://www.sos.ca.gov/registries/safe-home). Note that it may take several weeks to be approved.



**Steps to make a request****① Complete court forms:**

- Form [DV-300](#), *Request to Change or End Restraining Order*; and
- Form [DV-310](#), *Notice of Court Hearing and Temporary Order to Change or End Restraining Order* (items 1 and 2 only).
- If you are asking to change child custody and visitation orders, you must complete form [DV-305](#), *Request to Change Child Custody and Visitation Orders*.

**② File forms with court**

File all forms with the court clerk. Make sure you include a copy of your current Restraining Order After Hearing with form DV-300. You can file in person or electronically. For more information on how or where to file, go to the court's website. To find the the court's website, go to [www.selfhelp.courts.ca.gov/find](http://www.selfhelp.courts.ca.gov/find).

**③ Get your papers back from the court**

Once you get your papers back from the court, you will have a court date (see form DV-310). If you asked for any temporary orders, look at form DV-310 to see if the judge granted or denied that request. Make sure you get at least two copies back: one for you and one to have served on the other party. If you filed your papers electronically, the court will give the papers back to you electronically, unless you asked to pick them up or receive them by mail.

**④ Have the other party served with papers**

- **If you are the restrained person**, you must have the protected person personally served. This means you must have an adult personally give a copy of all the court papers (listed on form DV-310, item 4c) to the protected person. It cannot be you or anyone listed on the restraining order. Your server must then complete a proof of service ([form DV-200](#)). Make a copy of the completed form DV-200 and file it with the court. If you cannot have the protected person personally served, contact a lawyer or self-help center for other options.
- **If you are the protected person**, you can serve the restrained person by mail. This means you must have an adult mail a copy of all the court papers (listed on form DV-310, item 4c) to the restrained party. It cannot be you or anyone listed on the restraining order. Your server must then complete a proof of service ([form DV-250](#)). Make a copy of the completed form DV-250 and file it with the court.

If you can't serve the other side before your court hearing, you will need to ask the judge to reschedule your court hearing. Fill out and file forms [DV-315](#) and [DV-316](#). The judge will review your request and decide whether to reschedule your court hearing. If you do not receive a signed copy of form DV-316 from the judge before your court date or the judge denied your request to reschedule your hearing, you *must* attend your court date (listed on form DV-310 or DV-316) if you still want to move forward with your request.

**⑤ Get ready for and attend your court hearing**

At your court hearing, the judge will decide whether to grant your request to change or end the restraining order. At the hearing, you and the other side will have the opportunity to tell your side of the story. Bring any evidence or witnesses you have. If you don't want to attend your court hearing in person, go to the court's website to find out more information about attending by phone or videoconference.

**DV-305****Request to Change Child Custody  
and Visitation Orders**

Case Number: \_\_\_\_\_

(Use this form to ask the judge to change child custody or visitation orders that were made through a domestic violence restraining order.)

This form is attached to form DV-300.

**1 Protected Party**

Name: \_\_\_\_\_

Relationship to children: ☐ Parent ☐ Legal Guardian ☐ Other (describe): \_\_\_\_\_**2 Restrained Party**

Name: \_\_\_\_\_

Relationship to children: ☐ Parent ☐ Legal Guardian ☐ Other (describe): \_\_\_\_\_**3 Children Under 18 Years Old** (list from oldest to youngest)

a. Name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

b. Name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

c. Name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

d. Name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

☐ (Check here if you need more space. Write "DV-305, Children" at the top and attach it to this form.)

**4 City and State Where Children Lived**a. Have all the children listed in **3** lived together for the last five years?☐ Yes (If yes, complete b, below.)☐ No (If no, complete form DV-105(A). Do not complete the section below.)

b. List where the children have lived for the last five years. Start with their current location.

<u>Dates (month/year)</u>	<u>City and state</u> <u>(include tribal land, if applies)</u>	<u>Children lived with (check all that apply):</u>		
		<u>Person</u> <u>in ①</u>	<u>Person</u> <u>in ②</u>	<u>Other (relationship</u> <u>to child)</u>
From: _____ To present		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
<input type="checkbox"/> Check here if this address is private (confidential). List the state only.				
From: _____ Until: _____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
From: _____ Until: _____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
From: _____ Until: _____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
From: _____ Until: _____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
From: _____ Until: _____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____

**This is not a Court Order.**

**5 History of Court Cases Involving Your Children**a. Do you know about any other case involving any child listed in **3**?☐ No☐ Yes *(If yes, complete section below.)*

(Check all that apply. List where it was filed (city, state, or tribe), year it was filed, and case number, if known.)

☐ Custody \_\_\_\_\_☐ Divorce \_\_\_\_\_☐ Juvenile court *(child welfare, juvenile justice)* \_\_\_\_\_☐ Guardianship \_\_\_\_\_☐ Criminal \_\_\_\_\_☐ Other *(example: child support case)* \_\_\_\_\_b. If there is another parent or legal guardian besides the persons in **1** and **2**, list their information below.Name: \_\_\_\_\_ ☐ Parent ☐ Legal Guardian**6 Request to Change Orders**

I ask the judge to change or end some of the child custody or visitation orders.

*(Check all the orders that you want the judge to make.)*a. ☐ No Travel With Children Without Permission(1) ☐ End this order(2) ☐ Change this order *(explain how you want it changed):*\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_b. ☐ Stop Access to Children's School, Health, or Other Information(1) ☐ End this order(2) ☐ Change this order *(explain how you want it changed):*\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**This is not a Court Order.**

6

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d. ☐ Child Custody

(There are two types of custody: legal and physical. A person with legal custody makes decisions about the child's health, education, and welfare. A person with physical custody lives with the child regularly. For both types of custody, parents can share custody (joint) or one parent can have full custody (sole). Complete the section below if you want the judge to change child custody orders.)

I ask the judge to change custody orders to *(check the orders that you want the judge to make)*:

Legal custody (*check one*):

- ☐ Sole to person in ①  
☐ Sole to person in ②  
☐ Jointly (shared) by persons in ① and ②  
☐ Other (*describe*):

Physical custody (*check one*):

- ☐ Sole to person in ①  
☐ Sole to person in ②  
☐ Jointly (shared) by persons in ① and ②  
☐ Other (*describe*):

e. ☐ Visitation (Parenting Time) Order

I ask the judge to change the visitation (parenting time) order to *(explain how you want the order changed)*:

[illegible]

**This is not a Court Order.**





**Notice of Court Hearing and  
Temporary Order to Change or End  
Restraining Order***Clerk stamps date here when form is filed.*6.3.24- Draft  
Not approved by the  
Judicial Council**Instructions:** The person making the request must complete items ① and ②.  
The court will complete the rest of this form.**① Protected Party**

Name: \_\_\_\_\_

*Fill in court name and street address:***Superior Court of California, County of****② Restrained Party**

Name: \_\_\_\_\_

*Fill in case number:***Case Number:****③ Notice of Hearing**

A court hearing is scheduled on the request to change or end a domestic violence restraining order:

**The current restraining order remains in full force and effect. If the court granted temporary orders in ④ those orders and all nonconflicting orders must be followed until the court hearing below:**Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

Name and address of court if different from above: \_\_\_\_\_

You may attend your court date remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).**④ ☐ Court's Decision on Request for Temporary Orders**a. ☐ **Denied.** Reasons for denial: \_\_\_\_\_b. ☐ **Granted.**(1) The temporary orders listed below in b(2) (*check all that apply*):

- ☐ Have been requested by the protected party and are needed to prevent domestic violence.
- ☐ Are needed to help prevent (1) irreparable harm to a child in this case or (2) a child from being removed from California.

(2) **Temporary Orders**

The following temporary orders remain in full force and effect until the hearing listed in ③:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_☐ Temporary orders listed on (*give form number or name of attachment*): \_\_\_\_\_**This is a Court Order.**

**5 Service**

- a. ☐ Protected person ☐ Restrained person must have the other party served with a copy of all the forms listed in **5**d by:
- b. (date of deadline): \_\_\_\_\_
- c. (1) ☐ This order can be served by mail because it is a request by the protected person and does not include temporary orders.  
(2) ☐ This order must be personally served because it is a request by the restrained person.  
(3) ☐ This order must be personally served because the court has granted temporary orders.
- d. Forms to serve:
- DV-300, *Request to Change or End Restraining Order*;
  - DV-310, *Notice of Court Hearing and Temporary Order to Change or End Restraining Order* (this form); and
  - DV-320, *Response to Request to Change or End Restraining Order* (leave blank).

**6 No Fee to Serve (Notify) Order**

The sheriff or marshal will serve this order for free. If you want the sheriff to serve your papers, (1) complete form [SER-001](#), *Request for Sheriff to Serve Court Papers*, and (2) give the completed form and a copy of this order to the sheriff.

**7 ☐ Attached Pages**

All of the attached pages are part of this order.

- a. Number of pages attached to this three-page form: \_\_\_\_\_
- b. Attachments include forms (check all that apply):  
☐ DV-140 ☐ DV-145 ☐ Other: \_\_\_\_\_

**Judge's Signature**

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

\_\_\_\_\_  
*Judge or Judicial Officer*

**This is a Court Order.**



**To Person in 2**

- **Respond in writing (optional):** You can respond in writing by completing form [DV-320](#) [link to be created], *Response to Request to Change or End Restraining Order*. File the original with the court, and have someone 18 or over—**not you**—mail a copy of it to the other party before the hearing. Also file form [DV-250](#), *Proof of Service by Mail*, with the court before the hearing, and bring a copy to the court hearing.
- **At the hearing:** Whether or not you respond in writing, attend the hearing if you want the judge to hear from you before making a decision. At the hearing, tell the judge why you agree or disagree with the request. Bring any evidence or witnesses you have.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm) for *Disability Accommodation Request* (form [MC-410](#)). (Civil Code section 54.8.)

*(Clerk will fill out this part.)*

**Instructions to Clerk:** If the court made temporary orders in (4), the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made. You must give up to three free (certified, stamped, and endorsed) copies of this order to the protected party.

*Clerk's Certificate*  
[seal]

**—Clerk's Certificate—**

I certify that this *Notice of Court Hearing and Temporary Order to Change or End Restraining Order* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

7.23.24

Draft-Not approved by  
the Judicial Council**Instructions**

Either party may use this form to ask the court to reschedule the hearing (court date) listed on form DV-310, *Notice of Court Hearing and Temporary Order to Change or End Restraining Order*.

**1 Your Information**

a. Name: \_\_\_\_\_

b. Who are you in this case?

☐ Protected party (*skip to 2*).☐ Restrained party (*give your contact information below*).**!** Address where you can receive court papers

(This address will be used by the court and by the other party to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number:

**Case Number:****!** Your contact information (*optional*)

(The court could use this information to contact you. If you don't want the other party to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Your lawyer's information (*if you have one*)

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

**2 Information About Your Case**a. The other party in this case is (*full name*): \_\_\_\_\_b. The court date is currently scheduled for (*date*): \_\_\_\_\_**This is not a Court Order.**

**3 Why does your court date need to be rescheduled?**

- a. ☐ I need more time to have the other party served.
- b. ☐ Other reason:


**4 Your Signature**

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

\_\_\_\_\_  
*Type or print your name*

▶ \_\_\_\_\_  
*Sign your name*

**5 Your Lawyer's Signature (if you have one)**

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

\_\_\_\_\_  
*Lawyer's name*

▶ \_\_\_\_\_  
*Lawyer's signature*

**Your Next Steps**

- Complete form [DV-316](#), *Order to Reschedule Hearing to Change or End Restraining Order* (only items 1 and 2).
- File this form and form DV-316 with the court. A judge will review your forms and decide whether to reschedule your court date.
- If the judge grants your request to reschedule your court date, you must have someone serve a copy of this form, and any other form that the judge ordered you to serve (see form DV-316, item ⑤). Any adult who is not involved in the case can serve your papers. You can also ask the sheriff or marshal to serve your papers and they will do so for free. See form [SER-001](#), *Request for Sheriff to Serve Court Papers*. For more information, go to [selfhelp.courts.ca.gov/DV-restraining-order/change-end/serve-request](https://selfhelp.courts.ca.gov/DV-restraining-order/change-end/serve-request).
- If the judge denies your request to reschedule, you must attend your court hearing (listed on form DV-310). For information on how to prepare for your court date, go to [selfhelp.courts.ca.gov/DV-restraining-order/change-end/court](https://selfhelp.courts.ca.gov/DV-restraining-order/change-end/court).

**This is not a Court Order.**

**Order to Reschedule Hearing  
to Change or End Restraining Order***Clerk stamps date here when form is filed.*

6.28.24

Draft- Not approved by  
the Judicial Council**Instructions:** Complete ① and ② only. The court will complete the rest of this form.**① Protected Party:** \_\_\_\_\_**② Restrained Party:** \_\_\_\_\_**③ Next Court Date**a. ☐ **Denied.** The request to reschedule the court date is denied.

(1) Your court date is: \_\_\_\_\_

(2) The Restraining Order After Hearing and any temporary orders made on form DV-310, *Notice of Court Hearing and Temporary Order to Change or End Restraining Order*, remain in full force and effect.

(3) Your court date is not rescheduled because:

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b. ☐ **Granted.** The request to reschedule the court date is granted. Your court date is rescheduled for the date and time listed below.**The Restraining Order After Hearing and any temporary orders (form DV-310) stay in effect until the hearing date below or the original expiration date, whichever is later. See ④–⑦ for more information.**Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name and address of court, if different from above:

**This is a Court Order.**

**4 Reason Court Date Is Rescheduled**a. ☐ The party asking to change or end the restraining order has not served the other party.b. ☐ Other reason:**5 Serving (Giving) Order to Other Party**

The request to reschedule was made by the:

a. ☐ **Protected party**b. ☐ **Restrained party**c. ☐ **Court**(1) ☐ You do not have to serve the restrained party because they were or their lawyer was at the court date or agreed to reschedule the court date.(1) ☐ You do not have to serve the protected party because they were or their lawyer was at the court date or agreed to reschedule the court date.(1) ☐ Further notice is not required.(2) ☐ You must have the restrained party personally served with a copy of this order and all forms listed on form DV-310, item ⑤ by (date): \_\_\_\_\_(2) ☐ You must have the protected party personally served with a copy of this order and all forms listed on form DV-310, item ⑤ by (date): \_\_\_\_\_(2) ☐ The court will mail a copy of this order to all parties by (date): \_\_\_\_\_(3) ☐ You must have the restrained party served with a copy of this order. This can be done by mail. You must serve by (date): \_\_\_\_\_(3) ☐ The court has found good cause to allow you to serve the protected party by:  
(describe service method that is reasonably designed to give protected party actual notice):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(3) ☐ Other: \_\_\_\_\_(4) ☐ Other: \_\_\_\_\_

You must serve a copy this order and all forms listed on form DV-310, item ⑤ by (date): \_\_\_\_\_

**This is a Court Order.**

**6 No Fee to Serve**

The sheriff or marshal will serve this order for free. If you want the sheriff to serve your papers, (1) complete form [SER-001](#), *Request for Sheriff to Serve Court Papers*, and (2) give form SER-001 and a copy of this order to the sheriff.

**7 ☐ Other Orders**

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**8 ☐ Attached Pages** (*All of the attached pages are part of this order.*)

a. Number of pages attached to this three-page form: \_\_\_\_\_

b. Attachments include forms (*check all that apply*):

☐ DV-310    ☐ DV-820    ☐ Other: \_\_\_\_\_

**Judge's Signature**

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

\_\_\_\_\_  
*Judge or Judicial Officer*

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm) for *Disability Accommodation Request* (form [MC-410](#)). (Civil Code section 54.8.)

(Clerk will fill out this part.)

**Instructions to Clerk:** If the court rescheduled the court date and granted temporary orders on item ④ on form DV-310, the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made. You must give up to three free (certified, stamped, and endorsed) copies of this order to the protected party.

**—Clerk's Certificate—**

Clerk's Certificate

[seal]

I certify that this *Order to Reschedule Hearing to Change or End Restraining Order* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**



Use **this form** if someone has asked to change or end a restraining order, and you want to respond in writing. You will need a copy of form DV-300, *Request to Change or End Restraining Order*, that was filled out by the other party in your case. There is no cost to file this form with the court.

7.2.24

**Draft- Not approved by  
the Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number:

**Case Number:****1 Your Name:** \_\_\_\_\_**Who are you in this case? (Check one):**☐ Protected person      ☐ Restrained person**! Address where you can receive court papers**

(This address will be used by the court and by the other party to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**! Your contact information (optional)**

(The court could use this information to contact you. If you don't want the other party to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Email Address: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Your lawyer's information (if you have one)**

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

**2 Name of Other Party:** \_\_\_\_\_**3 Your Hearing Date (Court Date)**

Your hearing date is listed on form DV-310, *Notice of Court Hearing and Temporary Order to Change or End Restraining Order*. If you do not agree with the request, attend your hearing date. If you do not attend your hearing, the judge could grant the other party's request to change or end the restraining order.

**This is not a Court Order.**

**4 Your Response**

(Look at form DV-300, completed by the other party. Go to item ③ (pages 2–3) to see which orders the other party wants the judge to change or end.)

(Check one)

- a. ☐ I agree to the request to change or end the restraining order.
- b. ☐ I do not agree to the request to change or end the restraining order. (Complete section below)

- (1) Explain which items you do not agree with. If there is another change to the restraining order that you would agree to, describe the change that you would agree to.

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- (2) If the other party asked to change **child custody or visitation orders** (see form DV-305), answer the question below.

Do you agree with the other party's request to change child custody or visitation orders?

- ☐ Yes, I agree to all the orders requested.
- ☐ No, I do not agree to the orders requested. (Complete form DV-325, Response to Request to Change Child Custody and Visitation Orders, and attach it to this form.)

**5 ☐ Reasons For Your Response (optional)**

(In the section below, explain why you agree or disagree with the request to change or end the restraining order.)

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**This is not a Court Order.**

**6** ☐ **Lawyer's Fees and Costs**

(Complete this item if the other party asked for lawyer's fees and costs or if you are asking for these fees.)

a. ☐ I agree to the order requested.

b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

c. ☐ Check here if you want the other party to pay for some or all of your lawyer's fees and costs.

**7** **Additional Pages**

Number of pages attached to this three-page form, if any: \_\_\_\_\_

**8** **Your Signature**

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Sign your name*

**9** **Your Lawyer's Signature** *(if you have one)*

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

\_\_\_\_\_  
*Lawyer's name*



\_\_\_\_\_  
*Lawyer's signature*

**Your Next Steps**

- Turn in your completed form to the court.
- If the other party asked to change or end child support or spousal support orders, or asked for lawyer's fees, you must complete form [FL-150, Income and Expense Declaration](#).
- Have someone else (not you) mail the person in **1** a copy of your forms, and complete form [DV-250, Proof of Service by Mail](#). File form DV-250 with the court. (The person who mails your forms must be at least 18 years old and cannot be you or someone protected on the restraining order.)
- Prepare for your court date by gathering evidence or witnesses, if you have any. Learn more at [www.selfhelp.courts.ca.gov/DV-restraining-order/change-end/court](http://www.selfhelp.courts.ca.gov/DV-restraining-order/change-end/court).

**This is not a Court Order.**



**DV-325****Response to Request to Change  
Child Custody and Visitation Orders**

Case Number: \_\_\_\_\_

**How to complete this form:** To answer the questions below, look at the form DV-305 filled out by the other party. If you need more space to complete your answer, you can use a separate piece of paper and attach it to this form. Include a title at the top of the paper (example: "DV-325, Custody of Children").

This form is attached to form DV-320, *Response to Request to Change or End Restraining Order*.

**1 Protected Party**

- a. Name: \_\_\_\_\_
- b. Relationship to children: ☐ Parent ☐ Legal Guardian ☐ Other (*describe*): \_\_\_\_\_

**2 Restrained Party**

- a. Name: \_\_\_\_\_
- b. Relationship to children: ☐ Parent ☐ Legal Guardian ☐ Other (*describe*): \_\_\_\_\_

**3 Children** (*see 3 on form DV-305*)

- a. ☐ I am the parent of the child or children listed on form DV-305.
- b. ☐ I am **not** the parent of all the children listed on form DV-305.
- c. ☐ I am **not** the parent of the following children (*list names*): \_\_\_\_\_
- d. ☐ Other (*describe*): \_\_\_\_\_

**4 City and State Where Children Lived** (*see 4 on form DV-305*)

- a. ☐ I agree with the information given by the other party.
- b. ☐ I do not agree. (*Use form DV-105(A) to list where the children have lived.*)

**5 History of Court Cases Involving Children** (*see 5 on form DV-305*)

The other party may have listed other court cases involving your children. If information is incorrect or missing, use the space below to give information.

(Check all that apply. List where it was filed (city, state, or tribe), year it was filed, and case number, if known.)

- ☐ Custody or Divorce \_\_\_\_\_
- ☐ Criminal \_\_\_\_\_
- ☐ Juvenile Court (*child welfare, juvenile justice*) \_\_\_\_\_
- ☐ Guardianship \_\_\_\_\_
- ☐ Other (*example: child support case*) \_\_\_\_\_

(If a judge has already made a custody or visitation order for children in this case, attach a copy of the order if you have one.)

**This is not a Court Order.**



**6** ☐ **No Travel With Children Without Permission** (see 6a on form DV-305)

- a. ☐ I agree to the order requested.
- b. ☐ I do not agree to the order requested because: \_\_\_\_\_
- c. ☐ I would agree to a different order (describe the order you would agree to): \_\_\_\_\_

**7** ☐ **Stop Access to Children's School, Health, and Other Information** (see 6b on form DV-305)

- a. ☐ I agree to the order requested.
- b. ☐ I do not agree to the order requested because: \_\_\_\_\_
- c. ☐ I would agree to a different order (describe the order you would agree to): \_\_\_\_\_

**8** ☐ **Request for Orders to Prevent Child Abduction** (see 4–10 on form DV-108)

- a. ☐ I agree to the order requested.
- b. ☐ I do not agree to the order requested because: \_\_\_\_\_
- c. ☐ I would agree to a different order (describe the order you would agree to): \_\_\_\_\_

**9** ☐ **Custody of Children** (see 6d on form DV-305)

- a. ☐ I agree to the order requested.
- b. ☐ I do not agree to the order requested because: \_\_\_\_\_
- c. ☐ I would agree to a different order:

Legal Custody (the person who makes decisions about the child's health, education, and welfare.)  
(check one):

- ☐ Sole to person in 1
- ☐ Sole to person in 2
- ☐ Jointly (shared) by persons in 1 and 2.
- ☐ Other (describe): \_\_\_\_\_

Physical Custody (the person who the child regularly lives with.)  
(check one):

- ☐ Sole to person in 1
- ☐ Sole to person in 2
- ☐ Jointly (shared) by persons in 1 and 2.
- ☐ Other (describe): \_\_\_\_\_

**This is not a Court Order.**



**10** ☐ **Visitation (Parenting Time) with Children** (see 6e on form DV-305)a. ☐ I agree to the order requested.b. ☐ I do not agree to the order requested because: \_\_\_\_\_  
\_\_\_\_\_c. ☐ I would agree to a different order (complete section below):Visitation for the (check one): ☐ person in 1 ☐ person in 2  
should be (describe a schedule and give as much detail as you can):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**11** ☐ **Other Orders** (see 6f on form DV-305)a. ☐ I agree to the order requested.b. ☐ I do not agree to the order requested because: \_\_\_\_\_  
\_\_\_\_\_c. ☐ I would agree to a different order (describe the order you would agree to):  
\_\_\_\_\_**12** The statements made on this form are made under penalty of perjury as declared on form DV-320.**This is not a Court Order.**

**Order on Request to  
Change or End Restraining Order**

Clerk stamps date here when form is filed.

7.2.24

Draft-Not approved by  
the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

**1 Protected Person** (name): \_\_\_\_\_**2 Restrained Person** (name): \_\_\_\_\_**3 Request**

The request was made by the:

- a. ☐ protected person ☐ restrained person to:  
b. ☐ change the restraining order ☐ end the restraining order

**4 Court's Decision**

(Check a or b)

- a. ☐ The request to change the restraining order is:
- (1) ☐ Granted. The court has changed the Restraining Order After Hearing. The new orders are listed on form DV-130, or JV-255, and attached to this form.
- (2) ☐ Denied. The Restraining Order After Hearing issued on ☐ form DV-130 ☐ form JV-255 set to expire on (date): \_\_\_\_\_ remains in full force and effect.
- b. ☐ The request to end the restraining order is:
- (1) ☐ Granted. The court has ended the Restraining Order After Hearing.
- (A) ☐ Any child custody, visitation, and child support orders in the Restraining Order After Hearing.  
☐ remain in effect. ☐ end with this order. ☐ were modified on (date): \_\_\_\_\_
- (B) ☐ Spousal or domestic partner support orders in the Restraining Order After Hearing  
☐ remain in effect. ☐ end with this order. ☐ were modified on (date): \_\_\_\_\_
- (2) ☐ Denied. The Restraining Order After Hearing issued on ☐ form DV-130 ☐ form JV-255 set to expire on (date): \_\_\_\_\_ remains in full force and effect.
- c. In making this order, the court has considered whether failure to make any of the orders requested might risk the safety of the person in **①** or any children listed on form DV-105 or DV-305. If child or spousal support was requested, the court has considered whether failure to make support orders would risk the safety of the person in **①** or any children listed on form DV-105 or DV-305.

**This is a Court Order.**

**5 Hearing**

- a. The hearing was on *(date)*: \_\_\_\_\_ with *(name of judicial officer)*: \_\_\_\_\_
- b. These people attended the hearing *(check all that apply)*:
- ☐ The person in ①
  - ☐ The person in ②
  - ☐ The lawyer for the person in ① *(name)*: \_\_\_\_\_
  - ☐ The lawyer for the person in ② *(name)*: \_\_\_\_\_

**6 Serving (Giving) Order to Other Party**

The request to change or end the restraining order was made by the:

a. ☐ **Protected party**

- (1) ☐ You do not have to serve the restrained party because they were or their lawyer was at the court date or agreed to this order.
- (2) ☐ You must have the restrained party personally served with a copy of this order by *(date)*: \_\_\_\_\_
- (3) ☐ You must have the restrained party served with a copy of this order. This can be done by mail. You must serve by *(date)*: \_\_\_\_\_
- (4) ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. ☐ **Restrained party**

- (1) ☐ You do not have to serve the protected party because they were or their lawyer was at the court date or agreed to this order.
- (2) ☐ You must have the protected party personally served with a copy of this order by *(date)*: \_\_\_\_\_
- (3) ☐ You must have the protected party served with a copy of this order. This can be done by mail. You must serve by *(date)*: \_\_\_\_\_
- (4) ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. ☐ **Court**

- (1) ☐ Further notice is not required.
- (2) ☐ The court will mail a copy of this order to all parties by *(date)*: \_\_\_\_\_
- (3) ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**7 No Fee to Serve (Notify) Order**

The sheriff or marshal will serve this order for free. If you want the sheriff to serve your papers, (1) complete form [SER-001](#), *Request for Sheriff to Serve Court Papers*, and (2) give the completed form and a copy of this order to the sheriff.

**This is a Court Order.**



**8** ☐ **Lawyer's Fees and Costs**

The person in \_\_\_\_ must pay to the person in \_\_\_\_ the following amounts for:

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_  
Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

**9** ☐ **Attached Pages**

All of the attached pages are part of this order.

a. Number of pages attached to this three-page form: \_\_\_\_\_

b. Attachments include forms (*check all that apply*):

☐ DV-130    ☐ DV-140    ☐ DV-145    ☐ FL-341(C)    ☐ FL-342    ☐ FL-343  
☐ JV-255    ☐ Other: \_\_\_\_\_

**Judge's Signature**

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

\_\_\_\_\_  
*Judge or Judicial Officer*

(Clerk will fill out this part.)

**Instructions to Clerk:** If the court granted the request to change or end the restraining order (if ④a(1) or ④b(1) is checked), the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made. You must give up to three free (certified, stamped, and endorsed) copies of this order to the protected party.

**—Clerk's Certificate—**

*Clerk's Certificate*  
*[seal]*

I certify that this *Order on Request to Change or End Restraining Order* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

**Findings and Order to Terminate  
Restraining Order After Hearing**

Complete only items 1 and 2. The remaining items are for court use.

Clerk stamps date here when form is filed.

1.30.24-Draft

Not Approved by the Judicial  
Council

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 **Name of Protected Party:** \_\_\_\_\_

2 **Name of Restrained Party:** \_\_\_\_\_

3 **Court Findings** (Fam. Code, § 6345 (a) & (d))

- a. ☐ The **Protected Party** filed the request to terminate the restraining orders in *Restraining Order After Hearing* (form DV-130). A proof of service (by mail or personal service) of the request on the Restrained Party is filed with the court.
- b. ☐ The **Restrained Party** filed the request to terminate restraining orders. The filed proof of service shows that the Protected Party received notice of the Request by:
1. ☐ Personal service.
  2. ☐ Service on the Secretary of State (the Protected Person is registered in the Safe at Home Program).
  3. ☐ An alternative, court-ordered method of service that gives actual notice of the request and the hearing.
- c. ☐ The **Restrained Party** filed the request to terminate the restraining orders in form DV-130. The Protected Party was physically present in court on the hearing date, waived his or her right to notice and does not challenge the sufficiency of the notice.
- d. ☐ The **Protected Party** was physically present at the hearing and verified his or her identity.
- e. ☐ The **Protected Party and the Restrained Party** submitted a written stipulation (agreement) to terminate the restraining orders in *Restraining Order After Hearing* (form DV-130).
- f. ☐ Other (*specify*): \_\_\_\_\_

4 **Court Orders**

The protective orders in *Restraining Order After Hearing* (form DV-130) that were issued or modified on (date): \_\_\_\_\_ are terminated. This order is effective when made.

- a. ☐ Child custody, visitation (parenting time), and child support orders in *Restraining Order After Hearing* (form DV-130)
1. ☐ Remain in effect.
  2. ☐ Have been modified on (date): \_\_\_\_\_
  3. ☐ Are also terminated.
- b. ☐ Spousal or domestic partner support orders in *Restraining Order After Hearing* (form DV-130)
1. ☐ Remain in effect.
  2. ☐ Have been modified on (date): \_\_\_\_\_
  3. ☐ Are also terminated.
- c. Unless modified or terminated by court order, any existing orders for child custody, child visitation (parenting time), child support, and spousal or partner support made in a Domestic Violence Prevention Act case after a noticed hearing survive the termination of the protective order, and remain in effect. Family Code sections 6340(a), 6345(b).
- d. This order does not modify or terminate any existing criminal, juvenile, or probate court orders.

**This is a Court Order.**

**5** ☐ **Hearings**

- a. The hearing was on (date): \_\_\_\_\_ with (name of judicial officer): \_\_\_\_\_
- b. These people were at the hearing (check all that apply):
- |   |  |
|---|--|
| <input type="checkbox"/> The Protected Party  | <input type="checkbox"/> Protected Party's lawyer (name): _____  |
| <input type="checkbox"/> The Restrained Party | <input type="checkbox"/> Restrained Party's lawyer (name): _____ |
| <input type="checkbox"/> Other (name): _____  | <input type="checkbox"/> Lawyer (name): _____                    |
| <input type="checkbox"/> Other (name): _____  | <input type="checkbox"/> Lawyer (name): _____                    |

**6** **CLETS Entry**

The court or its designee will transmit this form within one business day to law enforcement personnel for entry into the California Restraining and Protective Orders System via CLETS.

**7** **Service of this Order**

- a. ☐ The **Protected Party** and the **Restrained Party** were at the hearing or agreed in writing to this order. No other proof of service is needed.
- b. ☐ The **Protected Party** (party who asked for the order) was at the hearing. The **Restrained Party** was not. Someone 18 or over—not anyone else protected or restrained by the restraining order—must personally “serve” the Restrained Party with a filed copy of this order.
- c. ☐ The **Restrained Party** (party who asked for the order) was at the hearing. The **Protected Party** was not. Someone 18 or over—not anyone else protected or restrained by the restraining order—must personally “serve” the Protected Party with a filed copy of this order.
- d. ☐ Other (specify): \_\_\_\_\_

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

\_\_\_\_\_  
*Judge (or Judicial Officer)**(Clerk will fill out this part.)***—Clerk's Certificate—***Clerk's Certificate*  
*[seal]*

I certify that this *Findings and Order to Terminate Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

**DV-400-INFO****How Do I Ask to Change or End a Domestic Violence Restraining Order After Hearing?****1 Who can ask the court to change or end the Restraining Order After Hearing?**

- The Protected Party or the Restrained Party can ask to modify (change) or terminate (end) the restraining orders issued in *Restraining Order After Hearing* ([form DV-130](#)) before the orders expire.
- Do not use form FL-300 to ask to renew the restraining orders in form DV-130 before they expire. Use *Request to Renew Restraining Order* ([form DV-700](#)).

**2 What orders can be changed or ended?**

A party may ask the court to change or end any of the orders made on form DV-130, including:

- The restraining orders that protect persons from violence or threat of violence by others (for example, the no contact, stay-away, move out, recording of unlawful communication orders);
- The list of persons protected by the orders;
- Child custody, child visitation (parenting time), or child support orders; and
- Spousal or domestic partner support orders.

**3 If I ask to end the restraining order, can I keep child custody, visitation, or support orders?**

If the restraining order ends, any child custody, visitation (parenting time), support, or spousal or domestic partnership orders will remain in effect, unless the court also changes or ends those orders.

**4 What if the Restrained Party wants to change or end the restraining orders?**

A restrained party must not violate the restraining order to contact the protected party. There are strict requirements if the restrained party asks the court to change or end the orders listed in this form.

**5 What forms do I fill out to ask to change or end the Restraining Order After Hearing?**

- To ask for an order to change or end your *Restraining Order After Hearing* (form DV-130):
  - ☐ Fill out [form FL-300](#), *Request for Order*.
- To ask to change the child custody or visitation (parenting time) orders, you may need some of these forms:
  - ☐ [FL-105](#), *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act*
  - ☐ [FL-311](#), *Child Custody and Visitation (Parenting Time) Application Attachment*
  - ☐ [FL-312](#), *Request for Child Abduction Prevention Orders*
  - ☐ [FL-341\(C\)](#), *Children's Holiday Schedule Attachment*
  - ☐ [FL-341\(D\)](#), *Additional Provisions—Physical Custody Attachment*
  - ☐ [FL-341\(E\)](#), *Joint Legal Custody Attachment*
- To ask the court to change the child support orders made in form DV-130, you need:
  - ☐ A current [form FL-155](#), *Income and Expense Declaration*. You may use [form FL-155](#), *Financial Statement (Simplified)*, instead of form FL-150 if you meet the requirements listed on page 2 of form FL-155.
- To ask the court to change the spousal or partner support orders (or orders about your finances), you need:
  - ☐ A current [form FL-150](#), *Income and Expense Declaration*
- To ask the court to make orders for attorney's fees and costs, you need:
  - ☐ A current [form FL-150](#), *Income and Expense Declaration*
  - ☐ [FL-319](#), *Request for Attorney's Fees and Costs Attachment* (or provide the information in a declaration)
  - ☐ [FL-158](#), *Supporting Declaration for Attorney's Fees and Costs* (or provide the information in a declaration)
- If you plan on having witnesses testify at the hearing, you will need:
  - ☐ [FL-321](#), *Witness List*
- Additional forms you may need are described on pages 3 and 4 of this information sheet.

**6 What if I want to respond to a request to change or end the Restraining Order?**

Complete, file, and serve [form FL-320](#), *Responsive Declaration to Request for Order*. See [form FL-320-INFO](#), *Information Sheet: Responsive Declaration to Request for Order* for more information.



**DV-400-INFO****How Do I Ask to Change or End a Domestic Violence Restraining Order After Hearing?****7 Complete form FL-300 (page 1)**

**Caption:** Complete the top part of the form, including your name, address, telephone number, e-mail address, and the court address.

- **Write the names of the parties in the caption.**  
*If you already have a family law case, use the party names as they are in that case. If you are the Petitioner in that case, you will be the Petitioner on form FL-300. If you are the Respondent in the family law case, you will be the Respondent on form FL-300.*

*If you do not already have a family law case, list yourself as the Petitioner on form FL-300 if you are the Protected Party on the restraining order. List yourself as the Respondent on form FL-300 if you are the Restrained Party on the restraining order.*

- **Check all the boxes that apply to the orders you want.**

Check the “Change” box if you want to change the order. Below that, indicate the orders that you want to change; for example, domestic violence order, child custody, visitation (parenting time), spousal or partner support.

If you want to ask the court to end the domestic violence orders, check the box for “Domestic Violence Order.” Then, check “Other (specify)” and write “End restraining orders in form DV-130.”

**FL-300**

**PARTY WITHOUT ATTORNEY OR ATTORNEY**

NAME: \_\_\_\_\_ STATE BAR NO.: \_\_\_\_\_

FIRM NAME: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

TELEPHONE NO.: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

ATTORNEY FOR (Name): \_\_\_\_\_

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF \_\_\_\_\_**

STREET ADDRESS: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY AND ZIP CODE: \_\_\_\_\_

BRANCH NAME: \_\_\_\_\_

**PETITIONER:** \_\_\_\_\_

**RESPONDENT:** \_\_\_\_\_

**OTHER PARENT/PARTY:** \_\_\_\_\_

**REQUEST FOR ORDER** ☐ **CHANGE** ☐ **TEMPORARY EMERGENCY ORDERS**

☐ Child Custody ☐ Visitation (Parenting Time) ☐ Spousal or Partner Support

☐ Child Support ☐ Domestic Violence Order ☐ Attorney's Fees and Costs

☐ Property Control ☐ Other (specify): \_\_\_\_\_

**NOTICE OF HEARING**

1. **TO (name(s)):** ☐ Petitioner ☐ Respondent ☐ Other Parent/Party ☐ Other (specify): \_\_\_\_\_

2. **A COURT HEARING WILL BE HELD AS FOLLOWS:**

a. Date: \_\_\_\_\_ b. Address of court: ☐ same as not above ☐ other (specify): \_\_\_\_\_

c. Dept.: \_\_\_\_\_ d. Room: \_\_\_\_\_

3. **WARNING to the person served with the Request for Order:** The court may make the requested orders without you if you do not file a Responsive Declaration or Request for Order (form FL-320), serve a copy on the other parties at least nine court days before the hearing (unless the court has ordered a shorter period of time), and appear at the hearing. (See form FL-320-INFO for more information.)

(Forms FL-300 and FL-320-INFO provide information about completing this form.)

**IT IS ORDERED THAT:**

4. ☐ Time ☐ for service ☐ until the court order is shortened. Service must be on or before (date): \_\_\_\_\_

5. ☐ A Responsive Declaration or Request for Order (form FL-320) must be served on or before (date): \_\_\_\_\_

6. ☐ The parties must appear for child custody mediation or child custody recommending counseling as follows (specify time and location): \_\_\_\_\_

7. ☐ Orders in Temporary Emergency (Ex Parte) Orders (form FL-305) apply to this proceeding and must be personally served with all documents filed with this Request for Order.

8. ☐ Other (specify): \_\_\_\_\_

**COURT ORDER**

(For use by court only)

Form Adopted for Mandatory Use  
Adopted version of California  
FL-300 (Rev. July 1, 2016)

**REQUEST FOR ORDER**

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

Page 1 of 4  
Family Code §§ 2045, 2107, 6224,  
FPPA §§ 31145-31147, 62000  
Government Code § 26938  
Cal. Rules of Court, rule 5.62  
www.courtinfo.gov

**Item 1:** Write the name of the other parties in your case.

**Item 2:** Leave this blank. The court clerk will fill in the date, time, and location of the hearing.

**Item 3:** This is a notice to the other parties in the case.

**Items 4–5:** Leave these blank. The court will complete them if it grants the order.

**Item 6:** In some counties, the court clerk will check item 6 and provide the details for your required child custody mediation or recommending counseling appointment. Other courts require the party or the party's attorney to make the appointment and then complete item 6 before filing form FL-300. Ask your court's Family Law Facilitator or Self-Help Center to find out what your court requires.

**Items 7–8:** Leave these blank. The court will complete them if needed.

**8 Complete form FL-300 (pages 2–4)****9 Complete additional forms and make copies**

Complete any additional forms that you need to give to the court clerk when you file the *Request for Order*. Make at least three copies of your full packet.

**10 File your completed forms**

Take them to the clerk's office in person, mail them, or e-file them (if available in your county). The clerk will keep the original and give you back the copies you made with a court date and time stamped on the first page of the *Request for Order*.

**Note:** To help schedule the hearing date, tell the clerk if the Protected Party is registered in the Safe at Home program. Extra time is needed for the Protected Party to receive notice after it is served on the Secretary of State.

**11 Filing fee**

Generally, there is no fee to file a request to change or end the orders included in *Restraining Order After Hearing* (form DV-130). However, after a restraining order is ended, the court may charge a fee if a party files a request to change the child custody, visitation, or support orders granted in form DV-130.



**DV-400-INFO****How Do I Ask to Change or End a Domestic Violence Restraining Order After Hearing?****12 Temporary Emergency (Ex Parte) Orders**  
(nondomestic violence restraining orders)

To address emergencies, courts can sometimes grant a party's request for temporary emergency orders with or without notice to the other party before the court hearing. The temporary orders last until the day of the hearing.

- *A request for temporary emergency orders must involve an immediate danger or irreparable harm to a party or children in the case, or an immediate loss or damage to property.*
- Ask your court's family law facilitator or self-help center to explain procedures for requesting temporary emergency orders at your court, and follow those procedures.
- By law, the court **CANNOT** grant a Restrained Party's request for temporary emergency orders to change or end the restraining orders before the noticed court hearing. However, the Restrained Party may seek a court order for a shorter time until the hearing or for a shorter time to serve the request on the Protected Party.

**13 Serve the Request for Order documents**

The other party must be "served" with a:

- Copy of the *Request for Order* and all the other forms and attachments filed with the court clerk.
- Copy of any temporary emergency orders granted.
- Blank form FL-320, *Response Declaration to Request for Order*
- Blank form FL-150, *Income and Expense Declaration* (if you served form FL-150 or FL-155).

**14 General information about "service"**

"Service" is the act of giving your legal papers to all persons named as parties in the case so that they know: what orders you are asking for; whether temporary emergency orders were made before the hearing; the date, time, and location of the hearing; and how to respond to your request.

NOTE: For questions about serving form FL-300, talk with a lawyer or contact your Family Law Facilitator or Self-Help Center <http://www.courts.ca.gov/1083.htm>.

**15 Service deadlines**

Unless the court orders a different deadline: Personal service (hand-delivery) must be completed at least *16 court days* before the hearing. Service by mail must be completed at least *16 court days, PLUS five calendar days*, before the hearing if service is done within the state.

**16 Who can "serve" the documents**

The server must be 18 years of age or older and not be anyone protected or restrained by the orders. You cannot serve the papers. The server can be a friend, a relative who is not involved in your case, a sheriff, or a professional process server. If serving by mail, the server must live or work in the county where the mailing took place.

**17 When personal service is required**

- ☒ A Restrained Party's request to change or end restraining orders must always be personally served (hand-delivered) on the Protected Party, unless the court allows another method.
- ☒ The court granted temporary emergency (ex parte orders) that start before the hearing date. Note: Special procedures apply for personal service on a Protected Party who has a confidential address with the Secretary of State's Safe at Home program. For more information, go to [www.sos.ca.gov/registries/safe-home/applicants-and-participants/program-policies/#child-custody](http://www.sos.ca.gov/registries/safe-home/applicants-and-participants/program-policies/#child-custody).

**18 When service by mail is permitted**

- ☒ A Protected Party's *Request for Order* to change or end the restraining orders in form DV-130 may be served on the restrained party by mail.
- ☒ Requests by either party only to change *temporary orders* in form DV-130 for child custody or visitation (parenting time), support, financial, or other orders (NOT protective orders), may be served by mail.
- ☒ Requests made by either party only to change "*permanent*" or "*final*" orders for child custody and visitation (parenting time), or child support in form DV-130 may be served by mail if an *Address Verification* is included (see form FL-334 at [courts.ca.gov/documents/fl334.pdf](http://courts.ca.gov/documents/fl334.pdf)).



**DV-400-INFO****How Do I Ask to Change or End a Domestic Violence Restraining Order After Hearing?****19 Server must complete a *Proof of Service***

After the forms are personally served, the server must complete a proof of personal service and give it to you. [Form FL-330, Proof of Personal Service](#) may be used for this purpose. Give the server [form FL-330-INFO, Information Sheet for Proof of Personal Service](#) for instructions.

If service was by mail, the server may use [form FL-335, Proof of Service by Mail](#). Give the server [form FL-335-INFO, Information Sheet for Proof of Service by Mail](#) for instructions.

**20 File the *Proof of Service* before your hearing**

Make three copies of the proof of service. Give the original and copies to the court clerk as soon as possible (or e-file them) **before your hearing**.

The clerk will keep the original and give you back the copies stamped "Filed." Bring a copy stamped "Filed" to your hearing. The filed *Proof of Service* shows the judge that the person received a copy of the *Request for Order* and all other documents or attachments.

**21 Get ready for your hearing**

Find more information about preparing for your hearing at <http://www.courts.ca.gov/1094.htm>.

**22 Go to the court hearing**

Take at least three copies of your filed forms to the hearing, including the proof of service. At the hearing, the judge will decide whether to change or end the restraining orders.

**23 What if the judge changes or ends the restraining order at the hearing?**

- ☒ If the judge *changes (amends)* the orders, fill out a new [form DV-130, Restraining Order After Hearing](#) that shows the changed orders.

Check the "Amended" box on the top of the form. The court will write the number of the amendment on the form. For example, if it is the first time the order is changed, the court will write "1st" before the word "Amended."

Give the court three copies of the proposed amended order.

- ☒ If the judge *ends* the restraining order, give the court [form DV-400, Findings and Order to Terminate Restraining Order After Hearing](#). Complete only items 1 and 2, and give the court three copies.

- ☒ After the judge signs the order, the clerk will file the original and give you three stamped copies.

**24 Serve the court order**

Have the other party personally served with a copy of the filed orders made on form DV-130 or form DV-400, unless the court orders another method of service or the other party was served at the hearing.

**25 File the *Proof of Service***

The server must complete a proof of personal service, such as [form FL-330, Proof of Personal Service](#). Make three copies.

The original proof of personal service must then be filed with the court clerk. The clerk will file the original and give you back the copies you sent to the clerk stamped "Filed."

Keep one copy with you and another in a safe place in case you need to show it to the police.

**26 Get the order entered into the statewide Restraining Order Registry**

The court will send the filed, amended form DV-130 or form DV-400 and proof of service to law enforcement for you. That way police across the state and the nation will know the order has changed or ended.

**27 Need more help?**

Ask the court clerk about free or low-cost legal help.

For a referral to a local domestic violence or legal assistance program, call the National Domestic Violence Hotline at 1-800-799-7233 (TDD: 1-800-787-3224). It is free and private. They can help in more than 100 languages.

**28 If you need protection in the future, you can always go back to court and ask for a restraining order.**

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>NOT APPROVED BY THE JUDICIAL COUNCIL</b>  <b>v. 07/23/2024</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	
<b>REQUEST FOR ORDER</b> <input type="checkbox"/> <b>CHANGE</b> <input type="checkbox"/> <b>TEMPORARY EMERGENCY ORDERS</b> <input type="checkbox"/> Child Custody <input type="checkbox"/> Visitation (Parenting Time) <input type="checkbox"/> Spousal or Partner Support <input type="checkbox"/> Child Support <input type="checkbox"/> Property Control <input type="checkbox"/> Attorney's Fees and Costs <input type="checkbox"/> Other (specify):	CASE NUMBER:

**Note:** Read form [FL-300-INFO](#) for information about how to complete this form. To ask to change or end an order that was granted in a Restraining Order After Hearing (form DV-130 or JV-255), read form [FL-300-INFO](#) and form [DV-300-INFO](#).

### NOTICE OF HEARING

1. TO (name(s)): \_\_\_\_\_  
☐ Petitioner ☐ Respondent ☐ Other Parent/Party ☐ Other (specify):

**2. A COURT HEARING WILL BE HELD AS FOLLOWS:**

a. Date:	Time:	<input type="checkbox"/> Dept.:	<input type="checkbox"/> Room.:
b. Address of court <input type="checkbox"/> same as noted above <input type="checkbox"/> other (specify):			

3. **WARNING to the person served with the Request for Order:** The court may make the requested orders without you if you do not file a *Responsive Declaration to Request for Order* (form FL-320), serve a copy on the other parties at least nine court days before the hearing (unless the court has ordered a shorter period of time), and appear at the hearing. (See form *FL-320-INFO* for more information.)

### COURT ORDER (FOR COURT USE ONLY)

**It is ordered that:**

4. ☐ Time ☐ for service ☐ until the hearing is shortened. Service must be on or before (date):
5. ☐ A *Responsive Declaration to Request for Order* (form FL-320) must be served on or before (date):
6. ☐ The parties must attend an appointment for child custody mediation or child custody recommending counseling as follows (specify date, time, and location):
7. ☐ The orders in *Temporary Emergency (Ex Parte) Orders* (form FL-305) apply to this proceeding and must be personally served with all documents filed with this *Request for Order*.
8. ☐ Other (specify):

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

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



PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
---	--------------

### REQUEST FOR ORDER

**Note:** Place a mark ☒ in front of the box that applies to your case or to your request. If you need more space, mark the box for "Attachment." For example, mark "Attachment 2a" to indicate that the list of children's names and birth dates continues on a paper attached to this form. Then, on a sheet of paper, list each attachment number followed by your request. At the top of the paper, write your name, case number, and "FL-300" as a title. (You may use *Attached Declaration* (form [MC-031](#)) for this purpose.)

1. ☐ **RESTRAINING ORDER INFORMATION**  
 One or more domestic violence restraining/protective orders are now in effect between *(specify)*:  
☐ Petitioner   ☐ Respondent   ☐ Other Parent/Party   *(Attach a copy of the orders if you have one.)*  
 The orders are from the following court or courts *(specify county and state)*:
 

a. <input type="checkbox"/> Criminal: County/state <i>(specify)</i> :	Case No. <i>(if known)</i> :
b. <input type="checkbox"/> Family: County/state <i>(specify)</i> :	Case No. <i>(if known)</i> :
c. <input type="checkbox"/> Juvenile: County/state <i>(specify)</i> :	Case No. <i>(if known)</i> :
d. <input type="checkbox"/> Other: County/state <i>(specify)</i> :	Case No. <i>(if known)</i> :
  
2. ☐ **CHILD CUSTODY** ☐ I request temporary emergency orders  
☐ **VISITATION (PARENTING TIME)**
  - a. I request that the court make orders about the following children *(specify)*:
 

<u>Child's Name</u>	<u>Date of Birth</u>	<input type="checkbox"/> <u>Legal Custody to (person who decides: health, education, etc):</u>	<input type="checkbox"/> <u>Physical Custody to (person with whom child lives):</u>
---------------------	----------------------	--	---
  
  - b. ☐ The orders I request for ☐ child custody ☐ visitation (parenting time) are:
 

☐ Specified in the attached forms:  
☐ Form [FL-305](#)   ☐ Form [FL-311](#)   ☐ Form [FL-312](#)   ☐ Form [FL-341\(C\)](#)  
☐ Form [FL-341\(D\)](#)   ☐ Form [FL-341\(E\)](#)   ☐ Other *(specify)*:

☐ [Attachment 2a.](#)

☐ As follows *(specify)*: ☐ [Attachment 2b.](#)
  
  - c. The orders that I request are in the best interest of the children because *(specify)*: ☐ [Attachment 2c.](#)

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
---	--------------

2. d. ☐ This is a change from the current order for ☐ child custody ☐ visitation (parenting time).
- (1) ☐ The order for legal or physical custody was filed on (date): . The court ordered (specify):
- (2) ☐ The visitation (parenting time) order was filed on (date): . The court ordered (specify):

3. ☐ CHILD SUPPORT ☐ [Attachment 2d.](#)
- (Note: An earnings assignment may be issued. See *Income Withholding for Support* (form [FL-195](#)))
- a. I request that the court order child support as follows:
- ☐ Child's name and age ☐ I request support for each child Monthly amount (\$) requested  
 based on the child support guideline. (if not by guideline)
- b. ☐ I want to change a current court order for child support filed on (date): ☐ [Attachment 3a.](#)  
 The court ordered child support as follows (specify):
- c. I have completed and filed with this *Request for Order* a current *Income and Expense Declaration* (form [FL-150](#)) or I filed a current *Financial Statement (Simplified)* (form [FL-155](#)) because I meet the requirements to file form FL-155.
- d. The court should make or change the support orders because (specify): ☐ [Attachment 3d.](#)

4. ☐ SPOUSAL OR DOMESTIC PARTNER SUPPORT
- (Note: An *Earnings Assignment Order for Spousal or Partner Support* (form [FL-435](#)) may be issued.)
- a. ☐ Amount requested (monthly): \$
- b. ☐ I want the court to ☐ change ☐ end the current support order filed on (date):  
 The court ordered \$ per month for support.
- c. ☐ This request is to modify (change) spousal or partner support after entry of a judgment.  
 I have completed and attached *Spousal or Partner Support Declaration Attachment* (form [FL-157](#)) or a declaration that addresses the same factors covered in form FL-157.
- d. I have completed and filed a current *Income and Expense Declaration* (form [FL-150](#)) in support of my request.
- e. The court should should make, change, or end the support orders because (specify): ☐ [Attachment 4e.](#)

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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5. ☐ **PROPERTY CONTROL** ☐ I request temporary emergency orders  
 a. The ☐ petitioner ☐ respondent ☐ other parent/party be given exclusive temporary use, possession, and control of the following property that we ☐ own or are buying ☐ lease or rent (*specify*):

b. The ☐ petitioner ☐ respondent ☐ other parent/party be ordered to make the following payments on debts and liens coming due while the order is in effect:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

c. ☐ This is a change from the current order for property control filed on (*date*):  
 d. Specify in [Attachment 5d](#) the reasons why the court should make or change the property control orders.

6. ☐ **ATTORNEY'S FEES AND COSTS**  
 I request attorney's fees and costs, which total (*specify amount*): \$ \_\_\_\_\_ . I filed the following to support my request:  
 a. A *Current Income and Expense Declaration* (form [FL-150](#)).  
 b. A *Request for Attorney's Fees and Costs Attachment* (form [FL-319](#)) or a declaration that addresses the factors covered in that form.  
 c. A *Supporting Declaration for Attorney's Fees and Costs Attachment* (form [FL-158](#)) or a declaration that addresses the factors covered in that form.

7. ☐ **OTHER ORDERS REQUESTED** (*specify*): ☐ [Attachment 7.](#)

8. ☐ **TIME FOR SERVICE / TIME UNTIL HEARING** I urgently need:  
 a. ☐ To serve the *Request for Order* no less than (*number*): \_\_\_\_\_ court days before the hearing.  
 b. ☐ The hearing date and service of the the *Request for Order* to be sooner.  
 c. I need the order because (*specify*): ☐ [Attachment 8.](#)

9. ☐ **FACTS TO SUPPORT** the orders I request are listed below. The facts that I write in support and attach to this request cannot be longer than 10 pages, unless the court gives me permission. ☐ [Attachment 9.](#)

I declare under penalty of perjury under the laws of the State of California that the information provided in this form and all attachments is true and correct.

Date:

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

  
 \_\_\_\_\_  
 (SIGNATURE OF APPLICANT)



**Requests for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons With Disabilities and Response* (form [MC-410](#)). (Civ. Code, § 54.8.)

**1 USE Request for Order (form FL-300):**

- To schedule a court hearing and ask the court to make new orders or to change orders in your case.
- When *Restraining Order After Hearing* (form [DV-130](#)) has expired, and you want to change the orders that are still in effect (examples: child custody, visitation (parenting time), child support, and other orders).
- To change or end *Juvenile Restraining Order After Hearing* (form [JV-255](#)) when the case is closed (dismissed) and the order was granted under the Code of Civil Procedure.

**2 DO NOT USE Request for Order (form FL-300):**

- To ask for a restraining order against your spouse or domestic partner, a former spouse or domestic partner, or someone you have a child with. Read *How to Ask for a Temporary Restraining Order* (form [DV-505-INFO](#)).
- To ask to change or end a *Restraining Order After Hearing* granted under the Domestic Violence Prevention Act, including form DV-130 and form JV-255 in a juvenile case. For more information, read *How Do I Ask to Change or End a Domestic Violence Restraining Order?* (form [DV-300-INFO](#)).
- Before you have filed a Petition to start your **family law case** (form FL-300 may be filed with the Petition).
- If you and the other party have an agreement. For information about how to write up your agreement, get it approved by the court, and filed in your case, see [www.courts.ca.gov/selfhelp-agreeFL](http://www.courts.ca.gov/selfhelp-agreeFL), speak with an attorney, or get help at your court's Self-Help Center or Family Law Facilitator's Office.
- When specific Judicial Council forms must be used to ask the court for other orders. For example, to ask:
  - For an order for contempt, use form [FL-410](#).
  - To set aside a child support order, use form [FL-360](#) or form [FL-640](#).
  - To set aside a voluntary declaration of paternity, use form [FL-280](#).

**3 Forms checklist**

- Form [FL-300](#), *Request for Order*, is the basic form you need to file with the court. Depending on your request, you may need these additional forms:
- To request child custody or visitation (parenting time) orders, you may need to complete some of these forms:
  - ☐ [FL-105](#), *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act*
  - ☐ [FL-311](#), *Child Custody and Visitation (Parenting Time) Application Attachment*
  - ☐ [FL-312](#), *Request for Child Abduction Prevention Orders*
  - ☐ [FL-341\(C\)](#), *Children's Holiday Schedule Attachment*
  - ☐ [FL-341\(D\)](#), *Additional Provisions—Physical Custody Attachment*
  - ☐ [FL-341\(E\)](#), *Joint Legal Custody Attachment*
- If you want child support, you need this form:
  - ☐ A current [FL-150](#), *Income and Expense Declaration*. You may use form [FL-155](#), *Financial Statement (Simplified)* instead of form FL-150 if you meet the requirements listed on page 2 of form FL-155.
- If you want spousal or partner support or orders about your finances, you need these forms:
  - ☐ A current [FL-150](#), *Income and Expense Declaration*
  - ☐ [FL-157](#), *Spousal or Partner Support Declaration Attachment* (if the request is to change a support judgment)
- If you want attorney's fees and costs, you need these forms:\*
  - ☐ A current [FL-150](#), *Income and Expense Declaration*
  - ☐ [FL-319](#), *Request for Attorney's Fees and Costs Attachment* (or provide the information in a declaration)
  - ☐ [FL-158](#), *Supporting Declaration for Attorney's Fees and Costs* (or provide the information in a declaration)

(\*The above forms are not required when asking for attorney's fees and costs under the Domestic Violence Prevention Act.)
- To request temporary emergency (ex parte) orders, you need these forms:
  - ☐ [FL-305](#), *Temporary Emergency Orders* to serve as the proposed temporary emergency orders.
  - ☐ Your declaration describing how and when you gave notice about the request for temporary emergency orders. You may use [form FL-303](#), *Declaration Regarding Notice and Service of Request for Temporary Emergency (Ex Parte) Orders*.
  - ☐ Other forms required by local courts. See item 9 on page 3 of this form for more information.
- If you plan to have witnesses testify at the hearing, you need form:
  - ☐ [FL-321](#), *Witness List*
- If you want to request a separate trial (bifurcation) on an issue, you need form:
  - ☐ [FL-315](#), *Request or Response to Request for Separate Trial*

## 4 Complete form FL-300 (Page 1)

**Caption:** Complete the top part with your name, address, and telephone number. Below that, fill in the court's address.

Write the name of the Petitioner, Respondent, or Other Parent/Party. (You must use the party names as they appear in the petition.)

In the next section, check "CHANGE" if you want to change an existing order. Check "TEMPORARY EMERGENCY (EX PARTE) ORDER" if you are asking that the court make emergency orders that will be effective until the hearing date.

Then, check the boxes that apply to the orders you are requesting. Finally, in the box on the right, write your case number.

**Item 1:** List the name(s) of the other person(s) in your case who will receive your request. In some cases, this might include a grandparent who is joined as a party in the case, a local child support agency, or a lawyer who represents a child in the case.

**Item 2:** Leave this blank. The court clerk will fill in the date, time, and location of the hearing.

**Item 3:** This is a notice to all other parties.

**Items 4–5:** Leave these blank. The court will complete them if the orders are granted.

**Item 6:** In some counties, the court clerk will check item 6 and provide the details for your required child custody mediation or recommending counseling appointment. Other courts require the party or the party's lawyer to make the appointment and then complete item 6 before filing form FL-300.

Ask your court's Family Law Facilitator or Self-Help Center to find out what your court requires.

**Items 7–8:** Leave these blank. The court will complete them, if needed.

## 5 Complete form FL-300 (pages 2–4)

## 6 Complete additional forms and make copies

Complete any additional forms that you need to file with the *Request for Order*. Make at least two copies of your full packet.

FL-300	
<p>PARTY WITHOUT ATTORNEY OR ATTORNEY STATE BAR NUMBER</p> <p>NAME: _____</p> <p>STREET ADDRESS: _____</p> <p>CITY: _____ STATE: _____ ZIP CODE: _____</p> <p>TELEPHONE NO.: _____ FAX NO.: _____</p> <p>EMAIL ADDRESS: _____</p> <p>ATTORNEY FOR (name): _____</p>	
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</p> <p>STREET ADDRESS: _____</p> <p>MAILING ADDRESS: _____</p> <p>CITY AND ZIP CODE: _____</p> <p>BRANCH NAME: _____</p>	
<p>PETITIONER: _____</p> <p>RESPONDENT: _____</p> <p>OTHER PARTY(IES): _____</p>	
<p>REQUEST FOR ORDER <input type="checkbox"/> CHANGE <input type="checkbox"/> TEMPORARY EMERGENCY ORDERS</p> <p><input type="checkbox"/> Child Custody <input type="checkbox"/> Visitation (Parenting Time) <input type="checkbox"/> Spousal or Partner Support</p> <p><input type="checkbox"/> Child Support <input type="checkbox"/> Property Control <input type="checkbox"/> Attorney's Fees and Costs</p> <p><input type="checkbox"/> Other (specify): _____</p>	
<p>CASE NUMBER: _____</p>	

Note: Read form [FL-300-INFO](#) for information about how to complete this form. To ask to change or end an order that was granted in a Restraining Order After Hearing (form DV-130 or JV-255), read form [FL-300-INFO](#) and form [DV-300-INFO](#).

### NOTICE OF HEARING

1. TO (name(s)): \_\_\_\_\_  
☐ Petitioner ☐ Respondent ☐ Other Parent/Party ☐ Other (specify): \_\_\_\_\_

2. A COURT HEARING WILL BE HELD AS FOLLOWS:

a. Date: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
 b. Address of court ☐ same as noted above ☐ other (specify): \_\_\_\_\_

3. **WARNING to the person served with the Request for Order:** The court may make the requested orders without you if you do not file a *Responsive Declaration to Request for Order* (form FL-320), serve a copy on the other parties at least nine court days before the hearing (unless the court has ordered a shorter period of time), and appear at the hearing. (See form [FL-320-INFO](#) for more information.)

### COURT ORDER

It is ordered that:

4. ☐ Time ☐ for service ☐ until the hearing is shortened. Service must be on or before (date): \_\_\_\_\_
5. ☐ A *Responsive Declaration to Request for Order* (form FL-320) must be served on or before (date): \_\_\_\_\_
6. ☐ The parties must attend an appointment for child custody mediation or child custody recommending counseling as follows (specify date, time, and location): \_\_\_\_\_
7. ☐ The orders in *Temporary Emergency (Ex Parte) Orders* (form FL-305) apply to this proceeding and must be personally served with all documents filed with this *Request for Order*.
8. ☐ Other (specify): \_\_\_\_\_

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

JUDICIAL OFFICER

Form Adopted for Mandatory Use  
 Judicial Council of California  
 FL-300 (Rev. January 1, 2025)

REQUEST FOR ORDER

Page 1 of 4  
 Family Code, §§ 2045, 2107, 8224,  
 8226, 8227, 8228, 8229, 8230, 8231,  
 Government Code § 26126  
 Cal. Rules of Court, rule 5.92  
[www.courts.ca.gov](http://www.courts.ca.gov)

Note: You may file one form *FL-150* to respond to items 3, 4, and 6.

## 7 File your documents

Give your paperwork and the copies you made to the court clerk to process. You may take them to the clerk's office in person, mail them, or, in some counties, you can e-file them.

The clerk will keep the original and give you back the copies you made with a court date and time stamped on the first page of the *Request for Order*. The procedure may be different in some courts if you are requesting temporary emergency orders.

## 8 Pay filing fees

A fee is due at the time of filing.

If you cannot afford to pay the filing fee, and you do not already have a valid fee waiver order in this case, you can ask the court to waive the fee by completing and filing form [FW-001](#), *Request to Waive Court Fees* and form [FW-003](#), *Order on Court Fee Waiver*.



### 9 Temporary Emergency (Ex Parte) Orders (nondomestic violence restraining orders)

Courts can make temporary orders in your family law case to respond to emergencies that cannot wait to be heard on the court's regular hearing calendar.

*The emergency must involve an immediate danger or irreparable harm to a party or children in the case, or an immediate loss or damage to property.*

To request these orders:

- Complete form FL-300. Describe the emergency and explain why you need the temporary emergency orders before the hearing.
- Complete form FL-305 to serve as your proposed temporary orders.
- Include a declaration describing how and when you notified the other parties (or why you could not give notice) about your request and the hearing (see form FL-303).
- Complete other forms if required by your local court rules.
- Follow your court's local procedures for reserving the day for the hearing, submitting your paperwork, and paying filing fees.

### 12 Who can be a "server"

You cannot serve the papers. Have someone else (who is at least 18 years old) do it. The server can be a friend, a relative who is not involved in your case, a sheriff, or a professional process server.

### 13 "Personal Service"

Personal service means that your server walks up to each person to be served, makes sure the right person is served, and then hand-delivers a copy of all the papers (and the blank forms). If the person served does not take the papers, the server may leave the papers near the person.



Note: Sometimes the papers may be personally served on the other party's lawyer (if **the other party** has one) in the family law case.

### 10 General information about "service"

"Service" is the act of giving your legal papers to all persons named as parties in the case so that they know what orders you are asking for and have information about the hearing.

If the other parties are NOT properly served, the judge cannot make the orders you requested on the date of the hearing.

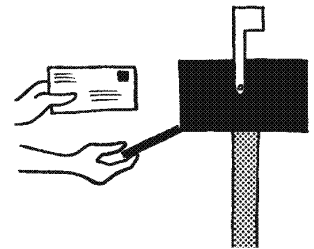
### 11 Serve the Request for Order and blank forms

The other party must be "served" with a:

- Copy of the *Request for Order* and all the other forms and attachments filed with the court clerk.
- Copy of any temporary emergency orders granted.
- Blank form [FL-320](#), *Responsive Declaration to Request for Order*.
- Blank form [FL-150](#), *Income and Expense Declaration* (if you served form FL-150 or FL-155).

### 14 "Service by mail"

Service by mail means that your server places copies of all the documents (and blank forms) in a sealed envelope and mails them to the address of each party being served (or to the party's lawyer, if the party has one).



The server must be 18 years of age or over and live or work in the county where the mailing took place.

**Important!** For questions about personal service or service by mail, talk with a lawyer or check with your court's Family Law Facilitator or Self-Help Center at [www.courts.ca.gov/1083.htm](http://www.courts.ca.gov/1083.htm).



**15 When to use personal service or service by mail**
**Personal Service**

Personal service is the best way to make sure the other adults in your case are correctly served. Sometimes you **must** use personal service.

You **must** use personal service when the court:

- ☒ Ordered personal service;
  - ☒ Granted temporary emergency orders;
  - ☒ Does not yet have the power to make orders that apply to the other party because **the person** has either NOT previously:
    - Been served with a *Summons* and *Petition*; \*
- OR
- Appeared in the case by filing a:
    - a. *Response* to a *Petition*;
    - b. *Appearance*, *Stipulations*, and *Waivers*;
    - c. Written notice of appearance;
    - d. Request to strike all or part of the *Petition*; or
    - e. Request to transfer the case.

\*Note: A *Request for Order* may be served at the same time as the family law *Summons* and *Petition*.

1. After serving, the server must fill out a *Proof of Personal Service* (form [FL-330](#)) and give it to you. If the server needs instructions, give **them** form [FL-330-INFO](#), *Information Sheet for Proof of Personal Service*.
2. Take the completed *Proof of Personal Service* form to the clerk's office (or e-file it, if available in your court) at least 5 court days before your hearing.

**Deadline:** The deadline for personal service is **16 court days** before the hearing date, unless the court orders a different deadline.

**Service by Mail**

If you are not required to use personal service, you may use service by mail.

**Important!** Check with your court's Family Law Facilitator's Office or Self-Help Center, or ask a lawyer to be sure you are allowed to use service by mail in your case.

A *Request for Order* to change a judgment or final order on the issue of child custody, visitation (parenting time), or child support may be served by mail if:

- ☒ The documents do not include temporary emergency orders;
- ☒ The court did not order personal service; and
- ☒ You have verified the other party's current residence or office address. (You may use *Address Verification* (form [FL-334](#)).)

To change a judgment or final order on any other issue, including spousal or domestic partner support, the *Request for Order* may need to be personally served on the other party.

1. After serving, the server must fill out a *Proof of Service by Mail* (form [FL-335](#)) and give it to you. If the server needs instructions, give **them** *Information Sheet for Proof of Service by Mail* (form [FL-335-INFO](#)).
2. Take the completed *Proof of Personal Service* form to the clerk's office (or e-file it, if available in your court) at least 5 court days before your hearing.

**Deadline:** Unless the court orders a different time, service by mail must be completed at least **16 court days PLUS 5 calendar days** before the hearing date (if service is in California). Other time lines apply for service outside of California.

**16 Get ready for your hearing**

- Take at least two copies of your documents and filed forms to the hearing. Include a filed *Proof of Service* form.
- Find more information about preparing for your hearing at [www.courts.ca.gov/1094.htm](http://www.courts.ca.gov/1094.htm).
- For information about having the other party testify in court, go to [www.courts.ca.gov/29283.htm](http://www.courts.ca.gov/29283.htm).

**17 After the hearing**, the order made on form [FL-340](#) *Findings and Order After Hearing*, must be filed and served.

**18 Do you have questions or need help?**

- Find a lawyer through your local bar association, the State Bar of California at [calbar.ca.gov](http://calbar.ca.gov), or the Lawyer Referral Service at 1-866-442-2529.
- For free and low-cost legal help (if you qualify), go to [www.lawhelpca.org](http://www.lawhelpca.org).
- Contact the Family Law Facilitator or Self-Help Center for information and assistance, and referrals to local legal services providers. Go to [www.courts.ca.gov/selfhelp-courtresources.htm](http://www.courts.ca.gov/selfhelp-courtresources.htm).

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>NOT APPROVED</b> <b>BY THE</b> <b>JUDICIAL COUNCIL</b>  <b>v. 7/23/24</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	
<b>RESPONSIVE DECLARATION TO REQUEST FOR ORDER</b>	CASE NUMBER:
HEARING DATE: TIME: DEPARTMENT OR ROOM:	

Read *Information Sheet: Responsive Declaration to Request for Order* (form [FL-320-INFO](#)) for more information about this form.

1. ☐ **RESTRAINING ORDER INFORMATION**
  - a. ☐ No domestic violence restraining/protective orders are now in effect between the parties in this case.
  - b. ☐ I agree that one or more domestic violence restraining/protective orders are now in effect between the parties in this case.
  
2. ☐ **CHILD CUSTODY**  
☐ **VISITATION (PARENTING TIME)**
  - a. ☐ I consent to the order requested for child custody (legal and physical custody).
  - b. ☐ I consent to the order requested for visitation (parenting time).
  - c. ☐ I do not consent to the order requested for ☐ child custody ☐ visitation (parenting time)  
☐ but I consent to the following order:
  
3. ☐ **CHILD SUPPORT**
  - a. I have completed and filed a current *Income and Expense Declaration* (form [FL-150](#)) or, if eligible, a current *Financial Statement (Simplified)* (form [FL-155](#)) to support my responsive declaration.
  - b. ☐ I consent to the order requested.
  - c. ☐ I consent to guideline support.
  - d. ☐ I do not consent to the order requested ☐ but I consent to the following order:
  
4. ☐ **SPOUSAL OR DOMESTIC PARTNER SUPPORT**
  - a. I have completed and filed a current *Income and Expense Declaration* (form [FL-150](#)) to support my responsive declaration.
  - b. ☐ I consent to the order requested.
  - c. ☐ I do not consent to the order requested ☐ but I consent to the following order:



PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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5. ☐ PROPERTY CONTROL

a. ☐ I consent to the order requested.

b. ☐ I do not consent to the order requested ☐ but I consent to the following order:
6. ☐ ATTORNEY'S FEES AND COSTS

a. I have completed and filed a current *Income and Expense Declaration* (form [FL-150](#)) to support my responsive declaration.

b. I have completed and filed with this form a *Supporting Declaration for Attorney's Fees and Costs Attachment* (form [FL-158](#)) or a declaration that addresses the factors covered in that form.

c. ☐ I consent to the order requested.

d. ☐ I do not consent to the order requested ☐ but I consent to the following order:
7. ☐ OTHER ORDERS REQUESTED

a. ☐ I consent to the order requested.

b. ☐ I do not consent to the order requested ☐ but I consent to the following order:
8. ☐ TIME FOR SERVICE / TIME UNTIL HEARING

a. ☐ I consent to the order requested.

b. ☐ I do not consent to the order requested ☐ but I consent to the following order:
9. ☐ FACTS TO SUPPORT my responsive declaration are listed below. The facts that I write and attach to this form cannot be longer than 10 pages, unless the court gives me permission. ☐ [Attachment 10.](#)

I declare under penalty of perjury under the laws of the State of California that the information provided in this form and all attachments is true and correct.

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

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


 \_\_\_\_\_  
 (SIGNATURE OF DECLARANT)

**1 If you received a *Request for Order* (form FL-300):**

- Carefully read the papers you received to make sure you understand what orders are being requested.
- Note the date, time, and location of the court hearing.
- Check to see if the court ordered a specific date for filing and serving your *Responsive Declaration to Request for Order* (form FL-320).
- If you need more time before the hearing to prepare a responsive declaration or talk with a lawyer, you may ask the court to continue the hearing date. For more information, consult with a lawyer or contact the the Family Law Facilitator or Self-Help Center in your court (see item **16**).

**2 USE *Responsive Declaration to Request for Order* (form FL-320)**

Use form FL-320 to let the court and the other party know that you agree or disagree with each of the requests made in the *Request for Order* (form FL-300).

- If you disagree, use form FL-320 to describe the orders you would like the court to make.
- If you do not file and serve form FL-320, the court can still make orders without your input.

**3 DO NOT USE *Responsive Declaration to Request for Order* (form FL-320) to:**

- Ask for court orders that were not requested in the *Request for Order* (form FL-300). Instead, file and serve your own *Request for Order* (form [FL-300](#)) to ask for orders about other issues.
- Respond to *Request for Domestic Violence Restraining Order* (form [DV-100](#)). Instead, you must use *Response to Request for Domestic Restraining Order* (form [DV-120](#)).
- Respond to *Request to Change or End Restraining Order* (form [DV-300](#) or form [JV-255](#) when the juvenile case is closed and the order was granted under the Domestic Violence Prevention Act). Instead, you must use *Response to Request to End or Change Restraining Order* (form [DV-320](#)).

**4 Forms checklist**

- Form [FL-320](#), *Responsive Declaration to Request for Order*, is the basic form you need. Depending on the requests made in the *Request for Order* (form FL-300), you may need other forms.
- For child custody or visitation (parenting time) orders, you may need to complete some of these forms:
  - ☐ [FL-105](#), *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act*
  - ☐ [FL-311](#), *Child Custody and Visitation (Parenting Time) Application Attachment*
  - ☐ [FL-312](#), *Request for Child Abduction Prevention Orders*
  - ☐ [FL-341\(C\)](#), *Children's Holiday Schedule Attachment*
  - ☐ [FL-341\(D\)](#), *Additional Provisions—Physical Custody Attachment*
  - ☐ [FL-341\(E\)](#), *Joint Legal Custody Attachment*
- For child support, you need:
  - ☐ A current form [FL-150](#), *Income and Expense Declaration*. You may use form [FL-155](#), *Financial Statement (Simplified)*, instead of form FL-150 if you meet the requirements listed on page 2 of form FL-155.

**Notice:**

  - The court will order child support based on the income of the parents.
  - Child support normally continues until the child is 18 years and has graduated from high school.
  - You must give the court information about your finances. If you do not, the child support order will be based on information about your income that the court receives from other sources.
- For spousal or domestic partner support or orders about your finances, you need these forms:
  - ☐ [FL-150](#), *Income and Expense Declaration*
  - ☐ [FL-157](#), *Spousal or Partner Support Declaration Attachment* (if the request is to change a support judgment)
- For attorney's fees and costs, you need these forms (except in Domestic Violence Prevention Act cases):
  - ☐ [FL-150](#), *Income and Expense Declaration*
  - ☐ [FL-158](#), *Supporting Declaration for Attorney's Fees and Costs* (or provide the information in a declaration)
  - ☐ [FL-319](#), *Request for Attorney's Fees and Costs Attachment* (or provide the information in a declaration)
- If you plan on having witnesses testify at the hearing, you need this form:
  - ☐ [FL-321](#), *Witness List*



To respond to a *Request for Order*, you must:

**5 Complete the top part (caption) of the form**

Complete the top portion including your name, address, and telephone number, the court address, the names of all the parties in the case, and the case number. Also, print or type the same hearing date, time, and department that appears on the *Request for Order* (form FL-300).

**6 Specify a response to orders requested**

**Items 1–8:** Each item on the form matches the item numbers on the *Request for Order* (form FL-300). Complete item 1. Next, mark the same box that is marked on form FL-300. Then, specify if you consent (agree) or do not consent to (disagree with) the orders requested. If you disagree, describe the order you would like the court to make. *Note: You may file one form FL-150 to respond to items 3, 4, and 6.*

**Item 9:** Use the space to explain your responses to items 1–8. Include the reasons why you do not agree with the orders requested by the other party and why the court should make the orders you described. If you need more space, write your responses on a separate sheet of paper and attach it to the form (*Attached Declaration* (form MC-031) may be used for this purpose).

**Sign and date:** Print your name, sign, and write the date you signed form FL-320.

**7 Next steps: file or serve your paperwork**

You must file your paperwork with the court clerk at least 9 court days before the hearing. If the court orders a shorter time to file your papers, file them by the date specified in the order.

Make 2 copies of your original paperwork. Then, do one of the following before the filing deadline:

- Take your paperwork and copies to the court clerk to process (or e-file them, if available in your county). The clerk will keep the original and give you back copies with a court stamp on them. Have a stamped copy served; or
- Have an unstamped copy of your paperwork served *before* you take (or e-file) the originals and copies to the court clerk to file. Be sure the original documents are not served.

PARTY WITHOUT ATTORNEY OR ATTORNEY		STATE BAR NUMBER:	FOR COURT USE ONLY
NAME:			<b>DRAFT</b>  <b>NOT APPROVED</b> <b>BY THE</b> <b>JUDICIAL COUNCIL</b>  <b>v. 2/16/24</b>
FIRM NAME:			
STREET ADDRESS:			
CITY:	STATE:	ZIP CODE:	
TELEPHONE NO.:		FAX NO.:	
EMAIL ADDRESS:			
ATTORNEY FOR (name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF			
STREET ADDRESS:			
MAILING ADDRESS:			
CITY AND ZIP CODE:			
BRANCH NAME:			
PETITIONER:			
RESPONDENT:			
OTHER PARENT/PARTY:			
<b>RESPONSIVE DECLARATION TO REQUEST FOR ORDER</b>			
HEARING DATE:		TIME:	DEPARTMENT OR ROOM:
			CASE NUMBER:

Read *Information Sheet: Responsive Declaration to Request for Order* (form [FL-320-INFO](#)) for more information about this form.

- ☐ **RESTRAINING ORDER INFORMATION**
  - ☐ No domestic violence restraining/protective orders are now in effect between the parties in this case.
  - ☐ I agree that one or more domestic violence restraining/protective orders are now in effect between the parties in this case.
- ☐ **CHILD CUSTODY**  
☐ **VISITATION (PARENTING TIME)**
  - ☐ I consent to the order requested for child custody (legal and physical custody).
  - ☐ I consent to the order requested for visitation (parenting time).
  - ☐ I do not consent to the order requested for ☐ child custody ☐ visitation (parenting time)  
☐ but I consent to the following order:
- ☐ **CHILD SUPPORT**
  - I have completed and filed a current *Income and Expense Declaration* (form [FL-150](#)) or, if eligible, a current *Financial Statement (Simplified)* (form [FL-155](#)) to support my responsive declaration.
  - ☐ I consent to the order requested.
  - ☐ I consent to guideline support.
  - ☐ I do not consent to the order requested ☐ but I consent to the following order:
- ☐ **SPOUSAL OR DOMESTIC PARTNER SUPPORT**
  - I have completed and filed a current *Income and Expense Declaration* (form [FL-150](#)) to support my responsive declaration.
  - ☐ I consent to the order requested.
  - ☐ I do not consent to the order requested ☐ but I consent to the following order:

Form Adopted for Mandatory Use  
Judicial Council of California  
FL-320 (Rev. January 1, 2025)

**RESPONSIVE DECLARATION TO REQUEST FOR ORDER**

Code of Civil Procedure, § 10195  
Civil Stakes of Court, Title 9, § 102  
[www.courtinfo.ca.gov](#)

**8 Pay filing fees**

Generally, you do not have to pay a fee to file the *Responsive Declaration*. However, if you have never filed any papers in the case, you may have to pay a “first appearance fee,” which, in general, everyone has to pay when filing court papers in a case for the first time.

If you cannot afford to pay the filing fee, you can ask the court to waive the fees. To do so, complete and file form [FW-001](#), *Request to Waive Court Fees*, and form [FW-003](#), *Order on Court Fee Waiver*.

**9 Serve your papers on the other party**

“Service” is the act of giving your legal papers to all persons named as parties in the case so that they know what orders you want the court to make.

*Note:* If a party has a lawyer in the case, the papers should be served on that party’s lawyer.



**10 How to “serve”**

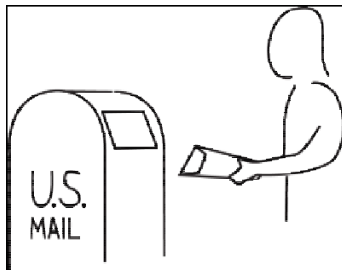
**Server.** You cannot serve the papers. Have someone else (who is at least 18 years old) do it. The “server” can be a friend, a relative who is not involved in your case, a county sheriff, or a professional process server.

**Personal service.**

Your papers may be served by “personal service.” Personal service means that your server walks up to each person to be served, makes sure **they** are the right person, and then gives a copy of all the papers to **each person**.


**Service by mail.**

“Service by mail” means that your server places copies of all the documents in a sealed envelope and mails them to the address of each party being served (or to the party’s lawyer, if **applicable**.) The server must be 18 years of age or over and must live or work in the county where the mailing took place.


**11 Deadline for service**

Personal service or service by mail on the other party must be completed at least *9 court days* before the court hearing. If the court has ordered a shorter time to serve your responsive papers, be sure to have them served by the date specified in the court order.

**12 Server must complete a *Proof of Service***

After personal service, the server should complete a form [FL-330](#), *Proof of Personal Service*. Form [FL-330-INFO](#), *Information Sheet for Proof of Personal Service*, has instructions to help the person complete the form.

After service by mail, the server should complete form [FL-335](#), *Proof of Service by Mail*. Form [FL-335-INFO](#), *Information Sheet for Proof of Service by Mail*, has instructions to help the person complete the form.

**13 File the *Proof of Service* before your hearing date**

The *Proof of Service* shows the judge that the person received a copy of your *Responsive Declaration to Request for Order*. Make three copies of the completed *Proof of Service*. Take the original and copies to the court clerk as soon as possible **before your hearing**.

The clerk will keep the original and give you back the copies stamped “Filed.” Bring a copy stamped “Filed” to your hearing. (If unstamped copies of your paperwork were served, you can file the completed *Proof of Service* when you file the original *Responsive Declaration*.)

**14 Participate in child custody mediation or child custody recommending counseling**

If the *Request for Order* includes a court order for you to attend mediation or child custody recommending counseling, the date, time, and location is found on page 1 of the *Request for Order*. For more information, read *Child Custody Information Sheet* (form [FL-313-INFO](#) or form [FL-314-INFO](#)).

**15 Get ready for your hearing**

- Take at least two copies of your documents and filed forms to the hearing. Include a filed *Proof of Service* form.
- Find more information about preparing for the hearing at [www.courts.ca.gov/1094.htm](http://www.courts.ca.gov/1094.htm).

**16 Still have questions or need help?**

- Contact the Family Law Facilitator or Self-Help Center for information, local rules, and referrals to local legal services providers. Go to [www.courts.ca.gov/1083.htm/](http://www.courts.ca.gov/1083.htm/).
- Talk to a lawyer if you want legal advice, someone to go to court with you, or other legal help. Find an attorney through your local bar association, the State Bar of California at [calbar.ca.gov](http://calbar.ca.gov), or the Lawyer Referral Service at 1-866-442-2529.
- For free and low-cost legal help (if you qualify), go to [lawhelpcalifornia.org](http://lawhelpcalifornia.org).

## SPR24-24

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

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	Commenter	Position	Comment	Committee Response
1.	Community Legal Aid SoCal, by Pablo Schlueter-Corey, Supervising Attorney Family Law	A	No specific comment.	No response required.
2.	California Lawyers Association, The Executive Committee of the Family Law Section (FLEXCOM) by Saul Bercovitch, Associate Executive Director, Governmental Affairs	A	FLEXCOM agrees with this proposal.	No response required.
3.	Family Violence Appellate Project by Arati Vasan, Senior Managing Attorney	N	On behalf of Family Violence Appellate Project, I write to offer comments on ITC SRP24-24, specifically to oppose the new forms as proposed. While well-intentioned and reflective of tremendous and thoughtful work, we believe that the current proposal, which creates forms and instructions to be used by both protected parties and restrained parties, will create harmful unintended consequences by making it: 1) easier for restrained parties to file bad faith requests to attack and undermine restraining orders, the individual protections within and engage in abusive litigation; 2) more difficult for protected parties to maintain the protections they have based on the need to have to participate, respond and defend against the increased use of these actions by restrained parties, and; 3) more likely that protected parties efforts to modify their restraining orders will result in broader losses of protection than intended.	Thank you for your comment. As discussed below, the committee will monitor implementation and determine if there is a need to revise these forms in the future.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR24-24

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

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	Commenter	Position	Comment	Committee Response
			<p>The proposal is intended to implement SB 459 whose purpose was to reduce barriers for survivors requesting modification or termination of their restraining orders. To effectuate the purpose of SB 459 the Council should guard against creating forms that can be used more easily by abusive parties trying to decrease the safety and well-being of survivors' and children.</p>	
			<p>Family Violence Appellate Project (FVAP) is a California and Washington state non-profit legal organization whose mission is to ensure the safety and well-being of survivors of domestic violence and other forms of intimate partner, family, and gender-based abuse by helping them obtain effective appellate representation. FVAP provides legal assistance to survivors of abuse at the appellate level through direct representation, collaborating with pro bono attorneys, advocating for survivors on important legal issues, and offering training and legal support for legal services providers and domestic violence, sexual assault, and human trafficking counselors. As a State Bar-funded legal services support center, an important part of our work is administrative advocacy—such as commenting on this proposal—to ensure survivors throughout the state have access to justice that is equal and consistent with the known pervasive harms from domestic violence and the State of California's commitment to prevent domestic violence and protect survivors of abuse.</p>	<p>Thank you for the information.</p>

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**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

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	Commenter	Position	Comment	Committee Response
			<p>1. Does the proposal appropriately address the stated purpose? No. SB 459 was enacted to address the difficulties faced by survivors of abuse who are protected by a DV-130 Restraining Order After Hearing (DVRO) and want to modify or terminate their order. Under the current system, survivors who wanted to seek modification or termination have to use non DV-specific Judicial Council forms that are also used in general family law actions. There is a lack of clarity, consistency and information on how to do so which places an undue burden on survivors. The bill was intended to reduce this burden on survivors through the creation of a set of dedicated Judicial Council forms specific to requests for modification or termination of a restraining order. Specifically, ‘providing a form for parties who wish to modify a protective order should make it easier for victims of domestic violence, many of whom are unrepresented, [to] <i>seek the additional protection</i> they need from the courts.” (emphasis added.)*(citation omitted)</p> <p>From the outset, despite its well-intended effort to support survivors, there were issues with the language of SB 459 and it was amended several times. Notably, FVAP had supported the bill with amendments, then opposed the bill unless amended and then supported the bill once it was again amended. FVAP supported the bill in its final form because its clear intent was to create</p>	<p>Senate Bill 459 requires the council “create one or more specific forms for the purpose of requesting a modification of an existing restraining order.” This must be done on or before January 1, 2025. As commenter states, either party may request or modification or termination of the restraining order. Therefore, the committee recommends a set of forms that can be used by either party. The committee understands the commenter’s concerns and will monitor implementation and determine if there is a need to revise the forms in the future. The committee notes that it has added a question on form DV-300 to ask whether the party has previously requested a modification or termination of the restraining order which could flag potential abuse of this process. The committee also notes that the forms may be used by the protected party to seek additional protections.</p>

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**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

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	Commenter	Position	Comment	Committee Response
			<p>forms that would address the <i>known difficulties survivors face</i> in seeking modification and termination of DVROs. Survivors seek to modify or terminate their DVRO for a variety of reasons. <u>None of these reasons are because they have not been a victim of abuse but are based on their expertise in their own experience of what will support their safety and well-being.</u> Survivors who freely seek to modify or terminate restraining orders deserve to encounter systems that support and affirm their agency and autonomy. SB 459 was enacted based on the belief that having a dedicated set of forms would be a way to provide that support.*(citation omitted) In contrast, restrained parties most often seek to modify and terminate restraining orders in an attempt to relitigate the underlying determination of abuse, to chip away individually at the set of protections in a restraining order which work together to prevent domestic violence, and to use the litigation process to continue to abuse and create hardship for their victims. FVAP annually reviews hundreds of legal cases involving survivors of domestic violence. In FVAP's experience, most restrained parties' requests for modification or termination are not based on an acknowledgement of responsibility for the abuse, successful efforts to change or meaningful changes in circumstances that will protect the victim. Instead they are meant to attack the order itself, to center the abuser as a victim, and to drag the survivor through additional</p>	

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SPR24-24

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

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	Commenter	Position	Comment	Committee Response
			<p>litigation. The use of litigation as a tool of abuse is well-recognized and can be a form of coercive control which is abuse under the Domestic Violence Prevention Act (DVPA), and was recognize in AB 2391*(citation omitted) which was enacted in 2022 to address the enhanced vulnerability of parties protected by a DVRO to litigation abuse. There is of course a legal standard for modification or termination of a restraining order (Code Civ. Proc., § 533; Loeffler v. Medina (2009) 174 Cal.App.4th 1495). In correctly applying that standard, a trial court could prevent a restrained party from actually prevailing on a baseless or bad faith request for termination or modification. However, the proposed forms would make it easier for such motions to be filed repeatedly by restrained parties and denying the requests would not undo the harm to survivors of being brought into court for these requests and the continued pressure to defend the individual orders within the restraining order. As noted in the Invitation to Comment, specific forms such as the DV-105 are intended for and designed to be used by a protected party or a party seeking protection. As further examples, the DV-700 Request for Renewal of a Restraining Order and DV-700-INFO are for use by survivors of domestic violence who have legal protection to renew their restraining orders. The forms are designed to reduce the burdens on survivors to request a renewal and to obtain information important to a</p>	

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SPR24-24

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

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	Commenter	Position	Comment	Committee Response
			<p>trial court determining the request to renewal. Similarly, to effectuate the purpose of SB 459, distinct forms, and particularly distinct information forms, need to be designed to reflect the unique circumstances of a protected party seeking to modify or terminate a restraining order or to respond to an effort by the restrained party to terminate or modify an order including questions tailored to those circumstances. Notably, nothing in the process of developing and enacting SB 459 referenced any difficulty restrained parties had in navigating or filing for modification or termination using already available forms. They do not need nor does SB 459 require they have the same forms as a protected party (FVAP would not object to separate forms for restrained parties to use). This is a recognition that restrained parties who seek a modification or termination of a restraining order even in good faith do so for very different reasons than protected parties. The fact that previously both types of parties had to use the same forms does mean the practice should continue given the opportunity to create different forms particularly where these new forms provide unintended advantages to restrained parties' requesting modification or termination.</p>	
			<p>While generally FVAP believes these forms should be redrafted, to the extent that aspects of them are kept or if, unfortunately, the Council decides to go forward with these forms in spite of the unintended consequences, I have made some</p>	<p>In light of comments received, the committee recommends providing a narrative format on form DV-300 and has clarified on the form that the court cannot end or change a restraining order on the request of the restrained person without proper</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR24-24

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

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	Commenter	Position	Comment	Committee Response
			<p>limited but not exhaustive comments on some the forms.</p> <p>DV-300, Request to Change of End Restraining Order</p> <p>A DVRO can include more than 25 separate items of relief that are available, in addition to any other necessary orders, to effectuate the purpose of the DVPA. Each of these items has been carefully identified by the Legislature as a potential barrier to resolving domestic violence. While survivors who request restraining orders make choices about the types of relief they seek, these forms of relief do not operate in a vacuum but wholistically to provide protection from the broad harms of domestic violence. For a survivor requesting a DVRO, each of these items has its own number and some explanation of what such a request can accomplish. These are important to help a survivor determine what requests are right for them. In spite of this, in FVAP's experience survivors still miss boxes that otherwise they clearly intended to check off or have inconsistencies between forms where an item that should be checked off in both is not.</p> <p>In contrast a survivor seeking to modify a restraining order will likely have a specific idea of the changes they seek and the explanation for why these changes are important to their safety and well-being. The current DV-300 is formatted in</p>	<p>notice to the protected person, and a court hearing, as required under Family Code section 6345(d).</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR24-24

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

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	Commenter	Position	Comment	Committee Response
			<p>the style of a request with a checklist of items in no. 4 that use the broad terms of the DVRO order items but do not reflect the significant underlying details, how they interrelate or what it would mean, for example, to end the “Order Not to Abuse.” For a survivor seeking a modification, a better approach would be similar to the approach for the DV-700 where a survivor is asked to provide a narrative. This would make it easier for them to lay out specific changes they need without having to check individual boxes on the broader orders as a whole. The form could then to a space such as item 6 for a narrative explanation of why the survivor wants to change those orders.</p> <p>In contrast, the current form as proposed gives a restrained party seeking to modify a restraining order an easy checklist of individual orders they can seek to remove. The result will be the survivor having to defend individually each and every request for modification potentially over multiple requests.</p> <p>It is also concerning that these forms permit both parties to request ex parte modifications to restraining orders. This approach does not account for the clear differences between a protective party seeking additional protection and a restrained party seeking lesser protections or seeking to implicate the protected party’s parenting. In FVAP’s experience restrained parties use the ex</p>	

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**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

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	Commenter	Position	Comment	Committee Response
			<p>parte process in bad faith including claims about “harm” to the child to great effect and in stark contrast to the experience of protected parties seeking to prevent an actual risk of harm. Providing this option generally in the same form in the same way to both parties is concerning absent more direct reflection of the needs and feedback from survivors who routinely face barriers and skepticism in their own efforts to have trial courts acknowledge risk and harm while having to face ex parte requests from restrained parties that are taken at face value.</p>	
			<p>DV-300-INFO, How do I Ask to Change or End a Domestic Violence Restraining Order</p> <p>The DV-300-INFO overall does not sufficiently account for the different information needs of a protected party perhaps seeking to strengthen the protection of their restraining order and a restrained party seeking to end protection, particularly the safety issues involved when a survivor engages in any type of affirmative litigation with a restrained party. The DV-300-INFO makes[sic] does not sufficiently recognize the risks to a survivor of a restrained party seeking to modify or terminate a restraining order including now the potential ability to obtain ex parte orders.</p>	<p>In light of this comment, the committee has added information on the National Domestic Violence Hotline and the California Department of Justice’s Safe at Home program. The committee will monitor implementation and determine if there is a need to revise these forms in the future.</p>
			<p>DV-310, Notice of Court Hearing and Temporary Order to Change or End Restraining Order</p>	<p>The committee did not adopt this suggestion and recommends keeping the number of the form to</p>

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SPR24-24

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

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	Commenter	Position	Comment	Committee Response
			<p>The primary suggestion for this form is to renumber it DV-309 if possible similar to the DV-109 and DV-709 to continue the Council's work in creating uniformity and clarity through the use of similar numbers.</p>	<p>310, which is consistent with the notice of court hearing form (DV-710) for the renewal process.</p>
			<p>DV-330, Order on Request to Change or End Restraining Order</p> <p>The format of the order is easier to read and the numbering will make it helpful. However, at item 3b(1) the form only says the restraining order has ended. It is unclear why there is not an item similar to the clear item no. 4 on the DV-400 which explains the status of the child custody, visitation, support and other orders in relation to a modified or terminated restraining order. The invitation to comment does not explain why that information was removed and why there is nothing to replace it in this version of the order. Notwithstanding the general issues with this series of forms, item no. 4 on the DV-400 provided quick guidance on the current status of these critical orders that would be helpful particularly for survivors where they may have requested the termination of a restraining order with the understanding that issues such as supervised visitation or sole custody remain which may be critical to the safety and well-being of their children and themselves.</p>	<p>The committee agrees and recommends allowing the court to indicate the status of any child custody, visitation, and support orders when the restraining order after hearing has been terminated, as shown in the proposed form DV-330, item 4(b)(1).</p>

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**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

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	Commenter	Position	Comment	Committee Response
			<p>Family Law Rule and Forms Proposal</p> <p>California Rule of Court 5.92 amendment</p> <p>While the rule should not be amended reflect the current version of the DV-300, the rule will of course need to be amended with the new form name. A recommendation would be to change the wording for clarity to “must be used to request a modification or termination of all orders made in a Restraining Order After Hearing (form DV-130).”</p>	<p>The committee agrees that the rule should provide more guidance about the specific forms that must be used to request a modification or termination of the restraining order. Instead of the language proposed by the commenter, the committee recommends that rule 5.92(a) be subdivided into 5.92(a)(2)(A) and (B) to reflect what forms (either form DV-300 or form FL-300) must be filed when a party seeks to modify orders in form DV-130 in two situations: (1) when the restraining order is still in effect and (2) when the party wants to modify orders for child custody, child support, spousal or domestic partner support, or property orders that have remained in effect <i>after</i> the restraining order in form DV-130 expired.</p>
			<p>FL-300, Request for Order; FL-300-INFO-Information Sheet for Request for Order; FL-320 Responsive Declaration to Request for Order; FL-320-INFO Information Sheet: Responsive Declaration to Request for Order</p> <p>The changes to these forms make sense and are helpful.</p>	<p>No response required.</p>
			<p>Revoking DV-400, Findings and Order to Terminate Restraining Order After Hearin; DV-400-INFO, How do I Ask to Change or End a</p>	<p>The committee agrees and recommends revoking these two forms.</p>

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All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>Domestic Violence Restraining Order After Hearing?</p> <p>SB 459 recognized the need to change the existing approach to modify a restraining order in order to provide survivors with needed clarity and support. To effectuate the law, the DV-400 and DV-400-INFO forms should be revoked.</p> <hr/> <p>2. Are there other circumstances in which a court might have the legal authority to issue temporary (ex parte) orders as part of a requested change or end to a domestic violence restraining order after hearing, that should be added to those listed on form DV-300, item 5.?</p> <p>As noted above, the use of these forms to facilitate ex parte orders without providing distinctions and safeguards for protected parties needing the immediate relief of a temporary modification versus restrained parties who abuse the ex parte process to make claims including generalized claims around harm to a child is concerning. Adding more options to this process absent the distinction is not advised.</p> <p>* Commenter thanks committee for the work reflected in the proposal )  The general goal of creating a clear efficient process for modification or termination of restraining orders, understanding the specific difficulties survivors face in this process, is</p>	<p>The committee has included an instruction to this item to include the service requirements that apply to the restrained person under Family Code section 6345(d).</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



SPR24-24

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			appreciated. However, we believe the proposed new forms as written will not realize the intent and purpose of the bill and could create greater difficulties for survivors. A return to the drawing board with the goal of creating distinct forms for protected parties and restrained parties for this particular type of request and response would both meet the purpose of the bill and most importantly the purpose of the DVPA generally: to prevent abuse.	
4.	Orange County Bar Association by Christina Zabat-Fran, President	A	Proposes adopting nine new DV restraining order forms, to allow parties to request to change or end a DV restraining order. Incorporates proposed changes into existing court forms and Rule of Court 5.92.	No response required.
			Does the proposal appropriately address the stated purpose?  Yes.	Thank you for reviewing this proposal.
			Are there other circumstances in which a court might have the legal authority to issue temporary (ex parte) orders as part of a request to change or end a domestic violence restraining order after hearing, that should be added to those listed on form DV-300, item 5?  Unaware of other circumstances in which a court would have legal authority to issue temporary	In light of comments received, the committee has clarified that the court cannot change or end a restraining order on the restrained person's request, without proper notice to the protected person and a court hearing, as required under Family Code section 6345(d).

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

# SPR24-24

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			orders aside from those listed on form DV-300, item 5.	
5.	Superior Court of Los Angeles County by Bryan Borys, Director of Research and Data Management	AM	The following comments are representative of the Superior Court of California, County of Los Angeles (Court), and do not represent or promote the viewpoint of any particular judicial officer or employee.	No response required.
			The Court agrees with the proposal in SPR24-24, “Protective Orders: Rule and Form Changes to Implement Senate Bill 459” if it is modified to allow more time for implementation. Six months are needed to update guided interview applications for trial courts that utilize them.	The committee does not recommend delaying implementation as SB 459 requires that new forms be available no later than January 1, 2025.
6.	Superior Court of Orange County (no name provided)	NI	Does the proposal appropriately address the stated purpose?	Thank you for reviewing this proposal.
			Yes, the proposal appropriately addresses the stated purpose.	
			Are there other circumstances in which a court might have the legal authority to issue temporary (ex parte) orders as part of a request to change or end a domestic violence restraining order after hearing, that should be added to those listed on form DV-300, item 5?	In light of comments received, the committee has clarified that the court cannot change or end a restraining order on the restrained person’s request, without proper notice to the protected person and a court hearing, as required under Family Code section 6345(d).
			There are no other circumstances or legal authorities then those as stated in the proposal.	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR24-24

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>Would the proposal provide cost savings? If so, please quantify.</p> <p>No, the proposal does not appear to provide any cost savings.</p>	Thank you for your response.
			<p>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</p> <p>Implementation would require revising procedures, providing communication to judicial officers and staff, conducting staff training (approximately 2-4 hours), and updating the case management system.</p>	Thank you for your response.
			<p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>Yes, three months would provide sufficient time for implementation in Orange County.</p>	The committee agrees that three months would provide sufficient time to implement this proposal.
			<p>How well would this proposal work in courts of different sizes?</p> <p>Our court is a large court, and this could work for Orange County.</p>	Thank you for your response.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR24-24

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
7.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	Does the proposal appropriately address the state purpose?  Yes.	Thank you for responding to this proposal.
			Are there other circumstances in which a court might have the legal authority to issue temporary (ex parte) orders as part of a request to change or end a domestic violence restraining order after hearing, that should be added to those listed on form DV-300, item 5?  Yes. A protected party may want to add a child to a domestic violence restraining order after hearing who was not previously made an additional protected party and/or for whom custody orders were not made. These circumstances may arise on an emergency basis in some cases.	The committee agrees that adding an additional protected person may be granted on an ex parte basis and notes that the form allows this request to be made. Also, in light of comments received, the committee has clarified that the court cannot change or end a restraining order on the restrained person's request, without proper notice to the protected person, as required under Family Code section 6345(d).
			Would the proposal provide cost savings? If so, please quantify. No.	Thank you for your response.
			What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? Implementation will require updating the case management system, local packets, and procedures	Thank you for your response.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR24-24

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			to include new/revised forms and training business office and courtroom staff.	
			Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes, provided the final versions of the forms are provided to the court at that time. This will ensure the court is able to provide training to staff, update its internal procedures and local packets, and obtain printed stock.	Thank you for your response. The committee agrees that three months would provide sufficient time to implement this proposal. Programmed pdf forms are typically available a few weeks before the effective date of the form. However, the final version which reflects the content of the new form would be available in September of 2024, once approved by the Judicial Council.
			How well would this proposal work in courts of different sizes? This proposal should work well, regardless of the size of the court.	Thank you for your response.
			FL-300-INFO: Item 2, first bullet: Propose replacing the exclamation point in the first sentence with a period.	The committee recommends that the form be revised as suggested by the commenter.
			DV-300: Items 5 and 6: Propose separating termination and modification into separate subsections. The example circumstances listed under item 5 apply to emergency modifications of a restraining order, but not necessarily terminations. Generally the court should not terminate a restraining order after hearing on an immediate, ex parte basis.	The committee does not recommend creating separate items for modification and termination. However, in light of this and other comments, the committee has clarified that the court cannot change or end a restraining order on the restrained person's request, without proper notice to the protected person and a court hearing, as required under Family Code section 6345(d).
8.	Superior Court of Ventura County	NI	1. We recommend adding additional information on the DV-300-INFO under "What if I want to	The committee has made this change.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
	by Amy Turner, Family Law Manager, Tracy Jones, Family Law Supervisor, and Julie Dransart, Deputy Executive Officer		change child custody orders?” to more clearly state the FL-300 must be used to make a request to modify child custody orders included in the DV-130 if the restraining order has expired.	The committee agrees and has included the information in form DV-300-INFO and form FL-300-INFO.
			The same information should be stated clearly on the revised FL-300 in the new Note on page one. This is a confusing process for self-represented litigants, and this information will be helpful to them to understand the forms that must be used.	
			2. Section 5 of the DV-300 allows the requesting party to tell the judge if they are asking for immediate changes to the DV-130 but the DV-310 only has a box to grant or deny the immediate/temporary orders and does not provide a place for the judge to indicate that no immediate/temporary orders have been requested. Can a new check box selection be added to indicate that there are no immediate/temporary orders requested pending the hearing.	
			3. Can the DV-330 be modified to allow it to be used to request termination or modification of a temporary restraining order that is in effect? There are currently no forms to make such a request and the court has often experienced attorneys using the DV-400 with modifications to present to a judge for signature to make these orders. If the DV-330 cannot be modified to include temporary orders, can a new form be created for this purpose?	The committee did not adopt this suggestion as it is beyond the scope of this proposal. The committee will consider, as time and resources allow, whether a form or set of forms should be developed for purposes of terminating a temporary restraining order.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			4. DV-316 on Page 3, Instructions to Clerk needs to be revised to provide that the DV-116 is required to be entered into CLETS, etc. only if the court has granted temporary modifications to the DV-130 pending the hearing. If there are no modifications to the DV-130 pending the hearing, the DV-316 does not need to be entered into CLETS.	The instruction has been changed to reflect that the order must be entered into CLETS only if temporary orders were made on form DV-310.
			5. Should the last page of the DV-310 and DV-330 above the date for the signature read Judge or Judicial Officer's Signature, the same as listed under the signature line?	The committee uses "Judge's Signature" for the heading as "judge" is a term generally understood by laypeople and therefore easier to understand.
			6. This proposal will not provide cost savings to the court.	Thank you for your response.
			The implementation requirements will include training staff responsible for filing the documents and courtroom staff. New training procedures will need to be created and existing procedures must be modified.	Thank you for your response.
			Filing codes and minutes codes will need to be created for the court's case management system and we recommend allowing 6 months from approval of the proposal to its effective date to provide the courts with enough time to implement.	Thank you for your response.
9.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory	AM	The Committee notes that the legislation specifically requires the Judicial Council to "create one of more specific forms for the purpose of requesting a modification of an existing restraining	The committee does not recommend creating a separate set of forms for termination at this time but will monitor implementation and determine if there is a need to revise these forms in the future.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
	Committee (CEAC), Joint Rules Subcommittee.		order.” (Family Code Sec. 6345(e).) The proposed forms include both modification and termination of the existing restraining order. We propose two separate forms be created: one series for modification of existing restraining orders, and forms for termination of an existing order.	
			Family Code section 6345 provides an existing order may be terminated or modified by stipulation. An existing order may be terminated by written stipulation filed with the court or on motion of a party. (Family Code sec. 6345(a).) We propose a form be created for stipulated termination of an existing order for optional use.	The committee will consider this in a future cycle.
			Termination of an order is much simpler than modification. A Request For Order and Notice, proof of service, Response, and Order after hearing could be tailored for this purpose.	The committee does not recommend creating a separate set of forms for termination at this time but will monitor implementation and determine if there is a need to revise these forms in the future.
			It appears the proposed orders address termination of the order as a whole, and also termination of specific orders within the order. The same confusion observed with use of the current FL-300 RFO may still exist using this format. Perhaps reaching out to the author of SB 459 or the advocate groups, Community Solutions and Youth Power Project, would be helpful to ensure the proposed forms are what they had in mind.	Yes, the committee recommends one set of forms to address modification and termination of a restraining order after hearing. During the public comment period advocacy groups were provided an opportunity to respond to the proposal. A number of suggestions were made and incorporated into the proposal, as described in this comment chart.
			A further response concerns the Instructions section of the proposed DV-300 form, specifically the statement that reads: “Do not use this form to	The committee agrees and has revised the instruction to state that the form should not be

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



SPR24-24

**Protective Orders: Rule and Form Changes to Implement SB459** (amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			ask to change orders if the order you want to change or end was not granted as part of your restraining order.” This is confusing. A person may be seeking to add an order that was not granted as part of the current restraining order. A change of circumstances has resulted in a person seeking to modify an order for a number of reasons that are set out in the proposed forms.	used to ask for to change or end orders made in a separate family law case.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** August 13, 2024

**Rules Committee action requested** [Choose from the drop-down menu below]:

**Recommend JC approval (has circulated for comment)**

**Title of proposal:** Protective Orders: Implementation of Body Armor Restrictions Under AB 92

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*

Revise forms DV-100, DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-500-INFO, EPO-001

*Committee or other entity submitting the proposal:*

Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and e-mail):* Frances Ho, 415-865-7662, frances.ho@jud.ca.gov

*Identify project(s) on the committee's annual agenda that is the basis for this item:*

Annual agenda approved by Rules Committee on (date): October 26, 2023 (amended February 9, 2024 to include implementation of AB 92)

Project description from annual agenda: Item 11: Revise forms to include new requirement regarding body armor (AB 92).

**Out of Cycle:** *If requesting September 1 effective date or out of cycle, explain why:*

**Additional Information for Rules Committee:** (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

All forms, except form CLETS-001, were circulated for comment. In light of a comment received by the Department of Justice, the committee recommends including form CLETS-001 to the proposal without prior circulation, to make minor revisions based on safety concerns raised. The committee would seek comment on the change in the spring of 2025. See page 3 of the Judicial Council report for further explanation.

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was

☒ reviewed by EGG on (date) 6.25.24

☒ approved by Office Director (or Designee) (name) Anna Maves  
on (date) 6.28.24

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **Form Translations** (check all that apply)

This proposal:

☒ includes forms that have been translated.

☒ includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: Family Code section 6226.5

☒ includes forms that staff will request be translated.

- **Form Descriptions** (for any report with new or revised forms)

☐ The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is

(05/20/24)

checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)
  - ☒ This proposal may require changes or additions to self-help web content.



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-157*

For business meeting on September 20, 2024

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**Title**

Protective Orders: Implementation of Body  
Armor Restrictions Under AB 92

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2025

**Date of Report**

July 28, 2024

**Rules, Forms, Standards, or Statutes Affected**

Revise forms CLETS-001, DV-100,  
DV-105(A), DV-109, DV-110, DV-120,  
DV-120-INFO, DV-130, DV-500-INFO,  
EPO-001

**Contact**

Frances Ho, 415-865-7662  
[frances.ho@jud.ca.gov](mailto:frances.ho@jud.ca.gov)

**Recommended by**

Family and Juvenile Law Advisory  
Committee  
Hon. Stephanie E. Hulse, Chair

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### Executive Summary

Effective January 1, 2024, under Assembly Bill 92 (Stats. 2023, ch. 232) a person prohibited from possessing firearms under state law is also prohibited from possessing, owning, or buying body armor. To implement AB 92, the Family and Juvenile Law Advisory Committee recommends revisions to several domestic violence restraining order forms to include body armor prohibitions.

### Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2025, revise 10 existing Judicial Council forms to implement Assembly Bill 92:

- *Confidential Information for Law Enforcement* (form CLETS-001);
- *Request for Domestic Violence Restraining Order* (form DV-100);
- *City and State Where Children Lived* (form DV-105(A));

- *Notice of Court Hearing* (form DV-109);
- *Temporary Restraining Order* (form DV-110);
- *Response to Request for Domestic Violence Restraining Order* (form DV-120);
- *How Can I Respond to a Request for Domestic Violence Restraining Order* (form DV-120-INFO);
- *Restraining Order After Hearing (Order of Protection)* (form DV-130);
- *Can a Domestic Violence Restraining Order Help Me?* (form DV-500-INFO); and
- *Emergency Protective Order (CLETS–EPO)* (form EPO-001).

The proposed forms are attached at pages 7–59.

## **Relevant Previous Council Action**

Under the Domestic Violence Prevention Act, the Judicial Council must provide forms and instructions for use in domestic violence restraining order matters. The council has approved revisions to the forms when changes to the law required revisions and in response to feedback from user testing and suggestions made by the public, judicial officers, and court professionals. With the exception of form DV-105(A), all the existing forms contained in this proposal were last revised in 2024 to implement new laws and make other improvements to the forms. Form DV-105(A) has not been revised since it was adopted in 2023.

## **Analysis/Rationale**

This proposal is needed to implement AB 92. Because most litigants in domestic violence restraining order proceedings represent themselves, it is particularly important for the council to act quickly to ensure that litigants are provided up-to-date information about available remedies and court procedures.

Effective January 1, 2024, under AB 92 a person prohibited from possessing firearms under state law is also prohibited from possessing, owning, or buying body armor.<sup>1</sup> When advising a person of their firearm prohibition, courts must also advise them of the prohibition from possessing, owning, or buying body armor.<sup>2</sup> The new law also requires the prohibited person to relinquish body armor that they possess.<sup>3</sup> However, unlike the relinquishment procedures for firearms and ammunition under the Domestic Violence Prevention Act, no relinquishment procedure is outlined in the new law.

A number of revisions are needed to the forms to implement AB 92. Those changes, as well as other changes needed to conform the forms to other laws or make the forms easier to read, are described below.

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<sup>1</sup> Pen. Code, § 31360(b)(1).

<sup>2</sup> Pen. Code, § 31360(b)(2).

<sup>3</sup> *Ibid.*

### **Form CLETS-001**

In light of a comment received by the California Department of Justice on the forms that were circulated, the committee recommends revising this form as well, adding “body armor” to item 1, allowing the petitioner to indicate whether they have knowledge of body armor in the restrained person’s possession or control. According to the Department of Justice, including this information could help officer safety. The committee agrees with commenter and recommends a January 1, 2025, effective date without prior circulation because of the safety concerns raised. The committee believes that adding “body armor” to an optional item on the form represents a minor revision. Furthermore, this form is not filed with the court; therefore, revising the form without circulation should have a limited impact on court operations. Nevertheless, under California Rules of Court, rule 10.22(d), the committee anticipates recommending circulation of this form in the spring of 2025. The committee believes it will recommend additional and more significant revisions at that time and seek public input on those changes as well as the changes recommended for adoption in this report.

### **Form DV-100**

The Automatic Orders section at page 12 has been updated to add the new body armor restriction (item 30) and to simplify the language in that section.<sup>4</sup> Also, additional lines were added to item 23, allowing the petitioner to list up to four expenses, and to item 28, allowing the petitioner to include up to four phone numbers.

### **Form DV-109**

At item 3, the committee recommends adding the advisement required under Family Code sections 6340(a) and 6341(a) that the court must consider whether failure to make any of the orders requested would jeopardize the petitioner or any children for whom visitation is sought.<sup>5</sup>

### **Form DV-110**

The new body armor prohibition has been added as item 8. Additionally, an instruction to the clerk on providing free copies under Family Code section 6387 has been added to the last page of the order.

### **Form DV-120**

The new body armor prohibition has been added to item 27. Additionally, at item 26, an advisement has been added that federal firearm prohibitions may still apply even if the judge grants a firearm exemption under California law. A similar advisement is currently provided on *Restrained Order After Hearing* (form DV-130).

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<sup>4</sup> Form DV-100, items 29 and 31.

<sup>5</sup> Although this form does not require any changes to implement AB 92, it was included in this proposal to add the same advisement as the one being proposed for form DV-130 at item 7.

### **Form DV-120-INFO**

Information regarding the new body armor prohibition has been added to this form at pages 1 and 2.

### **Form DV-130**

The new body armor prohibition has been added as item 12. An advisement similar to that proposed for form DV-109 (noted above) is proposed for this form as item 7. Lastly, an instruction to the clerk about providing free copies under Family Code section 6387 has been added to the last page of the order.

### **Form DV-500-INFO**

Body armor has been included as a prohibited item on page 1, under “How can a restraining order help me?”

### **Form EPO-001**

The new body armor prohibition has been added as item 3f, and a reference to the Penal Code section that defines body armor has been included on page 2. The committee has also reformatted items 1, 2, 9 and 13 to make these items easier to see and distinguish from other items. Changes were also made to the Spanish translation on page 2 to correct grammar, to use “agente” to describe “officer” to be consistent internally and with other forms, and to link to the equivalent Spanish pages on the self-help website.

### **Policy implications**

In addition to implementing legislative changes, this recommendation helps implement Goal I—Access, Fairness, Diversity, and Inclusion—of the Strategic Plan for California’s Judicial Branch by helping to make forms easier to complete and understand for self-represented litigants.

### **Comments**

This proposal, other than the proposed revisions to form CLETS-001, was available for public comment from April 2 through May 3, 2024. Twelve commenters responded to the proposal. Four commenters agreed with the proposal, six agreed if it was modified, and two did not indicate a position; no commenter disagreed. Commenters were the Superior Courts of Los Angeles, Orange, San Diego, and Tulare Counties; the California Department of Justice; Community Legal Aid SoCal; the California Lawyers Association; the Family Violence Appellate Project; Giffords Center to Prevent Gun Violence; the Orange County Bar Association; the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee; and a member of the public.

In the [invitation to comment](#),<sup>6</sup> the committee sought comment on a proposal to implement AB 92 and Senate Bill 599 (Stats. 2023, ch. 493). SB 599 amended the Family Code in a number of ways, including providing a definition of “virtual visitation” and requiring the court to consider

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<sup>6</sup> Judicial Council of Cal., Advisory Com. Invitation to Comment, *Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92* (May 3, 2024), [www.courts.ca.gov/documents/spr24-25.pdf](http://www.courts.ca.gov/documents/spr24-25.pdf).

virtual visitation as an option when a restraining order has been granted against a parent. As a result of comments received on that part of the proposal, the committee is deferring the proposal to implement SB 599<sup>7</sup> and continuing in this report with recommendations to implement only AB 92.

In general, commenters supported the changes to implement AB 92. Some comments suggested that body armor be treated similarly to other prohibited items (firearms and ammunition). However, because the legal requirements are different for body armor and the new law does not provide a relinquishment procedure for body armor, the committee did not accept suggestions to treat body armor like other prohibited items.

### ***Form CLETS-001***

As noted above, the committee recommends revising this form to add body armor and will seek public comment on this revision in spring of 2025, when other more substantive changes will be proposed for this form.

The committee thanks all commenters for reviewing this proposal. All comments and the committee's responses are provided in the attached chart of comments at pages 60–78.

### **Alternatives considered**

The committee considered moving forward with the proposed changes to forms DV-105 and DV-140 to implement the other requirements of SB 599 unrelated to virtual visitation but decided against this approach because it would require changing the forms twice in a short period of time, requiring more time for implementation by courts and providers. Instead, the committee recommends deferring the entire proposal to implement SB 599 for one year.<sup>8</sup>

### **Fiscal and Operational Impacts**

Commenting courts noted that resources would be needed to provide training, revise internal procedures, and update form packets and case management systems. One court indicated that six months for implementation might be needed to update guided interviews. The committee does not recommend delaying implementation because the recommended revisions reflect changes in the law that have already taken effect.

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<sup>7</sup> In response to the proposal to include virtual visitation in the forms, two commenters pointed out that the proposal did not fully incorporate virtual visitation into the forms. These commenters believe that litigants and judges would benefit from incorporating virtual visitation into *Request for Child Custody and Visitation Orders* (form DV-105) and *Child Custody and Visitation Order* (form DV-140). One of these commenters added that *not* to have virtual visitation as distinct options on both forms would be confusing and noted that the request form (form DV-105) currently provides no place for the litigant to ask for virtual visitation. The committee agrees with these commenters that virtual visitation should be incorporated into the request and order forms for domestic violence (DV), as well as the family law (FL) forms. However, to incorporate virtual visitation into both sets of forms, the committee would need public comment on the proposed changes. Therefore, the committee is deferring the proposal for implementation of SB 599 and other proposed changes to form DV-140. A new proposal to implement SB 599 in the DV and FL forms will circulate in the winter of this year.

<sup>8</sup> The anticipated effective date of the forms in a new proposal would be January 1, 2026.



## **Attachments and Links**

1. Forms CLETS-001, DV-100, DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-500-INFO, EPO-001, at pages 7–59
2. Chart of comments, at pages 60–78
3. Link A: Sen. Bill 599,  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202320240SB599](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB599)
4. Link B: Assem. Bill 92,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB92](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB92)

**CLETS-001 Confidential Information for Law Enforcement**

**Instructions:** If you are asking for a restraining order, you must complete this form and give it to the court clerk, along with the other court forms required in your case. If the judge grants the restraining order, information you give on this form will be entered into a database (called CLETS) to help law enforcement enforce the order. If information changes later, you may complete this form again and turn it in to the court.

**To Court Clerk: Do not file this form. The information on this form must be entered into the protective order registry in CLETS.**

*Court fills in case number when form is received.*

**Case Number:**

**Information that has a star (\*) next to it is required. All other information is helpful.**

Date received by court: \_\_\_\_\_

**1 Person You Want a Restraining Order Against**

\*Name: \_\_\_\_\_  
 Other names used: \_\_\_\_\_  
 Marks, scars, or tattoos: \_\_\_\_\_ SSN: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Driver's license (number and state): \_\_\_\_\_  
 Vehicle type: \_\_\_\_\_ Model: \_\_\_\_\_ Year: \_\_\_\_\_ Plate number: \_\_\_\_\_  
 Name of employer and address: \_\_\_\_\_

Does the person speak English? ☐ Yes ☐ I don't know ☐ No (list language): \_\_\_\_\_

Does the person have any firearms (guns), firearm parts, ammunition, or body armor?

☐ No ☐ I don't know

☐ Yes (Give any information you have below, like the type, amount, or location of any items, if known.)

\_\_\_\_\_  
 \_\_\_\_\_

**2 \*Your Name:** \_\_\_\_\_

(Skip ③ and ④ if you are asking for a gun violence restraining order (form GV-100).)

**3 Your Information**

\*Age: \_\_\_\_\_ Date of Birth (month, day, year): \_\_\_\_\_ \*Gender: ☐ M ☐ F ☐ X (nonbinary)  
 Race: \_\_\_\_\_ Telephone: \_\_\_\_\_  
 Do you speak English? ☐ Yes ☐ No (list language): \_\_\_\_\_

**4 Other People You Want Protected**

*Name: _____	*Gender: _____	Race: _____	Date of Birth: _____
*Name: _____	*Gender: _____	Race: _____	Date of Birth: _____
*Name: _____	*Gender: _____	Race: _____	Date of Birth: _____
*Name: _____	*Gender: _____	Race: _____	Date of Birth: _____

☐ Check here if you have more people to list. Write them on a separate piece of paper, write "Item 3" at the top, and attach it to this form.

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

6.27.24

Draft- Not approved by the  
Judicial Council**Instructions**

To ask for a domestic violence restraining order, you will need to complete this form and other forms (see page 12 for list of forms). If this case includes sensitive information about a minor child (under 18 years old), see form [DV-160-INFO, Privacy Protection For a Minor \(Person Under 18 Years Old\) Domestic Violence Prevention](#) for more information on how to protect the child's information.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

**1 Person Asking for Protection**a. **Your name:** \_\_\_\_\_b. **Your age:** \_\_\_\_\_c. **ⓘ Address where you can receive court papers**

(This address will be used by the court and by the person in ② to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

d. **ⓘ Your contact information (optional)**

(The court could use this information to contact you. If you don't want the person in ② to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

e. **Your lawyer's information (if you have one)**

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

**2 Person You Want Protection From**a. **Full name:** \_\_\_\_\_b. **Age (give estimate if you do not know exact age):** \_\_\_\_\_c. **Date of birth (if known):** \_\_\_\_\_d. **Gender:** ☐ M ☐ F ☐ Nonbinarye. **Race:** \_\_\_\_\_**This is not a Court Order.**

**3 Your Relationship to the Person in 2**

(If you do not have one of these relationships with the person in 2, do not complete the rest of this form. You may be eligible for another type of restraining order. Learn more at <https://selfhelp.courts.ca.gov/restraining-orders>.)

*(Check all that apply)*

- a. ☐ We have a child or children together (*names of children*): \_\_\_\_\_
- b. ☐ We are married or registered domestic partners.
- c. ☐ We used to be married or registered domestic partners.
- d. ☐ We are dating or used to date.
- e. ☐ We are or used to be engaged to be married.
- f. ☐ We are related. The person in 2 is my (*check all that apply*):
- |   |  |
|---|--|
| <input type="checkbox"/> Parent, stepparent, or parent-in-law       | <input type="checkbox"/> Brother, sister, sibling, step-sibling, or sibling in-law |
| <input type="checkbox"/> Child, stepchild, or legally adopted child | <input type="checkbox"/> Grandparent, step-grandparent, or grandparent-in-law      |
| <input type="checkbox"/> Child's spouse                             | <input type="checkbox"/> Grandchild, step-grandchild, or grandchild-in-law         |
- g. ☐ We live together or used to live together. (*If checked, answer question below*):  
Have you lived together with the person in 2 as a family or household (more than just roommates)?  
☐ Yes   ☐ No   (*If no, you do not qualify for this kind of restraining order unless you checked one of the other relationships listed above.*)

**4 Other Restraining Orders and Court Cases**

- a. Are there any restraining orders currently in place **or** that have expired in the last six months (examples: Did the police give you a restraining order that lasts a few days? Do you have one from the criminal court?)
- ☐ No
- ☐ Yes (*If yes, give information below and attach a copy if you have one.*)
- (1) (*date of order*): \_\_\_\_\_ (*date it expires*): \_\_\_\_\_
- (2) (*date of order*): \_\_\_\_\_ (*date it expires*): \_\_\_\_\_
- b. Are you involved in any other court case with the person in 2?
- ☐ No
- ☐ Yes (*If you know, list where the case was filed (city, state, or tribe), the year it was filed, and case number.*)
- ☐ Custody \_\_\_\_\_
- ☐ Divorce \_\_\_\_\_
- ☐ Juvenile (*child welfare or juvenile justice*): \_\_\_\_\_
- ☐ Guardianship \_\_\_\_\_
- ☐ Criminal \_\_\_\_\_
- ☐ Other (*what kind of case?*): \_\_\_\_\_

**This is not a Court Order.**



**Describe Abuse**

In this section, explain how the person in ② has been abusive. The judge will use this information to decide your request. Listed below are some examples of what "abuse" means under the law. **It is not a complete list** of all examples of abuse. Give information on any incident that you believe was abusive.

- made repeated unwanted contact with you
- tracked, controlled, or blocked your movements
- kept you from getting food or basic needs
- isolated you from friends, family, or other support
- made threats based on actual or suspected immigration status
- made you do something by force, threat, or intimidation
- stopped you from accessing or earning money
- tried to control/interfere with your contraception, birth control, pregnancy, or access to health information
- harassed you
- hit, kicked, pushed, or bit you
- injured you or tried to
- threatened to hurt or kill you
- sexually abused you
- abused a pet or animal
- destroyed your property
- choked or strangled you
- abused your children

**5 Most Recent Abuse**

- a. Date of abuse (*give an estimate if you don't know the exact date*): \_\_\_\_\_
- b. Did anyone else hear or see what happened on this day?  
☐ I don't know   ☐ No   ☐ Yes (*If yes, give names*): \_\_\_\_\_
- c. Did the person in ② use or threaten to use a gun or other weapon?  
☐ No   ☐ Yes (*If yes, describe gun or weapon*): \_\_\_\_\_
- d. Did the person in ② cause you any emotional or physical harm?  
☐ No   ☐ Yes (*If yes, describe harm*): \_\_\_\_\_
- e. Did the police come?   ☐ I don't know   ☐ No   ☐ Yes (*If the police gave you a restraining order, list it in ④.*)
- f. Give more details about how the person in ② was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- g. How often has the person in ② abused you like this?  
☐ Just this once   ☐ 2 –5 times   ☐ Weekly   ☐ Other: \_\_\_\_\_
- Give dates or estimates of when it happened, if known:
- \_\_\_\_\_
- \_\_\_\_\_

**This is not a Court Order.**

**6 Has the person in ② abused you in a different way from the abuse you described in ⑤? If yes, describe below.**

- a. Date of abuse (*give an estimate if you don't know the exact date*): \_\_\_\_\_
- b. Did anyone else hear or see what happened on this day?  
☐ I don't know   ☐ No   ☐ Yes (*If yes, give names*): \_\_\_\_\_
- c. Did the person in ② use or threaten to use a gun or other weapon?  
☐ No   ☐ Yes (*If yes, describe gun or weapon*): \_\_\_\_\_
- d. Did the person in ② cause you any emotional or physical harm?  
☐ No   ☐ Yes (*If yes, describe harm*):  
\_\_\_\_\_  
\_\_\_\_\_
- e. Did the police come? ☐ I don't know   ☐ No   ☐ Yes (*If the police gave you a restraining order, list it in ④.*)
- f. Give more details about how the person in ② was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.

- g. How often has the person in ② abused you like this?
- ☐ Just this once    ☐ 2-5 times    ☐ Weekly    ☐ Other: \_\_\_\_\_
- Give dates or estimates of when it happened, if known:

**This is not a Court Order.**

**7 Is there other abuse by the person in 2 that you want the judge to know about? If yes, describe below.**

- a. Date of abuse (*give an estimate if you don't know the exact date*): \_\_\_\_\_
- b. Did anyone else hear or see what happened on this day?  
☐ I don't know   ☐ No   ☐ Yes (*If yes, give names*): \_\_\_\_\_
- c. Did the person in 2 use or threaten to use a gun or other weapon?  
☐ No   ☐ Yes (*If yes, describe gun or weapon*): \_\_\_\_\_
- d. Did the person in 2 cause you any emotional or physical harm?  
☐ No   ☐ Yes (*If yes, describe harm*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- e. Did the police come? ☐ I don't know   ☐ No   ☐ Yes (*If the police gave you a restraining order, list it in 4.*)

- f. Give more details about how the person in 2 was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.

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- g. How often has the person in 2 abused you like this?

☐ Just this once   ☐ 2–5 times   ☐ Weekly   ☐ Other: \_\_\_\_\_

Give dates or estimates of when it happened, if known:

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- ☐ **Check this box if you need more space to describe the abuse.** You can use form [DV-101](#), *Description of Abuse*, and turn it in with this form. You can also use a separate sheet of paper, write "Describe Abuse" abuse at the top, and turn it in with this form.

**This is not a Court Order.**

**8 Other Protected People**

Do you want the restraining order to protect your children, family, or someone you live with?

a. ☐ No

b. ☐ Yes *(If yes, complete the section below):*

(1) <u>Full name</u>	<u>Age</u>	<u>Relationship to you</u>	<u>Lives with you?</u>
<hr/>	<hr/>	<hr/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	<hr/>	<hr/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	<hr/>	<hr/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	<hr/>	<hr/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

☐ Check this box if you need to list more people. Use a separate piece of paper and write "DV-100, Other Protected People" at the top. Turn it in with this form.

(2) Why do these people need protection?

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**9 Does person in (2) have firearms (guns), firearm Parts, or ammunition?**

(A firearm includes a handgun, rifle, shotgun, and assault weapon. A firearm part means a receiver or frame or any item that may be used as or easily turned into a receiver or frame. Ammunition includes bullets, shells, cartridges, and clips.)

a. ☐ I don't know

b. ☐ No

c. ☐ Yes *(If you have information, complete the section below.)*

<u>Describe Firearms (Guns), Firearm Parts, or Ammunition</u>	<u>Number or Amount</u>	<u>Location, if known</u>
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(1) <hr/>	<hr/>	<hr/>
(2) <hr/>	<hr/>	<hr/>
(3) <hr/>	<hr/>	<hr/>
(4) <hr/>	<hr/>	<hr/>
(5) <hr/>	<hr/>	<hr/>
(6) <hr/>	<hr/>	<hr/>

**This is not a Court Order.**





### Choose the Orders That You Want a Judge to Make

In this section, you will choose the orders you want a judge to make now. Every situation is different.  
Choose the orders that fit your situation.

Check all the orders that you want a judge to make (order).

**10** ☐ **Order to Not Abuse**

I ask the judge to order the person in **(2)** to not do the following things to me or anyone listed in **(8)**:

Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace. (For more information on what "disturbing the peace" means, read form [DV-500-INFO](#), *Can A Domestic Violence Restraining Order Help Me?*)

**11** ☐ **No-Contact Order**

I ask the judge to order the person in **(2)** to not contact me or anyone listed in **(8)**.

**12** ☐ **Stay-Away Order**

a. I ask the judge to order the person in **(2)** to stay away from *(check all that apply)*:

- |   |  |
|---|--|
| <input type="checkbox"/> Me.                  | <input type="checkbox"/> My school.                            |
| <input type="checkbox"/> My home.             | <input type="checkbox"/> Each person in <b>(8)</b> .           |
| <input type="checkbox"/> My job or workplace. | <input type="checkbox"/> My children's school or childcare.    |
| <input type="checkbox"/> My vehicle.          | <input type="checkbox"/> Other <i>(please explain)</i> : _____ |

b. How far do you want the person to stay away from all the places you checked above?

- ☐ 100 yards (300 feet)    ☐ Other *(give distance in yards)*: \_\_\_\_\_

c. Do you and the person in **(2)** live together or live close to each other?

- ☐ No    ☐ Yes *(If yes, check one)*:
- ☐ Live together *(If you live together, you can ask that the person in (2) move out in (13) .)*
- ☐ Live in the same building, but not in the same home
- ☐ Live in the same neighborhood
- ☐ Other *(please explain)*: \_\_\_\_\_

d. Do you and the person in **(2)** have the same workplace or go to the same school?

- ☐ No    ☐ Yes *(If yes, check all that apply)*:
- ☐ Work together at *(name of company)*: \_\_\_\_\_
- ☐ Go to the same school *(name of school)*: \_\_\_\_\_
- ☐ Other *(please explain)*: \_\_\_\_\_

**This is not a Court Order.**



**13** ☐ **Order to Move Out**a. I ask the judge to order the person in **(2)** to move out of the home, located at:*(Give address):* \_\_\_\_\_

b. I have a right to live at this address because:

*(Check all that apply)*

- |   |  |
|---|--|
| <input type="checkbox"/> I own the home.                            | <input type="checkbox"/> I have lived at this address for _____ years, _____ months. |
| <input type="checkbox"/> My name is on the lease.                   | <input type="checkbox"/> I pay for some or all the rent or mortgage.                 |
| <input type="checkbox"/> I live at this address with my child(ren). | <input type="checkbox"/> Other <i>(please explain)</i> : _____<br>_____              |

**14** ☐ **Other Orders***(Describe any additional orders you want the judge to make to keep you, your children, or the people in **(8)** safe):*

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**15** ☐ **Child Custody and Visitation**

(Check this box if you have a child with the person in **(2)** and want the judge to make or change a child custody or visitation order. **You must fill out form [DV-105, Request for Child Custody and Visitation Orders](#), and attach it to this form.**)

Orders that you can request on form DV-105 include:

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li>• Child custody</li><li>• Stop person in <b>(2)</b> from accessing your child's school or medical information</li></ul> | <ul style="list-style-type: none"><li>• No visits with your children</li><li>• Virtual visits with your children</li><li>• Supervised (monitored) visits with your children</li><li>• Unsupervised (unmonitored) visits with your children</li></ul> |
|---|--|

**This is not a Court Order.**

**16** ☐ **Protect Animals**

a. (You may ask the court to protect your animals, your children's animals, or the person in **(2)**'s animals.)

Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
(1) _____	_____	_____	_____
(2) _____	_____	_____	_____
(3) _____	_____	_____	_____
(4) _____	_____	_____	_____

b. I ask the judge to protect the animals listed above by ordering the person in **(2)** to:

(Check all that apply)

- (1) ☐ Stay away from the animals by at least: ☐ 100 yards (300 feet) ☐ Other (number of yards): \_\_\_\_\_
- (2) ☐ **Not** take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- (3) ☐ Give me sole possession, care, and control of the animals because (check all that apply):
- ☐ Person in **(2)** abuses the animals. ☐ I take care of these animals.
- ☐ I purchased these animals. ☐ Other (please explain): \_\_\_\_\_
- \_\_\_\_\_

**17** ☐ **Control of Property**

a. I ask the judge to give **only me** temporary use, possession, and control of the property listed here (describe):

\_\_\_\_\_  
\_\_\_\_\_

b. Explain why you want control of the property you listed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**18** ☐ **Health and Other Insurance**

I ask the judge to order the person in **(2)** to **not** make any changes to any insurance or other coverage for me, the person in **(2)**, or our children, including not being allowed to cancel, cash, borrow against, transfer, dispose of, or change the beneficiaries for the insurance.

**19** ☐ **Record Communications**

I ask the judge to allow me to record calls or communications the person in **(2)** makes to me, when those calls or communications violate this restraining order.

**This is not a Court Order.**



**20** ☐ **Property Restraint** *(only if you are married or a registered domestic partner with the person in 2.)*

I ask the judge to order the person in 2 **not to** borrow against, sell, hide, or get rid of or destroy any possessions or property, except in the usual course of business or for necessities of life. I also ask the judge to order the person in 2 to notify me of any new or big expenses and to explain them to the court.

**21** ☐ **Extend my deadline to give notice to person in 2**

(Usually, the judge will give you about two weeks to give notice, or to "serve" the person in 2 of your request. If you need more time to serve, the judge may be able to give you a few extra days.)

I ask the judge to give me more time to serve the person in 2 because *(explain why you need more time)*:

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**22** ☐ **Pay Debts (Bills) Owed for Property**

(If you want the person in 2 to pay any debts owed for property, list them and explain why. The amount can be for the entire bill or only a portion. Some examples include rent, mortgage, car payment, etc.)

a. I ask the judge to order the person in 2 to make these payments while the restraining order is in effect:

(1) Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
(2) Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
(3) Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

Explain why you want the person in 2 to pay the debts listed above:

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b. **Special decision (finding) by the judge if you did not agree to the debt** *(optional)*

(If you did not agree to the debt or debts listed above, you can ask the judge to decide (find) that one or more debts was made without your permission and resulted from the person in 2's abuse. This may help you defend against the debt if you are sued in another case.)

Do you want the judge to make this special decision (finding)?

☐ No    ☐ Yes    *(If yes, answer the questions below.)*

(1) Which of the debts listed above resulted from the abuse? *(check all that apply)*:

☐ a(1)    ☐ a(2)    ☐ a(3)

(2) Do you know how the person in 2 made the debt or debts?

☐ No    ☐ Yes

*(If yes, explain how the person in 2 made the debt or debts):*

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**This is not a Court Order.**



### Orders That You Want a Judge to Make at Your Court Date

Below is a list of orders that a judge cannot make right away but can make at your court date in a few weeks. The person in (2) must be notified of your court date before the judge can consider making any of the orders listed below. Check all the orders that you want the judge to make at your court date.

**(23) ☐ Pay Expenses Caused by the Abuse**

I ask the judge to order the person in (2) to pay for things **caused directly** by the person in (2) (damaged property, medical care, counseling, temporary housing, etc.). Bring proof of these amounts to your court date.

Pay to: _____	For: _____	Amount: \$ _____
Pay to: _____	For: _____	Amount: \$ _____
Pay to: _____	For: _____	Amount: \$ _____
Pay to: _____	For: _____	Amount: \$ _____

**(24) ☐ Child Support** *(this applies only if you have a minor child with the person in (2))*

*(Check all that apply)*

- a. ☐ I do not have a child support order and I want one.
- b. ☐ I have a child support order and I want it changed *(attach a copy if you have one)*.
- c. ☐ I now receive or have applied for TANF, Welfare, or CalWORKS.

**(25) ☐ Spousal Support**

*(You must be married or a registered domestic partner with person in (2).)*

I ask the judge to order the person in (2) to give me financial assistance.

**(26) ☐ Lawyer's Fees and Costs**

I ask that the person in (2) pay for some or all of my lawyer's fees and costs. (If you ask for fees and costs and the court grants your restraining order, the court must award you fees and costs if the respondent can afford to pay.)

**This is not a Court Order.**



**27** ☐ **Batterer Intervention Program**

I ask the judge to order the person listed in (2) to go to a 52-week batterer intervention program. (The goal of this program is to stop abuse. There are weekly classes on accountability, abuse effects, and gender roles. If ordered, the person in (2) has to show the judge that they enrolled and completed the program.)

**28** ☐ **Transfer of Wireless Phone Account**

(If the person in (2) holds the rights to your cell phone account, you can ask the judge to transfer your number or your child's number to you. This means you will be financially responsible for these accounts. If you want to have control over a mobile device, like a cell phone, make this request at (17).)

I ask the judge to order the wireless service provider to transfer the billing responsibility and rights to the wireless phone numbers listed below to me because the account currently belongs to the person in (2):

- a. ☐ My number ☐ Number of child in my care (including area code): \_\_\_\_\_
- b. ☐ My number ☐ Number of child in my care (including area code): \_\_\_\_\_
- c. ☐ My number ☐ Number of child in my care (including area code): \_\_\_\_\_
- d. ☐ My number ☐ Number of child in my care (including area code): \_\_\_\_\_

**Automatic Orders if the Judge Grants Restraining Order**

In this section are orders that the person in (2) would have to follow if the judge grants a restraining order.

**29** **No Firearms (Guns), Firearm Parts, or Ammunition**

- Cannot own, possess, or buy firearms (guns), firearm parts, and ammunition.
- Must turn in, sell, or store any firearms (guns), firearm parts, or ammunition that they have or control.

**30** **No Body Armor**

- Cannot own, possess, or buy body armor.
- Must relinquish any body armor in their possession.

**31** **Cannot Look for Protected People**

Cannot look for the address or location of any person protected by the restraining order, unless the court finds good cause not to make this order.

**This is not a Court Order.**

**32 Additional Pages**

If you used additional paper or forms, enter the number of extra pages attached to this form: \_\_\_\_\_

**33 Your Signature**

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

\_\_\_\_\_  
*Type or print your name*

\_\_\_\_\_  
*Sign your name*

**34 Your Lawyer's Signature** *(if you have one)*

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

\_\_\_\_\_  
*Lawyer's name*

\_\_\_\_\_  
*Lawyer's signature*

**Your Next Steps****1 You must complete at least three additional forms:**

- Form [DV-110](#), *Temporary Restraining Order (only items 1, 2 and 3)*
- Form [DV-109](#), *Notice of Court Hearing (only items 1 and 2)*
- Form [CLETS-001](#), *Confidential CLETS Information*
- **If you are asking for child custody and visitation orders**, you must complete form [DV-105](#), *Request for Child Custody and Visitation Orders*, and form [DV-140](#), *Child Custody and Visitation Order*.

**2** Turn in your completed forms to the court. Find out when your forms will be ready for you.**3** Once you get your forms back from the court, have someone "serve" a copy of all forms on the person in **(2)**. The sheriff or marshal can do this for free. See form [SER-001](#), *Request for Sheriff to Serve Court Papers*. Learn more about service at <https://selfhelp.courts.ca.gov/sheriff-serves-your-request-restraining-order>.**4** If you are asking for child support or spousal support you must also complete form [FL-150](#), *Income and Expense Declaration*. If you are only asking for child support, you may be eligible to fill out a simpler form, [FL-155](#). Read form [DV-570](#) to see if you are eligible. Turn in your completed form to the court before your court date. You must also have someone mail or personally deliver a copy to the person in **(2)**.

**This is not a Court Order.**

Clerk stamps date here when form is filed.

**Instruction:** The person asking for a restraining order must complete items ① and ②. The court will complete the rest of this form.

Draft- Not Approved by the  
Judicial Council  
6.27.24

### ① Person Asking for Protection

Name: \_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of

### ② Person to Be Restrained

Name: \_\_\_\_\_

Court fills in case number when form is filed.

Case Number:

### ③ Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in ②:



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

Name and address of court if different from above:

You may attend your court date remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to: [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm)

At the hearing, the court must consider whether failure to make any of the orders requested by the person in ① might risk the safety of the person in ① or any children listed on form DV-105. If child or spousal support was requested, the court must consider whether failure to make support orders would risk the safety of the person in ① or any children listed on form DV-105.

#### To the person in ②:

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.





**4 Temporary Restraining Orders (Any orders granted are attached on form DV-110.)**

- a. Temporary Restraining Orders (*any order requested under Family Code section 6320*): (*check one*)
- (1) ☐ All **granted** until the court hearing.
  - (2) ☐ All **denied** until the court hearing. (*Reasons for denial are given below in b.*)
  - (3) ☐ Partly **granted** and partly **denied** until the court hearing. (*Reasons for denial are given in b.*)
- b. ☐ Reasons for denial of some or all of the orders requested on form DV-100.
- (1) ☐ The facts given in the request (form DV-100) do not show reasonable proof of a past act or acts of abuse. (Family Code sections 6300, 6320, and 6320.5.)
  - (2) ☐ The facts given in the request do not give enough detail about the most recent incidents of abuse, including what happened, the dates, who did what to whom, or any injuries or history of abuse.
  - (3) ☐ Other reasons for denial:  
\_\_\_\_\_

**5 Confidential Information Regarding Minor**

- a. ☐ A request to keep minor's information confidential was made (**see form DV-160**) and **granted**. (*See form DV-165, Order on Request to Keep Minor's Information Confidential, served with this form.*)
- b. **If the request was granted, the information described on the order (form DV-165, item ⑦) must be kept CONFIDENTIAL. The disclosure or misuse of the information is punishable as a sanction, with a fine of up to \$1,000 or other court penalties.**

**6 Service of Documents by the Person in ①**

At least ☐ five ☐ \_\_\_\_\_ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this form (DV-109, *Notice of Court Hearing*) to the person in ② along with a copy of all the forms indicated below:

- a. DV-100, *Request for Domestic Violence Restraining Order* (file-stamped)
- b. ☐ DV-110, *Temporary Restraining Order* (file-stamped), **if granted**
- c. DV-120, *Response to Request for Domestic Violence Restraining Order* (blank form)
- d. DV-120-INFO, *How Can I Respond to a Request for Domestic Violence Restraining Order?*
- e. ☐ DV-170, *Notice of Order Protecting Information of Minor*, and DV-165, *Order on Request to Keep Minor's Information Confidential* (file-stamped), **if granted**
- f. ☐ Other (*specify*): \_\_\_\_\_

**Judge's Signature**

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

\_\_\_\_\_  
*Judicial Officer*

**To the Person in ① :**

- **At the hearing:** The judge will decide if a restraining order is needed to keep you or your children safe. If the judge grants you a restraining order at the hearing, it can last up to five years. You must attend the hearing if you want the judge to make any of the orders you requested on form DV-100. Bring any evidence or witnesses you have. For more information, read form [DV-520-INFO](#), *Get Ready for Your Restraining Order Court Hearing*.
- **Option to cancel hearing:** If item ④ a(2) or ④ a(3) is checked, you have the option of canceling the hearing. If you cancel the hearing, your request for restraining order will not move forward. Any temporary orders made will expire on the day of the hearing. If you want to cancel the hearing, use form [DV-112](#), *Waiver of Hearing on Denied Request for Temporary Restraining Order*.
- **Before the hearing:** You must have someone personally serve (give) the person in ② a copy of all the papers listed in ⑥ by the deadline listed in ⑥. For more information, read form DV-200-INFO, *What Is "Proof of Personal Service"?* You may ask to reschedule the hearing if you are unable to serve the person in ② and need more time to serve the documents, or for other good reasons. Read form [DV-115-INFO](#), *How to Ask for a New Hearing Date*.

**To the Person in ② :**

- **Respond in writing (optional):** You can respond in writing by completing form DV-120, *Response to Request for Domestic Violence Restraining Order*. For more information, read form [DV-120-INFO](#), *How Can I Respond to a Request for Domestic Violence Restraining Order?*
- **At the hearing:** Whether or not you respond in writing, attend the hearing if you want the judge to hear from you before making an order. At the hearing, tell the judge why you agree or disagree with the orders requested. Bring any evidence or witnesses you have. Read form [DV-520-INFO](#), *Get Ready for Your Restraining Order Court Hearing*.
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask the judge to reschedule your court date. Read form [DV-115-INFO](#), *How to Ask for a New Hearing Date*.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Disability Accommodation Request* (form MC-410). (Civil Code section 54.8.)

(Clerk will fill out this part.)

Clerk's Certificate  
[seal]

**—Clerk's Certificate—**

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

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

☐ Original Order ☐ \_\_\_\_\_ Amended Order

**Instruction:** The person asking for a restraining order must complete ①, ②, and ③ only. The court will complete the rest of this form.

Clerk stamps date here when form is filed.

6.27.24

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① **Protected Person** (name): \_\_\_\_\_

② **Restrained Person**

\*Full Name: \_\_\_\_\_

\*Gender: ☐ M ☐ F ☐ Nonbinary \*Race: \_\_\_\_\_

\*Age: \_\_\_\_\_ (estimate, if age unknown) Date of Birth: \_\_\_\_\_

Height: \_\_\_\_\_ Weight: \_\_\_\_\_

Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_

Relationship to person in ①: \_\_\_\_\_

Address of restrained person: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Firearms, firearm parts, or ammunition that restrained person may have:  
(Include information from form DV-100, item 9)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Information that has a star (\*) next to it is required to add this order  
into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Court fills in case number when form is filed.

Case Number: \_\_\_\_\_

③ ☐ **Other Protected People**

In addition to the person named in ①, the people listed below are protected by the orders listed in ⑨ through ⑫.

Full name	Relationship to person in ①	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

☐ Check here if you need to list more people. List them on a separate piece of paper, write "DV-110, Other Protected People" at the top, and attach it to this form.

(The court will complete the rest of this form)

④ **Your Hearing Date (Court Date)**



This order expires at the end of the hearing listed below:

Hearing Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m. ☐ p.m.

This order must be enforced throughout the United States. See page 7.

This is a Court Order.



**To the Person in ②:** The judge has granted temporary orders. See ⑤ through ②①. If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

**⑤ No Firearms (Guns), Firearm Parts, or Ammunition**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. **Prohibited items are:**
  - (1) Firearms (guns);
  - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
  - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, sold, or stored. (You may use form [DV-800/JV-270](#), *Receipt for Firearms, Firearm Parts, and Ammunition*.) If law enforcement served you with the restraining order, you must give a copy of the receipt to that law enforcement agency.

**⑥ ☐ Restrained person has prohibited items**

The court finds that you have the following prohibited items:

a. Firearms and/or firearm parts

Description (include serial number, if known)	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

b. Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____

**This is a Court Order.**



**7** ☐ **Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

In addition to the hearing listed on form DV-109, item **(3)**, you must attend the court hearing listed below to prove that you have properly turned in, sold, or stored all prohibited items (described in **(5)b)** you still have or own, including any items listed in **(6)**. If you do not attend the court hearing listed below, a judge may find that you have violated the restraining order and notify law enforcement and a prosecuting attorney of the violation.



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

Name and address of court, if different than court address listed on page 1  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**8** **No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**9** **Cannot Look for Protected People**

You must not take any action to look for any person protected by this order, including their addresses or locations.

☐ If checked, this order was **not granted** because the judge found good cause not to make the order.

**10** **Order to Not Abuse** ☐ Not requested ☐ Denied until the hearing ☐ Granted as follows:

**You must not do the following things to the person in **(1)** and any person listed in **(3)**:**

- Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace.
- "Disturb the peace" means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- "Coercive control" means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to health information.

**This is a Court Order.**



**11 No-Contact Order** ☐ Not requested ☐ Denied until the hearing ☐ Granted as follows:

- a. You must **not contact** ☐ the person in ① ☐ the persons in ③ directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.
- b. ☐ Exception to 11a:
- (1) ☐ You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.
- (2) ☐ You may have contact with your children only during court-ordered contact or visits.
- (3) ☐ Other (explain): \_\_\_\_\_
- c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

**12 Stay-Away Order** ☐ Not requested ☐ Denied until the hearing ☐ Granted as follows:

- a. You must stay at least (specify): \_\_\_\_\_ yards away from (check all that apply):
- |   |   |
|---|---|
| <input type="checkbox"/> Person in ①.                     | <input type="checkbox"/> School of person in ①.           |
| <input type="checkbox"/> Home of person in ①.             | <input type="checkbox"/> Persons in ③.                    |
| <input type="checkbox"/> Job or workplace of person in ①. | <input type="checkbox"/> Children's school or child care. |
| <input type="checkbox"/> Vehicle of person in ①.          | <input type="checkbox"/> Other (explain): _____           |
- b. ☐ Exception to 12a:  
The stay-away orders do not apply:
- (1) ☐ For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.
- (2) ☐ For you to visit with your children for court-ordered contact or visits.
- (3) ☐ Other (explain): \_\_\_\_\_

**13 Order to Move Out** ☐ Not requested ☐ Denied until the hearing ☐ Granted as follows:

You must take only personal clothing and belongings needed until the hearing and move out immediately from (address): \_\_\_\_\_

**14 Other Orders** ☐ Not requested ☐ Denied until the hearing ☐ Granted as follows:

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**This is a Court Order.**

- 15 Child Custody and Visitation** ☐ Not requested ☐ Denied until the hearing ☐ Granted as follows:  
Granted on the attached form [DV-140](#), *Child Custody and Visitation Order*, and  
☐ (list other form): \_\_\_\_\_.

- 16 Protect Animals** ☐ Not requested ☐ Denied until the hearing ☐ Granted as follows:
- a. ☐ You must stay at least \_\_\_\_\_ yards away from the animals listed below.
- b. ☐ You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- c. ☐ The person in ① is given the sole possession, care, and control of the animals listed below.

Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- 17 Control of Property** ☐ Not requested ☐ Denied until the hearing ☐ Granted as follows:  
Until the hearing, **only** the person in ① can use, control, and possess the following property:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 18 Health and Other Insurance** ☐ Not requested ☐ Denied until the hearing ☐ Granted as follows:  
The person ☐ in ① ☐ in ② is ordered **not** to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of the parties—or their children, if any—for whom support may be ordered, or both.

- 19 Record Communications** ☐ Not requested ☐ Denied until the hearing ☐ Granted as follows:  
The person in ① may record communications made by the person in ② that violate this order.

**This is a Court Order.**



**20 Property Restraint** ☐ Not requested ☐ Denied until the hearing ☐ Granted as follows:

The person ☐ in ① ☐ in ② must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court. (If the court granted ⑪, the person in ② must not contact the person in ①. To notify the person in ① of new or big expenses, have a server mail or personally give the information to the person in ① or contact their lawyer, if they have one.)

**21 Pay Debts Owed for Property** ☐ Not requested ☐ Denied until the hearing ☐ Granted as follows:

The person in ② must make these payments until this order ends:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

**22 Orders That May Be Made at the Hearing Date (Court Date)**

If the person in ① checked any of these orders on form DV-100, a judge could grant them at your court date.

- Child Support                      • Lawyer's Fees and Costs                      • Batterer Intervention Program
- Spousal Support                      • Pay Expenses Caused by Abuse                      • Transfer of Wireless Phone Account

**23 No Fee to Serve (Notify) Restrained Person**

The sheriff or marshal will serve this order for free. If you want the sheriff to serve your papers, complete form [SER-001](#), *Request for Sheriff to Serve Court Papers*. Give form SER-001 and a copy of this order to the sheriff.

**24** ☐ **Attached Pages** *(All of the attached pages are part of this order.)*

- a. Number of pages attached to this nine-page form: \_\_\_\_\_
- b. Attachments include forms *(check all that apply)*:
- ☐ DV-140    ☐ DV-145    ☐ DV-820    ☐ Other: \_\_\_\_\_

**Judge's Signature**

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

\_\_\_\_\_  
*Judge or Judicial Officer*

**This is a Court Order.**





### Certificate of Compliance With VAWA

This temporary protective order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. section 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 each jurisdiction throughout the 50 states of the 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.**

## Warnings and Notices to the Restrained Person in ②

### Your Address to Receive Court Orders

If the judge makes a restraining order at the hearing (court date), which has the same orders as in this Temporary Restraining Order, you will get a copy of that order by mail at your last known address, which is written in ② on page 1. If your address was not listed on this form or is incorrect, contact the court. If you did not attend your hearing and want to know if the judge granted a restraining order against you, contact the court.

### Child Custody, Visitation, and Support

- **Child custody and visitation:** If you do not attend your hearing (court date), the judge can make custody and visitation orders for your children without hearing from you.
- **Child support:** The judge can order child support based on the income of both parents. The judge can also have that support taken directly from a parent's paycheck. Child support can be a lot of money, and usually you have to pay until the child is age 18. File and serve **form [FL-150](#), *Income and Expense Declaration***, or **form [FL-155](#), *Financial Statement (Simplified)***, if you want the judge to have information about your finances. Otherwise, the court may make support orders without hearing from you.
- **Spousal support:** File and serve **form [FL-150](#), *Income and Expense Declaration***, so the judge will have information about your finances. Otherwise, the court may make support orders without hearing from you.

### Firearms (Guns), Firearm Parts, and Ammunition

Under California law, you cannot have any firearms (guns), certain firearm parts, or ammunition. (Family Code sections 6216 and 6389(a)). Ask the court for information on how to properly turn in, sell, or store these items in your city or county. You can also contact your local police department for instructions.

**This is a Court Order.**



## Instructions for Law Enforcement

This order is effective when made. It is enforceable 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 the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

### Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in (6), or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.

Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

### Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

### If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

### Child Custody and Visitation

Child custody and visitation orders are listed on form DV-140 or another attached form. If the judge made these orders, look at (11) and (12) of this order to see if the judge granted an exception for brief and peaceful contact with the person in (1) as needed to follow court-ordered visits. Contact by the person in (2) that is **not** brief and peaceful is a violation of this order. **Forms DV-100 and DV-105 are not orders. Do not enforce them.**

**This is a Court Order.**



## Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item (11) is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

*(The clerk will fill out this part.)*

**Instructions to Clerk:** You must give up to three free (certified, stamped, and endorsed) copies of this order to the protected party.

*Clerk's Certificate*  
[seal]

### —Clerk's Certificate—

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

6.27.24

Draft-Not approved by the  
Judicial Council

Use this form if someone has asked for a domestic violence restraining order against you, and you want to respond in writing. You will need a copy of form DV-100, *Request for Domestic Violence Restraining Order*, that was filled out by the person who asked for a restraining order against you. There is no cost to file this form with the court.

**Do not use this form** if you want to ask for your own restraining order. Read form [DV-500-INFO](#), *Can a Domestic Violence Restraining Order Help Me?* to find out more about this type of restraining order.

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

**1 Name of Person Asking for Protection:**

(See form DV-100, item ①):

**2 Your Name:****! Address where you can receive court papers**

(This address will be used by the court and by the person in ① to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**! Your contact information (optional)**

(The court could use this information to contact you. If you don't want the person in ① to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Email Address: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Your lawyer's information (if you have one)**

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

**3 Your Hearing Date (Court Date)**

Your hearing date is listed on form DV-109, *Notice of Court Hearing*. If you do not agree to having a restraining order against you, attend your hearing date. If you do not attend your hearing, the judge could grant a restraining order that could last up to five years.

**This is not a Court Order.**

**How to complete this form:** To answer the questions below, look at the form DV-100 filled out by the person in ①. Tip: When the restraining order forms say "the person in ②" that means you, and the "person in ①" means the person who is asking for a restraining order against you.

**4 Information About You** (see item ② on form DV-100)

The person in ① listed your name, age, gender, and date of birth. If any of the information is incorrect, use the space below to give the correct information.

**5 Your Relationship to the Person in ①**

In item ③ of form DV-100, has the person in ① correctly described your relationship with them?

☐ Yes ☐ No If no, what is your relationship with the person in ①?:

**6 History of Court Cases and Restraining Orders** (see item ④ on form DV-100)

The person in ① may have listed other court cases or restraining orders involving you. If information is incorrect or missing, use the space below to give information.

☐ Check here if you are including a copy of restraining order or court order that you want the judge to know about.

**7 Other Protected People**

If the judge grants a restraining order, it can include family or household members of the person in ①. See item ⑧ on form DV-100 to see if the person in ① is asking for other people to be protected by the restraining order.

- a. ☐ I agree to the order requested.  
b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

**8 Order to Not Abuse** (see item ⑩ on form DV-100)

- a. ☐ I agree to the order requested.  
b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

**This is not a Court Order.**

**9** ☐ **No-Contact Order** (see item 11 on form DV-100)

- a. ☐ I agree to the order requested.
- b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

\_\_\_\_\_

**10** ☐ **Stay-Away Order** (see item 12 on form DV-100)

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

\_\_\_\_\_

**11** ☐ **Order to Move Out** (see item 13 on form DV-100)

- a. ☐ I agree to the order requested.
- b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

\_\_\_\_\_

**12** ☐ **Other Orders** (see item 14 on form DV-100)

- a. ☐ I agree to the order requested.
- b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

\_\_\_\_\_

**13** ☐ **Child Custody and Visitation** (see item 15 on form DV-100 and DV-105)

- a. ☐ I am **not** the parent of the child listed in form DV-105, *Request for Child Custody and Visitation Orders*
- b. ☐ I am the parent of the child or children listed in form DV-105 (check one):

(1) ☐ I agree to the orders requested.

(2) ☐ I do not agree to the orders requested. (Complete form DV-125, *Response to Request for Child Custody and Visitation Orders*, and attach it to this form.)

**This is not a Court Order.**

**14** ☐ **Protect Animals** (see item 16 on form DV-100)

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

\_\_\_\_\_

**15** ☐ **Control of Property** (see item 17 on form DV-100)

- a. ☐ I agree to the order requested.
- b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

\_\_\_\_\_

**16** ☐ **Health and Other Insurance** (see item 18 on form DV-100)

- a. ☐ I agree to the order requested.
- b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

\_\_\_\_\_

**17** ☐ **Record Communications** (see item 19 on form DV-100)

- a. ☐ I agree to the order requested.
- b. ☐ I do not agree to the order requested.

**18** ☐ **Property Restraint** (see item 20 on form DV-100)

- a. ☐ I agree to the order requested.
- b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

\_\_\_\_\_

**19** ☐ **Pay Debt (Bills) Owed for Property** (see item 22 on form DV-100)

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

\_\_\_\_\_

**This is not a Court Order.**

**20** ☐ **Pay Expenses Caused by the Abuse** (see item 23 on form DV-100)

- a. ☐ I agree to the order requested.  
b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_  
\_\_\_\_\_

**21** ☐ **Child Support** (see item 24 on form DV-100)

- a. ☐ I agree to the order requested.  
b. ☐ I do not agree to the order requested.  
c. ☐ I agree to pay guideline child support. (Learn more about guideline child support at [www.courts.ca.gov/selfhelp-support.htm](http://www.courts.ca.gov/selfhelp-support.htm).)

**22** ☐ **Spousal Support** (see item 25 on form DV-100)

- a. ☐ I agree to the order requested.  
b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_  
\_\_\_\_\_

**23** ☐ **Lawyer's Fees and Costs**

If the person in 1 checked item 26 on form DV-100, this means that they have asked the judge to order you to pay their lawyer's fees and costs. You may also ask for lawyer's fees and costs. The judge can order the person in 1 to pay for your lawyer's fees and cost if:

- (1) The person in 1's request for restraining order is denied;
- (2) The judge decides that the request was frivolous or was made only to abuse, intimidate, or cause unneeded delay; and
- (3) The person in 1 can afford to pay for your lawyer's fees and costs.

☐ Check here if you want the person in 1 to pay for some or all of your lawyer's fees and costs.

**This is not a Court Order.**



**24** ☐ **Batterer Intervention Program** (see item 27 on form DV-100)

- a. ☐ I agree to the order requested.
- b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

\_\_\_\_\_

**25** ☐ **Transfer Wireless Phone Account** (see item 28 on form DV-100)

- a. ☐ I agree to the order requested.
- b. ☐ I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: \_\_\_\_\_

\_\_\_\_\_

**26** ☐ **Firearms (Guns), Firearm Parts, or Ammunition** (see item 29 on form DV-100)

If you were served with form DV-110, *Temporary Restraining Order*, you must follow the orders in 5 on form DV-110. You must file a receipt with the court from the law enforcement agency or a licensed gun dealer within 48 hours after you received form DV-110. You may use form [DV-800/JV-270](#), *Receipt for Firearms, Firearm Parts, and Ammunition*.

(Check all that apply):

- a. ☐ I do not own or have any prohibited items (firearms (guns), prohibited firearm parts, or ammunition).
- b. ☐ I have turned in all prohibited items that I have or own to law enforcement or sold/stored them with a licensed gun dealer. A copy of the receipt showing that I turned in, sold, or stored the prohibited items (check all that apply):
- ☐ is attached
- ☐ has already been filed with the court.
- c. ☐ I ask for an exception to carry a firearm for work only. (You will have to show the judge that your work requires you to have a firearm, and that your employer cannot reassign you to another position where a firearm is not needed. If you are a peace officer, there are additional requirements. Note: Even if the judge grants an exception under California law, you may be subject to federal prosecution for possessing or controlling a firearm.)

(Give details, like what your job is and why you need a firearm): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**This is not a Court Order.**



**30** ☐ **My Out-of-Pocket Expenses**

If the request for restraining order is denied by the judge at the court hearing, I ask the judge to order the person in ① to pay my out-of-pocket expenses because the temporary restraining order was granted without enough supporting facts. The expenses are:

For: _____	Because: _____	Amount: \$ _____
For: _____	Because: _____	Amount: \$ _____
For: _____	Because: _____	Amount: \$ _____

**31** **Additional Pages**

Number of pages attached to this form, if any: \_\_\_\_\_

**32** **Your Signature**

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Sign your name*

**33** **Your Lawyer's Signature** *(if you have one)*

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

\_\_\_\_\_  
*Lawyer's name*



\_\_\_\_\_  
*Lawyer's signature*

**Your Next Steps**

- Turn in your completed form with the court.
- If the person in ① asked for child support, spousal support, or lawyer's fees, you must complete form [FL-150](#), *Income and Expense Declaration*. If the person in ① is only asking for child support (item 24 on form DV-100), you may be eligible to fill out a simpler form, form [FL-155](#). Read form [DV-570](#) to see if you are eligible to fill out form FL-155. Before your court date, you must file form FL-150 or FL-155 with the court.
- Have someone else (not you) mail the person in ① a copy of your forms, and complete form [DV-250](#), *Proof of Service by Mail*. File form DV-250 with the court. *(The person who mails this form must be at least 18 years old and cannot be you or someone protected on the restraining order.)*
- Prepare for your court date by gathering evidence or witnesses, if you have any. Learn more at <https://selfhelp.courts.ca.gov/respond-domestic-violence-restraining-order>. More information is also available on form [DV-120-INFO](#), *How Can I Respond to a Request for Domestic Violence Restraining Order?*

**This is not a Court Order.**

# DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

## I was served with form DV-100, DV-109, or DV-110. What does this mean?

Someone has asked for a domestic violence restraining order against you. On the forms, you are the "person in ②" and the person who wants a restraining order against you is listed in ① on all the forms.

**Form DV-100:** This form has all the orders that the person in ① has asked the judge to order.

**Form DV-109:** Your court hearing (court date) is listed on this form. You should attend the court hearing if you do not agree to the orders requested. If you do not attend, the judge can make orders against you without hearing from you.

**Form DV-110:** If you were served with form DV-110, it means that the judge granted a temporary restraining order against you. You must follow the orders.

## What is a Domestic Violence Restraining Order?

It is a court order that can help protect people who have been abused by someone they have been intimate with, or are closely related to. To be eligible, the person asking for the restraining order must be:

- Someone you date or used to date
- A spouse, ex-spouse, registered domestic partner, or ex-domestic partner
- Someone you live or lived with (more than a roommate)
- Your parent, sibling, child, grandparent, or grandchild related by blood, marriage, or adoption

## What if I have children with the person asking for a restraining order?

A restraining order can include orders for your children, including listing them as protected persons. It can also include child custody and visitation orders and orders to limit your ability to travel with your children.

## What can a restraining order do?

A restraining order can include orders for you to:

- Not contact or harm the protected person, including children or others listed as protected people
- Stay away from all protected people and places
- Not have any firearms (guns), firearm parts, ammunition, or body armor. This includes homemade or untraceable guns, like "ghost guns."
- Move out of the place that you share with the protected person
- Follow custody and visitation orders
- Pay child support
- Pay spousal support
- Pay debt for property
- Give control of property (examples: cell phone, car, home) to the person asking for protection.

## How long does the order last?

If the judge granted a temporary restraining order (form DV-110), it will last until the hearing date. At your court hearing, the judge will decide whether to extend the order or cancel the order. The judge can extend the order for up to five years. Custody, visitation, child support, and spousal support orders can last longer than five years and they do not end when the restraining order ends.

## What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine. You must still follow the orders even if you are not a U.S. citizen. If you are worried about your immigration status, talk to an immigration lawyer.

## What if I want to leave the county or state?

You must still comply with the restraining order, including custody and visitation orders. The restraining order is valid anywhere in the United States.



# DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

## What do I do next?

### Part 1: Turn in or sell prohibited items

If there is a temporary restraining order against you (see form DV-110), then you must immediately turn in, sell, or store any prohibited items you have or own.

Prohibited items include:



- **Firearms**, including any handgun, rifle, shotgun, and assault weapon
- **Firearm parts**, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame
- **Ammunition**, including bullets, shells, cartridges, and clips

You must then prove to the court that you've complied with the orders. Bring form [DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition](#), to a gun dealer or law enforcement when you turn in your items. After DV-800/JV-270 is complete, file it with the court. You may ask the court for information on how to turn in, sell, or store these items in your city or county. You can also read form [DV-800-INFO/JV-270-INFO, How Do I Turn In, Sell, Or Store My Firearms, Firearm Parts, and Ammunition?](#)

### Part 2: Relinquish body armor

If there is a temporary restraining order against you (see form DV-110), you must relinquish any body armor that you have or own.

Note: If you need to have and use body armor for your work, livelihood, or safety, you may ask for an exception with a chief of police or sheriff in the county where you will have and use the body armor (see Penal Code section 31360(c)).

### Part 3: Respond in writing (optional)

"Respond" means to let the judge and the other side know whether you agree or disagree with the request for restraining order, and why. Responding in writing is optional and there is no penalty if you don't. If you need more time to prepare for your case, talk to a lawyer or self-help center staff before you file a response.

If you want to respond in writing, complete form [DV-120, Response to Request for Domestic Violence Restraining Order](#). After you complete the form, file it with the court. There is no court fee to file this form. Then "serve" the form on the person asking for the restraining order. "Serve" means to have someone 18 years old or older mail a copy to the person asking for the restraining order. You cannot be the one to mail your papers. The person who mails your form must fill out form [DV-250, Proof of Service by Mail](#). After form DV-250 is completed, file it with the court.

### Part 4: Get ready and go to your court hearing

Your court hearing is listed on form DV-109, *Notice of Court Hearing*. You have the option of attending your hearing in-person or remotely (by phone, or videoconference if available). For information on how to attend your hearing remotely, go to the court's website. Some courts may require advance notice. At the hearing, you and the other side will have the opportunity to tell your side of the story. For more information, read form [DV-520-INFO, Get Ready for the Restraining Order Court Hearing](#). If you need more time to prepare your case, you may ask the judge for a new court date. The judge will decide whether to grant your request. Read form [DV-115-INFO, How to Ask For a New Hearing Date](#), for more information. Note that if the judge does give you a new court date and if there is a temporary restraining order against you, the judge will usually extend the temporary restraining order until the next court date.



# **DV-120-INFO** How Can I Respond to a Request for Domestic Violence Restraining Order?

## **Do I need a lawyer?**

It's possible to go through this process without a lawyer. But having a restraining order against you may have a lot of consequences, and you may want to hire a lawyer. If you don't hire a lawyer, you can get free help from your court's self-help center.

## **What if I was arrested or have criminal charges against me?**

Anything you write in your court papers or say at a hearing for this case and for any criminal case can be used against you. Talk to a lawyer if you have any concerns about what you can do and say.

## **What if I have more than one restraining order against me?**

If the police are called to enforce the order, they will need to follow the rules of enforcement (see "Priority of Enforcement" listed on the back of form DV-110, DV-130, and CR-160). If you have questions about any of the orders against you, contact your local self-help center or talk to a lawyer. Find your local court's self-help center at [www.selfhelp.courts.ca.gov/find](http://www.selfhelp.courts.ca.gov/find).

## **What if I need a restraining order against the other person?**

Do not use form DV-120 to request a domestic violence restraining order. For information on how to file your own restraining order, read form [DV-505-INFO](#). You can also ask the court clerk about free or low-cost legal help.

## **Can I use the restraining order to get divorced or end a domestic partnership?**

No. These forms will not end your marriage or registered domestic partnership. You must file other forms to end your marriage or registered domestic partnership.

## **Where can I find a self-help center?**

Free legal help is available at your court's self-help center. Find your local court's self-help center at [www.selfhelp.courts.ca.gov/find](http://www.selfhelp.courts.ca.gov/find). Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms. Staff may also refer you to other agencies who may be able to help you.

## **Information about the court process is also available online**

<https://selfhelp.courts.ca.gov/respond-to-DV-restraining-order>

## **What if I am a victim or survivor of domestic violence?**

The National Domestic Violence Hotline provides free and private safety tips. Help is available in over 100 languages. Visit online at [www.thehotline.org](http://www.thehotline.org) or call 1-800-799-7233; 1-800-787-3224 (TTY).

## **What if I need an interpreter?**

You may use form [INT-300](#) to request an interpreter or ask the clerk how you can request one.



## **Request for Accommodations**

You may use form [MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm) for *Disability Accommodation Request* (form [MC-410](#)). (Civil Code section 54.8.)

# Restraining Order After Hearing (Order of Protection)

☐ Original Order    ☐ Amended Order

Clerk stamps date here when form is filed.

6/27/24

Draft- Not approved by  
Judicial Council

① Protected Person (name): \_\_\_\_\_

② Restrained Person

\*Full Name: \_\_\_\_\_

\*Gender: ☐ M ☐ F ☐ Nonbinary \*Race: \_\_\_\_\_

\*Age: \_\_\_\_\_ (estimate, if age unknown) Date of Birth: \_\_\_\_\_

Height: \_\_\_\_\_ Weight: \_\_\_\_\_

Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_

Relationship to person in ①: \_\_\_\_\_

Address of restrained person: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

(Information that has a star (\*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Clerk fills in case number when form is filed.

Case Number: \_\_\_\_\_

③ ☐ Other Protected People

In addition to the person in ①, the following persons are protected by orders as indicated in ⑬ through ⑯.

Full name	Relationship to person in ①	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

☐ Check here if you need to list more people. List them on a separate piece of paper, write "DV-130, Other Protected People" at the top, and attach it to this form.

④ Expiration Date

This restraining order, except the orders noted below,\* end on:

(date): \_\_\_\_\_ at (time): \_\_\_\_\_ ☐ a.m. ☐ p.m. or ☐ midnight

- Custody, visitation, child support, and spousal support orders remain in effect after the restraining order ends. Custody, visitation, and child support orders usually end when the child is 18.
- If no date is written, the restraining order ends three years after the date of the hearing in ⑤a.
- If no time is written, the restraining order ends at midnight on the expiration date.

**This order must be enforced throughout the United States. See page 10.**

**This is a Court Order.**





**5** ☐ **Future Court Hearing**The ☐ person in ① ☐ person in ② must attend court on:Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m. ☐ p.m.

Department: \_\_\_\_\_ Room: \_\_\_\_\_

to review (*list issues*): \_\_\_\_\_

\_\_\_\_\_

**6** **Hearing**a. The hearing was on (*date*): \_\_\_\_\_ with (*name of judicial officer*): \_\_\_\_\_b. These people attended the hearing (*check all that apply*):☐ The person in ① ☐ The lawyer for the person in ① (*name*): \_\_\_\_\_☐ The person in ② ☐ The lawyer for the person in ② (*name*): \_\_\_\_\_**7** **Court's Decision**

In making this order, the court has considered whether failure to make any of the orders requested might risk the safety of the person in ① or any children listed on form DV-105. If child or spousal support was requested, the court has considered whether failure to make support orders would risk the safety of the person in ① or any children listed on form DV-105.

**To the Person in ② :**

**The court has granted a long-term restraining order. See ⑦ through ③① . If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.**

**This is a Court Order.**



**8 No Firearms (Guns), Firearm Parts, or Ammunition**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. **Prohibited items are:**
- (1) Firearms;
  - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
  - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, sold, or stored. (You may use form [DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition](#).) If law enforcement served you with the restraining order, you must give a copy of the receipt to that law enforcement agency.
- f. ☐ Limited Exemption: The judge has made the necessary findings to grant an exemption under Family Code section 6389(h). Under California law, the person in (2) is not required to relinquish this firearm (*make, model, and serial number of firearm*): \_\_\_\_\_ but must only have it during scheduled work hours and to and from their place of work. Even if exempt under California law, the person in (2) may be subject to federal prosecution for possessing or controlling a firearm.

**9 ☐ Restrained person has prohibited items**

The court finds that you have the following prohibited items:

**a. Firearms and/or firearm parts**

Description ( <i>include serial number, if known</i> )	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

**This is a Court Order.**



**9** The court finds that you have the following prohibited items:

**b. Ammunition**

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____

☐ Check here to list additional items. List them on a separate piece of paper, write "DV-130, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

**10** ☐ **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that you have not fully complied with the orders previously granted on (date): \_\_\_\_\_  
The court has not received a receipt or proof of compliance for all the items listed in **9**.

b. Notify Law Enforcement

The court will immediately notify the following law enforcement agency of this violation  
(law enforcement agency or agencies): \_\_\_\_\_

c. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation  
(prosecuting agency): \_\_\_\_\_

**11** ☐ **Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

You must attend the court hearing in **5** to prove that you have properly turned in, sold, or stored all prohibited items (described in **8**b) you still have or own, including any items listed in **9**. If you do not attend the court hearing listed in **5**, a judge may find that you have violated the restraining order and notify law enforcement and a prosecuting attorney of the violation.

**12** **No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**This is a Court Order.**



**13 Cannot Look for Protected People**

You must not take any action to look for any person protected by this order, including their addresses or locations.

- ☐ If checked, this order was not granted because the court found good cause not to make this order.

**14 ☐ Order to Not Abuse**

You must not do the following things to the person in ① and any person listed in ③:

- Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace.
- “Disturb the peace” means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to health information.

**15 ☐ No-Contact Order**

- a. You must **not contact** ☐ the person in ①, ☐ the persons in ③, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.
- b. ☐ Exception to 15a:
- (1) ☐ You may have brief and peaceful contact with the person in ① to only communicate about your children for court-ordered visits.
  - (2) ☐ You may have contact with your children only during court-ordered contact or visits.
  - (3) ☐ Other (*explain*): \_\_\_\_\_
- c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

**This is a Court Order.**

**16** ☐ **Stay-Away Order**a. You **must** stay at least (*specify*): \_\_\_\_\_ yards away from (*check all that apply*):☐ Person in ①.☐ School of person in ①.☐ Home of person in ①.☐ Persons in ③.☐ Job or workplace of person in ①.☐ Children's school or child care.☐ Vehicle of person in ①.☐ Other (*specify*): \_\_\_\_\_  
\_\_\_\_\_b. ☐ Exception to 16a:

The stay-away orders do not apply:

(1) ☐ For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.(2) ☐ For you to visit with your children for court-ordered contact or visits.(3) ☐ Other (*explain*): \_\_\_\_\_  
\_\_\_\_\_**17** ☐ **Order to Move Out**You must move out immediately from (*address*):  
\_\_\_\_\_  
\_\_\_\_\_**18** ☐ **Other Orders**  
\_\_\_\_\_  
\_\_\_\_\_**19** ☐ **Child Custody and Visitation Order**The judge has granted orders regarding minor children. The orders are included on **form DV-140**,  
and (*list other form*): \_\_\_\_\_**20** ☐ **Protect Animals**a. ☐ You must stay at least \_\_\_\_\_ yards away from the animals listed below.b. ☐ You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.c. ☐ The person in ① is given the sole possession, care, and control of the animals listed below.

Name ( <i>or other way to ID animal</i> )	Type of animal	Breed ( <i>if known</i> )	Color
---	----------------	---------------------------	-------

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**This is a Court Order.**

**21** ☐ **Control of Property**

Only the person in ① can use, control, and possess the following property:

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**22** ☐ **Health and Other Insurance**

The person ☐ in ① ☐ in ② is ordered **not** to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of the parties, or their children, if any, for whom support may be ordered, or both.

**23** ☐ **Record Communications**

The person in ① may record communications made by the person in ② that violate this order.

**24** ☐ **Property Restraint**

The person ☐ in ① ☐ in ② must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court. (If the court granted the order in ⑮, the person in ② must not contact the person in ①. To notify the person in ① of new or big expenses, have a server mail or personally give the information to the person in ① or contact their lawyer, if they have one.)

**25** ☐ **Pay Debts (Bills) Owed for Property**

a. You must make these payments until this order ends:

(1) Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
(2) Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
(3) Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

b. ☐ The court finds that the debt or debts listed above in ☐ a(1) ☐ a(2) ☐ a(3) were the result of abuse in this case, and made without the person in ①'s agreement.

**This is a Court Order.**

**26** ☐ **Pay Expenses Caused by the Abuse**

You must pay the following:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

**27** ☐ **Child Support**Child support is ordered on the attached [form FL-342](#), *Child Support Information and Order Attachment* or (list other form): \_\_\_\_\_**28** ☐ **Spousal Support**Spousal support is ordered on the attached [form FL-343](#), *Spousal, Domestic Partner, or Family Support Order Attachment* or (list other form): \_\_\_\_\_**29** ☐ **Lawyer's Fees and Costs**

You must pay the following lawyer's fees and costs:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

**30** ☐ **Batterer Intervention Program**

- a. The person in **(2)** must go to and pay for a probation certified 52-week batterer intervention program and show proof of completion to the court.
- b. The person in **(2)** must enroll by (date): \_\_\_\_\_ or if no date is listed, must enroll within 30 days after the order is made.
- c. The person in **(2)** must complete, file, and serve [form DV-805](#), *Proof of Enrollment for Batterer Intervention Program*.

**31** ☐ **Transfer of Wireless Phone Account**The court has made an order transferring one or more wireless service accounts from you to the person in **(1)**. These orders are contained on [form DV-900](#), *Order Transferring Wireless Phone Account*.**This is a Court Order.**

**32 Service** (check a, b, or c)

- a. ☐ **No other proof of service is needed.** The people in ① and ② attended the hearing, either physically or remotely (by telephone or videoconference), or agreed in writing to this order.
- b. ☐ **The person in ② was not present.** Proof of service of form DV-109 and form DV-110 (if issued) was presented to the court. (Check all that apply):
- (1) ☐ This order can be served by mail. The judge's orders in this form are the same as in form DV-110 except for the expiration date. The person in ② must be served, either by mail or in person.
- (2) ☐ This order must be personally served. The judge's orders in this form are different from the orders in form DV-110, or form DV-110 was not issued. The person in ② must be personally served (given) a copy of this order.
- (3) ☐ The court has scheduled a firearms and ammunition compliance hearing. The person in ① must have a copy of this order served on the person in ② by:
- (a) ☐ Personal service by (date): \_\_\_\_\_
- (b) ☐ Mail at the person in ②'s last known address by (date): \_\_\_\_\_
- c. ☐ **Proof of service of form FL-300 to modify the orders in form DV-130 was presented to the court.**
- (1) ☐ The people in ① and ② attended the hearing or agreed in writing to this order. No other proof of service is needed.
- (2) ☐ The person ☐ in ① ☐ in ② did not attend the hearing and must be personally served (given) a copy of this amended (modified) order.

**33 No Fee to Serve (Notify) Restrained Person**

The sheriff or marshal will serve this order for free. If you want the sheriff to serve your papers, (1) complete form [SER-001, Request for Sheriff to Serve Court Papers](#), and (2) give the completed form and a copy of this order to the sheriff.

**34 Attached Pages**

All of the attached pages are part of this order.

- a. Number of pages attached to this 11-page form: \_\_\_\_\_
- b. Attachments include forms (check all that apply):
- ☐ DV-140 ☐ DV-145 ☐ DV-900 ☐ FL-341(C) ☐ FL-342 ☐ FL-343 ☐ Other: \_\_\_\_\_

**Judge's Signature**

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

\_\_\_\_\_  
Judge or Judicial Officer

**This is a Court Order.**

**Certificate of Compliance With VAWA**

This restraining (protective) order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. section 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 each jurisdiction throughout the 50 states of the 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.**

**Instructions for Law Enforcement****Start Date and End Date of Orders**

This order starts on the earlier of the following dates:

- The hearing date in (6)a on page 2; or
- The date next to the judge’s signature on this page.

This order ends on the expiration date in (4). If no date is listed, they end three years from the hearing date.

**Duties of Officer Serving This Order**

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in (8)b, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer’s name and law enforcement agency.

**Enforcing the Restraining Order in California**

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, in the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

**Notice/Proof of Service**

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Family Code section 6383.)

Consider the restrained person “served” (notified) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person attended the hearing (see (32)) or was informed of the order by an officer. (Family Code section 6383; Penal Code section 836(c)(2).) An officer can obtain information about the contents of the order in the California Restraining and Protective Order System (CARPOS). (Family Code section 6381(b)–(c).)

**This is a Court Order.**





## Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

## If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

## Child Custody and Visitation

Child custody and visitation orders are listed on form DV-140 or another attached form. If the judge made these orders, look at (15) and (16) of this order to see if the judge granted an exception for brief and peaceful contact with the person in (1) as needed to follow court-ordered visits. Contact by the person in (2) that is **not** brief and peaceful is a violation of this order.

## Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item (15) is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b)). Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2)). All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

*(The clerk will fill out this part.)*

**Instructions to Clerk:** You must give up to three free (certified, stamped, and endorsed) copies of this order to the protected party.

Clerk's Certificate  
[seal]

### —Clerk's Certificate—

I certify that this *Restraining Order After Hearing (Order of Protection)* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

**DV-500-INFO****Can a Domestic Violence Restraining Order Help Me?****What is a “domestic violence restraining order”?**

It is a court order that can help protect people who have been abused by someone they've had an intimate relationship with, are closely related to, or have lived with as more than just roommates.

**How can a restraining order help me?**

A judge can order the restrained person to:

- Not contact you, your children or relatives, or people you live with;
- Stay away from you, your children or relatives, or people you live with, your home, your job, etc.;
- Not have any firearms (guns, including "ghost guns"), firearm parts, ammunition, or **body armor**;
- Move out of a home that you live in;
- Obey child custody and visitation orders;
- Pay child support;
- Pay spousal support;
- Pay debt for property; and
- Give you control of property (examples: cell phone, car, home).

**Does this request cost money to file?**

No, filing this request with the court is free.

**How long can a restraining order last?**

If the judge makes a temporary order, it will last until your hearing date (court date). Your hearing is usually three weeks after you turn in your court papers. At your hearing, the judge will decide whether to grant you a long-term restraining order that can last up to five years.

**How soon can I get the order?**

If you decide to ask for a restraining order, you will need to complete court papers. Once you turn in your court papers, a judge will decide the same day or next business day on whether to grant you a temporary restraining order.

**How old must I be to ask for one?**

To ask for a restraining order on your own, you must be 12 years old or older. In some cases, the judge may ask that an adult (someone 18 years old or older), like a trusted relative, help you in your case.

**What if I don't have a green card?**

You can get a restraining order even if you are not a U.S. citizen. If you are worried about deportation, you may want to talk with an immigration lawyer.

**Can a restraining order protect my children?**

Yes, you can ask the judge to protect your children. If you are asking for a restraining order against someone you have children with, you can also ask the judge to make child custody and visitation orders. And if you think that the other parent might abduct (kidnap) your children, you can ask for orders to prevent kidnapping.

**Can I use a restraining order to get divorced or terminate a registered domestic partnership?**

No. These forms will not end your marriage or registered domestic partnership. You must file other forms to end your marriage or registered domestic partnership.



**Am I eligible?**

To qualify for a domestic violence restraining order, you must have a (1) required relationship and (2) show that the person you want a restraining order against has been abusive.

**Required relationship**

- Your spouse, ex-spouse, registered domestic partner, or ex-registered domestic partner;
- Someone you have a child with;
- Your parent, child, sibling, or grandparent (includes in-laws and step relationships);
- Someone you live with or used to live with (more than just roommates);

**Abuse**

Abuse can be spoken, written, or physical. It can be physical, sexual, or emotional. It includes threats to harm you or your family, stalking, harassment, destroying personal property, repeated contact, and disturbing the peace.

**What does disturbing the peace mean?**

It means to destroy someone's mental or emotional calm. Disturbing the peace includes coercive control. Coercive control means a number of acts that unreasonably limit the free will and individual rights of any person. Examples include:

- Isolating someone from their friends, relatives, or other support;
- Keeping them from food or basic needs;
- Controlling or keeping track of them, including their movements, contacts, actions, money, or access to services;
- Threats to immigration status;
- Making them do something that they don't want to do; and
- Controlling or interfering with someone's contraception (birth control, condoms); pregnancy or ability to become a parent; or access to health information.

**What if I don't qualify for a domestic violence restraining order?**

There are other kinds of restraining orders you can ask for. Here are some examples:

- Civil harassment order (can be used for neighbors, roommates, cousins, uncles, and aunts).
- Dependent adult or elder abuse restraining order (if you are at least 65 or a dependent adult).
- Gun violence restraining order (to prevent someone from hurting themselves or others with a firearm).

Note that all restraining orders include a firearms and ammunition restriction. A gun violence restraining order gives limited protection because it only restrains the person from having firearms and ammunition. To learn more about other kinds of restraining orders, go to <https://selfhelp.courts.ca.gov/restraining-orders>.

**How do I ask for a domestic violence restraining order?**

See form [DV-505-INFO](#), *How to Ask for a Domestic Violence Restraining Order*. The forms are available online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). If you want a paper copy, go to any California courthouse. You can also check with your county's law library.

**Will I have a court hearing (court date)?**

Yes. The court will give you a day and time to attend court. If you want to attend court remotely (by phone or videoconference), go to the court's website to find out how to attend remotely. To learn more about what to expect at your hearing, read form [DV-520-INFO](#), *Get Ready for Your Restraining Order Court Hearing*, or go to <https://selfhelp.courts.ca.gov/DV-restraining-order/prepare-court-date>.



**Do I need a lawyer to make this request?**

No, but this type of request can be hard to get through on your own. Free help may be available at your local court's self-help center. (See below.)

**Where can I find a self-help center?**

Find your local court's self-help center at [www.selfhelp.courts.ca.gov/find](http://www.selfhelp.courts.ca.gov/find). Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms.

**What if I need an interpreter?**

If you decide to ask for a restraining order, you will need to talk to a judge. If you need an interpreter, use form [INT-300](#) to request an interpreter or ask the court clerk how you can request one.

**I have a disability. How can I get help?**

You may use form [MC-410](#) to request assistance. Contact the disability or ADA coordinator at your local court for more information.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm) for *Disability Accommodation Request* (form [MC-410](#)). (Civil Code section 54.8.)

**Confidential Address Program**

If you are a victim of domestic violence or live with a victim of domestic violence, there is a special program called Safe At Home that you can apply for. It is a free program that would help you keep your address private. To learn more about the program, go to <https://www.sos.ca.gov/registries/safe-home/>. Note that it may take several weeks to be approved.

**For more information on other steps of the process**

- Form [DV-505-INFO](#), *How to Ask for a Domestic Violence Restraining Order*
- Form [DV-200-INFO](#), *What Is "Proof of Personal Service"?*
- Form [DV-520-INFO](#), *Get Ready For Your Restraining Order Court Hearing*
- Form [DV-530-INFO](#), *How to Enforce Your Restraining Order*

**Information about the court process is also available online**

<https://selfhelp.courts.ca.gov/DV-restraining-order/process>.

**Where can I find other help?**

The National Domestic Violence Hotline provides free and private safety tips. Help is available every day, 24 hours a day, and in over 100 languages. Visit online at [www.thehotline.org](http://www.thehotline.org) or call 1-800-799-7233; 1-800-787-3224 (TTY).

**EPO-001**

ONE copy to court, ONE copy to restrained person, ONE copy to protected person, ONE copy to issuing agency

LAW ENFORCEMENT CASE NUMBER:

**EMERGENCY PROTECTIVE ORDER** (See reverse for important notices.)

1. **PROTECTED PERSONS** (name and gender (M, F, X) of all people protected by this order)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. **RESTRAINED PERSON**

Name: \_\_\_\_\_

Gender: ☐ M ☐ F ☐ X Race: \_\_\_\_\_

Age: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Ht.: \_\_\_\_\_ Wt.: \_\_\_\_\_ Hair color: \_\_\_\_\_ Eye color: \_\_\_\_\_

3. **TO THE RESTRAINED PERSON:**

- a. ☐ **YOU MUST NOT** harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property of, keep under surveillance, impersonate, block movements of, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace of (including coercive control), any person named in item 1.
- b. ☐ **YOU MUST NOT** contact, either directly or indirectly, by any means, including but not limited to by telephone, mail, email or other electronic means, any person named in item 1.
- c. ☐ **YOU MUST** ☐ stay away at least: \_\_\_\_\_ yards from each person named in item 1.  
☐ **YOU MUST** ☐ stay away at least: \_\_\_\_\_ yards ☐ move out immediately from (address): \_\_\_\_\_
- d. **YOU MUST NOT** take any action, directly or through others, to obtain the addresses or locations of any person named in item 1.
- e. **YOU MUST NOT** own, possess, purchase, receive, or attempt to purchase or receive any firearm (guns), firearm parts (receiver, frame or item that may be used as or easily turned into a receiver or frame), or ammunition. You must immediately surrender these items if asked by law enforcement. If not asked by law enforcement to surrender immediately, you must turn them in to a law enforcement agency or sell them to, or store them with, a licensed gun dealer within 24 hours of receiving this order.
- f. **YOU MUST NOT** own, possess, or buy body armor. You must relinquish any body armor that you have in your possession.

4. ☐ (Name): \_\_\_\_\_ is given temporary care and control of the following minor children of the parties (names and ages): \_\_\_\_\_

5. **Order Expires on (date):** \_\_\_\_\_ **at (time):** \_\_\_\_\_ EXPIRES ON THE 5TH COURT DAY OR 7TH CALENDAR DAY, WHICHEVER IS EARLIER. DO NOT COUNT THE DAY THE ORDER IS GRANTED.

6. To Person in 1: To ask for a longer restraining order, ask for help at your local court. If there is an open juvenile case, file in that case. (Name and address of court): \_\_\_\_\_

7. Reasonable grounds for the issuance of this Order exist, and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking.

8. Judicial officer (name): \_\_\_\_\_ granted this Order on (date): \_\_\_\_\_ at (time): \_\_\_\_\_

9. **APPLICATION** The events that caused the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse (except solely financial abuse), or stalking are (give facts and dates; specify weapons): \_\_\_\_\_

10. ☐ Firearms or ammunition were (check all that apply): ☐ observed ☐ reported ☐ physically searched for ☐ seized.

11. ☐ The persons in 1 and 2 live together. The person in 1 asks that the person in 2 immediately move out from the address in 3c.

12. ☐ The person in 1 has minor children in common with the person in 2, and a temporary custody order is requested because of the facts alleged in item 9. A custody order ☐ does exist ☐ does not exist.

By: \_\_\_\_\_  
 (PRINT NAME OF LAW ENFORCEMENT OFFICER)

(SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Badge No.: \_\_\_\_\_

13. **PROOF OF SERVICE** I personally delivered (served) copies of this Order to the person in 2 on: (date): \_\_\_\_\_ at (time): \_\_\_\_\_  
 Address where person in 2 was served: \_\_\_\_\_

14. At the time of service, I was at least 18 years of age and not a party to this cause. ☐ I am a California law enforcement officer. My address, and telephone number are (this does not have to be server's home telephone number or address): \_\_\_\_\_

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

Date: \_\_\_\_\_  
 (TYPE OR PRINT NAME OF SERVER)

(SIGNATURE OF SERVER)



# EMERGENCY PROTECTIVE ORDER WARNINGS AND INFORMATION

EPO-001

**To the restrained person:** You must follow this order until it expires (see item 5). If you have firearms, firearm parts, or ammunition, follow the orders in item 3e. After you have turned in or sold your items, you must file a receipt with the court that proves that all items listed in 3e have been turned in or sold. You may use form [DV-800, Receipt for Firearms, Firearm Parts, and Ammunition](#). You must also **relinquish any body armor you own or have** (see Penal Code section 16288 for definition of body armor). If you violate the order, you can be arrested, charged with a crime, and/or fined. If you are served with another restraining order, you must follow the order. You may want advice from a lawyer. If you were served with more court papers, contact one as soon as possible. Free help may be available at your court's local self-help center. To find your local self-help center, go to [www.selfhelp.courts.ca.gov/find](http://www.selfhelp.courts.ca.gov/find).

**A la persona restringida:** Tiene que cumplir con esta orden hasta su fecha de vencimiento (vea el punto 5). Si tiene armas de fuego, componentes de armas de fuego, o municiones, cumpla con las órdenes del punto 3e. Después de haber entregado o vendido todos estos artículos, tiene que presentar un recibo a la corte comprobando que todos los artículos indicados en el punto 3e han sido entregados o vendidos. Puede usar el formulario [DV-800, Recibo por armas de fuego, componentes de armas de fuego y municiones](#). También tiene que entregar o vender todo blindaje personal en su posesión o del cual usted es dueño (vea la definición de blindaje personal en la sección 16288 del Código Penal). Si contraviene la orden, puede ser arrestado, acusado de un delito, y/o multado. Si recibe por entrega legal otra orden de restricción, tiene que cumplir con esa orden. Es posible que quiera los consejos de un abogado. Si recibió por entrega legal más documentos de la corte, contáctese con un abogado lo más pronto posible. Es posible que el centro de ayuda de su corte local ofrezca un servicio de ayuda gratuita. Puede localizar su centro de ayuda local en <https://selfhelp.courts.ca.gov/es/self-help/find-self-help>

**To the protected person:** This order will expire on the the date and time listed in item 5. If you want a longer restraining order to protect you or your children from abuse, you will have to ask for one from your local court. Start the process as soon as you can. The paperwork can take a few hours to complete. There is no court fee and you do not need a lawyer to ask for one, but the process can be hard to get through on your own. If you want advice from a lawyer, contact one as soon as possible. Free help may be available at your local court's self-help center. To find your local self-help center, go to [www.selfhelp.courts.ca.gov/find](http://www.selfhelp.courts.ca.gov/find). You can also ask for child custody orders to stop child abuse or abduction. Note that if there is a juvenile dependency case for your child, ask for orders to protect your child in that case.

**A la persona protegida:** Esta orden **vence** en la fecha y la hora indicadas en el punto 5. Si desea una orden de más larga duración para protegerse a sí mismo o a sus hijos del maltrato, tendrá que solicitarla de su corte local. Comience el proceso lo más antes posible. Los formularios pueden tomar algunas horas para llenar. No hay cuota de presentación y no necesita un abogado para presentar su solicitud, pero el proceso puede ser difícil de navegar sin ayuda. Si desea consejos de un abogado, contáctese con uno lo más pronto posible. Es posible que el centro de ayuda de su corte local ofrezca un servicio de ayuda gratuita. Puede localizar su centro de ayuda local en <https://selfhelp.courts.ca.gov/es/self-help/find-self-help>. También puede solicitar órdenes de custodia de los hijos para impedir el maltrato o el secuestro. Nótese que si hay un caso de dependencia de menores para su hijo, solicite órdenes para proteger a su hijo en ese caso.

**To Law Enforcement:** This order must be served on the restrained person by the officer, if the restrained person can be found. A copy must be given to the protected person. A copy must be filed with the court as soon as practicable. Also, the officer must have the order entered into CLETS (CARPOS).

**A las agencias del orden público:** El agente tiene que hacer la entrega legal de esta orden a la persona restringida, si esta puede ser localizada. Hay que darle una copia a la persona protegida. Hay que presentar una copia a la corte tan pronto sea posible. También, el **agente** tiene que hacer que la orden se ingrese al sistema CLETS (CARPOS).

This emergency protective order is effective when made and must be enforced by all law enforcement officers in the State of California who are aware of or shown a copy of this order. The terms and conditions of this order are enforceable regardless of the acts of the parties; the order may be changed only by the court (Penal Code section 13710(b)). A law enforcement officer shall use every reasonable means to enforce this order. An officer acting in good faith to enforce the order will not be held liable. The provisions of this emergency protective order take precedence in enforcement over provisions of other existing protective orders between the same protected and restrained persons if the provisions of this order are more restrictive. The provisions in another existing protective order remain in effect and take precedence if they are more restrictive than the provisions in this emergency protective order. The availability of an emergency protective order must not be affected by the fact that the endangered person has vacated the household to avoid abuse.

Esta orden de protección de emergencia entra en vigencia al emitirse y tiene que hacerse cumplir por todos **los agentes** de orden público del estado de California que tengan conocimiento de, o a quienes se les muestre una copia de esta orden. Los términos y condiciones de esta orden pueden hacerse cumplir a pesar de las acciones de las partes; la orden solo puede ser modificada por la corte (Código Penal, sección 13710(b)). Un agente del orden público tiene que usar todo recurso razonable para hacer cumplir esta orden. Un agente que actúe de buena fe para hacer cumplir esta orden quedará exento de toda responsabilidad civil o penal. Las disposiciones de la presente orden de protección de emergencia tendrán prioridad sobre las disposiciones de otras órdenes de protección existentes entre las mismas partes si las disposiciones de la presente orden son más restrictivas. Las disposiciones de otras órdenes se mantienen en vigencia y tendrán prioridad si son más restrictivas que las disposiciones de la presente orden de protección de emergencia. La disponibilidad de una orden de protección de emergencia no será afectada por el hecho de que la persona en peligro haya desocupado el hogar para evitar el maltrato.

**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

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	Commenter	Position	Comment	Committee Response
1.	California Department of Justice by Brittany Phillips	AM	<p>The EPO-001, as proposed, has been updated to add body armor to the firearm provision, but does not include the penal code which defines body armor.*</p> <p>CA DOJ recommends that the EPO-001 section 3f of the form be updated to read:            “YOU MUST NOT own, possess, or buy body armor (as defined in Penal Code section 16288). You must relinquish any body armor that you have in your possession.” CA DOJ would like this modification to the verbiage to match the anticipated California Restraining and Protective Order System (CARPOS) verbiage change in the Firearms Provision (FAP) field of the database. CARPOS will apply the FAP language across the multiple types of orders included in the various form proposals and for consistency, recommend that the Penal Code section be added.</p>	<p>Thank you for your response. Because space is limited on page 1, the committee recommends adding the citation to Penal Code section 16288 to the Warnings and Information section on page 2.</p>
			<p>The CLETS-001 was not included in the update to add body armor. The CLETS-001 is a form used to capture additional information that may be entered into CARPOS. CA DOJ recommends that the CLETS-001 section 1 of the form be updated to read: “Does the person have any firearms (guns), firearm parts, ammunition, or body armor?” CA DOJ would like this modification as the information presented in this section of the form is reflected in the CARPOS Restrained Firearm Group (RFG) data field. By ensuring body armor is included here, users will update the RFG field, and therefore any inquiring law enforcement</p>	<p>The committee agrees with this suggested change and recommends adding form CLETS-001 to the proposal to include body armor in item 1.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR24-25

**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

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	Commenter	Position	Comment	Committee Response
			agency will have the information regarding body armor and its whereabouts for officer safety purposes.	The committee did not make this change as the item on the restrained person having prohibited items reflects the requirements under Family Code section 6322.5 which provides that the court make certain findings related to firearms and ammunition, not body armor.
			The DV-110 did not update section 6 to include body armor.* CA DOJ recommends that the DV-110 section 6 include a section for body armor. The information presented in this section of the form is reflected in the CARPOS RFG data field. By ensuring body armor is included here, users will update the RFG field, and therefore any inquiring law enforcement agency will have the information regarding body armor and its whereabouts for officer safety purposes. While we recognize relinquishment is not required to have the same process, the suggestion is to add a section “c” which will provide at least two lines for Body Armor description, amount if known, and location if known.	
			The DV-130 did not update section 8 to include body armor.* CA DOJ recommends that the DV-130 section 8 include a section for body armor. The information presented in this section of the form is reflected in the CARPOS RFG data field. By ensuring body armor is included here, users will update the RFG field, and therefore any inquiring law enforcement agency will have the information regarding body armor and its whereabouts for officer safety purposes. While we recognize relinquishment is not required to have the same process, the suggestion is to add a section “c” which will provide at least two	

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**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

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	Commenter	Position	Comment	Committee Response
			lines for Body Armor description, amount if known, and location if known.	
2.	California Lawyers Association, The Executive Committee of the Family Law Section (FLEXCOM) by Saul Bercovitch, Associate Executive Director, Governmental Affairs	A	FLEXCOM agrees with this proposal.	Thank you for your response. In light of comments received, the committee is deferring recommending implementation of SB 599 and other proposed changes to form DV-140. The proposal will recirculate for comment in the winter of this year, together with a proposal to implement virtual visitation into family law (FL forms).
3.	Community Legal Aid SoCal by Pablo Schlueter-Corey, Supervising Attorney Family Law	AM	No specific comment regarding body armor restrictions except to defer to expert opinion.	Thank you for your response.
			Agree that proposed order appropriately addresses the stated purpose so as not to delay starting monitored visitation by allowing monitor to provide availability.	In light of comments received, the committee is deferring recommending implementation of SB 599 and other proposed changes to form DV-140. The proposal will recirculate for comment in the winter of this year, together with a proposal to implement virtual visitation into family law (FL forms).
			Would professional supervised visitation providers and parties benefit from the proposed revisions to item 9, on form DV-140. Should more information or other options be provided in this item? Yes. The proposal provides the specific amount of hours of monitored visits each week while providing flexibility as to the monitor and parents. A con to this change would be a monitor who cannot provide consistent times every week in a high conflict case that could affect consistency with visitation or a potential stalemate if the parties cannot agree on the days and times.	See above.

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**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

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	Commenter	Position	Comment	Committee Response
			Is the language proposed in item 14 (“Mandatory Findings”), on form DV-140, sufficient to help the court identify any applicable factors that it must consider when making orders under Family Code sections 3011, 3044, and 3100? Not completely. We suggest the DV140 include some of the major factors to be considered by the court under #11.	See above.
4.	Family Violence Appellate Project by Jodi Lewis, Senior Managing Attorney	NI	DV-100, request for Domestic Violence Restraining Order On page 12, under Automatic Orders if the Judge Grants restraining Order, it might be helpful to use consistent or similar language throughout. Proposed changes: <b>29. No Firearms (Guns), Firearm Parts, or Ammunition</b> <ul style="list-style-type: none"> <li>Cannot own, possess, or buy firearms (guns), firearm parts, or ammunition</li> <li>Must turn in, sell, or store any firearms (guns), firearm parts, or ammunition that they have or control</li> </ul> <b>30. No Body Armor</b> <ul style="list-style-type: none"> <li>Cannot own, possess, or buy body armor</li> <li>Must relinquish (turn in) any body armor in their possession</li> </ul> <b>31. Cannot Look for Protected People</b> <ul style="list-style-type: none"> <li>Cannot look for the person protected...</li> </ul>	The committee made the changes proposed by commenter, except to add “(turn in)” for relinquishment of body armor. Because the law does not define relinquishment it is not clear what it requires and who body armor would be turned in to.

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# SPR24-25

## **Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

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Commenter	Position	Comment	Committee Response
		<p><i>DV-105, Request for Child Custody and Visitation Orders</i></p> <p>Although the committee decided against adding a specific item to child custody forms for virtual visitation (see SPR24-25), it may be clearer to litigants and judges that virtual visitation may be requested and ordered if it is added as a specific option on forms. Self-represented litigants in particular may not understand that they can request virtual visits and there is nowhere on the proposed DV-105 to make “other” types of visitation request. Virtual visitation could be added to question 10 on page 4 so it has the options of: No; Yes, I ask the judge to order that the person in 2 have in-person visits; Yes, I ask the judge to order that person in 2 only have virtual visits; Yes, I ask that judge to order that the person in 2 have both virtual and in-person visits. Either a new section would then be added regarding virtual visitation or, in the alternative, there could be added language to existing sections to make it clear when something does or does not apply to virtual visitation (e.g. if you are requesting only virtual visitation, you should not fill out the section “who will bring the children to and from visit or location of drop-off/pick up” in the chart for schedule of visits).</p>	<p>In light of comments received, the committee is deferring recommending implementation of SB 599 and other proposed changes to form DV-140. The proposal will recirculate for comment in the winter of this year, together with a proposal to implement virtual visitation into family law (FL forms).</p>
		<p><i>DV-105-INFO, What Are Child Custody and Visitation Orders</i></p>	<p>See above.</p>

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## SPR24-25

### Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92 (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

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	Commenter	Position	Comment	Committee Response
			On page 1, under non-professional provider, the sentence that reads “If it would be dangerous for your child to be alone with the other parent, this may not be the best option” might be confusing for self-represented litigants because the child would not be alone if a third party was present.	
			<i>DV-120-INFO</i> Though there is not a relinquishment procedure outlined in the new law for body armor, it would be helpful to add under the “What do I do next?” section that a person must also relinquish body armor to properly inform restrained parties of everything that they must relinquish.	This change has been made.
			<i>DV-140, Child Custody and Visitation Order</i> Although the committee decided against adding a specific item to child custody forms for virtual visitation (see SPR24-25), it may be clearer to litigants and judges that virtual visitation may be requested and ordered if it is added as a specific option on forms rather than something that can be written in under “other” orders.	As stated above, the committee is deferring recommending implementation of SB 599 and other proposed changes to form DV-140.
5.	Giffords Center to Prevent Gun Violence by Julia Weber, Esq., MSW	AM	Giffords appreciates the proposed changes to DV-100 informing parties about the requirement to relinquish body armor and other modifications designed to implement both SB 599 and AB 92. Additionally, we believe it would be helpful to petitioners if there was a form with photos of various types of firearms so that petitioners could provide better descriptions of the firearms in	Thank you for your comments. The committee will consider the possibility of recommending such a form in the future.

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**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

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Commenter	Position	Comment	Committee Response
		filings (Florida provides an example and the brochure has been given to Judicial Council staff).	
		On page 8 at #15 of the DV-100, we suggest including information about the option of virtual visitation pursuant to the changes made by SB 599. This could be done by adding “No in person visits” or the option “Virtual visitation.” As circulated, the DV-100 does not include the virtual visitation option.	In light of comments received, the committee is deferring recommending implementation of SB 599 and other proposed changes to form DV-140. The proposal will recirculate for comment in the winter of this year, together with a proposal to implement virtual visitation into family law (FL forms).
		Additionally, the proposed DV-105-INFO talks about virtual visitation, but the DV-105 doesn't provide a clear virtual visitation option, which will cause confusion and prevent petitioners from asking the court to make this type of order designed to reduce risk and increase safety. DV-105 at both 12 and 13 should allow petitioners to specifically indicate that virtual visits are preferable to in person contact so that the court can make appropriate and protective orders. Inclusion of the virtual visitation option could be accomplished by including a check box on both the supervised and unsupervised visitation sections, for example: “Do you want the visits to be limited to virtual visitation instead of in-person visits?”	See above.
		We also suggest flipping the professional and non-professional options within DV-105 at both 12 and 13. The more protective option of professional supervision should be listed before the less protective option of non-professional supervision.	See above.

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**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

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Commenter	Position	Comment	Committee Response
		DV-105-INFO states under “Virtual Visits” that “Virtual visits require the child and visiting parent to have access to the internet during the visit.” We propose removing the references to the internet because the law does not explicitly require internet access. The proposed inclusion could unnecessarily eliminate acceptable communication methods and have the unintended consequence of reducing safe, appropriate contact between a parent and child.	See above.
		DV-120, page 6, #26(c): We recommend adding the word "particular" to the first line; "I ask for an exception to carry a particular firearm for work only." Per Family Code section 6389, the exception applies to a particular firearm, not all firearms. The current version might be misunderstood to mean firearms, generally.	The committee notes that the order itself (form DV-130) requires the court to indicate the particular firearm that the exemption applies to but agrees that more information could be helpful on form DV-120. The committee will consider changing this item in a future cycle, which could also include asking the respondent for details of the firearm for which the exemption is sought (e.g., serial number, make of firearm).
		DV-130, page 3, #8: We recommend adding “body armor” to the list of prohibited items.	The committee did not make this change as the item on the restrained person having prohibited items reflects the requirements under Family Code section 6322.5 which provides that the court make certain findings related to firearms and ammunition, not body armor.
		DV-140, both #9 and #10 should include a box for the option of having these visits be virtual visits, per DV-105-INFO.	As stated above, the committee is deferring recommending implementation of SB 599 and other proposed changes to form DV-140.

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**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

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	Commenter	Position	Comment	Committee Response
			<p>Additionally, professional supervision should be listed first as the more protective option. Non-professional supervision may not provide the same level of security, for example, when there are concerns about access to firearms and there is no metal detector or other provisions in place to decrease risk.</p> <p>#10(b)(2) indicates the location will be determined by the provider, however, if virtual visitation is ordered by the court, that is not necessarily the case. We suggest considering whether it can state that providers will work with the party to identify an appropriate location for the visit, including the specifics associated with virtual visitation. For example: the supervisor monitoring a supervised virtual visitation could be located anywhere. Meanwhile, the parties may benefit from suggestions or specific agreements or guidelines regarding where they will be located physically for such a visit. Such agreements could benefit from some level of agreed upon flexibility.</p> <p>DV-140, page 6, regarding “mandatory findings” should provide more information for parties and the courts. For example, the mandatory findings section could include a checkbox for Family Code section 3044 findings, such as “the court finds 3044 applies, the factors have been reviewed, and the court finds the presumption has (checkbox) or has not (checkbox) been rebutted.” For FC 3100 findings, it could read as follows: “The court makes findings required under FC 3100(d) as</p>	<p></p> <p>See above.</p>

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**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

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	Commenter	Position	Comment	Committee Response
			follows (specify which findings are being made).” Another checkbox for Family Code section 3011(5)(A) and (B) could also be included as follows: “The court finds that for the following reasons, sole or joint custody or unsupervised visits to person #2 is in the best interest of the child and protects the safety of the parties and the child. Additionally the order is specific as to time, day, place, and manner of transfer of the child. [checkbox] court has reviewed the stipulation and finds it is in compliance with FC 3011(5)(B).”	
			Giffords also recommends ongoing training for court staff and judicial officers to support the implementation of these changes to ensure orders can be enforced and are as protective as possible. This should include addressing what constitutes firearm parts, processes for relinquishment, procedures for addressing non-compliance, and approaches to ensure risks associated with firearm access in domestic violence cases and matters involving children are handled as effectively and safely as possible.	Thank you for your comment.
6.	Orange County Bar Association by Christina Zabat-Fran, President	A	Does the proposal appropriately address the stated purpose? Yes	Thank you for your response.
			Would professional supervised visitation providers and parties benefit from the proposed revisions to item 9, on form DV-140. Should more information or other options be provided in this item?	In light of comments received, the committee is deferring recommending implementation of SB 599 and other proposed changes to form DV-140. The proposal will recirculate for comment in the winter of this year, together with a proposal to

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# SPR24-25

## **Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

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	Commenter	Position	Comment	Committee Response
			Yes, the proposed revisions would benefit providers and parties. No apparent additional information needed.	implement virtual visitation into family law (FL forms).
			Is the language proposed in item 14 (“Mandatory Findings”), on form DV-140, sufficient to help the court identify any applicable factors that it must consider when making orders under Family Code sections 3011, 3044, and 3100? It appears the reference to Family Code sections 3011, 3044, and 3100 is sufficient to help the court identify applicable factors. Family Law courts will presumably be familiar with these statutes, which address factors and considerations fundamental to this area of law.	See above.
7.	Superior Court of Los Angeles by Bryan Borys, Director of Research and Data Management	AM	The Los Angeles Superior Court (Court) agrees with the proposal in SPR24-25, “Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92,” if modified.	Thank you for commenting on this proposal.
			Regarding DV-140, it is suggested that items 7(c)(3) and 11(a)(3) remove the parenthetical comment “ask court for transcript” because trial courts differ as to the availability and costs of transcripts. The Court also agrees that item 9(b)(2)(A)(2) on the DV-140 form should remain as a non-mandatory requirement.	In light of comments received, the committee is deferring recommending implementation of SB 599 and other proposed changes to form DV-140. The proposal will recirculate for comment in the winter of this year, together with a proposal to implement virtual visitation into family law (FL forms).
			Regarding DV-130, it is suggested that item 8 include a surrender of body armor verification.	For item 8, the committee does not recommend including body armor as that item implements Family Code section 6322.5 which only applies to

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	Commenter	Position	Comment	Committee Response
			<p>Also, item 11 provides that body armor should be relinquished, but it does not indicate to whom it should be relinquished.</p> <p>As a general comment regarding the formatting of Domestic Violence restraining order forms (and related restraining orders, such as Elder Abuse, Civil Harassment, Workplace and Gun Violence restraining orders) for this round of edits and for any future edits, it is suggested that: 1) the ordering convention for each item/category be uniform across all forms and restraining order types; and 2) the numbering convention for item/category be uniform across all forms and restraining order types. As the restraining orders get more complex and the forms get longer, it has become necessary for the reviewer to go back and forth while reviewing the request form in order to fill out the temporary and permanent orders. No longer are all the requests set forth in the same linear fashion and on the same pages; instead, a judicial officer has to flip back to a prior page for a section that comes later in the order to determine what is being requested. This can make it more difficult and time consuming to ensure that the temporary and permanent orders are filled out properly and items are not missed, particularly in courts that have high volume or that use temporary judges at the hearings. For example, the category of Other Persons sought to be protected is in paragraph 8 on page 6 of the DV-100, but it is in paragraph 3 on page 1 of the DV-110. As another</p>	<p>firearms and ammunition. For item 11, the committee did not include information on whom body armor should be relinquished to, as the new law does not provide a relinquishment procedure.</p> <p>Thank you for your comment. In organizing the forms, the committee considers a number of factors, including consistency, ease of use for judicial officers, and ease of use for self-represented litigants. Many of the changes made in recent years were made in response to user-testing results/clinic observations, in an effort to make the forms more user-friendly for self-represented litigants who may be in the midst of a traumatic event. The committee notes that the discretionary orders, with the exception of the additional protected persons and order to extend time for notice, are in the same sequence across all three forms (DV-100, DV-110 and DV-130).</p> <p>In response to commenter, the committee has reformatted the Stay-Away Order section on DV-100, to be consistent with form DV-110 and DV-130.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>example, the DV110 paragraph 9 ‘Order to Not Abuse’ is less visible and may be inadvertently left unchecked as it is set forth on a separate page from the No Contact and Stay Away orders, while the DV-100 has those three very important paragraphs all on the same page. Also, the Stay-Away paragraph in DV-100 has three columns, but the DV-110 and DV-130 have two columns with fewer items in each. As a final example, DV-100 paragraph 21 regarding extending a deadline to give notice seems oddly placed in the middle of two substantive requests (property restraint and pay debt (bills) owed for property) and may be missed when the judicial officer is determining how many days for service should be given in the DV-109. For these reasons, it is suggested that categories be placed on the same respective page (or at minimum, in the same order) on each of the restraining order request/temporary order forms so that when a judicial officer reviews the petition and is ruling on a TRO, the review and order are consistent page by page or in the same order.</p>	
			<p>Regarding use of the same numbering and consistency over different forms, this is helpful to ensure that when a judicial officer refers to a particular number in a subsequent order, it is consistent across all the forms. For example, when filling out the DV-109 form (Notice of Hearing), it can be ambiguous whether the judicial officer is referring to items in the DV-100 (request) or the DV-110 (the temporary orders.) When the court sets forth those orders that were NOT given in</p>	<p>Thank you for your comment. We strive to make the forms as uniform across protective order types as possible, given the statutory constraints.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			paragraph 4, and wishes to express that it did not order a certain item, such as debts or bills to be paid, in the temporary order, the court would have to say they are not ordering the amounts requested in paragraph 22 of the DV-100 or paragraph 20 of the DV-110, because this item is in different paragraphs on the two forms. As another example, the EA-100 request for Elder Abuse Restraining Order, the paragraph 12 on Stay-Away requests has useful subsections such as (a)(1) etc. while the analogous DV-100 paragraph 12 does not have such subsections which make it harder to refer to these items, if needed, in other orders. For these reasons, it is suggested that restraining order request forms, temporary orders, and final order after hearing forms use the same numbers across all the forms for the same category. Even if there is a need for more numbers on one form than another, the Judicial Council could keep the numbering uniform, and simply indicate on the relevant form that Paragraphs 3-7, for example, are intentionally left blank, to eliminate confusion.	
			As for implementation, three months may not be sufficient time. Programming updates to incorporate these changes into guided interview applications will require six months.	The committee does not recommend delaying implementation. While additional time may be needed to update guided interviews, the committee believes that it is important to have the required forms available as soon as possible, as the law went into effect on January 1, 2024.
			We appreciate the Judicial Council's consideration of these recommendations and formatting concerns. Restraining order forms are filled out at	Thank you for your response.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			critical times when people’s lives may be at risk. We hope that whenever the Judicial Council considers substantive changes to these forms, it will also consider these suggestions to enhance consistency and the same progression of items requested and ordered, so that judicial officers can more efficiently and accurately fill out the orders based on the requests made.	
8.	Superior Court of Orange by Katie Tobias, Operations Analyst	NI	Does the proposal appropriately address the stated purpose? Yes, the proposal appropriately addresses the stated purpose.	Thank you for your response.
			Would professional supervised visitation providers and parties benefit from the proposed revisions to item 9, on form DV-140. Should more information or other options be provided in this item? Yes, both professional supervised visitation providers and parties will benefit from the proposed revisions on item #9 on form DV-140. No more information or options should be provided on this item.	In light of comments received, the committee is deferring recommending implementation of SB 599 and other proposed changes to form DV-140. The proposal will recirculate for comment in the winter of this year, together with a proposal to implement virtual visitation into family law (FL forms).
			Is the language proposed in item 14 (“Mandatory Findings”), on form DV-140, sufficient to help the court identify any applicable factors that it must consider when making orders under Family Code sections 3011, 3044, and 3100? Yes, all has been clearly stated in the proposal of the revised form, DV-140 as to item #14, Mandatory Findings.	See above.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR24-25

**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>Would the proposal provide cost savings? If so, please quantify. No, the proposal does not appear to provide any cost savings.</p>	No response required.
			<p>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? Implementation would require revising procedures, providing communication to judicial officers and staff, conducting staff training (approximately 2-4 hours), and updating the case management system.</p>	Thank you for the information.
			<p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes, three months would provide sufficient time for implementation in Orange County.</p>	The committee agrees that three months would be sufficient to implement this proposal.
			<p>How well would this proposal work in courts of different sizes? Our court is a large court, and this could work for Orange County.</p>	Thank you for your response.
9.	Superior Court of San Diego by Mike Roddy	A	<p>Does the proposal appropriately address the state purpose? Yes.</p>	Thank you for your response.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR24-25

**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>Would professional supervised visitation providers and parties benefit from the proposed revisions to item 9, on form DV-140.</p> <p>Yes. It appears that the proposed changes are sufficient.</p>	<p>In light of comments received, the committee is deferring recommending implementation of SB 599 and other proposed changes to form DV-140. The proposal will recirculate for comment in the winter of this year, together with a proposal to implement virtual visitation into family law (FL forms).</p>
			<p>Is the language proposed in item 14 (“Mandatory Findings”), on form DV-140, sufficient to help the court identify any applicable factors that it must consider when making orders under Family Code sections 3011, 3044, and 3100?</p> <p>Yes.</p>	<p>See above.</p>
			<p>Would the proposal provide cost savings? If so, please quantify.</p> <p>No.</p>	<p>No response required.</p>
			<p>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</p> <p>Implementation will require updating the case management system, local packets, and procedures to include revised forms and training business office and courtroom staff.</p>	<p>Thank you for your response.</p>
			<p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p>	<p>The committee agrees that three months would provide sufficient time for implementation.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			Yes, provided the final versions of the forms are provided to the court at that time. This will ensure the court is able to provide training to staff, update its internal procedures and local packets, and obtain printed stock.	
			How well would this proposal work in courts of different sizes? This proposal should work well, regardless of the size of the court.	Thank you for your response.
10.	Superior Court of Tulare by Sara Whitney, Court Document Examiner	AM	While no proposal for changes to the DV-108 (Request for Orders to Prevent Child Abduction) or DV-145 (Order to Prevent Child Abduction) is pending, it should be noted that the current forms do not match (last revised on January 1, 2023). The DV-108 #3d includes "threatening to take away or hide our children from me;" however, the DV-145 #3b(4) does not include this as a choice under "Court's Decision."	Thank you for your comment. The committee will consider recommending this change to form DV-145 the next time it is revised.
11.	Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee Joint Rules Subcommittee	A	The JRS notes that the proposal is required to conform to a change of law. The JRS also notes the following: Courts will incur costs to implement the revised forms due to training requirements and implementing forms into the paper and electronic processes. Depending on the size of the court, the costs would potentially be up to 20 to 40 hours of court time to accomplish implementation (training, updating case management systems, updating CMS coding,	Thank you for your response.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



SPR24-25

**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92** (approve form DV-105-INFO, DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			physical distribution, replacing outdated forms). Courts would be better served if the time for implementation was at least 45 days from approval.	
12.	Norman J Valdez McArthur	AM	The ownership of body armor by a minor or an adult should not be a restriction under the law. There are many places throughout* California that Gun Violence* is out of control. as such the court would be denying* a person some personal safety. same comment as SPR24-22	Thank you for your comment. The council's role is to implement laws enacted by the Legislature that impact court forms and processes. The council does not take a position on whether this new prohibition should be in place. Commenter may contact the Legislature with this concern.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** August 13, 2024

**Rules Committee action requested** [Choose from the drop-down menu below]:

**Recommend JC approval (has circulated for comment)**

**Title of proposal:** Protective Orders: Revisions to Civil Forms to Implement New Law

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*

Revise forms CH-100, CH-100-INFO, CH 109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-125, GV-130, GV-710, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV 120 INFO, WV-130, WV-200, WV 250, WV-260, WV-700, WV-710, WV 715, WV-716, WV-720, and WV-730

*Committee or other entity submitting the proposal:*

Civil and Small Claims Advisory Committee

*Staff contact (name, phone and e-mail):* James Barolo, 415-865-8928, james.barolo@jud.ca.gov

*Identify project(s) on the committee's annual agenda that is the basis for this item:*

Annual agenda approved by Rules Committee on (date): October 26, 2023; Amended February 9, 2024

Project description from annual agenda: Develop form recommendations as appropriate. AB 301, which goes into effect January 1, 2024, authorizes courts to consider an additional category of evidence when determining whether grounds for a gun violence restraining order exist—the acquisition of body armor. Though such evidence is not listed on the petition or order forms for gun violence restraining orders, including such new categories on the GVRO information sheets would ensure that those sheets remain complete and legally accurate.

Develop form recommendations as appropriate. SB 428 and SB 553, both of which go into effect January 1, 2025, make substantial changes to workplace violence restraining orders. SB 428 authorizes courts to issue such restraining orders if the employee has suffered harassment. SB 553 authorizes collective bargaining representatives to bring a petition for a workplace violence restraining order on behalf of an employee. The current forms should be revised to reflect the additional potential petitioners and the additional cause for issuance of a restraining order.

Develop recommendations for form revisions to implement AB 92. Under the statute, any person prohibited from possessing firearms is also prohibited from possessing, owning, or buying body armor. This advisement needs to be added to forms in the Domestic Violence, Juvenile, Criminal, Civil Harassment, Elder Abuse, Workplace Violence, School Violence, and Gun Violence form series.

**Out of Cycle:** *If requesting September 1 effective date or out of cycle, explain why:*

**Additional Information for Rules Committee:** (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

This report contains two forms that did not circulate for comment. The committee recommends the forms be adopted without circulation for the following reasons, under Rule 10.22(d)(2).

Form GV-710 is included in the proposal with a technical correction only, to replace an incorrect reference to "respondent" with "petitioner" in the form's instructions.

The recommended revisions to form GV-125 should have been part of the proposal circulated, but were inadvertently omitted. The changes do two things: (1) re-order language to the form to reflect statutory provisions governing gun violence restraining orders that are already in effect. (2) address firearm and body armor prohibitions in the same way as other forms in the proposal that were circulated for comment. The committee received no objections to any such recommended revisions. Thus the revisions to both forms are unlikely to create controversy.

## Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was

☒ reviewed by EGG on *(date)* June 25, 2024

☒ approved by Office Director (or Designee) *(name)* Michael Giden  
on *(date)* July 25, 2024

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **Form Translations** (check all that apply)

This proposal:

☒ includes forms that have been translated.

☐ includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)

☐ includes forms that staff will request be translated.

- **Form Descriptions** (for any report with new or revised forms)

☐ The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

☐ This proposal may require changes or additions to self-help web content.



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-167*

For business meeting on September 20, 2024

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**Title**

Protective Orders: Revisions to Civil Forms  
to Implement New Law

**Rules, Forms, Standards, or Statutes Affected**

Revise forms CH-100, CH-100-INFO,  
CH-109, CH-110, CH-120, CH-120-INFO,  
CH-130, EA-100, EA-100-INFO, EA-109,  
EA-110, EA-120, EA-120-INFO, EA-130,  
EPO-002, GV-020, GV-020-INFO, GV-030,  
GV-100, GV-100-INFO, GV-109, GV-110,  
GV-120, GV-120-INFO, GV-125, GV-130,  
GV-710, SV-100, SV-100-INFO, SV-109,  
SV-110, SV-120, SV-120-INFO, SV-130,  
WV-100, WV-100-INFO, WV-109, WV-  
110, WV-115, WV-116, WV-120,  
WV-120-INFO, WV-130, WV-200,  
WV-250, WV-260, WV-700, WV-710,  
WV-715, WV-716, WV-720, and WV-730

**Recommended by**

Civil and Small Claims Advisory Committee  
Hon. Tamara L. Wood, Chair

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2025

**Date of Report**

July 25, 2024

**Contact**

James Barolo, 415-865-8928  
[james.barolo@jud.ca.gov](mailto:james.barolo@jud.ca.gov)

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### Executive Summary

The Civil and Small Claims Advisory Committee recommends the revision of numerous protective order forms to implement three significant changes to the law. First, changes are needed to all the restraining order form series, including the Gun Violence, Civil Harassment, Elder Abuse, Workplace Violence, and Private Post-Secondary School Violence forms, to implement a new law prohibiting the possession of body armor by those who are prohibited from

possessing firearms. Second, further changes are needed to gun violence restraining order forms to reflect a new law that permits the acquisition of body armor to be considered as evidence in determining whether to issue such a restraining order. Finally, additional changes are needed to certain workplace violence restraining order forms to implement new laws that add harassment as a basis for such orders, permit collective bargaining representatives to petition for orders, and allow the employee who suffered the harassment, violence, or threat of violence to opt out of being named in orders.

## **Recommendation**

The Civil and Small Claims Advisory Committee recommends that the Judicial Council revise the protective order forms listed below, effective January 1, 2025, as follows: (1) add new information concerning body armor prohibitions to all types of protective order forms; (2) revise Gun Violence Restraining Order forms to reflect additional evidence that may be used in hearings on such orders; (3) revise Workplace Violence Restraining Order forms to implement changes to who may petition for a workplace violence restraining order and on what grounds; and (4) provide minor formatting changes as appropriate. All the proposed revisions are in response to recent legislative amendments.

### **Civil Harassment Restraining Order forms**

- *Request for Civil Harassment Restraining Orders* (form CH-100);
- *Can a Civil Harassment Restraining Order Help Me?* (form CH-100-INFO);
- *Notice of Court Hearing* (form CH-109);
- *Temporary Restraining Order* (form CH-110);
- *Response to Request for Civil Harassment Restraining Orders* (form CH-120);
- *How Can I Respond to a Request for Civil Harassment Restraining Orders?* (form CH-120-INFO); and
- *Civil Harassment Restraining Order After Hearing* (form CH-130);

### **Elder or Dependent Adult Abuse Restraining Order forms**

- *Request for Elder or Dependent Adult Abuse Restraining Orders* (form EA-100);
- *Can a Restraining Order to Prevent Elder or Dependent Adult Abuse Help Me?* (form EA-100-INFO);
- *Notice of Court Hearing* (form EA-109);
- *Temporary Restraining Order* (form EA-110);
- *Response to Request for Elder or Dependent Adult Abuse Restraining Orders* (form EA-120);
- *How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?* (form EA-120-INFO); and
- *Elder or Dependent Adult Abuse Restraining Order After Hearing* (form EA-130);

### **Gun Violence Restraining Order forms**

- *Gun Violence Emergency Protective Order* (form EPO-002);
- *Response to Gun Violence Emergency Protective Order* (form GV-020);

- *How Can I Respond to a Gun Violence Emergency Protective Order?* (form GV-020-INFO);
- *Gun Violence Restraining Order After Hearing on EPO-002* (form GV-030);
- *Petition for Gun Violence Restraining Order* (form GV-100);
- *Can a Gun Violence Restraining Order Help Me?* (form GV-100-INFO);
- *Notice of Court Hearing* (form GV-109);
- *Temporary Gun Violence Restraining Order* (form GV-110);
- *Response to Petition for Gun Violence Restraining Order* (form GV-120);
- *How Can I Respond to a Petition for a Gun Violence Restraining Order?* (form GV-120-INFO);
- *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125);
- *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130); and
- *Notice of Hearing on Request to Renew Gun Violence Restraining Order* (form GV-710);

#### **Postsecondary School Violence Restraining Order forms**

- *Petition for Private Postsecondary School Violence Restraining Orders* (form SV-100);
- *How Do I Get an Order to Prohibit Private Postsecondary School Violence?* (form SV-100-INFO);
- *Notice of Court Hearing* (form SV-109);
- *Temporary Restraining Order* (form SV-110);
- *Response to Petition for Private Postsecondary School Violence Restraining Orders* (form SV-120);
- *How Can I Respond to a Petition for Private Postsecondary School Violence Restraining Orders?* (form SV-120-INFO); and
- *Private Postsecondary School Violence Restraining Order After Hearing* (form SV-130);

#### **Workplace Violence Restraining Order forms**

- *Petition for Workplace Violence Restraining Orders* (form WV-100);
- *How Do I Get an Order to Prohibit Workplace Violence?* (form WV-100-INFO);
- *Notice of Court Hearing* (form WV-109);
- *Temporary Restraining Order* (form WV-110);
- *Request to Continue Court Hearing* (form WV-115);
- *Order on Request to Continue Hearing* (form WV-116);
- *Response to Petition for Workplace Violence Restraining Orders* (form WV-120);
- *How Can I Respond to a Petition for Workplace Violence Restraining Orders?* (form WV-120-INFO);
- *Workplace Violence Restraining Order After Hearing* (form WV-130);
- *Proof of Personal Service* (form WV-200);
- *Proof of Service of Response by Mail* (form WV-250);
- *Proof of Service of Order After Hearing by Mail* (form WV-260);
- *Request to Renew Restraining Order* (form WV-700);
- *Notice of Hearing to Renew Restraining Order* (form WV-710);

- *Request to Reschedule Hearing to Renew Restraining Order* (form WV-715);
- *Order to Reschedule Hearing to Renew Restraining Order* (form WV-716);
- *Response to Request to Renew Restraining Order* (form WV-720); and
- *Order Renewing Workplace Violence Restraining Order* (form WV-730).

The recommended revised forms are attached at pages 12–202.

## **Relevant Previous Council Action**

Under the Code of Civil Procedure and the Penal Code, the Judicial Council must provide forms and instructions for use in civil harassment, elder and dependent adult abuse, gun violence, private postsecondary school violence, and workplace violence protective order matters. The forms have been revised when changes to the law required revisions and in response to suggestions from the public, judicial officers, and court professionals. The council last approved substantive changes to such forms in 2023 to clarify the service requirements for respondents who appear remotely in protective order proceedings and to implement new law permitting additional categories of individuals to petition for gun violence restraining orders.

## **Analysis/Rationale**

### **Body armor**

#### ***Background***

Last year, the Legislature enacted Assembly Bill 92 (Stats. 2023, ch. 232),<sup>1</sup> under which a person prohibited from possessing firearms is also prohibited from possessing, owning, or buying body armor.<sup>2</sup> Under AB 92, courts must now advise restrained persons that they are prohibited from possessing, owning, or buying body armor when they are advised of the firearm prohibition.<sup>3</sup> AB 92 affects protective order forms because the governing law of most protective orders provides that upon issuance of the order the restrained person is prohibited from possessing firearms, ammunition, and other items.<sup>4</sup>

Importantly, the statutory prohibitions for body armor use different language than the prohibitions for firearms ammunition. Specifically, Penal Code section 31360 states that a person who “purchases, owns, or possesses” body armor is guilty of a crime. But after the issuance of most protective orders, the restrained person “shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm or ammunition.”<sup>5</sup> Additionally, the new law also requires the prohibited person to relinquish body armor that they possess.<sup>6</sup> However, unlike firearms (and sometimes ammunition), which have statutorily required relinquishment

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<sup>1</sup> AB 92 is available at [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202320240AB92](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB92).

<sup>2</sup> Pen. Code, § 31360(b)(1)–(2).

<sup>3</sup> Pen. Code, § 31360(b)(2).

<sup>4</sup> See e.g., Code Civ. Proc., §§ 527.6(u) & 527.85(s).

<sup>5</sup> *Ibid.*

<sup>6</sup> Pen. Code, § 31360(b)(2).

procedures after the issuance of a protective order, there is no relinquishment procedure for body armor outlined in the statute.

### ***Form changes***

To implement AB 92, the committee recommends new information on protective order forms explaining the new prohibition on possessing, owning, or buying body armor. The format for such information varies based on the form type (i.e., petition, response, notice of hearing, order, and information sheet).<sup>7</sup>

The committee recommends including a new item on the order forms (forms with numbers 30, 110, and 130). The firearm prohibition item on the current forms tracks the relevant statutes by listing the numerous ways the respondent may not possess firearms and other items and by outlining the statutorily prescribed relinquishment process for firearms. Since the statutory language for the new body armor prohibition places far fewer limitations on the respondent and has no specific relinquishment procedure, the committee recommends including a separate item for body armor prohibition on the order forms.<sup>8</sup> See, for example, form CH-110 at item 8.

For the same reasons, the committee also recommends a new body armor item on response forms (forms with numbers 20 and 120). This new recommended item includes specific content related to body armor and follows the structure of the existing firearm prohibition item. The respondent must check boxes stating that they do not have any body armor, that they have relinquished all their body armor, or that they will ask for an exception to keep their body armor. See for example, form CH-120 at item 7.

Current petitions (forms with number 100) and notice of hearing forms (forms with number 109) include a general statement advising of the firearm prohibition and relinquishment procedure if the order is granted. The committee recommends adding a new sentence in this item of the forms advising that if the order is granted, the respondent will also be prohibited from owning, possessing, or buying body armor and must relinquish any that they have. See for example, form CH-100 at item 10.

Most of the current information sheets (forms with identifiers ending in INFO) simply state that the judge can order the respondent to not have firearms and other items. Accordingly, the committee believes that a simple addition of body armor to the list of prohibited items included in the sheet is sufficient. See, for example, CH-100 INFO at page 1. The gun violence restraining order information sheets (forms GV-020-INFO, GV-100-INFO, and GV-120-INFO) are more complicated as they spell out the required relinquishment procedures. Accordingly, the

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<sup>7</sup> The advisory committee worked with the Family and Juvenile Law Advisory Committee and the Criminal Law Advisory Committee to ensure that the language being recommended to implement AB 92 is consistent throughout all the Judicial Council protective order forms, including those in the Domestic Violence, Juvenile, and Criminal form series as well as the ones recommended here.

<sup>8</sup> Form EPO-002 is also an order form and contains the same added language, but given that the current EPO forms are limited to a one-page form as they are designed to be completed by law enforcement in the field, it is not in a new item.



committee recommends that those forms contain a separate sentence stating that the respondent may not own, possess, or buy body armor and if they have any they must relinquish it. See, for example, form GV-100-INFO at page 1.

The Gun Violence forms include one form not contained in the other protective order series, which the committee is also recommending be revised in light of AB 92, *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125). The committee recommends revisions to the form consistent with the other forms in the proposal, including an additional sentence in item 3 advising the respondent of the body armor prohibition and a new item 5 requiring the respondent to state if they have any body armor, whether it has been surrendered, and whether they will seek an exception to retain the body armor.<sup>9</sup>

### **Gun violence evidence**

The Legislature also enacted AB 301 (Stats. 2023, ch. 234)<sup>10</sup> last year, which adds “evidence of acquisition of body armor” as permissible evidence that a court may consider in determining whether grounds for a gun violence restraining order exist. Acquisition of body armor joins seven other types of evidence that the court may consider under Penal Code section 18155(b)(2).

To implement this new law, the committee recommends adding the acquisition of body armor to the existing discussion on *Can a Gun Violence Restraining Order Help Me?* (form GV-100-INFO) regarding how the petitioner can convince the judge to issue the restraining order.<sup>11</sup>

In addition, in reviewing forms to implement AB 301, the committee examined the petition (form GV-100). Item 6 of the form is where the petitioner explains why an order is needed. Current item 6 lists the statements that petitioner must prove for an order to be issued (that respondent poses a danger and less restrictive alternatives to an order are inadequate) and then provides space for facts supporting those statements. The committee believes revisions to this item would be helpful to courts and court users. Specifically, the committee recommends instructing petitioner to explain why an order is needed, including how the respondent poses a danger and why other alternatives are inadequate, and then providing a bulleted list of the evidence that the petitioner can offer to make such showings (including the purchase of body armor, as a result of AB 301).<sup>12</sup>

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<sup>9</sup> The recommended revisions also include minor modifications to the form to reflect that the relevant statutory provision on firearms prohibits a person from “having in his or her custody or control, owning, purchasing, possessing, or receiving any firearms or ammunition” (Pen. Code, § 18100(a)), while the relevant statutory provision on body armor makes a person who “purchases, owns, or possesses” guilty of a misdemeanor (Pen. Code, § 31360(b)(1)). See revisions at items 2 and 4.

<sup>10</sup> AB 301 is available at [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB301](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB301).

<sup>11</sup> The committee also recommends a minor revision to form GV-100-INFO to remove the heading “How can I convince the judge?” because it appears to be redundant with the heading before it.

<sup>12</sup> The committee also recommends a minor revision to form GV-710 to replace an incorrect reference to “respondent” with “petitioner” in the form’s instructions as part of this proposal.

## **Workplace violence restraining orders**

### ***New Law***

The Legislature enacted Senate Bill 428 (Stats. 2023, ch. 286)<sup>13</sup> and SB 553 (Stats. 2023, ch. 289),<sup>14</sup> which make the following three substantive changes to the issuance of workplace violence restraining orders:

- The new laws add a new basis for the issuance of a workplace violence restraining order—an employee suffering “harassment,” as defined in the statute.<sup>15</sup> (Previously, an employee had to suffer unlawful violence or a credible threat of violence.)
- The new laws add statutory provisions permitting an employee’s collective bargaining representative to seek an order. (Previously, only an employer could seek an order.)<sup>16</sup>
- The new legislation requires the petitioner to allow the employee who suffered harassment, violence, or a threat of violence the opportunity to “decline to be named” in the restraining order.<sup>17</sup> However, the employee declining to be named does not prohibit the petitioner from seeking a restraining order “on behalf of other employees at the workplace.”<sup>18</sup>

### ***Form changes***

The committee recommends several form revisions to implement the statutory provisions related to workplace violence restraining orders in SB 428 and SB 553.

Given that the petitioner may now seek an order based on harassment by the respondent, the committee recommends adding a new subitem in item 8a of the petition (form WV-100). The new subitem allows the petitioner to allege that the respondent’s conduct included harassment as described in Code of Civil Procedure section 527.8(b)(4). The committee also recommends adding harassment to the list of wrongful actions that may form the basis for issuing a temporary restraining order on the notice of hearing form (WV-109 in item 5b).

The committee recommends minimal revisions to the form set to implement the new provision permitting a collective bargaining representative to seek an order. Such recommended revisions include: (1) adding “or collective bargaining representative” wherever the employer (petitioner) is mentioned in the forms, (2) asking for the union name on the petition (form WV-100) if the

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<sup>13</sup> SB 428 is available at [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB428](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB428).

<sup>14</sup> SB 553 is available at [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB553](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB553).

<sup>15</sup> Code Civ. Proc., §§ 527.8(a) & (b)(4).

<sup>16</sup> Code Civ. Proc., § 527.8(a).

<sup>17</sup> Code Civ. Proc., § 527.8(e).

<sup>18</sup> *Ibid.*

petitioner is a collective bargaining representative,<sup>19</sup> and (3) including additional statutory requirements for the collective bargaining representative petitioner on the information sheet (form WV-100-INFO).

Finally, the committee recommends the following form revisions to implement the new statutory provision permitting the employee who suffered harassment, violence, or threat of violence to opt out of being named in the restraining order:

- Change the references to “employee in need of protection” to “employee who suffered harassment, violence, or threat of violence” on the petition (form WV-100), proofs of service (forms WV-200, WV-250, and WV-260), and renewal forms (forms WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730).<sup>20</sup> In a similar vein, the committee recommends the reference read “employee who petitioner asserts suffered harassment, violence, or threat of violence” be used on the notice of hearing (form WV-109) and response (form WV-120).
- Revise the order form (form WV-130) to make renumbered item 14 concerning free service optional as free service may not be available where the basis for the order was harassment and not violence or stalking.
- Eliminate references to “additional protected persons” wherever it appears in the Workplace Violence forms and instead refer only to “protected persons.”
- Revise the orders (forms WV-110 and WV-130) to include a single item for protected persons (rather than separate items for “Employee (protected person)” and “Additional protected persons” (who under the new law may be the only protected persons named in the order), and similarly reformat the stay-away order items to reference the protected persons rather than the “employee.”

### **Policy implications**

The revised forms in this proposal implement new law enacted by the Legislature. Accordingly, the key policy implications for those changes are ensuring that council forms reflect the law correctly and are not misleading to parties. The recommended form revisions implementing the new body armor prohibition are designed to be consistent with statutory language and other Judicial Council protective orders to promote uniformity across forms and make them more accessible and understandable.

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<sup>19</sup> The committee recommends removing the information about the employer’s type of entity from item 1 of the petition, as the information sheet mentions that a corporation-petitioner must be represented by an attorney.

<sup>20</sup> The committee notes that it reads new Code of Civil Procedure section 527.8(e) to permit the employee who suffered harassment, violence, or a threat of violence to be named in pleadings in order for parties to be able to establish or deny the basis for the restraining order to be issued even if that employee opts out of being named in the order.

## Comments

This proposal, with the exception of forms GV-125 and GV-710, circulated for public comment from April 2 to May 3, 2024. The committee received 11 comments. Three of the comments were from courts, one comment was from the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee, two comments were from different divisions of the California Department of Justice, one comment was from a gun violence prevention organization, one comment was from a county bar association, and the other three comments were from individuals.<sup>21</sup> Overall, the commenters agreed with the proposal (or indicated the proposal appropriately addressed the stated purpose) and did not take issue with how the committee recommended that the new laws be implemented on the forms. Some commenters suggested substantive changes to the forms, which are discussed below.

The revision to form GV-710 is a technical correction, and the revisions to form GV-125 (discussed below) are minor changes unlikely to create controversy. With approval of the Rules Committee, circulation for comment is not required for these forms under rule 10.22(d)(2).

### *Gun violence*

One commenter noted that the committee did not propose revising *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125) in the invitation to comment and suggested that the committee revise it to include the new body armor prohibition. The committee agrees that the form was overlooked and should be included in this set of recommendations.

Although form GV-125 was not circulated for public comment, the committee believes adoption without circulation is appropriate as the recommended revisions to the form either (1) add language regarding body armor prohibitions similar to that included in the forms that were circulated for comment (and not objected to) or (2) make minor changes to reflect statutory provisions already in effect and which will make the form conform to the other GV forms previously adopted by the council. These changes are therefore minor substantive changes unlikely to create controversy, and can be adopted without circulation under California Rules of Court, rule 10.22(d).

Another commenter raised several issues with *Gun Violence Restraining Order After Hearing on EPO-002* (form GV-030) and *Temporary Gun Violence Restraining Order* (form GV-110).

First, the structure of item 5 in form GV-030 suggests that subitems a(3) (that the restrained person possesses firearms) and a(4) (additional reasons that establish sufficient grounds for an order) are court findings, but the statute does not require such findings.<sup>22</sup> The committee

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<sup>21</sup> One individual made two comments that primarily concern the details of a specific case and do not address any of the issues in the proposal.

<sup>22</sup> Pen. Code, §§ 18148 & 18175.

recommends revising the hierarchy to clarify that such items are not court findings. Such a change is consistent with the structure of forms GV-110 and GV-130.<sup>23</sup>

Second, item 5b on form GV-030 is used when an order is not being issued, that is, when the request for protective order has been denied. But the form states, “This is a Court Order,” and item 6 (which is not optional, and so part of the order) states that the respondent is prohibited from possessing firearms. Given the order language and mandatory firearm prohibition item, the committee recommends deleting item 5b from the form. The committee understands that courts typically do not use order forms to deny petitions, but instead include denial information in the court’s minutes, so do not foresee an impact from this removal.

Finally, the first sentence of item 6c on form GV-110 states there is credible evidence that the respondent possesses prohibited items. The committee believes this statement was inadvertently included on the form as such possession is not a requisite finding for the issuance of a temporary gun violence restraining order,<sup>24</sup> and the sentence is not included on other order forms. The committee thus recommends removing it.

### ***Workplace violence***

In the invitation for comment, the committee requested specific comment on a proposed revision to revise item 5 of the order after hearing (form WV-130), to eliminate the subitems which are used to state whether the employee who has suffered harassment, violence, or threat of violence, and their attorney attended the hearing. Three commenters responded on this issue, two of whom said the information should be included to keep the forms consistent with other restraining order forms.

However, the committee concludes that item 5 is clearer without separate subitems for the employee who suffered harassment, violence, or threat of violence, and their attorney, particularly because that individual or individuals are not the petitioners. Some requests for workplace violence restraining orders are based on threats to multiple employees, who may appear at the hearing as witnesses. These employees are not parties to the case. Accordingly, the committee recommends that item 5 of form WV-130 identify the *parties* (the petitioner, who will be the employer or the collective bargaining representative, and the respondent) and having any witnesses (including employees who suffered harassment, violence, or threat of violence) be identified in Attachment 5b.

Recognizing that threats, violence, or harassment to multiple employees may establish the basis for a workplace restraining order, the committee also recommends adding an additional check

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<sup>23</sup> In reviewing this item and similar items on other forms, the committee believes the forms could benefit from rewording the subitem concerning additional reasons that establish sufficient grounds for an order. The committee will endeavor to revise these items on other forms at a later time with the benefit of public comment.

<sup>24</sup> Pen. Code, § 18150(b).

box to item 2 of form WV-100 (the petition) so the petitioner can provide the names of all such employees and whether they decline to be named as protected persons in a restraining order.

A chart of all the comments received and the committee's responses is attached at pages 203–216.

### **Alternatives considered**

In implementing the new body armor prohibition, the committee considered providing more guidance on how “relinquishment” can be satisfied (e.g., a deadline, who to give it to, whether destruction of body armor qualifies). However, the committee decided against this approach as the statute does not define relinquishment or provide a framework for compliance.

The committee did not consider not proposing changes as all the changes in this proposal are required to reflect a recent change in law.

### **Fiscal and Operational Impacts**

The impacts from this proposal are the result of the changes in legislation. The committee anticipates that this proposal would require courts to train court staff and judicial officers on the revised forms that reflect the new law. Courts will also incur costs to incorporate the revised forms into the paper or electronic processes.

### **Attachments and Links**

1. Forms CH-100, CH-100-INFO, CH 109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-125, GV-130, GV-710, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730, at pages 12–202
2. Chart of comments, at pages 203–216
3. Link A: AB 92,  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202320240AB92](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB92)
4. Link B: AB 301,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB301](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB301)
5. Link C: SB 428,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB428](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB428)
6. Link C: SB 553,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB553](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB553)

Read *Can a Civil Harassment Restraining Order Help Me?* (form [CH-100-INFO](#)) before completing this form. Also fill out *Confidential CLETS Information* (form [CLETS-001](#)) with as much information as you know.

**DRAFT**  
**2024-01-22**  
**Not approved by**  
**the Judicial Council**  
**TEST**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

### 1 Person Seeking Protection

a. Your Full Name:

Age: \_\_\_\_\_

Your Lawyer (if you have one for this case)

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

### 2 Person From Whom Protection Is Sought

Full Name: \_\_\_\_\_ Age: \_\_\_\_\_

Address (if known): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

### 3 Additional Protected Persons

a. Are you asking for protection for any other family or household members? ☐ Yes ☐ No If yes, list them:

Full Name

Gender

Age

Lives with you?

How are they related to you?

_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

☐ Check here if there are more persons. Attach a sheet of paper and write "Attachment 3a—Additional Protected Persons" for a title. You may use form [MC-025](#), Attachment.

b. Why do these people need protection? (Explain below):

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 3b—Why Others Need Protection" for a title.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**This is not a Court Order.**

**4 Relationship of Parties**

How do you know the person in (2)? (Explain below):

- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 4—Relationship of Parties" for a title.

**5 Venue**

Why are you filing in this county? (Check all that apply):

- a. ☐ The person in (2) lives in this county.  
 b. ☐ I was harassed by the person in (2) in this county.  
 c. ☐ Other (specify): \_\_\_\_\_

**6 Other Court Cases**

- a. Have you or any of the persons named in (3) been involved in another court case with the person in (2)?

☐ Yes ☐ No (If yes, check each kind of case and indicate where and when each was filed.)

Kind of Case	Filed in (County/State)	Year Filed	Case Number (if known)
(1) <input type="checkbox"/> Civil Harassment	_____	_____	_____
(2) <input type="checkbox"/> Domestic Violence	_____	_____	_____
(3) <input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(4) <input type="checkbox"/> Paternity, Parentage, Child Custody	_____	_____	_____
(5) <input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(6) <input type="checkbox"/> Eviction	_____	_____	_____
(7) <input type="checkbox"/> Guardianship	_____	_____	_____
(8) <input type="checkbox"/> Workplace Violence	_____	_____	_____
(9) <input type="checkbox"/> Small Claims	_____	_____	_____
(10) <input type="checkbox"/> Criminal	_____	_____	_____
(11) <input type="checkbox"/> Other (specify): _____	_____	_____	_____

- b. Are there now any protective or restraining orders in effect relating to you or any of the persons in (3) and the person in (2)? ☐ No ☐ Yes (If yes, attach a copy if you have one.)

**7 Description of Harassment**

Harassment means violence or threats of violence against you, or a course of conduct that seriously alarmed, annoyed, or harassed you and caused you substantial emotional distress. A course of conduct is more than one act.

- a. Tell the court about the last time the person in (2) harassed you.

(1) When did it happen? (provide date or estimated date): \_\_\_\_\_

(2) Who else was there? \_\_\_\_\_

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**This is not a Court Order.**





- 7** a. (3) How did the person in **2** harass you? *(Explain below):*
- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7a(3)—Describe Harassment" for a title.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (4) Did the person in **2** use or threaten to use a gun or any other weapon?
- ☐ Yes ☐ No *(If yes, explain below):*
- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7a(4)—Use of Weapons" for a title.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (5) Were you harmed or injured because of the harassment?
- ☐ Yes ☐ No *(If yes, explain below):*
- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7a(5)—Harm or Injury" for a title.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (6) Did the police come? ☐ Yes ☐ No
- If yes, did they give you or the person in **2** an Emergency Protective Order? ☐ Yes ☐ No
- If yes, the order protects *(check all that apply):*
- ☐ Me ☐ The person in **2** ☐ The persons in **3**.
- (Attach a copy of the order if you have one.)*
- b. Has the person in **2** harassed you at other times?
- ☐ Yes ☐ No *(If yes, describe prior incidents and provide dates of harassment below):*
- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7b—Previous Harassment" for a title.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**This is not a Court Order.**



**Check the orders you want. ☒****8 ☐ Personal Conduct Orders**

I ask the court to order the person in (2) **not** to do any of the following things to me or to any person to be protected listed in (3) :

- a. ☐ Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
- b. ☐ Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
- c. ☐ Other (specify):  
☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8c—Other Personal Conduct Orders," for a title.
- \_\_\_\_\_
- \_\_\_\_\_

*The person in (2) will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.*

**9 ☐ Stay-Away Orders**

- a. I ask the court to order the person in (2) to stay at least \_\_\_\_\_ yards away from (check all that apply):

- |   |   |
|---|---|
| (1) <input type="checkbox"/> Me.                                | (8) <input type="checkbox"/> My vehicle.      |
| (2) <input type="checkbox"/> The other persons listed in (3).   | (9) <input type="checkbox"/> Other (specify): |
| (3) <input type="checkbox"/> My home.                           | _____   |
| (4) <input type="checkbox"/> My job or workplace.               | _____   |
| (5) <input type="checkbox"/> My school.                         | _____   |
| (6) <input type="checkbox"/> My children's school.              | _____   |
| (7) <input type="checkbox"/> My children's place of child care. | _____   |

- b. If the court orders the person in (2) to stay away from all the places listed above, will he or she still be able to get to his or her home, school, or job? ☐ Yes ☐ No (If no, explain below):  
☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 9b—Stay-Away Orders," for a title.
- \_\_\_\_\_
- \_\_\_\_\_

**10 ☐ Firearms (Guns), Firearm Parts, and Ammunition**

Does the person in (2) own or possess any firearms (guns), firearm parts, or ammunition? This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). ☐ Yes ☐ No ☐ I don't know

*If the judge grants a protective order, the person in (2) will be prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive firearms (guns), firearm parts, and ammunition while the protective order is in effect. The person in (2) will also be ordered to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts within their immediate possession or control. If an order is granted, the person in (2) will also be prohibited from owning, possessing, or buying body armor and would have to relinquish any they have.*

**This is not a Court Order.**



**11** ☐ **Temporary Restraining Order**

I request that a Temporary Restraining Order (TRO) be issued against the person in ② to last until the hearing. I am presenting form CH-110, *Temporary Restraining Order*, for the court's signature together with this *Request*.

Has the person in ② been told that you were going to go to court to seek a TRO against him or her?

☐ Yes ☐ No (If you answered no, explain why below):

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 11—Temporary Restraining Order" for a title.

**12** ☐ **Request to Give Less Than Five Days' Notice of Hearing**

You must have your papers personally served on the person in ② at least five days before the hearing, unless the court orders a shorter time for service. (Form CH-200-INFO explains What Is "Proof of Personal Service"? Form CH-200, Proof of Personal Service, may be used to show the court that the papers have been served.)

If you want there to be fewer than five days between service and the hearing, explain why below:

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 12—Request to Give Less Than Five Days' Notice" for a title.

**13** ☐ **No Fee for Filing or Service**

- a. ☐ There should be no filing fee because the person in ② has used or threatened to use violence against me, has stalked me, or has acted or spoken in some other way that makes me reasonably fear violence.
- b. ☐ The sheriff or marshal should serve (notify) the person in ② about the orders for free because my request for orders is based on unlawful violence, a credible threat of violence, or stalking.
- c. ☐ There should be no filing fee and the sheriff or marshal should serve the person in ② for free because I am entitled to a fee waiver. (You must complete and file form FW-001, Application for Waiver of Court Fees and Costs.)

**14** ☐ **Lawyer's Fees and Costs**

I ask the court to order payment of my ☐ lawyer's fees ☐ Court costs.

The amounts requested are:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
	\$		\$
	\$		\$
	\$		\$

☐ Check here if there are more items. Put the items and amounts on the attached sheet of paper or form MC-025 and write "Attachment 14—Lawyer's Fees and Costs" for a title.

**This is not a Court Order.**



**15** ☐ **Possession and Protection of Animals**

I ask the court to order the following:

- a. ☐ That I be given the sole possession, care, and control of the animals listed below, which I own, possess, lease, keep, or hold, or which reside in my household.

*(Identify animals by, e.g., type, breed, name, color, sex.)*

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I request sole possession of the animals because *(specify good cause for granting order)*:

- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 15a—Possession of Animals" for a title.

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- b. ☐ That the person in **(2)** must stay at least \_\_\_\_\_ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

**16** ☐ **Additional Orders Requested**I ask the court to make the following additional orders *(specify)*:

- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 16—Additional Orders Requested," for a title.

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**17** Number of pages attached to this form, if any: \_\_\_\_\_

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

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*Lawyer's name (if any)*


---

*Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

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

---

*Type or print your name*

---

*Sign your name***This is not a Court Order.**

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

## What is a civil harassment restraining order?

It is a court order that helps protect people from harassment.

## Can I get a civil harassment restraining order?

You can ask for one if you are worried about your safety because someone:

- Is harassing you
- Is stalking you
- Has committed acts of violence against you, or
- Has threatened you with violence

## How will the order help me?

The court can order a person to:

- Not harass or threaten you
- Not contact or go near you, *and*
- Not have any firearms (guns), firearm parts, ammunition, **or body armor**. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items a restrained person cannot have, please see [selfhelp.courts.ca.gov/restraining-orders/prohibited-items](https://selfhelp.courts.ca.gov/restraining-orders/prohibited-items).

You can also ask for protection for people who live with you and family members.

In a civil harassment case, the court cannot:

- Order a person to move out of your residence
- Order a person to pay child support to you
- Make orders for custody and visitation

If you need these orders, you should proceed under the Domestic Violence Protection Act. File form [DV-100](#).

The court also cannot:

- Order a person to pay money that he or she owes you
- Order someone to move out of rental property that you own
- Order someone to stop creating a nuisance that doesn't involve harassment

If you need these remedies, you must file a civil action.

## How much does it cost?

That depends on the type of harassment. If the restrained person has used or threatened to use violence against you or has stalked you, you do not have to pay a filing fee; otherwise, you must pay the fee.

If you cannot afford to pay the filing fee, ask the clerk how to apply for a fee waiver. Form [FW-001](#) is available for this purpose.

If the order is based on prior acts of violence, a credible threat of violence, or stalking, you are entitled to free service of the order by a sheriff or marshal. Also, if you are eligible for a fee waiver, you can ask the sheriff or marshal to serve the order for free. If you are not eligible for free service, you may pay the sheriff or marshal to serve the order.

## What forms do I need to get the order?

You must fill out all of form [CH-100](#), *Request for Civil Harassment Restraining Orders*, and form [CLETS-001](#) *Confidential CLETS Information*. If you need attachments, you may use form [MC-025](#). You must also fill out items 1 and 2 on form [CH-109](#), *Notice of Court Hearing*, and items 1, 2, and 3 on form [CH-110](#), *Temporary Restraining Order (CLETS-TCH)*.

## Where can I get these forms?

You can get the forms from legal publishers or from the California Courts website at [www.courts.ca.gov/forms](https://www.courts.ca.gov/forms). You also may be able to find them at your local courthouse or county law library.

## What do I need to do to get the order?

You must go to the superior court in the county where the harassment took place or the person to be restrained lives. At the court, ask where you should file your request for a civil harassment restraining order. (A self-help center or legal aid association may be able to assist you in filing your request.)

At the court, give your forms to the clerk of the court. The clerk will give you a hearing date on the *Notice of Court Hearing* form, and if your request for immediate orders is granted, a copy of the *Temporary Restraining Order* signed by a judicial officer.



### How soon can I get the order?

If you ask for a temporary restraining order, the court will decide within 24 hours whether or not to make the order. Sometimes the court decides sooner. Ask whether you should wait or come back later to get the signed *Notice of Court Hearing and Temporary Restraining Order*.

### How long does the order last?

If the court makes a temporary order, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. The order could last for up to five years.

### How will the person to be restrained know about the order?

Someone age 18 or older—**not you** or anyone else to be protected by the order—must “serve” (give) the person to be restrained a copy of the order. The server must then fill out form [CH-200](#), *Proof of Personal Service*, and give it to you to file with the court. For help with service, ask the court clerk for form [CH-200-INFO](#), *What Is “Proof of Personal Service?”*

### What if the restrained person does not obey the order?

Call the police. The restrained person can be arrested and charged with a crime.

### Do I have to go to court?

Yes. Go to court on the date the clerk gives you.

### Do I need to bring a witness to the court hearing?

Witnesses are not required, but it helps to have more proof of the harassment than just your word. You can bring:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, emails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use form [MC-030](#), *Declaration*, for this.)

### Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

### Will I see the restrained person at the court hearing?

If the person comes to the hearing, yes. But that person does not have the right to speak to you. If you are afraid, tell the court officer.

### Can I bring someone with me to court?

Yes. You can bring someone to sit with you during the hearing. But that person cannot speak for you in court. Only you or your lawyer (if you have one) can speak for you.

CH-109 Notice of Court Hearing		Clerk stamps date here when form is filed.
<b>1 Person Seeking Protection</b> a. Your Full Name: _____ Your Lawyer (if you have one for this case): Name: _____ State Bar No.: _____ Firm Name: _____ b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.) Address: _____ City: _____ State: _____ Zip: _____ Telephone: _____ Fax: _____ Email Address: _____		Fill in court name and street address: Superior Court of California, County of _____ Court fills in case number when form is filed. Case Number: _____
<b>2 Person From Whom Protection Is Sought</b> Full Name: _____ The court will complete the rest of this form.		
<b>3 Notice of Hearing</b> A court hearing is scheduled on the request for restraining orders against the person in (2): Name and address of court if different from above: _____ Hearing Date: _____ Date: _____ Time: _____ Dept.: _____ Room: _____		
To the person in (2): • If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order. • If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.		
<b>4 Temporary Restraining Orders</b> (Any orders granted are on form CH-110, served with this notice.) a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form CH-100, <i>Request for Civil Harassment Restraining Orders</i> , are (check only one box below): (1) <input type="checkbox"/> All GRANTED until the court hearing. (2) <input type="checkbox"/> All DENIED until the court hearing. (Specify reasons for denial in b, below.) (3) <input type="checkbox"/> Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)		

Judicial Council of California, www.courts.ca.gov  
Rev. January 1, 2020, Mandatory Form  
Code of Civil Procedure, § 527.6  
Approved by DOJ

**Notice of Court Hearing  
(Civil Harassment Prevention)**

CH-109, Page 1 of 3  
➔

**What if I have a disability?**

If you have a disability and need an accommodation while you are at court, you can use form [MC-410](#), *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO](#), *How to Request a Disability Accommodation for Court*.

**Information about the process is also available online.**

See [selfhelp.courts.ca.gov/CH-restraining-order](https://selfhelp.courts.ca.gov/CH-restraining-order).

**For help in your area, contact:**

*[Local information may be inserted.]*

**What if I don't speak English?**

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300](#), *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to [selfhelp.courts.ca.gov/request-interpreter](https://selfhelp.courts.ca.gov/request-interpreter).

**Can I agree with the restrained person to cancel the order?**

No. Once the order is issued, only the judge can change or cancel it. You or the restrained person would have to file a request with the court to cancel the order.



**DRAFT**  
**2024-01-22**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

**1 Person Seeking Protection**

a. Your Full Name: \_\_\_\_\_

Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address *(If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)*

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

**2 Person From Whom Protection Is Sought**

Full Name: \_\_\_\_\_

*The court will complete the rest of this form.***3 Notice of Hearing****A court hearing is scheduled on the request for restraining orders against the person in ②:**

Name and address of court if different from above:

Hearing  
Date

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

**To the person in ②:**

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

**4 Temporary Restraining Orders** *(Any orders granted are on form CH-110, served with this notice.)*

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form CH-100, *Request for Civil Harassment Restraining Orders*, are (check only one box below):

(1) ☐ All **GRANTED** until the court hearing.(2) ☐ All **DENIED** until the court hearing. *(Specify reasons for denial in b, below.)*(3) ☐ Partly **GRANTED** and partly **DENIED** until the court hearing. *(Specify reasons for denial in b, below.)*



b. Reasons for denial of some or all of those personal conduct and stay-away orders as requested in form CH-100, *Request for Civil Harassment Restraining Orders*, are:

(1) ☐ The facts as stated in form CH-100 do not sufficiently show acts of violence, threats of violence, or a course of conduct that seriously alarmed, annoyed, or harassed the person in ① and caused substantial emotional distress.

(2) ☐ Other (*specify*): ☐ As stated on Attachment 4b.


## ⑤ Confidential Information Regarding Minor

a. ☐ A request to keep minor's information confidential was made (see form CH-160) and **GRANTED**. (*See form CH-165, Order on Request to Keep Minor's Information Confidential, served with this form.*)

b. **If the request was granted, the information described in item ⑦ on the order (form CH-165) must be kept CONFIDENTIAL. The disclosure or misuse of the information is punishable as a sanction, with a fine of up to \$1,000 or other court penalties.**

## ⑥ Service of Documents for the Person in ①

At least ☐ five ☐ \_\_\_\_\_ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court's file-stamped copy of this form CH-109 to the person in ② along with a copy of all the forms indicated below:

a. CH-100, *Request for Civil Harassment Restraining Orders* (file-stamped)

b. ☐ CH-110, *Temporary Restraining Order* (file-stamped) **IF GRANTED**

c. CH-120, *Response to Request for Civil Harassment Restraining Orders* (blank form)

d. CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?*

e. ☐ CH-170, *Notice of Order Protecting Information of Minor* and CH-165, *Order on Request to Keep Minor's Information Confidential* (file-stamped) **IF GRANTED**

f. ☐ Other (*specify*): \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*



**To the Person in ① :**

- The court cannot make the restraining orders after the court hearing unless the person in ② has been personally given (served) a copy of your request and any temporary orders. To show that the person in ② has been served, the person who served the forms must fill out a proof of service form. Form CH-200, *Proof of Personal Service*, may be used.
- For information about service, read form CH-200-INFO, *What Is "Proof of Personal Service"?*
- You may ask to reschedule the hearing if you are unable to find the person in ② and need more time to serve the documents, or for other good reasons. Read form CH-115-INFO, *How to Ask for a New Hearing Date*.
- You must attend the hearing if you want the judge to make any of the orders you requested on form CH-100, *Request for Civil Harassment Restraining Orders*. Bring any evidence or witnesses you have. For more information, read form CH-100-INFO, *Can a Civil Harassment Restraining Order Help Me?*

**To the Person in ② :**

- If you want to respond to the request for orders in writing, file form CH-120, *Response to Request for Civil Harassment Restraining Orders*, and have someone age 18 or older—**not you or anyone to be protected**—mail it to the person in ①.
- The person who mailed the form must fill out a proof of service form. Form CH-250, *Proof of Service by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may make restraining orders against you that could last up to five years and may order you to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). **If an order is granted, you will also be prohibited from owning, possessing, or buying body armor and will have to relinquish any body armor you have.**
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Read form CH-115-INFO, *How to Ask for a New Hearing Date*.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Disability Accommodation Request* (form [MC-410](#)). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

**—Clerk's Certificate—**

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Clerk's Certificate  
[seal]

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

Clerk, by \_\_\_\_\_, Deputy

Person in ① must complete items ①, ②, and ③ only.

**DRAFT**  
**2024-01-23**  
**Not approved by**  
**the Judicial Council**

### ① Protected Person

- a. Your Full Name: \_\_\_\_\_  
Your Lawyer (if you have one for this case):  
Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Firm Name: \_\_\_\_\_
- b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.):  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email Address: \_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Court fills in case number when form is filed.

Case Number: \_\_\_\_\_

### ② Restrained Person

(Give all the information you know. Information with a star (\*) is required to add this order to the California police database. If age is unknown, give an estimate.)

\*Full Name: \_\_\_\_\_ \*Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
\*Race: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_  
\*Gender: ☐ M ☐ F ☐ Nonbinary Home Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Relationship to Protected Person: \_\_\_\_\_

### ③ ☐ Additional Protected Persons

In addition to the person named in ①, the following family or household members of that person are protected by the temporary orders indicated below:

Full Name	Gender	Age	Household Member?	Relation to Protected Person
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

☐ Check here if there are additional persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

### ④ Expiration Date

The court will complete the rest of this form.

This Order expires at the end of the hearing scheduled for the date and time below:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m. ☐ p.m.

**This is a Court Order.**



- 7 b. Prohibited items are:**
- (1) Firearms (guns);
  - (2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
  - (3) Ammunition.
- c. You must:
- (1) Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control. This must be done within 24 hours of being served with this Order.
  - (2) File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form CH-800) for the receipt.)
- d. ☐ The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

**8 No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**9 Possession and Protection of Animals**

☐ **Not Requested**    ☐ **Denied Until the Hearing**    ☐ **Granted as Follows (specify):**

- a. ☐ The person in **①** is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.  
(Identify animals by, e.g., type, breed, name, color, sex.)

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- b. ☐ The person in **②** must stay at least \_\_\_\_\_ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

**10 Other Orders**

☐ **Not Requested**    ☐ **Denied Until the Hearing**    ☐ **Granted as Follows (specify):**

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- ☐ Additional orders are attached at the end of this Order on Attachment **10**.

**This is a Court Order.**



**To the Person in ① :****11 Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. ☐ The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. ☐ The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. ☐ By the close of business on the date that this Order is made, the person in ① or his or her lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

\_\_\_\_\_

\_\_\_\_\_

- ☐ Additional law enforcement agencies are listed at the end of this Order on Attachment 11.

**12 No Fee to Serve (Notify) Restrained Person ☐ Ordered ☐ Not Ordered**

The sheriff or marshal will serve this Order without charge because:

- a. ☐ The Order is based on unlawful violence, a credible threat of violence, or stalking.
- b. ☐ The person in ① is entitled to a fee waiver.

**13** Number of pages attached to this Order, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*

**Warnings and Notices to the Restrained Person in ②****You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition**

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 7b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in item ⑦ above. The court will require you to prove that you did so.

**Notice Regarding Nonappearance at Hearing and Service of Order**

If you have been personally served with this Temporary Restraining Order and form CH-109, *Notice of Court Hearing*, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this Temporary Restraining Order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item ②.

If this address is not correct or you wish to verify that the Temporary Restraining Order was converted into a restraining order at the hearing without substantive change, or to find out the duration of the order, contact the clerk of the court.

**This is a Court Order.**



## After You Have Been Served With a Restraining Order

- Obey all the orders.
- Read form CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?*, to learn how to respond to this Order.
- If you want to respond, fill out form CH-120, *Response to Request for Civil Harassment Restraining Orders*, and file it with the court clerk. You do not have to pay any fee to file your response if the Request claims that you inflicted or threatened violence against or stalked the person in ①.
- You must have form CH-120 served by mail on the person in ① or that person's attorney. You cannot do this yourself. The person who does the mailing should complete and sign form CH-250, *Proof of Service by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use form MC-030, *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to five years. Tell the judge why you disagree with the orders requested.

## Instructions for Law Enforcement

### Enforcing the Restraining Order

This order is enforceable 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 Restraining and Protective Orders System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

### Start Date and End Date of Orders

This order *starts* on the date next to the judge's signature on page 4. The order *ends* on the expiration date in item ④ on page 1.

### Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

**This is a Court Order.**





## Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person “served” (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the Proof of Service or confirms that the Proof of Service is on file; or
- The restrained person was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

## If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

## Conflicting Orders—Priorities for Enforcement

**If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority** (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 5a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

*(Clerk will fill out this part.)*

*Clerk's Certificate*  
[seal]

### —Clerk's Certificate—

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**



**Use this form to respond to the Request (form CH-100)**

- Read *How Can I Respond to a Request for Civil Harassment Restraining Orders?* (form [CH-120-INFO](#)) to protect your rights.
- Fill out this form and take it to the court clerk.
- Have someone age 18 or older—**not you**—serve the person in ① or his or her lawyer by mail with a copy of this form and any attached pages. (Use form [CH-250](#), Proof of Service by Mail.)

**DRAFT**  
**2024-01-29**  
**Not approved by**  
**the Judicial Council**

**① Person Seeking Protection**Full name of person seeking protection (see form CH-100, item ①):  
\_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Court fills in case number when form is filed.

**Case Number:** \_\_\_\_\_**② Person From Whom Protection Is Sought**

a. Your Name: \_\_\_\_\_

Your Lawyer (if you have one for this case)

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Present your response and any opposition at the hearing. Write your hearing date, time, and place from form CH-109 item ③ here:

**Hearing** → Date: \_\_\_\_\_ Time: \_\_\_\_\_  
**Date** Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

**If you were served with a Temporary Restraining Order, you must obey it until the hearing.** At the hearing, the court may make orders against you that last for up to five years.

**③ ☐ Personal Conduct Orders**

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. (Specify why you disagree in item ⑫ on page 4.)
- c. ☐ I agree to the following orders (Specify below or in item ⑫ on page 4.)
- \_\_\_\_\_
- \_\_\_\_\_

**④ ☐ Stay-Away Orders**

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. (Specify why you disagree in item ⑫ on page 4.)
- c. ☐ I agree to the following orders (specify below or in item ⑫ on page 4):
- \_\_\_\_\_
- \_\_\_\_\_

**5 Additional Protected Persons**

- a. ☐ I agree that the persons listed in item (3) of form CH-100 may be protected by the order requested.
- b. ☐ I do not agree that the persons listed in item (3) of form CH-100 may be protected by the order requested.

**6 Firearms (Guns), Firearm Parts, and Ammunition**

If you were served with form CH-110, *Temporary Restraining Order*, you cannot own or possess any firearms (guns), firearm parts, or ammunition. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). (See item (7) of form CH-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) or firearm parts in your immediate possession or control within 24 hours of being served with form CH-110. You must file a receipt with the court. You may use *Receipt for Firearms and Firearm Parts* (form CH-800) for the receipt.

- a. ☐ I do not own or control any firearms (guns), firearm parts, or ammunition.
- b. ☐ I ask for an exemption from the firearms prohibition under Code of Civil Procedure section 527.9(f) because carrying a firearm is a condition of my employment, and my employer is unable to reassign me to another position where a firearm is unnecessary. (*Explain*):
- ☐ Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 6b—Firearms Surrender Exemption" as a title. You may use form [MC-025](#), Attachment.

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- c. ☐ I have turned in my firearms (guns) and firearm parts to the police or sold them to or stored them with a licensed gun dealer.

A copy of the receipt ☐ is attached. ☐ has already been filed with the court.

**7 No Body Armor**

If you were served with form CH-110, *Temporary Restraining Order*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(*Check all that apply*):

- a. ☐ I do not own or have any body armor.
- b. ☐ I have relinquished all body armor that I have in my possession.
- c. ☐ I was granted an exception, or will ask for an exception, to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (*Attach a copy of the letter granting permission, if you have one.*)



**8** ☐ **Possession and Protection of Animals**

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. *(Specify why you disagree in item 12 on page 4.)*
- c. ☐ I agree to the following orders *(specify below or in item 12 on page 4):*

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**9** ☐ **Other Orders**

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. *(Specify why you disagree in item 12 on page 4.)*
- c. ☐ I agree to the following orders *(specify below or in item 12 on page 4):*

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**10** ☐ **Denial**

I did not do anything described in item 7 of form CH-100. *(Skip to 12.)*

**11** ☐ **Justification or Excuse**

If I did some or all of the things that the person in 1 has accused me of, my actions were justified or excused for the following reasons *(explain)*:

- ☐ Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 11—Justification or Excuse" as a title. You may use form MC-025, Attachment.

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**14** ☐ **Lawyer's Fees and Costs**

- a.
- ☐
- I ask the court to order payment of my
- ☐
- Lawyer's fees
- ☐
- Court costs.

The amounts requested are:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

- ☐
- Check here if there are more items. Put the items and amounts on the attached sheet of paper and write "Attachment 14—Lawyer's Fees and Costs" for a title. You may use form MC-025, Attachment.

- b.
- ☐
- I ask the court to deny the request of the person asking for protection that I pay his or her lawyer's fees and costs.

**15** Number of pages attached to this form, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Lawyer's name (if any)*\_\_\_\_\_  
*Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

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

\_\_\_\_\_  
*Type or print your name*\_\_\_\_\_  
*Sign your name*

**CH-120-INFO****How Can I Respond to a Request for Civil Harassment Restraining Orders?****What is a civil harassment restraining order?**

It is a court order that prohibits you from doing certain things and going to certain places.

**What does the order do?**

The court can order you to:

- Not contact the person who asked for the order
- Stay away from that person and the person's home and workplace
- Not have any firearms (guns), firearm parts, ammunition, or body armor as long as the order is in effect. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items you would not be allowed to have, please see [selfhelp.courts.ca.gov/restraining-orders/prohibited-items](https://selfhelp.courts.ca.gov/restraining-orders/prohibited-items).

**Who can ask for a civil harassment restraining order?**

A person who is worried about safety because he or she has been or is being:

- Stalked
- Harassed
- Assaulted, including sexually, or
- Threatened with violence

**I've been served with a request for civil harassment restraining orders. What do I do now?**

Read the papers served on you very carefully. The *Notice of Court Hearing* tells you when to appear in court. There may also be a *Temporary Restraining Order* forbidding you from doing certain things. You must obey the order until the hearing.

**What if I don't agree with what the order says?**

You still must obey the order until the hearing. If you disagree with the orders the person is asking for, fill out form [CH-120, Response to Request for Civil Harassment Restraining Orders](#), before your hearing date and file it with the court. If you need to include attachments, you can use form [MC-025](#). You can get the forms from legal publishers or from the California Courts website at [www.courts.ca.gov/forms](https://www.courts.ca.gov/forms). Forms may also be at your local courthouse or county law library.

**What if I don't obey the order?**

The police can arrest you. You can go to jail and pay a fine.

**Do I have to serve the other person with a copy of my response?**

Yes. Have someone age 18 or older—**not you**—mail a copy of completed form CH-120 to the person who asked for the order (or that person's lawyer). (This is called "service by mail.")

The person who serves the form by mail must fill out form [CH-250, Proof of Service by Mail](#). Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.

**Should I go to the court hearing?**

Yes. You should go to court on the date listed on form CH-109, *Notice of Court Hearing*. If you do not go to the hearing, the judge can make orders against you without hearing from you.

**CH-109 Notice of Court Hearing**

Clerk stamps date here when form is filed.

**1 Person Seeking Protection**

a. Your Full Name: \_\_\_\_\_

Your Lawyer (if you have one for this case):  
 Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

Fill in court name and street address:  
 Superior Court of California, County of \_\_\_\_\_

Court fills in case number when form is filed.  
 Case Number: \_\_\_\_\_

**2 Person From Whom Protection Is Sought**

Full Name: \_\_\_\_\_

The court will complete the rest of this form.

**3 Notice of Hearing**

A court hearing is scheduled on the request for restraining orders against the person in (2):

Name and address of court if different from above: \_\_\_\_\_

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

To the person in (2):

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

**4 Temporary Restraining Orders** (Any orders granted are on form CH-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form CH-100, *Request for Civil Harassment Restraining Orders*, are (check only one box below):

(1) ☐ All GRANTED until the court hearing.

(2) ☐ All DENIED until the court hearing. (Specify reasons for denial in b, below.)

(3) ☐ Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)

Judicial Council of California, [www.courts.ca.gov](https://www.courts.ca.gov)  
 Rev. January 1, 2025, Optional Form  
 Code of Civil Procedure, § 527.6  
 Approved by DOJ

**Notice of Court Hearing  
(Civil Harassment Prevention)**

CH-109, Page 1 of 3



**How long does the order last?**

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. Any order issued at the hearing can last for up to five years.

**Do I need a lawyer?**

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

**Will I see the person who asked for the order at the court hearing?**

Yes. Assume that the person who is asking for the order will attend the hearing. Do not talk to him or her unless the judge or that person's attorney says that you can.

**Can I bring a witness to the court hearing?**

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. You can use form [MC-030](#) for this.

**Information about the process is also available online.**

See [selfhelp.courts.ca.gov/CH-restraining-order](http://selfhelp.courts.ca.gov/CH-restraining-order).

**For help in your area, contact:**

[Local information may be inserted.]

**What if I don't speak English?**

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to [selfhelp.courts.ca.gov/request-interpreter](http://selfhelp.courts.ca.gov/request-interpreter).

**What if I have a gun?**

If a restraining order is issued, you cannot own, possess, or have a firearm (gun), firearm parts, ammunition, or body armor while the order is in effect. If you have a firearm (gun) or firearm parts in your immediate possession or control, you must sell it to or store it with a licensed gun dealer, or turn it in to a law enforcement agency.

**Can I agree with the protected person to cancel the order?**

No. Once the order is issued, only the judge can change or cancel it. You or the protected person would have to file a request with the court to cancel the order.

**What if I have a disability?**

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

# Civil Harassment Restraining Order After Hearing

Clerk stamps date here when form is filed.

**DRAFT**  
**2024-01-23**  
**Not approved by**  
**the Judicial Council**

Person in ① must complete ①, ②, and ③ only.

## ① Protected Person

a. Your Full Name: \_\_\_\_\_

Your Lawyer (if you have one for this case)

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Court fills in case number when form is filed.

Case Number: \_\_\_\_\_

## ② Restrained Person

(Give all the information you know. Information with a star (\*) is required to add this order to the California police database. If age is unknown, give an estimate.)

\*Full Name: \_\_\_\_\_ \*Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

\*Race: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_

\*Gender: ☐ M ☐ F ☐ Nonbinary Home Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Relationship to Protected Person: \_\_\_\_\_

## ③ ☐ Additional Protected Persons

In addition to the person named in ①, the following family or household members of that person are protected by the orders indicated below:

Full Name	Gender	Age	Lives with you?	How are they related to you?
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

☐ Check here if there are additional persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

## ④ Expiration Date

This Order, except for any award of lawyer's fees, expires at

Time: \_\_\_\_\_ ☐ a.m. ☐ p.m. ☐ midnight on (date): \_\_\_\_\_

If no expiration date is written here, this Order expires three years from the date of issuance.

**This is a Court Order.**





**5 Hearing**

- a. There was a hearing on *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
*(Name of judicial officer)*: \_\_\_\_\_ made the orders at the hearing.
- b. These people were at the hearing:
- (1) ☐ The person in ①. (3) ☐ The lawyer for the person in ① *(name)*: \_\_\_\_\_
- (2) ☐ The person in ②. (4) ☐ The lawyer for the person in ② *(name)*: \_\_\_\_\_
- ☐ Additional persons present are listed at the end of this Order on Attachment 5.
- c. ☐ The hearing is continued. The parties must return to court on *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_.

**To the Person in ②:**

**The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.**

**6 ☐ Personal Conduct Orders**

- a. You must **not** do the following things to the person named in ①
- ☐ and to the other protected persons listed in ③:
- (1) ☐ Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
- (2) ☐ Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
- (3) ☐ Take any action to obtain the person's address or location. If this item (3) is not checked, the court has found good cause not to make this order.
- (4) ☐ Other *(specify)*: \_\_\_\_\_
- ☐ Other personal conduct orders are attached at the end of this Order on Attachment 6a(4).
- b. Peaceful written contact through a lawyer or process server or other person for service of legal papers related to a court case is allowed and does not violate this Order.

**7 ☐ Stay-Away Orders**

- a. You **must** stay at least \_\_\_\_\_ yards away from *(check all that apply)*:
- (1) ☐ The person in ①. (7) ☐ The place of child care of the children of the person in ①.
- (2) ☐ Each person in ③.
- (3) ☐ The home of the person in ①. (8) ☐ The vehicle of the person in ①.
- (4) ☐ The job or workplace of the person in ①. (9) ☐ Other *(specify)*: \_\_\_\_\_
- (5) ☐ The school of the person in ①. \_\_\_\_\_
- (6) ☐ The school of the children of the person in ①. \_\_\_\_\_
- b. This stay-away order does not prevent you from going to or from your home or place of employment.

**This is a Court Order.**

**8 No Firearms (Guns), Firearm Parts, or Ammunition**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed below in b.
- b. **Prohibited items are:**
- (1) Firearms (guns);
  - (2) Firearm parts, meaning receivers and frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
  - (3) Ammunition.
- c. If you have not already done so, you must:
- Within 24 hours of being served with this Order, sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your custody or control or that you possess or own.
  - File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form CH-800) for the receipt.)
- d. ☐ The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.
- e. ☐ The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in (2) is not required to relinquish this firearm (*specify make, model, and serial number of firearm(s)*): \_\_\_\_\_

The firearm must be in the physical possession of the person in (2) only during scheduled work hours and during travel to and from their place of employment. Even if exempt under California law, the person in (2) may be subject to federal prosecution for possessing or controlling a firearm.

**9 No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**10 ☐ Lawyer's Fees and Costs**

The person in \_\_\_\_ must pay to the person in \_\_\_\_ the following amounts for

- ☐ lawyer's fees      ☐ costs:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

- ☐ Additional items and amounts are attached at the end of this Order on Attachment 10.

**This is a Court Order.**



**11** ☐ **Possession and Protection of Animals**

- a. ☐ The person in ① is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.

*(Identify animals by, e.g., type, breed, name, color, sex.)*

\_\_\_\_\_

\_\_\_\_\_

- b. ☐ The person in ② must stay at least \_\_\_\_\_ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

**12** ☐ **Other Orders** *(specify):*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- ☐ Additional orders are attached at the end of this Order on Attachment 12.

**To the Person in ①:****13** **Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). *(Check one):*

- a. ☐ The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. ☐ The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. ☐ By the close of business on the date that this Order is made, the person in ① or his or her lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

\_\_\_\_\_

\_\_\_\_\_

- ☐ Additional law enforcement agencies are listed at the end of this Order on Attachment 13.

**14** **Service of Order on Restrained Person**

- a. ☐ The person in ② personally attended the hearing, either physically or remotely (by telephone or videoconference). No other proof of service is needed.
- b. ☐ The person in ② did not attend the hearing.
- (1) ☐ Proof of service of form CH-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are the same as in form CH-110 except for the expiration date. The person in ② must be served with this Order. Service may be by mail.
- (2) ☐ The judge's orders in this form are different from the temporary restraining orders in form CH-110. Someone—but not anyone in ① or ③—must personally serve a copy of this Order on the person in ②.

**This is a Court Order.**

**15** ☐ **No Fee to Serve (Notify) Restrained Person**

The sheriff or marshal will serve this Order without charge because:

- a. ☐ The Order is based on unlawful violence, a credible threat of violence, or stalking.
- b. ☐ The person in **1** is entitled to a fee waiver.

**16** Number of pages attached to this Order, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*

**Warning and Notice to the Restrained Person in 2:****You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition**

Unless item 8e is checked, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 8b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in **8** above. The court will require you to prove that you did so.

**Instructions for Law Enforcement****Enforcing the Restraining Order**

This Order is enforceable 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 Restraining and Protective Order System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing (see **14**), the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

**Start Date and End Date of Orders**

This Order *starts* on the date next to the judge's signature on page 4 and *ends* on the expiration date in **4** on page 1.

**Arrest Required If Order Is Violated**

If an officer has probable cause to believe that the restrained person has notice of the order and has disobeyed it, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

**This is a Court Order.**



## Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person “served” (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was at the restraining order hearing (see 14 ) or was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the order and then enforce it.

## If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

## Conflicting Orders—Priorities for Enforcement

**If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority** (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 6a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Clerk's Certificate  
[seal]

(Clerk will fill out this part.)  
—Clerk's Certificate—

I certify that this *Civil Harassment Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

**Request for Elder or Dependent Adult Abuse Restraining Orders**

Read *Can a Restraining Order to Prevent Elder or Dependent Adult Abuse Help Me?* (form [EA-100-INFO](#)) before completing this form. Also fill out *Confidential CLETS Information* (form [CLETS-001](#)) with as much information as you know.

Clerk stamps date here when form is filed.

**DRAFT**  
**2024-01-23**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**

**1 Elder or Dependent Adult in Need of Protection**

Full Name: \_\_\_\_\_

Gender: ☐ M ☐ F ☐ Nonbinary Age: \_\_\_\_\_

**2 Person From Whom Protection Is Sought**

Full Name: \_\_\_\_\_

Address (if known): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**3 Person Requesting Order**

Who is asking the court for protection? (Check a, b, or c):

a. ☐ The elder or dependent adult named in **1**.

b. ☐ Name: \_\_\_\_\_  
conservator of the ☐ person ☐ estate ☐ person and estate  
of the person named in **1**, appointed by (name of court): \_\_\_\_\_

Case No.: \_\_\_\_\_

c. ☐ Other (name) \_\_\_\_\_  
(Show this person's legal authority to make this request on an attached sheet of paper. Write "Attachment 3c—  
Information About Person Requesting Protective Order" for a title. You may use form [MC-025](#), Attachment.)

**4 Contact Information**

Contact information for the person asking the court for protection

a. Your Lawyer (if you have one for this case)

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. The person in **1** does not have to give telephone, fax, or email.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

**This is not a Court Order.**



**5 Description of Protected Person**

The person named in ① (check a or b):

- a. ☐ Is age 65 or older and a resident of California.
- b. ☐ Is a resident of California and an adult under age 65. This person has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights. (Briefly describe limitations on the attached sheet of paper or form MC-025. Write "Attachment 5b—Description of Protected Person" for a title.)

**6 Additional Protected Persons**

- a. Are you asking for protection for any other family or household members or for the conservator of the elder or dependent adult listed in ①? ☐ Yes ☐ No (If yes, list them):

<u>Full Name</u>	<u>Gender</u>	<u>Age</u>	<u>Relation to person in ①?</u>	<u>Lives with person in ①?</u>
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No

- ☐ Check here if there are more persons. Attach a sheet of paper and write "Attachment 6a—Additional Protected Persons" for a title. You may use form MC-025, Attachment.

- b. Why do these people need protection? (Explain below):

- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 6b—Why Others Need Protection" for a title.

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**7 Relationship of Parties**

How does the person in ① know the person in ②? (Explain below):

- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7—Relationship of Parties" for a title.

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**This is not a Court Order.**



**8 Description of Abuse**

a. Abuse means either:

- (1) Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or
- (2) The withholding by a caretaker of goods or services that are necessary to avoid physical harm or mental suffering.

b. Tell the court about the last time the person in (2) abused the person in (1).

(1) When did it happen? *(Provide date or estimated date):* \_\_\_\_\_

(2) Who else was there?

(3) Describe what happened below.

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8b(3)—Describe Abuse" for a title.

(4) Was the abuse **solely financial abuse** unaccompanied by force, threat, harassment, intimidation, or any other form of abuse?

☐ Yes, only financial abuse. ☐ No, the abuse included other forms of abuse described above.

(5) Did the person in (2) use or threaten to use a gun or any other weapon?

☐ Yes ☐ No *(If yes, explain below):*

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8b(5)—Use of Weapons" for a title.

(6) Was the person in (1) harmed or injured as a result of the acts of abuse described above?

☐ Yes ☐ No *(If yes, explain below):*

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8b(6)—Harm or Injury" for a title.

(7) Did the police come? ☐ Yes ☐ NoIf yes, did they give the person in (1) or the person in (2) an Emergency Protective Order? ☐ Yes ☐ NoIf yes, the order protects *(check all that apply):*

☐ the person in (1) ☐ the person in (2) ☐ the persons in (6).

*(Attach a copy of the order if you have one.)***This is not a Court Order.**



- 8

c.

Is the person in **(2)** a care custodian who deprived the person in **(1)** of (kept from the person, did not allow the person to have or receive, or did not provide the person with) goods or services that the person needed to avoid physical harm or mental suffering? ☐ Yes ☐ No  
*(If yes, describe below what the person was deprived of and how that affected the person):*  
☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write “Attachment 8c—Deprivation by Care Custodian” for a title.

d.

Has the person in **(2)** abused the person in **(1)** at other times?  
☐ Yes ☐ No *(If yes, describe prior incidents and provide dates below):*  
☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write “Attachment 8d—Previous Abuse” for a title.

- 9

Venue

Why are you filing in this county? *(Check all that apply):*  
a. ☐ The person in **(2)** lives in this county.  
b. ☐ The person in **(1)** was abused by the person in **(2)** in this county.  
c. ☐ Other *(specify):*

- 10

Other Court Cases

a. Has the person in **(1)** or any of the persons named in **(6)** been involved in another court case with the person in **(2)**? ☐ No ☐ Yes *(If yes, specify the kind of each case and indicate where and when each was filed):*

Kind of Case	Filed in (County/State)	Year Filed	Case Number (if known)
(1) <input type="checkbox"/> Elder or Dependent Adult Abuse			
(2) <input type="checkbox"/> Civil Harassment			
(3) <input type="checkbox"/> Domestic Violence			
(4) <input type="checkbox"/> Divorce, Nullity, Legal Separation			
(5) <input type="checkbox"/> Paternity, Parentage, Child Custody			
(6) <input type="checkbox"/> Eviction			
(7) <input type="checkbox"/> Guardianship			
(8) <input type="checkbox"/> Workplace Violence			
(9) <input type="checkbox"/> Small Claims			
(10) <input type="checkbox"/> Criminal			
(11) <input type="checkbox"/> Other <i>(specify):</i>			

b. Are there now any protective or restraining orders in effect relating to the person in **(1)** or any of the persons named in **(6)** and the person in **(2)** ? ☐ No ☐ Yes *(If yes, attach a copy if you have one.)*

This is not a Court Order.

**Check the orders you want. ☒****11 ☐ Personal Conduct Orders**

I ask the court to order the person in **(2)** **not** to do any of the following things to the person in **(1)** or to any person to be protected listed in **(6)**:

- a. ☐ Physically abuse, financially abuse, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, harass, destroy the personal property of, or disturb the peace of the person.
  - b. ☐ Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
  - c. ☐ Other (specify):  
☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 11c—Other Personal Conduct Orders" for a title.
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The person in **(2)** will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.

**12 ☐ Stay-Away Orders**

a. I ask the court to order the person in **(2)** to stay at least \_\_\_\_\_ yards away from (check all that apply):

- (1) ☐ The elder or dependent adult in **(1)**.
  - (2) ☐ The persons in **(6)**.
  - (3) ☐ The home of the elder or dependent adult.
  - (4) ☐ The job or workplace of the elder or dependent adult.
  - (5) ☐ The vehicle of the elder or dependent adult.
  - (6) ☐ Other (specify): \_\_\_\_\_
- 
- 

b. If the court orders the person in **(2)** to stay away from all the places listed above, will he or she still be able to get to his or her home, school, or job? ☐ Yes ☐ No (If no, explain below):

- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 12b—Stay-Away Orders" for a title.
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**This is not a Court Order.**

**13** ☐ **Move-Out Order**

I ask the court to order the person in (2) to move out from and not return to the residence at (address):

The person in (1) will suffer physical or emotional harm if the person in (2) does not leave the residence. The person in (2) is not named in the title or lease of the residence, either alone or with others beside the person in (1).

☐ I ask for this move-out order right away to last until the hearing, because:

- a. The person in (2) assaulted or threatened the person in (1); and
- b. The person in (1) has the right to live at the above residence. (Explain below):

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 13b—My Right to Residence" for a title.

**14** ☐ **Order for Counseling or Anger Management Courses**

**i** This item is only available in instances of alleged physical abuse or deprivation of care, not in cases with only alleged financial abuse.

- a. I request the person in item (2) be ordered by the court to attend clinical counseling or anger management courses provided by a professional (a counselor, psychologist, psychiatrist, therapist, clinical social worker, or mental or behavioral health professional licensed in the State of California to provide counseling or anger management courses).
- b. Explain why you are requesting an order that the person in item (2) attend clinical counseling or anger management courses.

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 14b—Counseling or Anger Management" for a title.

**15** **Firearms (Guns), Firearm Parts, and Ammunition**

Does the person in (2) own or possess any firearms (guns), firearm parts, or ammunition? This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). ☐ Yes ☐ No ☐ I don't know

*Unless the abuse is only financial, if the judge grants a protective order, the person in (2) will be prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive firearms (guns), firearm parts, and ammunition while the protective order is in effect. The person in (2) will also be ordered to turn in to law enforcement, or sell to or store with a gun dealer, any firearms (guns) and firearm parts within their immediate possession or control. If an order is granted, the person in (2) will also be prohibited from owning, possessing, or buying body armor and would have to relinquish any they have.*

**This is not a Court Order.**



**16** ☐ **Temporary Restraining Order**

I request that a Temporary Restraining Order (TRO) be issued against the person in (2) to last until the hearing. I am presenting form EA-110, *Temporary Restraining Order*, for the court's signature together with this *Request*.

Has the person in (2) been told that you were going to go to court to seek a TRO against them?

☐ Yes ☐ No (If you answered no, explain why below):

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 16—Temporary Restraining Order" for a title.

**17** ☐ **Request to Give Less Than Five Days' Notice of Hearing**

You must have your papers personally served on the person in (2) at least five days before the hearing, unless the court orders a shorter time for service. (Read form EA-200-INFO, What Is "Proof of Personal Service"?, to learn about serving legal papers. Form EA-200, Proof of Personal Service, may be used to show the court that the papers have been served.)

If you want there to be less than five days between service and the hearing, explain why:

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 17—Request to Give Less Than Five Days' Notice" for a title.

**18** ☐ **Debts Caused by Financial Abuse**

You can ask the judge to decide at the hearing that certain debts or bills you have were caused by the person in (2)'s financial abuse. This may help you defend against the debt if you are sued in another case.

a. If you want the judge to make this special finding, list the debts or bills you have that were caused by the person in (2)'s financial abuse.

☐ Check here if you want to list additional debts or bills that were caused by financial abuse. You can attach form MC-025 and write "Attachment 18a—Additional Debts" for a title.

	<u>Money Owed To</u>	<u>For</u>	<u>Amount</u>
(1)	_____	_____	\$ _____
(2)	_____	_____	\$ _____
(3)	_____	_____	\$ _____

b. Describe what the person in (2) did to cause the debts and bills that you listed above. Provide as much detail as you can about the person in (2)'s financial abuse.

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 18b—How Debt Was Incurred" for a title.

**This is not a Court Order.**



**19** ☐ **Lawyer's Fees and Costs**

I ask the court to order payment of my ☐ lawyer's fees ☐ court costs.

The amounts requested are:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

☐ Check here if there are more items. Put the items and amounts on the attached sheet of paper or form MC-025 and write "Attachment 19—Lawyer's Fees and Costs" for a title.

**20** ☐ **Possession and Protection of Animals**

I ask the court to order the following:

- a. ☐ That the person in **(1)** be given the sole possession, care, and control of the animals listed below, which they own, possess, lease, keep, or hold, or which reside in their household.

(Identify animals by, e.g., type, breed, name, color, sex.)

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I request sole possession of the animals because (specify good cause for granting order):

- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 20a—Possession of Animals" for a title.

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- b. ☐ That the person in **(2)** must stay at least \_\_\_\_\_ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

**21** **No Fee to Serve Orders** If you want the sheriff or marshal to serve (notify) the person in **(2)** about the orders for free, ask the court clerk what you need to do.

**This is not a Court Order.**



**22** ☐ **Additional Orders Requested**

I ask the court to make the following additional orders (*specify*):

☐ *Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 22—Additional Orders Requested" for a title.*

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**23** Number of pages attached to this form, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Lawyer's name (if any)*\_\_\_\_\_  
*Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

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

\_\_\_\_\_  
*Type or print your name*\_\_\_\_\_  
*Signature of person making this request***This is not a Court Order.**

## EA-100-INFO

# Can a Restraining Order to Prevent Elder or Dependent Adult Abuse Help Me?

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

## What is a restraining order?

It is a court order that helps protect people from being abused.

## Can I get a restraining order?

If you are a person 65 years or older or a dependent adult, you can ask for a restraining order if you have been or are being:

- Physically abused
- Financially abused
- Mentally or emotionally abused
- Neglected
- Abandoned or abducted
- Isolated, *or*
- Deprived by a caregiver of goods or services you needed to avoid harm or suffering

## How will the order help me?

The court can order a person to:

- Not physically abuse, harass, hit, or threaten you
- Not contact or go near you, *and*
- Not have any firearms (guns), firearm parts, ammunition, **or body armor**. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items a restrained person cannot have, please see [selfhelp.courts.ca.gov/restraining-orders/prohibited-items](https://selfhelp.courts.ca.gov/restraining-orders/prohibited-items).

You can also ask for protection for people who live with you and family members.

## Who can apply for an elder or dependent adult abuse restraining order?

In addition to the elder or dependent adult, the following persons may apply for a restraining order on behalf of the elder or dependent adult:

- A conservator or trustee of the elder or dependent adult
- An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney
- A person appointed as a guardian ad litem for the elder or dependent adult
- Any other person legally authorized to seek such relief.

## How much does it cost?

There is no fee for filing a request for a restraining order.

You do not need to pay a fee for service of the order. A sheriff or marshal will serve the order for free. Or you may arrange for service by a registered process server or a private party and pay any fee that is charged.

The court can make the person who loses the case pay all the court fees and the lawyer's fees for the other party.

## What forms do I need to get the order?

You must fill out all of form [EA-100](#), *Request for Elder or Dependent Adult Abuse Restraining Orders*, and form [CLETS-001](#), *Confidential CLETS Information*. If you need attachments, you may use form [MC-025](#), *Attachment*. You must also fill out items 1 and 2 on form [EA-109](#), *Notice of Court Hearing*, and items 1, 2, and 3 on form [EA-110](#), *Temporary Restraining Order*.

## Where can I get these forms?

You can get the forms from legal publishers or from the California Courts website at [www.courts.ca.gov/forms](https://www.courts.ca.gov/forms).

You also may be able to find them at your local courthouse or county law library.

## What do I need to do to get the order?

You must go to the superior court in the county where the abuse took place or the person to be restrained lives. At the court, ask where you should file your request for a restraining order. (A self-help center or legal aid association may be able to assist you in filing your request.) At the court, give your forms to the clerk of the court. The clerk will give you a hearing date on the *Notice of Court Hearing* form, and if your request for immediate orders is granted, a copy of the *Temporary Restraining Order* signed by a judicial officer.

## How soon can I get the order?

If you ask for a temporary restraining order, the court will decide within 24 hours whether or not to make the order. Sometimes the court decides sooner. Ask whether you should wait or come back later to get the signed *Notice of Court Hearing* and *Temporary Restraining Order*.





**How long does the order last?**

If the court makes a temporary order, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. The order could last for up to five years.

**How will the person to be restrained know about the order?**

Someone age 18 or older—**not you** or anyone else to be protected by the order—must “serve” (give) the person to be restrained a copy of the order. The server must then fill out form [EA-200](#), *Proof of Personal Service*, and give it to you to file with the court. For help with service, ask the court clerk for form [EA-200-INFO](#), *What Is “Proof of Personal Service”?*

**What if the restrained person does not obey the order?**

Call the police. The restrained person can be arrested and charged with a crime.

**Do I have to go to court?**

Yes. Go to court on the date the clerk gives you.

**Do I need to bring a witness to the court hearing?**

Witnesses are not required, but it helps to have more proof of the abuse than just your word. You can bring:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, emails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use form [MC-030](#) for this.)

**Do I need a lawyer?**

Having a lawyer is always a good idea, but it is not required and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

**Will I see the restrained person at the court hearing?**

If the person comes to the hearing, yes. But that person does not have the right to speak to you. If you are afraid, tell the court officer.

**Can I bring someone with me to court?**

Yes. You can bring someone to sit with you during the hearing. But that person cannot speak for you in court. Only you or your lawyer (if you have one) can speak for you.

**What if I don't speak English?**

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300](#), *Request for Interpreter (Civil)* or a local court form or website to request an interpreter. For more information about court interpreters, go to [selfhelp.courts.ca.gov/request-interpreter](http://selfhelp.courts.ca.gov/request-interpreter).

EA-109 Notice of Court Hearing		Clerk stamps date here when form is filed.
<b>1 Elder or Dependent Adult in Need of Protection</b> a. Full Name: _____ <input type="checkbox"/> Person requesting protection for the elder or dependent adult, if different (person named in item 3 of form EA-100): Full Name: _____ Lawyer for person named above (if any for this case): Name: _____ State Bar No.: _____ Firm Name: _____ b. Address for person named above (If you have a lawyer, give your lawyer's information. If you do not have a lawyer, give information for the person requesting the order. If you want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.): Address: _____ City: _____ State: _____ Zip: _____ Telephone: _____ Fax: _____ Email Address: _____		Fill in court name and street address: Superior Court of California, County of _____ Court fills in case number when form is filed. Case Number: _____
<b>2 Person You Want Protection From</b> Full Name: _____ The court will complete the rest of this form.		
<b>3 Notice of Hearing</b> A court hearing is scheduled on the request for restraining orders against the person in 2: Name and address of court if different from above: Hearing Date: _____ Date: _____ Time: _____ Dept.: _____ Room: _____		
To the person in 2: • If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order. • If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.		
<b>4 Temporary Restraining Orders</b> (Any orders granted are on form EA-110, served with this notice.) a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form EA-100, Request for Elder or Dependent Adult Abuse Restraining Orders, are (check only one box below): (1) <input type="checkbox"/> All GRANTED until the court hearing. (2) <input type="checkbox"/> All DENIED until the court hearing. (Specify reasons for denial in b, below.) (3) <input type="checkbox"/> Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)		





**What if the restrained person's abuse caused me to owe money or debts?**

If the restrained person's financial abuse caused you to have certain debts or bills (such as using your name to open a credit card and make purchases that you didn't agree to), you can ask the judge to make a special decision or finding that the restrained person caused you to have the debts or bills. This special finding may be helpful if you are sued for the debts or bills.

**Information about the process is also available online.**

See [selfhelp.courts.ca.gov/EA-restraining-order](https://selfhelp.courts.ca.gov/EA-restraining-order).

**For help in your area, contact:**

*[Local information may be inserted.]*

**Can I agree with the restrained person to cancel the order?**

No. Once the order is issued, only the judge can change or cancel it. You or the restrained person would have to file a request with the court to cancel the order.

**What if I have a disability?**

If you have a disability and need an accommodation while you are at court, you can use form [MC-410](#), *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO](#), *How to Request a Disability Accommodation for Court*.

**DRAFT**  
**2024-01-24**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

**1 Elder or Dependent Adult in Need of Protection**

a. Full Name: \_\_\_\_\_

- ☐ Person requesting protection for the elder or dependent adult, if different (*person named in item ③ of form EA-100*):

Full Name: \_\_\_\_\_

Lawyer for person named above (*if any for this case*):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

- b. Address for person named above (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer, give information for the person requesting the order. If you want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.*):

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

**2 Person You Want Protection From**

Full Name: \_\_\_\_\_

*The court will complete the rest of this form.***3 Notice of Hearing****A court hearing is scheduled on the request for restraining orders against the person in ②:**Hearing  
Date

→ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

Name and address of court if different from above:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**To the person in ②:**

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

**4 Temporary Restraining Orders** (*Any orders granted are on form EA-110, served with this notice.*)

- a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form EA-100, *Request for Elder on Dependent Adult Abuse Restraining Orders*, are (*check only one box below*):

(1) ☐ All **GRANTED** until the court hearing.(2) ☐ All **DENIED** until the court hearing. (*Specify reasons for denial in b, below.*)(3) ☐ Partly **GRANTED** and partly **DENIED** until the court hearing. (*Specify reasons for denial in b, below.*)

**4 Temporary Restraining Orders (Continued)**

b. Reasons for denial of some or all of those personal conduct and stay-away orders as requested in form EA-100, *Request for Elder or Dependent Adult Abuse Restraining Orders*, are:

- (1) ☐ The facts as stated in form EA-100 do not sufficiently show reasonable proof of a past act or acts of abuse of the elder or dependent adult by the person in **(2)**.
- (2) ☐ Other (*specify*): ☐ As stated on Attachment 4b.


**5 Service of Documents by the Person in **(1)****

At least ☐ five ☐ \_\_\_\_\_ days before the hearing, someone age 18 or older—**not you or anyone to be protected**—must personally give (serve) a court file-stamped copy of this form EA-109, *Notice of Court Hearing*, to the person in **(2)** along with a copy of all the forms indicated below:

- a. EA-100, *Request for Elder or Dependent Adult Abuse Restraining Orders* (file-stamped)
- b. ☐ EA-110, *Temporary Restraining Order* (file-stamped) **IF GRANTED**
- c. [EA-120](#), *Response to Request for Elder or Dependent Adult Abuse Restraining Orders* (blank form)
- d. [EA-120-INFO](#), *How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?*
- e. ☐ Other(*specify*): \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*

**To the Person in **(1)** :**

- The court cannot make the restraining orders after the court hearing unless the person in **(2)** has been personally given (served) a copy of your request and any temporary orders. To show that the person in **(2)** has been served, the person who served the forms must fill out a proof of service form. Form [EA-200](#), *Proof of Personal Service*, may be used.
- For information about service, read form [EA-200-INFO](#), *What Is “Proof of Personal Service”?*
- You may ask to reschedule the hearing if you are unable to find the person in **(2)** and need more time to serve the documents, or for other good reasons. Read form [EA-115-INFO](#), *How to Ask for a New Hearing Date*.
- You must attend the hearing if you want the judge to make any of the orders you requested on form EA-100, *Request for Elder or Dependent Adult Abuse Restraining Orders*. Bring any evidence or witnesses you have. For more information, read form [EA-100-INFO](#), *Can a Restraining Order to Prevent Elder or Dependent Adult Abuse Help Me?*



**To the Person in ② :**

- If you want to respond to the request for orders in writing, file form EA-120, *Response to Request for Elder or Dependent Adult Abuse Restraining Orders*, and have someone age 18 or older—**not you or anyone to be protected**—mail it to the person in ① .
- The person who mailed the form must fill out a proof of service form. Form [EA-250](#), *Proof of Service of Response by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- **At the hearing, the judge may make restraining orders against you that could last up to five years and may order you to sell or turn in any firearms (guns) and firearm parts that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). If an order is granted, you will also be prohibited from owning, possessing, or buying body armor and will have to relinquish any body armor you have.**
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Read form EA-115-INFO, *How to Ask for a New Hearing Date*.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Disability Accommodation Request* (form [MC-410](#)). (Civ. Code, § 54.8.)

*(Clerk will fill out this part.)*

**—Clerk's Certificate—**

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

*Clerk's Certificate*

[seal]

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

Person in ① must complete items ①, ②, and ③ only.

### ① Protected Elder or Dependent Adult

a. Full Name: \_\_\_\_\_

☐ Person requesting protection for the elder or dependent adult, if different (person named in item ③ of form EA-100):

Full Name: \_\_\_\_\_

Lawyer for person named above (if any, for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.):

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

**DRAFT**  
**2024-01-24**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**

### ② Restrained Person

(Give all the information you know. Information with a star (\*) is required to add this order to the California police database. If age is unknown, give an estimate.)

\*Full Name: \_\_\_\_\_ \*Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
\*Race: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_  
\*Gender: ☐ M ☐ F ☐ Nonbinary Home Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Relationship to Protected Person: \_\_\_\_\_

### ③ Additional Protected Persons

In addition to the elder or dependent adult named in ①, the following family or household members or conservator of that person are protected by the temporary orders indicated below:

Full Name	Gender	Age	Household Member?	Relation to Protected Person
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

☐ Check here if there are additional protected persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form [MC-025](#), Attachment.

### ④ Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m. ☐ p.m.

**This is a Court Order.**



**To the Person in ② :**

The court has issued the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may have to go to jail for up to one year, pay a fine of up to \$1,000, or both.

**⑤ Personal Conduct Orders**

☐ **Not Requested**    ☐ **Denied Until the Hearing**    ☐ **Granted as Follows:**

a. You must **not** do the following things to the elder or dependent adult named in ①

☐ and to the other protected persons listed in ③:

(1) ☐ Physically abuse, financially abuse, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, harass, destroy personal property of, or disturb the peace of the person.

(2) ☐ Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text messages, by fax, or by other electronic means.

(3) ☐ Take any action to obtain the person's address or location. If this item ③ is not checked, the court has found good cause not to make this order.

(4) ☐ Other (*specify*):

☐ Other personal conduct orders are attached at the end of this Order on Attachment 5a(4).

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b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the person in ①.

**⑥ Stay-Away Orders**

☐ **Not Requested**    ☐ **Denied Until the Hearing**    ☐ **Granted as Follows:**

a. You **must** stay at least \_\_\_\_\_ yards away from (*check all that apply*):

(1) ☐ The elder or dependent adult in ①

(5) ☐ The vehicle of the person in ①

(2) ☐ Each person in ③

(6) ☐ Other (*specify*):

(3) ☐ The home of the elder or dependent adult

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(4) ☐ The job or workplace of the elder or dependent adult

b. This stay-away order does not prevent you from going to or from your home or place of employment.

**⑦ Move-Out Order**

☐ **Not Requested**    ☐ **Denied Until the Hearing**    ☐ **Granted as Follows:**

You must immediately move out from and not return to (*address*):

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**This is a Court Order.**



**8 No Firearms (Guns), Firearm Parts, or Ammunition**☐ **Not Issued** (financial abuse only)☐ **Granted as Follows:**

**This order must be granted unless only financial abuse is alleged.**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed in b below.
- b. **Prohibited items are:**
- (1) Firearms (guns);
  - (2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
  - (3) Ammunition.
- c. You must:
- (1) Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control. This must be done within 24 hours of being served with this Order.
  - (2) File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use form [EA-800](#), *Receipt for Firearms and Firearm Parts*, for the receipt.)
- d. ☐ The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

**9 No Body Armor**

If the order in **8** is granted, you cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**10 Financial Abuse**

This case ☐ does **not** ☐ does involve **solely financial abuse** unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

**11 Possession and Protection of Animals**

☐ **Not Requested** ☐ **Denied Until the Hearing** ☐ **Granted as Follows** (specify):

- a. ☐ The person in **1** is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.  
(Identify animals by, e.g., type, breed, name, color, sex.)

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- b. ☐ The person in **2** must stay at least \_\_\_\_\_ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

**This is a Court Order.**

**12 Other Orders**

☐ **Not Requested**    ☐ **Denied Until the Hearing**    ☐ **Granted as Follows** (specify):

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☐ Additional orders are attached at the end of this Order on Attachment **12**.

**To the Person in 1 :****13 Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (Check one):

- a. ☐ The clerk will enter this Order and its proof of service form into CARPOS.
- b. ☐ The clerk will transmit this Order and its proof of service form to a law enforcement agency to be entered into CARPOS.
- c. ☐ By the close of business on the date that this Order is made, the petitioner or the petitioner's lawyer should deliver a copy of the Order and its proof of service form to the law enforcement agencies listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

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☐ Additional law enforcement agencies are listed at the end of this Order on Attachment **13**.

**14 No Fee to Serve (Notify) Restrained Person**

If the sheriff or marshal serves this Order, he or she will do it for free.

**15** Number of pages attached to this Order, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*

**This is a Court Order.**



## Warnings and Notices to the Restrained Person in ②

### You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition

If the court grants the orders in item ⑧, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 8b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in item ⑧. The court will require you to prove that you did so.

### Notice Regarding Nonappearance at Hearing and Service of Order

If you have been personally served with this Temporary Restraining Order and form EA-109, *Notice of Court Hearing*, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that does not differ from this order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item ②.

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

### After You Have Been Served With a Restraining Order

- Obey all the orders.
- Read form [EA-120-INFO](#), *How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?*, to learn how to respond to this Order.
- If you want to respond, fill out form [EA-120](#), *Response to Request for Elder or Dependent Adult Abuse Restraining Orders*, and file it with the court clerk. You do not have to pay any fee to file your response.
- You must have form EA-120 served on the person in ① (the person asking the court for protection of the elder or dependent adult or the elder or dependent adult if no other person is named in that item), or that person's attorney, by mail. You cannot do this yourself. The person who does the mailing should complete and sign form [EA-250](#), *Proof of Service of Response by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served signed by you and other persons who have personal knowledge of the facts. You may use form [MC-030](#), *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to five years. Tell the judge why you disagree with the orders requested.

## Instructions for Law Enforcement

### Enforcing the Restraining Order

This order is enforceable 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 Restraining and Protective Order System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

**This is a Court Order.**



**Start Date and End Date of Orders**

This order *starts* on the date next to the judge's signature on page 4. The order *ends* on the expiration date in item ④ on page 1.

**Arrest Required if Order Is Violated**

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

**Notice/Proof of Service**

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the proof of service or confirms that the proof of service is on file; or
- The restrained person was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

**If the Protected Person Contacts the Restrained Person**

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

**Conflicting Orders—Priorities for Enforcement**

**If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority** (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 5a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(Clerk will fill out this part.)

**—Clerk's Certificate—**

*Clerk's Certificate*  
[seal]

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

# Response to Request for Elder or Dependent Adult Abuse Restraining Orders

Clerk stamps date here when form is filed.

**DRAFT**  
**2024-01-29**  
**Not approved by**  
**the Judicial Council**

## Use this form to respond to the Request (form EA-100)

- Read *How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?* (form [EA-120-INFO](#)) to protect your rights.
- Fill out this form and take it to the court clerk.
- Have someone age 18 or older—**not you**—serve the person requesting protection in **(1)** by mail with a copy of this form and any attached pages. (Use form [EA-250](#), Proof of Service of Response by Mail.)

### **(1) Elder or Dependent Adult Seeking Protection**

Name: \_\_\_\_\_

☐ Name of person asking for the protection, if different (This is the person named in item **(3)** of the request (form EA-100).)

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Court fills in case number when form is filed.

Case Number: \_\_\_\_\_

### **(2) Person From Whom Protection Is Sought**

a. Your Name: \_\_\_\_\_

Your Lawyer (if you have one for this case)

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Present your response and any opposition at the hearing. Write your hearing date, time, and place from form EA-109, item **(3)**, here:

**Hearing  
Date**

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

**If you were served with a Temporary Restraining Order, you must obey it until the hearing.** At the hearing, the court may make orders against you that last for up to five years.

### **(3) ☐ Personal Conduct Orders**

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. (Specify why you disagree in item **(15)** on page 4.)
- c. ☐ I agree to the following orders (specify below or in item **(15)** on page 4):

\_\_\_\_\_  
\_\_\_\_\_

### **(4) ☐ Stay-Away Orders**

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. (Specify why you disagree in item **(15)** on page 4.)
- c. ☐ I agree to the following orders (specify below or in item **(15)** on page 4):

\_\_\_\_\_  
\_\_\_\_\_



**5** ☐ **Move-Out Orders**

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. (*Specify why you disagree in item 15 on page 4.*)
- c. ☐ I agree to the following orders (*specify below or in item 15 on page 4*):
- 
- 

**6** ☐ **Additional Protected Persons**

- a. ☐ I agree that the persons listed in item 6 of form EA-100 may be protected by the order requested.
- b. ☐ I do not agree that the persons listed in item 6 of form EA-100 may be protected by the order requested.

**7** ☐ **Order for Counseling or Anger Management Courses**

**i** This item is only available in instances of alleged physical abuse or deprivation of care, not in cases with only alleged financial abuse.

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. (*Specify why you disagree in item 15 on page 4.*)
- c. ☐ I agree to the following orders (*specify below or in item 15 on page 4*):
- 
- 

**8** **Firearms (Guns), Firearm Parts, and Ammunition**

If you were served with form EA-110, *Temporary Restraining Order*, you cannot own or possess any firearms (guns), firearm parts, or ammunition. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). (See item 8 of form EA-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) or firearm parts in your immediate possession or control within 24 hours of being served with form EA-110. You must file a receipt with the court. You may use form [EA-800](#), *Receipt for Firearms and Firearm Parts*, for the receipt.

- a. ☐ I do not own or control any firearms (guns), firearm parts, or ammunition.
- b. ☐ I ask for an exemption from the firearms prohibition under Code of Civil Procedure section 527.9(f) because carrying a firearm is a condition of my employment, and my employer is unable to reassign me to another position where a firearm is unnecessary. (*Explain*):

☐ Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 8b—Firearms Surrender Exemption" as a title. You may use for [MC-025](#), Attachment.

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- c. ☐ I have turned in my firearms (guns) and firearm parts to the police or sold them to or stored them with a licensed gun dealer.

A copy of the receipt ☐ is attached. ☐ has already been filed with the court.

**9 No Body Armor**

If you were served with form EA-110, *Temporary Restraining Order*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply):

- a. ☐ I do not own or have any body armor.
- b. ☐ I have relinquished all body armor that I have in my possession.
- c. ☐ I was granted an exception, or will ask for an exception, to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (Attach a copy of the letter granting permission, if you have one.)

**10 ☐ Debts Caused by Financial Abuse**

- a. ☐ I agree to the findings requested.
- b. ☐ I do not agree to the findings requested. (Specify why you disagree in item 15 on page 4.)
- c. ☐ I agree to the following findings (specify below or in item 15 on page 4):

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**11 ☐ Possession and Protection of Animals**

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. (Specify why you disagree in item 15 on page 4.)
- c. ☐ I agree to the following orders (specify below or in item 15 on page 4):

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**12 ☐ Other Orders**

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. (Specify why you disagree in item 15 on page 4.)
- c. ☐ I agree to the following orders (specify below or in item 15 on page 4):

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**13 ☐ Denial**

I did not do anything described in item 8 of form EA-100. (Skip to 15.)

**14** ☐ **Justification or Excuse**

If I did some or all of the things that the person in ① has accused me of, my actions were justified or excused for the following reasons (*explain*):

☐ Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 14—Justification or Excuse" as a title. You may use form MC-025, Attachment.

[illegible]

**15** ☐ **Reasons I Do Not Agree to the Requests**

*Explain your answers to each order or finding requested that you do not agree with.*

☐ Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write “Attachment 15—Reasons I Disagree” as a title. You may use form MC-025, Attachment.

[illegible]

**16** ☐ **Lawyer's Fees and Costs**

a. ☐ I ask the court to order payment of my ☐ lawyer's fees ☐ court costs. The amounts requested are:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

☐ Check here if there are more items. Put the items and amounts on the attached sheet of paper and write "Attachment **16**—Lawyer's Fees and Costs" for a title. You may use form MC-025, Attachment.

b. ☐ I ask the court to deny the request of the person asking for protection named in **①** that I pay his or her lawyer's fees and costs.

**17** Number of pages attached to this form, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Lawyer's name (if any)*



\_\_\_\_\_  
*Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

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

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Sign your name*



## EA-120-INFO

# How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?

## What is an elder or dependent adult abuse restraining order?

It is a court order that prohibits you from doing certain things and going certain places.

## What does the order do?

The court can order you to:

- Not contact the person who is protected by the order
- Stay away from that person and the person's home and workplace
- Move out of the place where you and that person are living together
- Not have any firearms (guns), firearm parts, ammunition, or body armor as long as the order is in effect. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items you would not be allowed to have, please see [selfhelp.courts.ca.gov/restraining-orders/prohibited-items](https://selfhelp.courts.ca.gov/restraining-orders/prohibited-items).

## Who can ask for a restraining order?

A person who is being:

- Financially abused
- Abandoned or abducted
- Harmed
- Neglected
- Isolated
- Deprived by a caregiver of goods or services necessary to live on

A conservator may seek an order on behalf of an elder or dependent adult.

## I've been served with a request for elder or dependent adult abuse restraining orders.

### What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* tells you when to appear in court. There may also be a *Temporary Restraining Order* forbidding you from doing certain things. You must obey the order until the hearing.

## What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine.

## What if I don't agree with what the order says?

You still must obey the order until the hearing. If you disagree with the orders the person is asking for, fill out form [EA-120](#), *Response to Request for Elder and Dependent Adult Abuse Restraining Orders*, before your hearing date and file it with the court. If you need to include attachments, you can use form [MC-025](#). You can get the forms from legal publishers or from the California Courts website at [www.courts.ca.gov/forms](https://www.courts.ca.gov/forms). You also may be able to find them at your local courthouse or county law library.

## Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of completed form EA-120 to the person who asked for the order (or that person's lawyer). (This is called "service by mail.")

The person who serves the form by mail must fill out form [EA-250](#), *Proof of Service of Response by Mail*. Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.

## Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

## What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300](#), *Request for Interpreter (Civil)* or a local court form or website to request an interpreter. For more information about court interpreters, go to [selfhelp.courts.ca.gov/request-interpreter](https://selfhelp.courts.ca.gov/request-interpreter).





## Should I go to the court hearing?

Yes. You should go to court on the date listed on form EA-109, *Notice of Court Hearing*. If you do not go to the hearing, the judge can make orders against you without hearing from you.

**EA-109 Notice of Court Hearing**

Clerk stamps date here when form is filed.

**1 Elder or Dependent Adult in Need of Protection**

a. Full Name: \_\_\_\_\_

☐ Person requesting protection for the elder or dependent adult, if different (person named in item 2) of form EA-100;

Full Name: \_\_\_\_\_

Lawyer for person named above (if any for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Address for person named above (if you have a lawyer, give your lawyer's information. If you do not have a lawyer, give information for the person requesting the order. If you want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.):

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

**2 Person You Want Protection From**

Full Name: \_\_\_\_\_

The court will complete the rest of this form.

**3 Notice of Hearing**

A court hearing is scheduled on the request for restraining orders against the person in 2:

Name and address of court if different from above: \_\_\_\_\_

**Hearing Date** → Date: \_\_\_\_\_ Time: \_\_\_\_\_

Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

**To the person in 2:**

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

**4 Temporary Restraining Orders** (Any orders granted are on form EA-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form EA-100, *Request for Elder or Dependent Adult Abuse Restraining Orders*, are (check only one box below):

(1) ☐ All GRANTED until the court hearing.

(2) ☐ All DENIED until the court hearing. (Specify reasons for denial in b, below.)

(3) ☐ Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)

Judicial Council of California, www.courts.ca.gov  
Rev. January 1, 2025, Mandatory Form  
Western and Institutional Code § 10557.03  
Approved by CDO

**Notice of Court Hearing**  
(Elder or Dependent Adult Abuse Prevention)

EA-109, Page 1 of 3

## Will I see the person who asked for the order at the court hearing?

Yes. Assume that the person who is asking for the order will attend the hearing. Do not talk to him or her unless the judge or that person's attorney says that you can.

## Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. You can use form [MC-030](#) for this.

## How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. Any order issued at the hearing can last for up to five years.

## What if I have a gun?

If a restraining order is issued, unless the order is to prevent financial abuse only, you cannot own, possess, or have a firearm (gun), firearm parts, ammunition, or body armor while the order is in effect. If you have a firearm (gun) or firearm parts in your immediate possession or control, you must sell it to or store it with a licensed gun dealer or turn it in to a law enforcement agency.

## Can I agree with the protected person to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the protected person would have to file a request with the court to cancel the order.

## What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410](#), *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO](#), *How to Request a Disability Accommodation for Court*.

## Information about the process is also available online.

See [selfhelp.courts.ca.gov/EA-restraining-order](https://selfhelp.courts.ca.gov/EA-restraining-order).

## For help in your area, contact:

[Local information may be inserted.]

# Elder or Dependent Adult Abuse Restraining Order After Hearing

Person in ① must complete ①, ②, and ③ only.

Clerk stamps date here when form is filed.

**DRAFT**  
**2024-01-24**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**

## ① Elder or Dependent Adult Seeking Protection

- a. Full Name: \_\_\_\_\_  
☐ Name of person asking for the protection, if different (*This is the person named in item ③ of the request (form EA-100).*)  
 Full Name: \_\_\_\_\_  
 Lawyer for person named above (*if any for this case*):  
 Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_
- b. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.*)  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

## ② Restrained Person

(Give all the information you know. Information with a star (\*) is required to add this order to the California police database. If age is unknown, give an estimate.)

\*Full Name: \_\_\_\_\_ \*Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
 \*Race: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_  
 \*Gender: ☐ M ☐ F ☐ Nonbinary Home Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Relationship to Protected Person: \_\_\_\_\_

## ③ Additional Protected Persons

In addition to the elder or dependent adult named in ①, the following family or household members or conservator of the elder or dependent adult named in ① are protected by the orders indicated below:

Full Name Gender Age Lives with Person in ①? Relation to Person in ①

\_\_\_\_\_ ☐ Yes ☐ No  
 \_\_\_\_\_ ☐ Yes ☐ No

☐ Check here if there are additional protected persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form [MC-025](#), Attachment.

## ④ Expiration Date

*This Order, except for any award of lawyer's fees, expires at*

Time: \_\_\_\_\_ ☐ a.m. ☐ p.m. ☐ midnight on (date): \_\_\_\_\_

If no expiration date is written here, this Order expires three years from the date of issuance.

**This is a Court Order.**



**5 Hearing**

- a. There was a hearing on *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
*(Name of judicial officer)*: \_\_\_\_\_ made the orders at the hearing.
- b. These people were at the hearing:
- (1) ☐ The elder or dependent adult in need of protection
  - (2) ☐ The lawyer for the elder or dependent adult *(name)*: \_\_\_\_\_
  - (3) ☐ The person in ① asking for protection (if not the elder or dependent adult)
  - (4) ☐ The lawyer for the person in ① asking for protection *(name)*: \_\_\_\_\_
  - (5) ☐ The person in ②
  - (6) ☐ The lawyer for the person in ② *(name)*: \_\_\_\_\_
  - ☐ Additional persons present are listed at the end of this Order on Attachment 5.
- c. ☐ The hearing is continued. The parties must return to court on *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_.

**To the Person in ②:**

**The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.**

**6 ☐ Personal Conduct Orders**

- a. You must **not** do the following things to the elder or dependent adult named in ①
- ☐ and to the other protected persons listed in ③:
- (1) ☐ Physically abuse, financially abuse, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, harass, destroy personal property of, or disturb the peace of the person.
  - (2) ☐ Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
  - (3) ☐ Take any action to obtain the person's address or location. If this item (3) is not checked, the court has found good cause not to make this order.
  - (4) ☐ Other *(specify)*: \_\_\_\_\_  
☐ Other personal conduct orders are attached at the end of this Order on Attachment 6a(4).
- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

**7 ☐ Stay-Away Orders**

- a. You **must** stay at least \_\_\_\_\_ yards away from *(check all that apply)*:
- (1) ☐ The elder or dependent adult in ①.
  - (2) ☐ Each person in ③.
  - (3) ☐ The home of the elder or dependent adult.
  - (4) ☐ The job or workplace of the elder or dependent adult.
  - (5) ☐ The vehicle of the elder or dependent adult.
  - (6) ☐ Other *(specify)*: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- b. This stay-away order does not prevent you from going to or from your home or place of employment.

**This is a Court Order.**

**8** ☐ **Move-Out Order**

You must immediately move out from and not return to *(address)*:

\_\_\_\_\_

\_\_\_\_\_

and must take only the personal clothing and belongings you need.

**9** ☐ **Order for Counseling or Anger Management**

a. The person in **(2)** is ordered to attend:

☐ clinical counseling for \_\_\_\_\_ *(specify number)* sessions; or

☐ an anger management course

provided by a professional (a counselor, psychologist, psychiatrist, therapist, clinical social worker, or mental or behavioral health professional licensed in the State of California to provide counseling or anger management courses).

b. The person in **(2)** must schedule clinical counseling or enroll in an anger management course by *(date)*: \_\_\_\_\_, or if no date is listed, within 30 days after this order is made. The person in **(2)** is ordered to file written proof of scheduling or enrollment with the court.

c. ☐ Written proof of completion of the ordered number of clinical counseling sessions or written proof of completion of the court-ordered anger management course must be filed with the court by

*(date)*: \_\_\_\_\_, or the person in **(2)** must appear for a court date on

*(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

**10** ☐ **No Firearms (Guns), Firearm Parts, or Ammunition**

**This Order must be granted unless the abuse is financial only.**

a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed below in b.

b. **Prohibited items are:**

(1) Firearms (guns);

(2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and

(3) Ammunition.

c. If you have not already done so, you must:

- Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control. This must be done within 24 hours of being served with this Order.
- File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use form [EA-800](#), *Receipt for Firearms and Firearm Parts*, for the receipt.)

d. ☐ The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

**This is a Court Order.**



- ⑩ e. ☐ The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in ② is not required to relinquish this firearm (*specify make, model, and serial number of firearm*): \_\_\_\_\_

The firearm must be in the physical possession of the person in ② only during scheduled work hours and during travel to and from their place of employment. Even if exempt under California law, the person in ② may be subject to federal prosecution for possessing or controlling a firearm.

### ⑪ No Body Armor

If the order in ⑩ is granted, you cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

### ⑫ Financial Abuse

This case ☐ does **not** ☐ does involve **solely financial abuse** unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

### ⑬ ☐ Possession and Protection of Animals

- a. ☐ The person in ① is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.

(Identify animals by, e.g., type, breed, name, color, sex.)

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- b. ☐ The person in ② must stay at least \_\_\_\_\_ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

### ⑭ ☐ Specific Debts

The court finds (decides) that the following debts were incurred as a result of financial abuse of the person in ① by the person in ②.

<u>Money Owed To:</u>	<u>For:</u>	<u>Amount:</u>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

- ☐ Additional debts are attached at the end of this Order on Attachment 14.

### ⑮ ☐ Lawyer's Fees and Costs

You must pay to the person in ① the following amounts for ☐ lawyer's fees ☐ costs:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

- ☐ Additional amounts are attached at the end of this Order on Attachment 15.

**This is a Court Order.**



**16** ☐ **Other Orders** (*specify*):

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☐ Additional orders are attached at the end of this Order on Attachment **16**.**To the Person in ① :****17** **Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. ☐ The clerk will enter this Order and its proof of service form into CARPOS.
- b. ☐ The clerk will transmit this Order and its proof of service form to a law enforcement agency to be entered into CARPOS.
- c. ☐ By the close of business on the date that this Order is made, you or your lawyer should deliver a copy of the Order and its proof of service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement AgencyAddress (City, State, Zip)


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☐ Additional law enforcement agencies are listed at the end of this Order on Attachment **17**.**18** **Service of Order on Restrained Person**

- a. ☐ The person in ② personally attended the hearing, either physically or remotely (by telephone or videoconference). No other proof of service is needed.
- b. ☐ The person in ① was at the hearing. The person in ② was not.
- (1) ☐ Proof of service of form EA-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are the same as in form EA-110 except for the end date. The person in ② must be served with this Order. Service may be by mail.
- (2) ☐ Proof of service of form EA-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are different from the orders in form EA-110. Someone—but not anyone in ① or ③—must personally serve a copy of this Order on the person in ②.

**19** **No Fee to Serve (Notify) Restrained Person**

If the sheriff or marshal serves this Order, they will do so for free.

**20** Number of pages attached to this Order, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer***This is a Court Order.**

## Warning and Notice to the Restrained Person in ②:

### You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition

If the court grants the orders in ⑩ on page 3 (unless item 10e on page 4 is checked), you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 10b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in ⑩. The court will require you to prove that you did so.

## Instructions for Law Enforcement

### Enforcing the Restraining Order

This order is enforceable 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 Restraining and Protective Order System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing (see ⑱), the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

### Start Date and End Date of Order

This order *starts* on the date next to the judge's signature on page 5. The order *ends* on the expiration date in ④ on page 1.

### Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

### Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was at the restraining order hearing (see ⑱) or was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

### If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

**This is a Court Order.**





**Instructions for Law Enforcement****Conflicting Orders—Priorities for Enforcement**

**If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority** (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 6a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

*Clerk's Certificate*  
[seal]

*(Clerk will fill out this part.)*  
**—Clerk's Certificate—**

I certify that this *Elder or Dependent Adult Abuse Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**



# EPO-002 GUN VIOLENCE EMERGENCY PROTECTIVE ORDER

LAW ENFORCEMENT CASE NUMBER:

1. **RESTRAINED PERSON** (insert name): \_\_\_\_\_

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

Gender: ☐ M ☐ F ☐ Nonbinary Ht.: \_\_\_\_\_ Wt.: \_\_\_\_\_ Hair color: \_\_\_\_\_

Eye color: \_\_\_\_\_ Race: \_\_\_\_\_ Age: \_\_\_\_\_ Date of birth: \_\_\_\_\_

## 2. TO THE RESTRAINED PERSON

(Also see important Warnings and Information on page 2):

**You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazine while this order is in effect.** However a more permanent gun violence restraining order may be obtained from the court. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.

**If you have any firearms (guns), firearm parts (receivers, frames, and any item that may be used as or easily turned into a receiver or frame), ammunition, or magazines, you MUST IMMEDIATELY SURRENDER (GIVE) THEM** if asked by a police officer. If a police officer does not ask you to surrender the items, within 24 hours of getting this order, you must take them to a police station or a licensed gun dealer to sell or store them and must file a receipt with the court proving that this has been done. You have 48 hours to file a receipt with the court shown to the right. **If you do not file a receipt within 48 hours you have violated this order and can go to jail.**

**You cannot own, possess, or buy body armor (defined in Penal Code section 16288).**

**You must relinquish any body armor you have in your possession.**

3. **This order will last until:** \_\_\_\_\_ **Time** \_\_\_\_\_

INSERT DATE OF 21st CALENDAR DAY (DO NOT COUNT DAY THE ORDER IS GRANTED)

4. **Court Hearing** ☐ A court hearing will be set within 21 days.

☐ A court hearing will take place at the court above on: Date: \_\_\_\_\_ Time/Dept: \_\_\_\_\_

**You must attend the court hearing if you do not want this restraining order against you. You may attend the hearing remotely (check your court's website for instructions). At the hearing, the judge can make this order last for up to five years.**

5. Reasonable grounds for the issuance of this order exist, and a Gun Violence Emergency Protective Order (1) is necessary because the Restrained Person poses an immediate danger of causing personal injury to himself or to another by having custody or control, owning, purchasing, possessing, or receiving any firearms, firearm parts, ammunition, or magazines; **and** (2) less restrictive alternatives were ineffective or have been determined to be inadequate or inappropriate under the circumstances.

6. Judicial officer (name): \_\_\_\_\_ granted this order on (date): \_\_\_\_\_ at (time): \_\_\_\_\_

## APPLICATION

7. Officer has a reasonable cause to believe that the grounds set forth in item 5, above, exist (state supporting facts and dates; specify weapons—number, type and location):

8. ☐ Firearms (including parts) were ☐ observed ☐ reported ☐ physically searched for ☐ seized.

☐ Ammunition (including magazines) was ☐ observed ☐ reported ☐ physically searched for ☐ seized.

**I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

By: \_\_\_\_\_

(PRINT NAME OF LAW ENFORCEMENT OFFICER)

(SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: \_\_\_\_\_

Telephone No: \_\_\_\_\_ Badge No: \_\_\_\_\_

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

## PROOF OF SERVICE

9. I personally delivered copies of this Order to the restrained person named in item 1.

Date of service: \_\_\_\_\_ Time of service: \_\_\_\_\_ Address: \_\_\_\_\_

10. At the time of service, I was at least 18 years of age.

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

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

(TYPE OR PRINT NAME OF SERVER/LAW ENFORCEMENT OFFICER)

(SIGNATURE OF SERVER)

# GUN VIOLENCE EMERGENCY PROTECTIVE ORDER WARNINGS AND INFORMATION

EPO-002

**TO THE RESTRAINED PERSON:** You are prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a firearm (gun), a firearm part (a receiver, frame, or any item that may be used as or easily turned into a receiver or frame), ammunition, or a magazine. (Pen. Code, §§ 16531 & 18125 et seq.) A violation of this order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19 & 18205.) Within 24 hours of receipt of this order, you must turn in all items listed above to a law enforcement agency or sell them to or store them with a licensed firearms dealer until the expiration of this order. (Pen. Code, § 18125 et seq.) A receipt proving surrender, sale, or storage must be filed with the court within 48 hours of receipt of this order, or on the next court business day if the 48-hour period ends on a day when the court is closed. You must also file the receipt with the law enforcement agency that served you with this Order. You may use form GV-800, *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines*.

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

This Gun Violence Emergency Protective Order is effective when made. It will last until the date and time in item 3 on the front. The court will hold a hearing within 21 days to determine if a longer-term order should be issued. If the date and time are not stated in item 4 on the front, you will get a notice with the date and time of the hearing in the mail at the residential address listed on page 1 of this form. If you would like to respond to this order in writing you must use form GV-020, *Response to Gun Violence Emergency Protective Order*. A longer-term restraining order may be requested from the court.

If you violate this order, you will also be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm (gun), firearm part (a receiver, frame, or any item that may be used as or easily turned into a receiver or frame), ammunition, or magazine for an additional five-year period, to begin on the expiration of the existing gun violence restraining order. (Pen. Code, §§ 16531 & 18205.)

This protective order must be enforced by all law enforcement officers in the state of California who are aware of it or shown a copy of it. The terms and conditions of this order remain enforceable regardless of the acts or any agreement of the parties; it may be changed only by order of the court.

**A LA PERSONA RESTRINGIDA:** Tiene prohibido ser dueño de, o poseer, comprar, recibir, o tratar de comprar o recibir un arma de fuego, un componente de armas de fuego (un receptor o armadura, o cualquier artículo que puede ser usado como receptor o armadura o fácilmente convertido en receptor o armadura), municiones o cargadores. (Cód. Penal, §§ 16531 & 18125 y siguientes). Una violación de esta orden es un delito menor que está sujeta a una multa de \$1000 o encarcelamiento de seis meses o ambos. (Cód. Penal, §§ 19 & 18205.)

Dentro de las 24 horas de recibir esta orden, tiene que entregar todos los artículos indicados arriba a una agencia del orden público o venderlos a un comerciante de armas autorizado, o almacenarlos con el mismo hasta el vencimiento de esta orden. (Cód. Penal, § 18125 y siguientes). Se tiene que presentar a la corte una prueba de haberlos entregado, vendido, o almacenado dentro de las 48 horas de recibir esta orden, o el próximo día hábil, si el período de 48 horas termina un día en que está cerrada la corte. También tiene que presentar el recibo a la agencia del orden público que le entregó esta Orden. Se puede usar el formulario GV-800, *Recibo por armas de fuego, componentes de armas de fuego, municiones, y cargadores*.

Se le prohíbe ser dueño de, poseer, o comprar blindaje personal (de acuerdo con la definición en la sección 16288 del Código Penal). Tiene que entregar todo blindaje personal que tenga en su posesión.

Esta orden de protección de emergencia de armas de fuego entra en vigencia en el momento en que se emite. Durará hasta la fecha y hora indicadas en el punto 3 de la primera página. Se realizará una audiencia dentro de 21 días para determinar si es necesario emitir una orden que dure por más tiempo. Si la fecha y la hora no se indican en el punto 4 de la primera página, recibirá un aviso con la fecha y la hora de la audiencia por correo a la dirección residencial indicada en la primera página. Si desea responder a esta orden por escrito, tiene que usar el formulario GV-020, *Respuesta a la orden de protección de emergencia de armas de fuego*. Se puede solicitar a la corte una orden de restricción a más largo plazo.

Si contraviene esta orden de restricción, se le prohibirá tener en su posesión o control, comprar, poseer o recibir, o tratar de comprar o recibir un arma de fuego, un componente de armas de fuego (un receptor o armadura, o cualquier artículo que puede ser usado como receptor o armadura o fácilmente convertido en receptor o armadura), municiones o cargadores por otro periodo de cinco años más, comenzando a partir del vencimiento de la orden de restricción de armas de fuego existente. (Cód. Penal, §§ 16531 & 18205.)

Todo agente del orden público del estado de California que tenga conocimiento de la orden o a quien se le muestre una copia de la misma tiene que hacer cumplir esta orden de protección. Los términos y condiciones de esta orden se podrán hacer cumplir independientemente de las acciones de las partes; solo la corte podrá cambiar esta orden.

**To law enforcement:** The Gun Violence Emergency Protective Order must be served on the restrained person by the officer if the restrained person can reasonably be located. Ask the restrained person if he or she has any firearms, firearm parts, ammunition, or magazines in his or her possession or under his or her custody or control. A copy must be filed with the court as soon as practicable, but not later than three court days, after issuance, so a hearing can be set, if one was not already scheduled. If the court did not give you a hearing date when issuing the order (to put in item 4 on the front), the court will set a hearing within 21 days and will provide you with notice of the hearing. Also, the officer must have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice.

The provisions in this temporary Gun Violence Emergency Protective Order do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

Clerk stamps date here when form is filed.

**DRAFT**  
**2024-02-06**  
**Not approved by**  
**the Judicial Council**

Use this form if you do not want the court to extend the *Gun Violence Emergency Protective Order* for a period of time between 1–5 years.

1. Read *How Can I Respond to a Gun Violence Emergency Protective Order?* (form [GV-020-INFO](#)) to protect your rights.
2. Fill out this form and take it to the filing window at the court.
3. Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the law enforcement agency that applied for the *Gun Violence Emergency Protective Order* (form [EPO-002](#)). (Use *Proof of Service by Mail* (form [GV-025](#)).)

Fill in court name and street address:

Superior Court of California, County of

See Notice of Hearing for case number and fill in:

Case Number:

## 1 Requesting Agency or Officer

(A petition may be filed in the name of the law enforcement agency in which the officer is employed.)

## 2 Restrained Person

- a. Your Name: \_\_\_\_\_  
Your Lawyer (if you have one for this case):  
Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Firm Name: \_\_\_\_\_

- b. Your Address (If you have a lawyer, give your lawyer's information. You do not have to give telephone, fax, or email address.)

Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email Address: \_\_\_\_\_

Be prepared to tell the court at the hearing why you don't agree. Write your hearing date, time, and place from the Notice of Hearing or *Gun Violence Emergency Protective Order* (form EPO-002) here:

**Hearing  
Date** →

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

**You must obey the *Gun Violence Emergency Protective Order* until the expiration date. At the hearing, the court may make an order against you for a period of time between 1–5 years.**

## 3 Gun Violence Restraining Order

- ☐ I do not agree that a gun violence restraining order should be extended for 1–5 years (explain):

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- ☐ Check here if there is not enough space above for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 3—Reasons I Disagree" as a title. You may use form [MC-025](#), Attachment.



**4** ☐ **Denial, Justification, or Excuse**

- ☐ I did not do anything described in item 7 of form EPO-002.
- ☐ If I did some of the things stated in the Gun Violence Emergency Protective Order, my actions were justified or excused for the following reasons (*explain*):

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- ☐ Check here if there is not enough space above for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 4—Denial, Justification, or Excuse" as a title. Use form MC-025, Attachment.

**5** **Firearms (Guns), Firearm Parts, Ammunition, and Magazines**

A *Gun Violence Emergency Protective Order* (form EPO-002) was issued against you. You cannot own or possess any firearms (guns), firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). You must turn over any of these items in your possession to law enforcement when they ask you to do so. If not asked, you must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any of the above listed items in your immediate possession or control within 24 hours of being served with form EPO-002. You must file a receipt with the court and the law enforcement agency. You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form [GV-800](#)) for the receipt.

- a. ☐ I do not own or control any firearms (guns), firearm parts, ammunition, or magazines.
- b. ☐ I have turned in my firearms (guns), firearm parts, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt  
☐ is attached ☐ has already been filed with the court and the law enforcement agency.

**6** **No Body Armor**

If you were served with form GV-110, *Temporary Gun Violence Restraining Order*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply):

- a. ☐ I do not own or have any body armor.
- b. ☐ I have relinquished all body armor that I have in my possession.
- c. ☐ I have or will ask for an exception to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (*Attach a copy of the letter granting permission, if you have one.*)



Case Number:

7 Number of pages attached to this form, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Lawyer's name (if any)*

▶ \_\_\_\_\_  
*Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

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

\_\_\_\_\_  
*Type or print your name*

▶ \_\_\_\_\_  
*Sign your name*

## GV-020-INFO

# How Can I Respond to a Gun Violence Emergency Protective Order?

## What is a *Gun Violence Emergency Protective Order* (form EPO-002)?

It is a court order requested by law enforcement that prohibits someone from having any of the following prohibited items:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531) (these may also be called “ghost guns”);
- Ammunition; and
- Magazines (any ammunition feeding device).

The person must turn in, sell, or store all prohibited items listed above that they currently own. The restrained person also may not own, possess, or buy body armor. If they have body armor, they must relinquish it.

For more information about prohibited items, please see [selfhelp.courts.ca.gov/restraining-orders/prohibited-items](https://selfhelp.courts.ca.gov/restraining-orders/prohibited-items).

## Who can ask for a gun violence emergency protective order?

The gun violence emergency protective order must have been requested by a law enforcement officer and was issued by a judicial officer based on the statements made under penalty of perjury in the protective order.

## I've been served with a *Gun Violence Emergency Protective Order* (form EPO-002) and a *Notice of Court Hearing*. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* or form EPO-002 tells you when to appear for court and where the court is located. If you want to attend the hearing remotely, such as by phone or videoconference, check your local court's website for instructions and availability. Follow the *Gun Violence Emergency Protective Order* (form EPO-002) prohibiting you from having any prohibited items listed above and requiring you to surrender, sell, or store any prohibited items that you currently own or possess. You must obey the order until the expiration date on the form.



## What if I don't obey the emergency protective order?

The police can arrest you. You can go to jail and pay a fine. You may also be prohibited for a longer period of time from having access to firearms, firearm parts, ammunition, and magazines.

## What if I don't want the order to be extended?

If you disagree with the order that has been issued and do not want the court to extend it for a longer time, fill out *Response to Gun Violence Emergency Protective Order* (form GV-020), before your hearing date. File the form with the court and serve it on the requesting law enforcement agency. You can get the form from legal publishers or from the California Courts website at [www.courts.ca.gov/forms](https://www.courts.ca.gov/forms). You also may be able to find it at your local courthouse or county law library.

## Will I have to pay a filing fee?

No.

## Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of the completed *Response to Gun Violence Emergency Protective Order* (form GV-020) to the law enforcement agency that issued the *Gun Violence Emergency Protective Order* (form EPO-002). (This is called “service by mail.”)

The person who serves the form by mail must fill out *Proof of Service by Mail* (form GV-025). Have the person who did the mailing sign the original form GV-025. Take the completed form back to the court clerk or bring it with you to the hearing.





**Should I attend the court hearing?**

Yes. You should attend the hearing listed on the *Notice of Court Hearing* or the *Gun Violence Emergency Protective Order* (form EPO-002). You can do so remotely, such as by telephone or videoconference, or go to court in person. If you do not attend the hearing, the judge can extend the order against you for a period of time between 1–5 years without hearing from you.

**Will I see the person who asked for the court order at the court hearing?**

It's possible the law enforcement officer may appear at the court hearing.

**Can I attend the court hearing remotely, such as by telephone or videoconference?**

Yes. Remote appearances are permitted for parties and witnesses. Check with your local court for instructions on how to appear remotely. Information is also available on the court's website, which you can find at [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).

**What if I need help to understand English?**

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300](#), *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to [selfhelp.courts.ca.gov/request-interpreter](http://selfhelp.courts.ca.gov/request-interpreter).

**Can I bring a witness to the court hearing?**

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. (You can use *Declaration* (form [MC-030](#)) for this purpose.)

**What if I have a disability?**

If you have a disability and need an accommodation while you are at court, you can use form [MC-410](#), *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO](#), *How to Request a Disability Accommodation for Court*.

**Do I need a lawyer?**

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

**For help in your area, contact:**

[Local information may be inserted.]

**How long does the order last?**

The *Gun Violence Emergency Protective Order* (form EPO-002) will last until the expiration date listed on the front of the form in item 3. The court will decide at the hearing whether to issue a gun violence restraining order that can last for a period of time between 1–5 years.

# Gun Violence Restraining Order After Hearing on EPO-002

Clerk stamps date here when form is filed.

The court will complete this form.

**1 Requesting Agency or Officer**

(A petition may be filed in the name of the law enforcement agency in which the officer is employed.)

Law enforcement agency or officer that applied for the Gun Violence Emergency Protective Order:

**DRAFT**  
**2024-05-22**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

**Case Number:****2 Restrained Person**

Full Name: \_\_\_\_\_

Lawyer (if there is one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

**Description of Restrained Person**Gender: ☐ M ☐ F ☐ Nonbinary Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Age: \_\_\_\_\_ Race: \_\_\_\_\_

Home Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**3 Expiration Date***This order expires at:*(Time): \_\_\_\_\_ ☐ a.m. ☐ p.m. ☐ midnight on (date): \_\_\_\_\_

If no expiration date is written here, this order expires one year from the date of issuance.

**4 Hearing**a. There was a hearing on (date): \_\_\_\_\_ at (time): \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_.  
(Name of judicial officer): \_\_\_\_\_ made the orders at the hearing.

b. These people attended the hearing:

(1) ☐ The officer or representative of the Requesting Agency \_\_\_\_\_(2) ☐ The Restrained Person ☐ Lawyer for the Restrained Person (name): \_\_\_\_\_**This is a Court Order.**



**5 Findings**

- a. ☐ The court finds by clear and convincing evidence that the following are true:
- (1) The Restrained Person poses a significant danger of causing personal injury to themselves or another person by having in their custody or control, owning, purchasing, possessing, or receiving firearms, firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).
  - (2) A gun violence restraining order is necessary to prevent personal injury to the Restrained Person or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.
- b. ☐ The court has received credible information that the Restrained Person owns or possesses one or more firearms, firearm parts, ammunition, or one or more magazines.
- c. ☐ The facts as stated in the *Gun Violence Emergency Protective Order* (form EPO-002) and supporting documents submitted at the time of the hearing, which are incorporated here by reference, and for the reasons set forth below, establish sufficient grounds for the issuance of this Order.

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☐ See the attached *Attachment* (form [MC-025](#))

**6 No Firearms (Guns), Firearm Parts, Ammunition, and Magazines**

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. **Prohibited items are:**
- (1) Firearms (guns);
  - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531);
  - (3) Ammunition; and
  - (4) Magazines (ammunition feeding devices).

**This is a Court Order.**



- 6 c. You must surrender (turn in, sell, or store) all prohibited items in your custody or control or that you possess or own. If a law enforcement officer asks you to turn over prohibited items, you must do so immediately. If no request is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order or any more permanent order granted at the hearing in item 4 is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**
- e. ☐ **Order dissolving (terminating) Gun Violence Emergency Protective Order.**  
The court dissolves (terminates) the *Gun Violence Emergency Protective Order* (form EPO-002) originally issued on (date): \_\_\_\_\_ as of (date of hearing): \_\_\_\_\_.

7 **No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

8 **Service of Order on the Restrained Person**

- a. ☐ The Restrained Person was present in court at the time the order was issued. No other proof of service is needed. The clerk has provided the Restrained Person with a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600), if a restraining order was granted.
- b. ☐ The Restrained Person was not present in court at the time the order was issued. The Restrained Person must be personally served with a court file-stamped copy of this order and a blank copy of *Request to Terminate Gun Violence Restraining Order* (form [GV-600](#)), if a restraining order was granted.

9 Number of pages attached to this Order, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*

**This is a Court Order.**



## Warnings and Notices to the Restrained Person

To the restrained person: This order will last until the expiration date and time noted on page 1. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm, ammunition, or magazine, while this Order is in effect. Pursuant to section 18185, you have the right to request a hearing on an annual basis to terminate this Order during its effective period. You may seek the advice of an attorney as to any matter connected with the order.

Violation of this Order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.) If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any prohibited items listed in item 6b, above, for a period of up to five years. This Order must be enforced by any law enforcement officer in the state of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be terminated only by an order of the court.

## Instructions for Law Enforcement

### Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in item 6b, above, or has custody or control of any of those items that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

### Duties of Agency on Surrender of Firearms, Firearm Parts, Ammunition, and Magazines

The law enforcement agency that has received the surrendered prohibited items listed in item 6b, above, must do the following:

- Retain the prohibited items until the expiration of this Order or of any other gun violence restraining order issued by the court.
- On the expiration of this order or of any later gun violence restraining order issued by the court, return the prohibited items to the Restrained Person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 provides for the sale or destruction of any unclaimed items.
- If someone other than the Restrained Person claims title to any of the prohibited items surrendered, determine whether that person is the lawful owner. If so, return the prohibited items to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

**This is a Court Order.**



**Instructions for Law Enforcement***(continued)***Enforcing This Order**

The law enforcement officer should determine if the Restrained Person had notice of the order. Consider the Restrained Person “served” (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file;
- The Restrained Person was informed of the order by an officer; or
- Item 7a is checked, indicating the Restrained Person was present in court at the time the order was issued.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it (*see above: Duties of Officer Serving This Order*).

The provisions in this *Gun Violence Restraining Order After Hearing on EPO-002* do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

*(Clerk will fill out this part.)***—Clerk's Certificate—**

*Clerk's Certificate*  
*[seal]*

I certify that this *Gun Violence Restraining Order After Hearing on EPO-002 (CLETS-HGV)* (form GV-030) is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

**Petition for Gun Violence  
Restraining Order**

Read *Can a Gun Violence Restraining Order Help Me?* (form [GV-100-INFO](#)) before completing this form.

Clerk stamps date here when form is filed.

**DRAFT  
2024-01-24**

**Not approved by  
the Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**

**1 Petitioner**

a. Your Full Name or Name of Law Enforcement Agency:

I am:

- ☐ A family member of the Respondent.
- ☐ An officer of a law enforcement agency (*A petition may be filed in the name of the law enforcement agency in which the officer is employed. If you wrote your full name above, write the name of the law enforcement agency that employs you.*):

- ☐ An employer of the Respondent (*your position and name of company*):

- ☐ A coworker of the Respondent. I have had substantial and regular interactions with the Respondent for at least one year and I have obtained the approval of my employer to file this petition (*name of company*):

- ☐ An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months. I have obtained the approval of a school administrator to file this petition (*name of the school*):

- ☐ A roommate of the Respondent. I currently live with the Respondent or lived with the Respondent within the past six months and have had substantial and regular interactions with the Respondent for at least one year.

- ☐ A person who has a dating relationship with the Respondent.

- ☐ A person who has a child in common with the Respondent. I have had substantial and regular interactions with the Respondent for at least one year.

b. Your Lawyer (*if you have one for this case*): Name: \_\_\_\_\_

Firm Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

c. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.*)

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

**2 Respondent**

Full Name: \_\_\_\_\_ Age: \_\_\_\_\_

Address (*if known*): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**This is not a Court Order.**



**3 Venue**Why are you filing in this county? *(Check all that apply):*

- a. ☐ The Respondent lives in this county.  
b. ☐ Other *(specify)*: \_\_\_\_\_

**4 Other Court Cases**

a. Are you aware of any other court cases, civil or criminal, involving the Respondent?

- ☐ Yes ☐ No *If yes, check each kind of case and give as much information as you know as to where and when each was filed:*

<u>Kind of Case</u>	<u>Filed in (County/State)</u>	<u>Year Filed</u>	<u>Case Number (if known)</u>
(1) <input type="checkbox"/> Civil Harassment	_____	_____	_____
(2) <input type="checkbox"/> Domestic Violence	_____	_____	_____
(3) <input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(4) <input type="checkbox"/> Paternity, Parentage, Child Custody	_____	_____	_____
(5) <input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(6) <input type="checkbox"/> Eviction	_____	_____	_____
(7) <input type="checkbox"/> Workplace Violence	_____	_____	_____
(8) <input type="checkbox"/> Criminal	_____	_____	_____
(9) <input type="checkbox"/> Other <i>(specify)</i> : _____	_____	_____	_____

b. Are there now any protective or restraining orders in effect relating to Respondent?

- ☐ Yes ☐ No ☐ I don't know *If yes, attach a copy if you have one.*

**5 Description of Respondent's Firearms (Guns), Firearm Parts, Ammunition, or Magazines**

Answer 5a or check 5b if you have reason to believe that the Respondent is in possession of firearms (guns), firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

- a. ☐ I am informed, and on that basis believe, that Respondent currently possesses or controls the following firearms, firearm parts, ammunition, or magazines *(describe the number, types, and locations of any of those items that you believe that the Respondent currently possesses or controls):*

<u>Types of firearms (guns), firearm parts, ammunition or magazines</u>	<u>How many or what amount?</u>	<u>Location, if known</u>
(1) _____	_____	_____
(2) _____	_____	_____
(3) _____	_____	_____
(4) _____	_____	_____
(5) _____	_____	_____
(6) _____	_____	_____

- b. ☐ I am informed, and on that basis believe, that Respondent currently possesses or controls firearms, firearm parts, ammunition, or magazines, but I have no further specific information as to the number, types, and locations of those items.

**This is not a Court Order.**

**6 Reasons a Gun Violence Restraining Order is Needed**

Explain why a gun violence restraining order is needed. This explanation should include: (1) how the Respondent poses a danger to themselves or others by having a firearm (gun), a firearm part (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), ammunition, or a magazine; and (2) whether other less restrictive alternatives to a gun violence restraining order have been tried and found to be ineffective, or why other less restrictive alternatives have been determined to be inadequate or inappropriate for the current circumstances. If any of the following have occurred, you should include information about them:

- Threats or acts of violence or physical force by the Respondent.
- Violation of a protective order by the Respondent.
- The Respondent being convicted of illegally possessing a firearm (gun).
- The Respondent being arrested for a felony offense.
- The unlawful and reckless use, display, or brandishing of a firearm (gun) by the Respondent.
- Recent criminal offenses by the Respondent that involve illegal drugs or alcohol.
- Recent acquisition of firearms (guns), ammunition, other deadly weapons, or body armor by the Respondent.
- Any other evidence of an increased risk for violence by the Respondent.

The facts supporting the above statements are set forth:

- ☐ Below ☐ On Attached Declaration (form [MC-031](#)).

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**7 Request for Gun Violence Restraining Order**

I request that the court issue an order prohibiting Respondent from having in their custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, any firearms (guns), firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). I further request that Respondent be ordered to immediately surrender (turn in, sell, or store) all firearms, firearm parts, ammunition, and magazines currently in their possession to a law enforcement officer or to sell those items to or store them with a licensed gun dealer.

- a. I request the order above for \_\_\_\_\_ years. *(Please include a number of years between one and five years.)*  
 b. I am asking for this amount of time because:

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**8 No Body Armor**

If an order is granted, the Respondent will be prohibited from owning, possessing, or buying body armor and would have to relinquish any they have.

**This is not a Court Order.**



**9 No Fee to Serve (Notify) Restrained Person**

*If you want the sheriff or marshal to serve (notify) the restrained person about the orders, they will do it for free.*

**10 Request for Hearing**

I request that the court set a hearing in this matter for the purpose of issuing a gun violence restraining order that will last between one and five years.

**11 ☐ Temporary Gun Violence Restraining Order**

I request that a temporary gun violence restraining order be issued against the Respondent to last until the hearing. I am presenting *Temporary Gun Violence Restraining Order* (form [GV-110](#)) for the court's signature together with this Petition.

Has the Respondent been told that you were going to court to seek a temporary gun violence restraining order?

☐ Yes ☐ No *(If you answered no, explain why below):*

☐ Reasons stated in Attachment **11**.

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**12 ☐ Request to Give Less Than Five Days' Notice of Hearing**

*You must have your papers personally served on Respondent at least five calendar days before the hearing, unless the court orders a shorter time for service. (See What Is "Proof of Personal Service"? (form [GV-200-INFO](#)). Proof of Personal Service (form [GV-200](#)) may be used to show the court that the papers have been served.)*

If you want there to be fewer than five days between service and the hearing, explain why below:

☐ Reasons stated in Attachment **12**.

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**13** Number of pages attached to this form, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Lawyer's name (if any)*



\_\_\_\_\_  
*Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

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

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Sign your name*

**This is not a Court Order.**



## GV-100-INFO

# Can a Gun Violence Restraining Order Help Me?

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer or a self-help center.

### What is a gun violence restraining order?

It is a court order that temporarily prohibits someone from having any of the following items:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531) (these may also be called “ghost guns”);
- Ammunition; and
- Magazines (any ammunition feeding device).

The person must turn in, sell, or store any prohibited items listed above that that person currently owns. The police will come and remove the items or the person can store them with a licensed gun dealer while the restraining order is in effect. The restrained person also cannot buy any of the prohibited items during this time. The restrained person also may not own, possess, or buy body armor. If they have body armor, they must relinquish it.

For more information about prohibited items, please see [selfhelp.courts.ca.gov/restraining-orders/prohibited-items](https://selfhelp.courts.ca.gov/restraining-orders/prohibited-items).

### Can I get a gun violence restraining order against someone?

You can ask for one if you are connected to the person you think is dangerous as:

- An immediate family member;
- An employer;
- A coworker who has substantial and regular interactions with the person and has worked with them for at least a year. You must have permission from your employer to ask for the restraining order;
- An employee or teacher at a school that the person has attended in the last six months, where you have permission from a school administrator or staff member who has a supervisory role;
- A law enforcement officer or agency;
- A roommate who resided in the household in the past six months and has had substantial and regular interactions with the person for at least a year;
- Somebody in a dating relationship; or
- Somebody who shares a child with the person and has had substantial and regular interactions with the person for at least a year.

Immediate family members include:

- Your spouse or domestic partner;
- You or your spouse’s parents, children, siblings, grandparents, and grandchildren and their spouses, including any stepparents or stepgrandparents; and
- You or your spouse’s aunts, uncles, nieces, nephews, first and second cousins, great-grandparents, and great-grandchildren if you have had substantial and regular interactions for at least a year.

If you do not have the necessary relationship, advise a law enforcement officer of the situation. The officer may investigate and file the petition if grounds exist.

### Will I have to pay a filing fee to request the order?

No.

### Will the order protect me in other ways, such as keeping the person from coming near me?

No, the only order the court can make is to force the person to not have the prohibited items listed above. If you need personal protection from a family member, you should proceed under the Domestic Violence Prevention Act. See [Can a Domestic Violence Restraining Order Help Me?](#) (form [DV-500-INFO](#)) for information on how to proceed. For information on other civil restraining orders, please see [selfhelp.courts.ca.gov/types-restraining-orders](https://selfhelp.courts.ca.gov/types-restraining-orders).

### What forms do I need to get the order?

You must fill out the following forms:

- *Petition for Gun Violence Restraining Order* (form [GV-100](#));
- *Confidential CLETS Information* (form [CLETS-001](#));
- *Notice of Court Hearing* (form [GV-109](#)), items 1 and 2 only; and
- *Temporary Gun Violence Restraining Order* (form [GV-110](#)), items 1 and 2 only.

You may need other local forms. Ask your self-help center or visit your court’s website.

### Where can I get these forms?

You can get the forms from legal publishers or the internet at [www.courts.ca.gov/forms](https://www.courts.ca.gov/forms). You also may be able to find them at your local courthouse or county law library.



## What do I need to do to get the order?

You must file your papers with the superior court in the county where the person to be restrained lives. Check online or ask the court how to file your request for a gun violence restraining order. (A self-help center or legal aid association may be able to assist you in filing your request.) File your forms electronically or give your forms to the clerk of the court. The court will give you a hearing date on the *Notice of Court Hearing* form.

## How soon can I get the order?

You can ask for a temporary gun violence restraining order, which will be effective right away if granted. The court may decide whether or not to grant the temporary order based only on the facts that you have stated in your petition. If so, the court will decide within 24 hours whether or not to make the temporary order. Sometimes the court will want to examine you personally under oath. If you file in person, the clerk will tell you whether you should wait to talk to the judge or come back later to find out if the court has signed a temporary order.

If you don't ask for a temporary restraining order, you will have to wait until the hearing, at which the court will decide whether to make an order that will last for a period of time between 1–5 years.

## How will the person to be restrained know about the order?



If the court issues a temporary restraining order, someone age 18 or older—**not you**—must personally “serve” (give) the person to be restrained a copy of the order. The server must then fill out *Proof of Personal Service* (form [GV-200](#)) and give it to you to file with the court. If the person to be restrained attends the hearing, no further proof of service is required. But if they do not attend the hearing, then any order issued at the hearing must also be personally served. For help with service, ask the court clerk for *What Is “Proof of Personal Service”?* (form [GV-200-INFO](#)). Note: A sheriff or marshal can serve the order for free.

## Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

## What do I have to prove to get the order?

You will have to convince the judge that the person to be restrained poses a significant danger in the near future of causing personal injury to themselves or another person by having in his or her custody or control, owning, purchasing, possessing, or receiving any of the prohibited items listed on page 1.

You will also have to convince the judge that a gun violence restraining order is needed to prevent personal injury to the person to be restrained or to another person because less restrictive alternatives either have been tried and haven't worked, or are inadequate or inappropriate for the current circumstances.

You will need to give the judge specific information. You should tell the judge everything that you know about the firearms, firearm parts, ammunition, **body armor**, or magazines that the person to be restrained currently owns, including how many the person owns, the types, and where they are kept.

Then you will need to present facts to show that the person to be restrained is dangerous to themselves or others. This could be information about any threat of violence that the person to be restrained has made, any violent incident in which the person has been involved, or any crime of violence the person has committed. It could also be evidence that the person to be restrained has violated a protective order or abuses controlled substances or alcohol. It could also be evidence of the unlawful and reckless use, display, or brandishing of a firearm or the recent acquisition of a firearm **or body armor**. Or it could be evidence that the person to be restrained has been identified by a mental health provider as someone prohibited from purchasing, possessing or controlling any firearms.

You should include all of this information in your Petition and also be prepared to present it to the judge at the hearing.

## Do I have to attend a court hearing?

Yes. Attend the hearing on the date listed on *Notice of Court Hearing* (form GV-109).

**GV-109 Notice of Court Hearing**

*Petitioner must complete items (1) and (2) only.*

**1 Petitioner**  
Your Full Name or Name of Law Enforcement Agency: \_\_\_\_\_

I am: ☐ A family member of the Respondent.  
☐ An officer of a law enforcement agency.  
☐ An employer of the Respondent.  
☐ A coworker of the Respondent.  
☐ An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.  
☐ A roommate of the Respondent.  
☐ A person who has a dating relationship with the Respondent.  
☐ A person who has a child in common with the Respondent.

**2 Respondent**  
Full Name: \_\_\_\_\_

*The court will complete the rest of this form.*

**3 Hearing**  
Hearing Date: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_  
 Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
 Name and address of court if different from above: \_\_\_\_\_

You may attend your hearing remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).

To the person in (2):

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

**4 Temporary Gun Violence Restraining Order** (Any order granted is on form GV-110, served with this notice.)

a. A Temporary Gun Violence Restraining Order as requested in *Petition for Gun Violence Restraining Order* (form GV-100) is (check only one box below):

(1) ☐ GRANTED until the court hearing.  
 (2) ☐ DENIED until the court hearing. (Specify reasons for denial in b, below.)

Approved by the Judicial Branch of the State of California  
 Rev. January 1, 2025  
 Form GV-109, 1 of 3  
 Approved by DOJ

You can attend the hearing remotely, such as by telephone or videoconference, or go to court in person. Check with your local court for instructions on how to appear remotely. Information is also available on the court's website, which you can find here: [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).

## Can someone attend the hearing with me?

Yes. Someone can sit with you during the hearing, but that person cannot speak for you to the court. Only you or your lawyer (if you have one) can speak for you.

## Do I need to bring a witness to the hearing?

Witnesses are not required, but it helps to have more proof than just your word. For example, consider bringing:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, emails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use *Declaration* (form [MC-030](#)) for this purpose.)

## Will I see the restrained person at the court hearing?

If the person attends the hearing, yes. If you are afraid, tell the court.

## How long does the order last?

If the court makes a temporary order, it will last until your hearing date, which must be within 21 days of the date of the temporary order. If at the hearing the court issues a more permanent order, it will last for one to five years. It may be renewed for an additional one to five years.

## What if the restrained person does not obey the order?

Call the police. The restrained person can be arrested and charged with a crime.

## Can I agree with the restrained person to terminate the order?

No. Once the order is issued, only the judge can change or terminate it. The restrained person would have to file a request with the court to terminate the order.



## What if I need help to understand English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to [selfhelp.courts.ca.gov/request-interpreter](http://selfhelp.courts.ca.gov/request-interpreter).

## What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

## Information about the process is also available online.

See [selfhelp.courts.ca.gov/GV-restraining-order](http://selfhelp.courts.ca.gov/GV-restraining-order).

## For help in your area, contact:

[Local information may be inserted.]

Petitioner must complete items ① and ② only.

**DRAFT**  
**2024-01-24**  
**Not approved by**  
**the Judicial Council**

**① Petitioner**

Your Full Name or Name of Law Enforcement Agency:

- I am:
- ☐ A family member of the Respondent.
  - ☐ An officer of a law enforcement agency.
  - ☐ An employer of the Respondent.
  - ☐ A coworker of the Respondent.
  - ☐ An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.
  - ☐ A roommate of the Respondent.
  - ☐ A person who has a dating relationship with the Respondent.
  - ☐ A person who has a child in common with the Respondent.

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**

**② Respondent**

Full Name: \_\_\_\_\_

*The court will complete the rest of this form.*

**③ Hearing**

**Hearing  
Date**

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

Name and address of court if different from above:

You may attend your hearing remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).

**To the person in ②:**

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

**④ Temporary Gun Violence Restraining Order** (Any order granted is on form GV-110, served with this notice.)

- a. A Temporary Gun Violence Restraining Order as requested in *Petition for Gun Violence Restraining Order* (form GV-100) is (check only one box below):

- (1) ☐ **GRANTED** until the court hearing.  
 (2) ☐ **DENIED** until the court hearing. (Specify reasons for denial in b, below.)



**4** b. Reasons for denial of a Temporary Gun Violence Restraining Order as requested in *Petition for Gun Violence Restraining Order* (form GV-100) are:

- (1) ☐ The facts as stated in form GV-100 do not show that there is a substantial likelihood that both of the following are true:

Respondent poses a significant danger of causing personal injury to themselves or another person by having custody or control of, owning, purchasing, possessing, or receiving firearms, firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

A gun violence restraining order is necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.

- (2) ☐ Other (as stated): ☐ Below ☐ On Attachment 4b(2)

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**5 Service of Documents on Respondent**

At least ☐ five ☐ \_\_\_\_\_ calendar days before the hearing, a law enforcement officer or someone age 18 or older—and not a party to the action—must personally give (serve) a court file-stamped copy of this form GV-109 to the Respondent, along with a copy of all the forms indicated below:

- a. GV-100, *Petition for Gun Violence Restraining Order* (file-stamped)
- b. ☐ GV-110, *Temporary Gun Violence Restraining Order* (file-stamped) **IF GRANTED**
- c. [GV-120](#), *Response to Petition for Gun Violence Restraining Order* (blank form)
- d. [GV-120-INFO](#), *How Can I Respond to a Petition for a Gun Violence Restraining Order?*
- e. [GV-125](#), *Consent to Gun Violence Restraining Order and Surrender of Firearms* (blank form)
- f. ☐ Other (specify): \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*





**To the Petitioner in 1:**

- The court cannot make an order at the court hearing unless the Respondent has been personally given (served) a copy of the Petition and a temporary order if issued. To show that the Respondent has been served, the person who served the forms must fill out a proof of service form. *Proof of Personal Service* (form [GV-200](#)) may be used.
- For information about service, read *What Is "Proof of Personal Service"?* (form [GV-200-INFO](#)).
- You may ask to reschedule the hearing if you are unable to find the Respondent and need more time to serve, or for other good reasons. Use *Request to Continue Court Hearing for Gun Violence Restraining Order* (form [GV-115](#)).
- You must attend the hearing if you want the judge to make any of the orders you requested on form GV-100, *Petition for Gun Violence Restraining Order*. Bring any evidence or witnesses you have. For more information, read form [GV-100-INFO](#), *Can a Gun Violence Restraining Order Help Me?*

**To the Respondent:**

- If you want to oppose the *Petition for Gun Violence Restraining Order* (form GV-100) in writing, file *Response to Petition for Gun Violence Restraining Order* (form [GV-120](#)) and have someone age 18 or older—**not you**—mail it to the Petitioner.
- The person who mailed the form must fill out a proof of service form. *Proof of Service by Mail* (form [GV-250](#)) may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, attend the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the order requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may order you to turn in to law enforcement, or sell to or store with, a licensed gun dealer, any firearms (guns), firearm parts, ammunition, or magazines that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). If issued, the order will last for one year. **If an order is granted, you will also be prohibited from owning, possessing, or buying body armor and will have to relinquish any body armor you have.**
- If you do not oppose the petition and are willing to give up your firearm rights, complete and file a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form [GV-125](#)).
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Use *Request to Continue Court Hearing for Gun Violence Restraining Order* (form GV-115).

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Disability Accommodation Request* (form [MC-410](#)). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

**—Clerk's Certificate—**

I certify that this *Notice of Court Hearing* (form GV-109) is a true and correct copy of the original on file in the court.

Clerk's Certificate

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

[seal]

Clerk, by \_\_\_\_\_, Deputy

**Temporary Gun Violence  
Restraining Order**

Clerk stamps date here when form is filed.

**DRAFT  
2024-05-22  
Not approved by  
the Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**

Petitioner must complete items ① and ② only.

**① Petitioner**

a. Your Full Name or Name of Law Enforcement Agency:

- I am: ☐ A family member of the Respondent  
☐ An officer of a law enforcement agency  
☐ An employer of the Respondent  
☐ A coworker of the Respondent  
☐ An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months  
☐ A roommate of the Respondent.  
☐ A person who has a dating relationship with the Respondent.  
☐ A person who has a child in common with the Respondent.

b. Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

c. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

**② Respondent**

(Give all the information you know. Information with a star (\*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: _____	*Age: _____	Date of Birth: _____
*Race: _____	Height: _____	Weight: _____
Hair Color: _____ Eye Color: _____		
*Gender: <input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> Nonbinary	Home Address: _____	
City: _____ State: _____ Zip: _____		
Relationship to Protected Person: _____		

The court will complete the rest of this form.

**③ Expiration Date**

This Order expires at the end of the hearing scheduled for the date and time below:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m. ☐ p.m.**This is a Court Order.**

4

- ☐ Having examined ☐ Petitioner ☐ and other witnesses under oath,  
☐ Having considered the declarations of ☐ Petitioner ☐ and other witnesses under penalty of perjury,

a. The court finds that there is a substantial likelihood that both of the following are true:

- (1) Respondent poses a significant danger in the near future of causing personal injury to himself or another person by having in their custody or control, owning, purchasing, possessing, or receiving firearms, firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).
- (2) A temporary gun violence restraining order is necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.

- b. ☐ The court has received credible information that Respondent owns or possesses one or more firearms, firearm parts, ammunition, or magazines.
- c. ☐ The facts as stated in the Petition and supporting documents, which are incorporated here by reference, establish sufficient grounds for the issuance of this Order. And for the reasons stated below.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface.

- ☐ See the attached *Attachment* (form [MC-025](#)).

5

If the sheriff or marshal serves this order, service will be free.

**This is a Court Order.**



**6 No Firearms (Guns), Firearm Parts, Ammunition, and Magazines**

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. **Prohibited items are:**
- (1) Firearms (guns);
  - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531);
  - (3) Ammunition; and
  - (4) Magazines (ammunition feeding devices).
- c. You must surrender (turn in, sell, or store) all prohibited items in your custody or control or that you possess or own. If a law enforcement officer asks you to turn over your prohibited items, you must do so immediately. If no request is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order or any more permanent order granted at the hearing in item **3** is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form [GV-800](#)) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**

**7 No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**8** Number of pages attached to this Order, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*

**This is a Court Order.**



### Warnings and Notices to the Respondent

To the restrained person: This Order is valid until the expiration date and time noted on page 1. You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazines while this order is in effect. A hearing will be held on the date and at the time noted on Page 1 to determine if a more permanent gun violence restraining order should be issued. Failure to appear at the hearing may result in a court making an order against you that is valid for a period between one and five years. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.

Violation of this Order is a misdemeanor. If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any prohibited items listed in item 6b, above, for a period of five years. This Order must be enforced by any law enforcement officer in the state of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be changed only by an order of the court.

### After You Have Been Served With a Temporary Order

- Obey the order by turning in all firearms (guns), firearm parts, ammunition, and magazines to a law enforcement agency or selling them to or storing them with a licensed gun dealer.
- Read *How Can I Respond to a Petition for Gun Violence Restraining Order?* (form [GV-120-INFO](#)) to learn how to respond to this Order.
- If you do not oppose the petition, fill out *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form [GV-125](#)) and file it with the court clerk.
- If you disagree with the petition, fill out *Response to Petition for Gun Violence Restraining Order* (form [GV-120](#)) and file it with the court clerk.
- You must have form GV-120 served by mail on the Petitioner or the Petitioner's attorney. You cannot do this yourself. The person who does the mailing should complete and sign *Proof of Service by Mail* (form [GV-250](#)). File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use *Declaration* (form [MC-030](#)) for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also attend the hearing. You and your witnesses may attend the hearing remotely (check with your court for instructions).
- At the hearing, the judge can make a gun violence restraining order against you that lasts between one to five years. Tell the judge why you disagree with the order requested.

### This is a Court Order.



## Instructions for Law Enforcement

### Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in item 6b, above, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form [GV-200](#) for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

### Duties of Agency on Surrender of Firearms, Firearm Parts, Ammunition, or Magazines

The law enforcement agency that has received the surrendered prohibited items listed in item 6b, above, must do the following:

- Retain the prohibited items until the termination or expiration of this Order or of any other gun violence restraining order issued by the court.
- On the expiration of this Order or of any later gun violence restraining order issued by the court, return the prohibited items to the respondent as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 provides for the sale or destruction of any unclaimed items.
- If someone other than the Respondent claims title to any of the prohibited items surrendered, determine whether that person is the lawful owner. If so, return the prohibited items to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

### Enforcing This Order

The law enforcement officer should determine if the Respondent had notice of the order. Consider the Respondent "served" (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file; or
- The Respondent was informed of the order by an officer; or
- The officer sees a filed copy of form GV-125.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the Respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it (*see above: Duties of Officer Serving This Order*).

The provisions in this *Temporary Gun Violence Restraining Order* do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in any other another existing protective order remain in effect.

(Clerk will fill out this part.)

Clerk's Certificate

[seal]

—Clerk's Certificate—

I certify that this *Temporary Gun Violence Restraining Order (CLETS-TGV)* (form GV-110) is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

# Response to Petition for Gun Violence Restraining Order

Clerk stamps date here when form is filed.

## Use this form to respond to the Petition (form GV-100)

- Read *How Can I Respond to a Petition for a Gun Violence Restraining Order?* (form [GV-120-INFO](#)) to protect your rights.
- If you agree to the Petition for a gun violence restraining order filed against you, use *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form [GV-125](#)) to agree to a voluntary gun violence restraining order.
- If you do not agree to the gun violence restraining order filed against you, fill out this form and take it to the filing window at the court.
- Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the Petitioner or to their lawyer. (Use *Proof of Service by Mail* (form [GV-250](#)).)

**DRAFT**  
**2024-01-29**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

See Petition for case number and fill in:

Case Number:

### 1 Petitioner

Name of person or law enforcement agency seeking order (*see form GV-100, item ①*):

### 2 Respondent

a. Your Name: \_\_\_\_\_  
Your Lawyer (*if you have one for this case*):  
Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Firm Name: \_\_\_\_\_

b. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.*)

Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email Address: \_\_\_\_\_

Be prepared to tell the court at the hearing why you don't agree. Write your hearing date, time, and place from form GV-109 item ③ here:

Hearing  
Date

→ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

**If a Temporary Gun Violence Restraining Order was issued, you must obey it until the hearing.** At the hearing, the court may make an order against you for one to five years.

### 3 Gun Violence Restraining Order

☐ I do not agree to the order requested in the Petition because:

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☐ Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 3—Reasons I Disagree" as a title. You may use Attachment (form [MC-025](#)).



**4** ☐ **Denial**

I did not do anything described in item **6** of form GV-100.

**5** ☐ **Justification or Excuse**

If I did some or all of the things that the Petitioner has accused me of, my actions were justified or excused for the following reasons (*explain*):

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☐ Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 5—Justification or Excuse" as a title. You may use Attachment (form MC-025).

**6** **Firearms (Guns), Firearms Parts, Ammunition, and Magazines**

If a *Temporary Gun Violence Restraining Order* (form GV-110) was issued, you cannot own or possess any firearms (guns), firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). (See item **6** of form GV-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency or officer, any of those items in your immediate possession or control within 24 hours of being served with form GV-110. You must file a receipt with the court. You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form [GV-800](#)) for the receipt.

- a. ☐ I do not own or control any firearms (guns), firearm parts, ammunition, or magazines.
- b. ☐ I have turned in my firearms (guns), firearm parts, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt ☐ is attached. ☐ has already been filed with the court.

**7** **No Body Armor**

If you were served with form GV-110, *Temporary Gun Violence Restraining Order*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply):

- a. ☐ I do not own or have any body armor.
- b. ☐ I have relinquished all body armor that I have in my possession.
- c. ☐ I was granted an exception, or will ask for an exception, to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (Attach a copy of the letter granting permission, if you have one.)



8 Number of pages attached to this form, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Lawyer's name (if any)*

▶ \_\_\_\_\_  
*Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

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

\_\_\_\_\_  
*Type or print your name*

▶ \_\_\_\_\_  
*Sign your name*

**GV-120-INFO****How Can I Respond to a Petition for a Gun Violence Restraining Order?****What is a gun violence restraining order?**

It is a court order that temporarily prohibits someone from having any firearms (guns), firearm parts (also called “ghost guns”), ammunition, or magazines (any ammunition feeding device). This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). The person must turn in, sell, or store all such items that the person currently owns. The person also may not own, possess, or buy body armor. If they have body armor, they must relinquish it.

For more information about prohibited items and obeying these orders, please see [selfhelp.courts.ca.gov/restraining-orders/prohibited-items](https://selfhelp.courts.ca.gov/restraining-orders/prohibited-items).

**I've been served with a *Petition for Gun Violence Restraining Order*. What do I do?**

Read the papers served on you very carefully. The *Notice of Court Hearing* (form GV-109) tells you when to appear in court. There may also be a *Temporary Gun Violence Restraining Order* (form GV-110) prohibiting you from having any firearms (guns), firearm parts, ammunition, or magazines and requiring you to turn in, sell, or store any such items that you currently own or possess. You must obey the order until the hearing.

**Who can ask for a gun violence restraining order?**

The petition must have been filed by a:

- Law enforcement officer or agency,
- An employer,
- A coworker who has had “regular interactions” with you for at least a year,
- A teacher or employee of a school that you have attended in the last 6 months,
- An immediate family member of yours,
- A roommate,
- Somebody in a dating relationship with you, or
- Somebody who shares a child with you.

“Immediate family member” is defined to include people who are not blood relatives. The definition includes (1) your spouse or domestic partner; (2) you or your spouse’s parents, children, siblings, grandparents, and grandchildren and their spouses, including any stepparent or stepgrandparent; and (3) you or your spouse’s aunts, uncles, nieces, nephews, first and second cousins, great-grandparents, and great-grandchildren if you have had substantial and regular interactions for at least a year.

**What if I don't obey the temporary order?**

The police can arrest you. You can go to jail and pay a fine. You could lose access to firearms and other items for a longer period of time.

**What if I don't agree with what the order says?**

If you disagree with the order that the Petitioner is asking for, fill out *Response to Petition for Gun Violence Restraining Order* (form [GV-120](#)) before your hearing date and file it with the court. You can get the form from legal publishers or from the California Courts website at [www.courts.ca.gov/forms](https://www.courts.ca.gov/forms). You also may be able to find it at your local courthouse or county law library.

**What if I don't oppose the Petition?**

If you agree to give up your access to firearms and your rights to own, possess, and buy guns, firearm parts, ammunition, and magazines for the time period requested in the petition, which is between one and five years, then you can fill out *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form [GV-125](#)) and check the box for item 4a. Make sure you take it to the court clerk and file it, and then mail it to the person or law enforcement agency that applied for the petition. The court will issue the gun violence restraining order before the hearing and remove the hearing from the calendar. You do not have to go to your court date, and the court will mail you a copy of the order. Make sure you check with the court to see if you have to show up for your court date.

**Will I have to pay a filing fee?**

No.

**Do I have to serve the other person with a copy of my response?**

Yes. Have someone age 18 or older—**not you**—mail a copy of completed *Response to Petition for Gun Violence Restraining Order* (form GV-120) to the person who asked for the order (or that person’s lawyer). (This is called “service by mail.”)

The person who serves the form by mail must fill out *Proof of Service by Mail* (form [GV-250](#)). Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.





## Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.



## Should I attend the court hearing?

Yes. You should attend the hearing on the date listed on *Notice of Court Hearing* (form GV-109). If you do not attend the hearing, the judge can extend the order against you for a period between one and five years without hearing from you.

**GV-109 Notice of Court Hearing**

Petitioner must complete items (1) and (2) only.

**1 Petitioner**  
 Your Full Name or Name of Law Enforcement Agency:  
 Title: ☐ A family member of the Respondent.  
☐ An officer of a law enforcement agency.  
☐ An employer of the Respondent.  
☐ A coworker of the Respondent.  
☐ An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.  
☐ A roommate of the Respondent.  
☐ A person who has a dating relationship with the Respondent.  
☐ A person who has a child in common with the Respondent.

**2 Respondent**  
 Full Name: \_\_\_\_\_  
 The court will complete the rest of this form.

**3 Hearing**  
 Name and address of court if different from above:  
 Date: \_\_\_\_\_ Time: \_\_\_\_\_  
 Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

You may attend your hearing remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).

To the person in (2):  
 • If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.  
 • If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

**4 Temporary Gun Violence Restraining Order** (Any order granted is on form GV-110, served with this notice.)  
 a. A Temporary Gun Violence Restraining Order as requested in *Petition for Gun Violence Restraining Order* (form GV-100) is (check only one box below):  
 (1) ☐ GRANTED until the court hearing.  
 (2) ☐ DENIED until the court hearing. (Specify reasons for denial in b, below.)

Notice of Court Hearing (Gun Violence Prevention) GV-109, Page 1 of 3

You can attend the hearing remotely, such as by telephone or videoconference, or go to court in person. Check with your local court for instructions on how to appear remotely. Information is also available on the court's website, which you can find here: [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).

**Information about the process is also available online.**

See [selfhelp.courts.ca.gov/GV-restraining-order](http://selfhelp.courts.ca.gov/GV-restraining-order).

## How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide whether to issue a gun violence restraining order that can last for one to five years.

## Will I see the person who asked for the order at the court hearing?

Assume that the person who is asking for the order will attend the hearing. It is probably best not to talk to them unless the judge or that person's attorney says that you can.

## Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. (You can use Declaration (form [MC-030](#)) for this purpose.)

## Can I agree with the protected person to terminate the order?

No. Once the order is issued, only the judge can change or terminate it. You would have to file a request with the court to terminate the order.



## What if I need help to understand English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to [selfhelp.courts.ca.gov/request-interpreter](http://selfhelp.courts.ca.gov/request-interpreter).

## What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

## For help in your area, contact:

[Local information may be inserted.]



Use this form if you have been served with a Petition for Gun Violence Restraining Order (form GV-100) and you want to agree to voluntarily give up your firearm rights without a court hearing.

- Fill out this form and take it to the court clerk.
- Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the Petitioner or to their lawyer. (Use *Proof of Service by Mail* (form [GV-250](#)).)
- If you do not agree to a gun violence restraining order, use *Response to Petition for Gun Violence Restraining Order* (form [GV-120](#)) to tell the court you oppose a gun violence restraining order.

**DRAFT**  
**5/22/2024**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

See Petition for case number and fill in:

Case Number:

### 1 Petitioner

Name of person or law enforcement agency seeking order (see form GV-100, item ①):

### 2 Respondent

- a. Your Name: \_\_\_\_\_  
Your Lawyer (if you have one for this case):  
Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Firm Name: \_\_\_\_\_
- b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email Address: \_\_\_\_\_

### 3 Gun Violence Restraining Order

- ☐ • By checking this box and signing this form, I agree to give up my right to have in my custody or control, own, purchase, possess, or receive, or attempt to purchase or receive any firearms (guns), firearm parts, magazines, and ammunition for the time requested in the petition (between one to five years) or, if no time is specified, then for one year. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). I also agree to give up my right to own, possess, or buy body armor (defined in Penal Code section 16288).
- I am not contesting the petition.
  - I understand that the petitioner can request to renew this order for one to five years.
  - I understand that I can only request to terminate this order once per year while it is in effect.



**4 Firearms (Guns), Firearm Parts, Ammunition, and Magazines**

- After you file this form, the court will issue a *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130) and send it to you and the petitioner in the mail.
- This form will be listed in the statewide California Restraining and Protective Order System, where it will be accessible to all law enforcement.
- You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive any firearms (guns), firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, those items in your immediate possession or control within 48 hours of filing this form. You must file a receipt with the court. You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.

- a. ☐ I do not own or control any firearms (guns), firearm parts, ammunition, or magazines.
- b. ☐ I have turned in my firearms (guns), firearm parts, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt ☐ is attached. ☐ has already been filed with the court.

**5 No Body Armor**


After you file this form and the court issues a *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130) and sends it to you, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply):

- a. ☐ I do not own or have any body armor.
- b. ☐ I have relinquished all body armor that I have in my possession.
- c. ☐ I have or will ask for an exception to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (Attach a copy of the letter granting permission, if you have one.)

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


\_\_\_\_\_  
*Lawyer's name (if any)*

 \_\_\_\_\_  
*Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

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

\_\_\_\_\_  
*Type or print your name*

 \_\_\_\_\_  
*Sign your name*

**Instructions to Clerk**

- On the filing of *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125), submit the proposed order, *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130) to the judicial officer, because the court must issue the order at least five court days before the scheduled hearing, or if this form is filed within five court days before the scheduled hearing, the court must issue, without any hearing, the gun violence restraining order, as soon as possible.
- Within one business day of issuance of the order, submit this form directly into the California Restraining and Protective Order System (CARPOS) or to law enforcement to enter into CARPOS within one business day of receipt from the court.

Petitioner must complete items ① and ② only.

**① Petitioner**

a. Your Full Name or Name of Law Enforcement Agency:

I am: ☐ A family member of the Respondent.☐ An officer of a law enforcement agency (*A petition may be filed in the name of the law enforcement agency in which the officer is employed*).☐ An employer of the Respondent.☐ A coworker of the Respondent.☐ An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.☐ A roommate of the Respondent.☐ A person who has a dating relationship with the Respondent.☐ A person who has a child in common with the Respondent.b. Your Lawyer (*if you have one for this case*):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

c. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.*)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_ Fax: \_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Court fills in case number when form is filed.

Case Number: \_\_\_\_\_

**② Respondent***(Give all the information you know. Information with a star (\*) is required to add this order to the California police database. If age is unknown, give an estimate.)*

\*Full Name: \_\_\_\_\_ \*Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

\*Race: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_

\*Gender: ☐ M ☐ F ☐ Nonbinary Home Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Relationship to Protected Person: \_\_\_\_\_

*The court will complete the rest of this form.***③ Expiration Date*****This Order expires at:****(Time):* \_\_\_\_\_ ☐ a.m. ☐ p.m. ☐ midnight on *(date):* \_\_\_\_\_

If no expiration date is written here, this Order expires one year from the date of issuance.

**This is a Court Order.**

**4 Hearing**

- a. ☐ There was a hearing (date): \_\_\_\_\_ at (time): \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_.  
(Name of judicial officer): \_\_\_\_\_ made the orders at the hearing.
- b. ☐ These people attended the hearing.
- (1) ☐ The Petitioner (3) ☐ The lawyer for the Petitioner (name): \_\_\_\_\_
- (2) ☐ The Respondent (4) ☐ The lawyer for the Respondent (name): \_\_\_\_\_
- c. ☐ There was not a hearing because Respondent filed a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125).

**5 Findings**

- a. The court finds by clear and convincing evidence that the following are true:
- (1) Respondent poses a significant danger of causing personal injury to themselves or another person by having in their custody or control, owning, purchasing, possessing, or receiving firearms, firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).
- (2) A gun violence restraining order is necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.
- b. ☐ The court has received credible information that the Respondent owns or possesses one or more firearms, firearm parts, ammunition, or one or more magazines.
- c. ☐ The facts as stated in the Petition and supporting documents, which are incorporated here by reference, establish sufficient grounds for the issuance of this Order. Any reasons stated below apply as well.
- \_\_\_\_\_
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- \_\_\_\_\_
- ☐ See the attached *Attachment* (form MC-025).
- d. ☐ The Respondent filed *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125). The court finds that Respondent agreed not to have in Respondent's custody or control, own, purchase, possess, or receive a firearm, firearm part, ammunition, or magazine or attempt to purchase or receive those items until: (expiration date) \_\_\_\_\_.

**This is a Court Order.**

**6 No Fee to Serve**

If the sheriff or marshal serves this order, service will be free.

**7 No Firearms (Guns), Firearm Parts, Ammunition, and Magazines**

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. **Prohibited items are:**
  - (1) Firearms (guns);
  - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531);
  - (3) Ammunition; and
  - (4) Magazines (ammunition feeding devices).
- c. You must surrender (turn in, sell, or store) all prohibited items in your custody or control or that you possess or own. If a law enforcement officer asks you to turn over your prohibited items, you must do so immediately. If no request is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form [GV-800](#)) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**

**8 No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**9 Service of Order on Respondent**

- a. ☐ The Respondent was present in court, either physically or remotely (by telephone or videoconference), at the time the order was issued. No other proof of service is needed. The clerk has provided the Respondent with a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600).
- b. ☐ The Respondent was not present in court at the time the order was issued. The Respondent must be personally served with a court file-stamped copy of this Order and a blank copy of *Request to Terminate Gun Violence Restraining Order* (form [GV-600](#)) by a law enforcement officer or someone age 18 or older, **and not a party to the action.**
- c. ☐ This is an order based on the Respondent's filing of a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125). The court will provide notice to all parties.

**10** Number of pages attached to this Order, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*

**This is a Court Order.**



## Warnings and Notices to the Respondent

**To the restrained person: This Order is valid until the expiration date and time noted on page 1. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm, ammunition, or magazine, while this Order is in effect. Pursuant to section 18185, you have the right to request a hearing on an annual basis to terminate this Order during its effective period. You may seek the advice of an attorney as to any matter connected with the order.**

**Violation of this Order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.) If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any prohibited items listed in item 7b, above, for a period of five years. This Order must be enforced by any law enforcement officer in the State of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be terminated only by an order of the court.**

## Instructions for Law Enforcement

### Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in item 7b, above, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. The officer may use form [GV-200](#) for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

### Duties of Agency on Surrender of Firearms, Firearm Parts, Ammunition and Magazines

The law enforcement agency that has received surrendered prohibited items listed in item 7b, above, must do the following:

- Retain the prohibited items until the expiration of this order or of any other gun violence restraining order issued by the court.
- On the expiration of this order or of any later gun violence restraining order issued by the court, return the prohibited items to the Respondent as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 provides for the sale or destruction of any unclaimed items.
- If someone other than the Respondent claims title to any of the prohibited items surrendered, determine whether that person is the lawful owner. If so, return the prohibited items to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

**This is a Court Order.**

**Instructions for Law Enforcement***(continued)***Enforcing This Order**

The law enforcement officer should determine if the Respondent had notice of the order. Consider the Respondent “served” (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file; or
- The respondent was informed of the order by an officer.
- Item 8a or 8c is checked.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it (*see above: Duties of Officer Serving This Order*).

The provisions in this *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130) do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in any other existing protective order remain in effect.

**Instructions to Clerk**

This order must be served on all parties by the court, if it is made following the filing of a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125).

*(Clerk will fill out this part.)*

**—Clerk's Certificate—**

*Clerk's Certificate*  
[seal]

I certify that this *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order (CLETS-OGV)* (form GV-130) is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**



**Petitioner** completes items ① and ②. Court completes items ③ and ④.

**DRAFT**  
**2024-06-10**  
**Not approved by**  
**the Judicial Council**

### ① Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- I am: ☐ A family member of the Respondent.  
☐ An officer of a law enforcement agency (*a petition may be filed in the name of the law enforcement agency in which the officer is employed*).  
☐ An employer of the Respondent.  
☐ A coworker of the Respondent.  
☐ An employee or teacher of a secondary or postsecondary school that the Respondent attended in the last 6 months.  
☐ A roommate of the Respondent.  
☐ A person who has a dating relationship with the Respondent.  
☐ A person who has a child in common with the Respondent.

Your Lawyer (*if you have one for this case*):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.*)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Fax: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

### ② Respondent

Full Name: \_\_\_\_\_

Address (*if known*): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

### ③ Court Hearing

The judge has set a court hearing date. Court will fill in box below.

**The current restraining order stays in effect.**

Name and address of court if different from above:

**Hearing Date** → Date: \_\_\_\_\_ Time: \_\_\_\_\_  
 Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

You may attend your hearing remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).

**This is a Court Order.**



**To the Petitioner:****4 Service on Respondent**

Someone age 18 or older—**not you**—must serve a copy of the following forms on the Respondent:

- *Request to Renew Gun Violence Restraining Order* (form GV-700);
- *Notice of Hearing on Request to Renew Gun Violence Restraining Order* (form GV-710) (this form);
- *Response to Request to Renew Gun Violence Restraining Order* (form GV-720) (blank copy);

- a. ☐ The forms must be personally served on the Respondent \_\_\_\_\_ days before the hearing.
- b. ☐ The forms may be served by mail on the Respondent or the Respondent's lawyer \_\_\_\_\_ days before the hearing.

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

\_\_\_\_\_  
*Judicial Officer***To the Respondent:**

At the hearing, the judge can renew the current restraining order for between one and five years. You *must* continue to obey the current restraining order. At the hearing, you can tell the judge if you do not want the order against you renewed. If the restraining order is renewed, you *must* continue to obey the order even if you do not attend the hearing.

If you wish to make a written response to the request to renew the restraining order, you may fill out *Response to Request to Renew Gun Violence Restraining Order* (form [GV-720](#)). File the original with the court before the hearing and have someone age 18 or older—**not you**—mail a copy of it to the Petitioner at the address in ① at least \_\_\_\_\_ days before the hearing. Also file *Proof of Service by Mail* (form [GV-250](#)) with the court before the hearing or bring it with you to the hearing.

**Requests for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Disability Accommodation Request* (form [MC-410](#)). (Civ. Code, § 54.8.)

*(Clerk will fill out this part.)***—Clerk's Certificate—***Clerk's Certificate**[seal]*

I certify that this *Notice of Hearing on Request to Renew Gun Violence Restraining Order* (form GV-710) is a true and correct copy of the original on file in the court.

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

Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

Read *How do I Get a Private Postsecondary School Violence Restraining Order?* (form SV-100-INFO) before completing this form. Also fill out *Confidential CLETS Information* (form CLETS-001) with as much information as you know.

**DRAFT**  
**2024-01-25**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**

### 1 Petitioner (Educational Institution Officer or Employee)

a. Name: \_\_\_\_\_ is

- ☐ the chief administrative officer  
☐ an officer or employee designated by the chief administrative officer to maintain order on the campus or facility of  
*(name of private postsecondary educational institution):*

\_\_\_\_\_ and is filing this petition on behalf of the student in ②.

b. Lawyer for Petitioner *(if any for this case)*

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

c. Petitioner's Address *(If the petitioner has a lawyer, give the lawyer's information.)*

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

### 2 Student in Need of Protection

Full Name: \_\_\_\_\_

Gender: ☐ M ☐ F ☐ Nonbinary Age: \_\_\_\_\_

### 3 Respondent (Person From Whom Protection Is Sought)

Full Name: \_\_\_\_\_ Age: \_\_\_\_\_

Address *(if known)*: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

### 4 Additional Protected Persons

a. Are you asking for protection for any family or household members or any other students at the campus or facility who are similarly in need of protection? ☐ Yes ☐ No *(If yes, list them):*

Full Name	Gender	Age	Household Member?	Relationship to Student
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

☐ Additional protected persons are listed in Attachment 4a.

**This is not a Court Order.**

- 4 b. Why do these people need protection? *(Explain)*: ☐ Response is stated in Attachment 4b.

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5 **Relationship of Student and Respondent**

- a. How does the student know the respondent? *(Describe)*: ☐ Response is stated in Attachment 5a.

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- b. Respondent ☐ is ☐ is not a current student of petitioner's institution. *(Explain any decision to retain, expel, or otherwise discipline the respondent)*: ☐ Response is stated in Attachment 5b.

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6 **Venue**

Why are you filing in this county? *(Check all that apply)*:

- a. ☐ The respondent lives in this county.  
 b. ☐ The respondent has caused physical or emotional injury to the student in this county.  
 c. ☐ Other *(specify)*: \_\_\_\_\_

7 **Other Court Cases**

- a. Has the student or any of the persons named in 4 been involved in another court case with the respondent?

☐ No ☐ Yes *(If yes, check each kind of case and indicate where and when each was filed)*:

	<u>Kind of Case</u>	<u>Filed in (County/State)</u>	<u>Year Filed</u>	<u>Case Number (if known)</u>
(1)	<input type="checkbox"/> Postsecondary School Violence	_____	_____	_____
(2)	<input type="checkbox"/> Civil Harassment	_____	_____	_____
(3)	<input type="checkbox"/> Domestic Violence	_____	_____	_____
(4)	<input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(5)	<input type="checkbox"/> Paternity, Parentage, Child Support	_____	_____	_____
(6)	<input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(7)	<input type="checkbox"/> Eviction	_____	_____	_____
(8)	<input type="checkbox"/> Guardianship	_____	_____	_____
(9)	<input type="checkbox"/> Workplace Violence	_____	_____	_____
(10)	<input type="checkbox"/> Small Claims	_____	_____	_____
(11)	<input type="checkbox"/> Criminal	_____	_____	_____
(12)	<input type="checkbox"/> Other <i>(specify)</i> : _____	_____	_____	_____

- b. Are any restraining orders or criminal protective orders now in effect relating to the student or any of the persons in 4 and the respondent? ☐ No ☐ Yes *(If yes, attach a copy if you have one.)*

**This is not a Court Order.**



8

- Address of campus or facility: \_\_\_\_\_

- ☐ Response is stated in Attachment 8c.

- ☐ Response is stated in Attachment 8d.

- ☐ Response is stated in Attachment 8e.

**This is not a Court Order.**

- 8 f. For any of the incidents described above, did the police come? ☐ Yes ☐ No ☐ I don't know

If yes, did the student or the respondent receive an Emergency Protective Order?

☐ Yes ☐ No ☐ I don't know

If yes, the order protects (*check all that apply*):

☐ the student. ☐ the respondent. ☐ one or more of the persons in 4.

(*Attach a copy of the order if you have one.*)

**Check the orders you want. ☒**

### 9 Personal Conduct Orders

I ask the court to order the respondent **not** to do any of the following things to the student or to any person to be protected listed in 4:

- a. ☐ Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
- b. ☐ Make threats of violence against the person.
- c. ☐ Follow or stalk the person during school hours or to or from the school campus or facility.
- d. ☐ Contact the person, either directly or indirectly, by **any** means, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
- e. ☐ Enter the person's school campus or facility.
- f. ☐ Other (*specify*):  
☐ As stated in Attachment 9f.

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*The respondent will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.*

### 10 ☐ Stay-Away Order

a. I ask the court to order the respondent to stay at least \_\_\_\_\_ yards away from (*check all that apply*):

- (1) ☐ The student.
- (2) ☐ The other persons listed in 4.
- (3) ☐ The school.
- (4) ☐ The student's home.
- (5) ☐ The student's job or workplace.
- (6) ☐ The school of the student's children.
- (7) ☐ The place of child care of the student's children.
- (8) ☐ The student's vehicle.
- (9) ☐ Other (*specify*):

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**This is not a Court Order.**



- 10 b. If the court orders the respondent to stay away from all the places listed above, will he or she still be able to get to his or her home, school, or job? ☐ Yes ☐ No (If no, explain):
- ☐ Response is stated on Attachment 10b.

11 Firearm (Guns), Firearm Parts, and Ammunition

Does the respondent own or possess any firearms (guns), firearm parts, or ammunition? This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). ☐ Yes ☐ No ☐ I don't know

If the judge grants a protective order, the respondent will be prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive firearms (guns), firearm parts, and ammunition while the protective order is in effect. The respondent will also be ordered to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts within their immediate possession or control. If an order is granted, the respondent will also be prohibited from owning, possessing, or buying body armor and would have to relinquish any they have.

12 Temporary Restraining Order

I request that a Temporary Restraining Order (TRO) be issued against the respondent to last until the hearing. I am presenting form SV-110, Temporary Restraining Order, for the court's signature together with this Petition.

Has the respondent been told that you were going to go to court to seek a TRO against him or her?

☐ Yes ☐ No (If you answered no, explain why below):

☐ Reasons are stated in Attachment 12.

13 Request for Less Than Five Days' Notice of Hearing

You must have your papers personally served on the respondent at least five days before the hearing, unless the court orders a shorter time for service. (Form SV-200-INFO explains what is proof of personal service. Form SV-200, Proof of Personal Service, may be used to show the court that the papers have been served.)

If you want there to be fewer than five days between service and the hearing, explain why:

☐ Reasons are stated in Attachment 13.

This is not a Court Order.

**14** ☐ **No Fee for Filing**

I ask that there be no filing fee because the respondent has threatened violence against the student, or stalked the student, or acted or spoken in a manner that has placed the student in reasonable fear of violence.

**15** ☐ **No Fee to Serve Orders**

I ask the court to order the sheriff or marshal to serve the respondent with the others for free because this request for orders is based on a credible threat of violence or stalking.

**16** ☐ **Court Costs**

I ask the court to order the respondent to pay my court costs.

**17** ☐ **Additional Orders Requested**

I ask the court to make the following additional orders (*specify*):

☐ Additional orders requested are stated in Attachment 17.

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**18** Number of pages attached to this form, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Lawyer's name (if any)*

\_\_\_\_\_  
*Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

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

\_\_\_\_\_  
*Name of petitioner*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Title*

I consent to the filing of the Petition.

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

\_\_\_\_\_  
*Name of student*

\_\_\_\_\_  
*Signature*

**This is not a Court Order.**



## SV-100-INFO

# How Do I Get an Order to Prohibit Private Postsecondary School Violence?

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

## What is a private postsecondary school violence protection order?

Under California law (Code Civ. Proc., § 527.85), courts can make orders to protect a student from being subjected to credible threats of violence that could be carried out on the school campus or facility. The procedure is only available with regard to students at private postsecondary institutions.

The court can order a person not to:

- Harass or threaten the student;
- Contact or go near the student; and
- Have any firearms (guns), firearm parts, ammunition, or body armor. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items a restrained person cannot have, please see [selfhelp.courts.ca.gov/restraining-orders/prohibited-items](https://selfhelp.courts.ca.gov/restraining-orders/prohibited-items).

These orders will be enforced by law enforcement agencies.

## Who can get this school violence protection order?

The chief administrative officer of a private postsecondary educational institution, or an officer or employee designated by the chief administrative officer to maintain order on the school campus or facility, may request court orders prohibiting credible threats of violence against a student. These orders must be requested by an officer of the institution that the student attends or is applying to.

- A “chief administrative officer” is the principal, president, or highest-ranking official of the private postsecondary educational institution.
- A “postsecondary educational institution” is a private institution of vocational, professional, or postsecondary education.

The statute differs from other California laws that allow victims of unlawful violence or credible threats of violence to ask the court for these orders **themselves**. If anyone other than a school officer wishes to apply to the court for an order prohibiting harassment, see *Can a Civil Harassment Restraining Order Help Me* (form [CH-100-INFO?](#)).

## Who can be protected under this law?

Under this statute, the school officer can obtain a court order on behalf of a student that lasts up to three years. The order can also protect family or household members of the student and other students at the campus or facility who are similarly situated.

- A “student” is an adult currently enrolled in or applying for admission to a private postsecondary educational institution.
- The “respondent” is the person against whom the school official is requesting the protective order.

A school official may seek protection under this law if:

1. The student has suffered a credible threat of violence from any individual;
2. The credible threat of violence, while made off of the campus or facility, can reasonably be construed to be carried out or have been carried out at the school campus or facility;
3. The respondent’s conduct is not allowable as part of a legitimate labor dispute as permitted by Code of Civil Procedure section 527.3; and
4. The respondent is not engaged in constitutionally protected activity.

## What forms must be used to get the order?

A school official may seek protection under this law if:

1. **Petition for Private Postsecondary School Violence Restraining Orders (Petition)** (form [SV-100](#)). This form tells the judge the facts of the case and what orders the petitioner and student want the court to make.
2. **Confidential CLETS Information** (form CLETS-001). This form will provide law enforcement agencies with the information needed to enforce any orders that are granted.
3. **Notice of Court Hearing** (form [SV-109](#)). This form tells the parties when the hearing on the petition will be held.
4. **Temporary Restraining Order (TRO)** (form [SV-110](#)). A TRO can be issued to provide protection to the student until the hearing is held. It can be issued by the judge either with or without notice to the respondent.



5. *Private Postsecondary School Violence Restraining Order After Hearing (Order)* (form [SV-130](#)). This form is signed by the court following the hearing. The order can last for up to three years depending on what the judge rules.

These forms are all **mandatory**—that is, they must be used in the school violence prevention proceeding.

6. *Proof of Personal Service* (form [SV-200](#)). This form is used to show that the other party has been **served** with the petition and other forms as required by law.

### Where can I get these forms?

You can get the forms from legal publishers or from the California Courts website at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). You also may be able to find them at your local courthouse or county law library.

### Do I need a lawyer?

The school official may be represented by a lawyer, but one is not required by law. Because the school official's lawyer will generally be representing the interests of the student, the student usually does not need his or her own lawyer. Whether or not the school official has a lawyer, the respondent may have one.

### What steps are needed to get the court orders?

1. Fill in the **Petition** (form SV-100) completely and fill in items 1–3 of the *Notice of Court Hearing* (form SV-109). If you are seeking a **TRO**, also fill out form SV-110.
2. If you are seeking orders based on information from your student and others and not based on what you have personally observed, you **must** have each of those persons complete a declaration to attach to the **Petition** (form SV-100). You may use form [MC-031](#), *Attached Declaration*.
3. Fill in *Confidential CLETS Information* (form [CLETS-001](#)) with as much information as you know. If the judge grants the order, the information on this form will be entered into a statewide protective-order database that will be available to law enforcement agencies if the order needs to be enforced.

4. If you are applying for a **TRO**, fill out form SV-110 completely. The petition and declarations must give the details of the credible threats of violence and the problems they have caused your student.

To obtain a **TRO**, you must notify the respondent of the request for the temporary order unless both of the following requirements are satisfied:

- a. It appears from facts shown on the petition that great or irreparable injury will result before the matter can be heard on notice; and
  - b. You or your attorney certifies one of the following to the court under oath:
    - (1) That within a reasonable time before presenting the petition to the court to ask for a TRO, you informed the respondent or the respondent's attorney when and where the request for a TRO would be made;
    - (2) That you in good faith attempted but were unable to inform the respondent and the respondent's attorney, specifying the efforts made to contact them; or
    - (3) That for reasons specified, you should not be required to inform the respondent or the respondent's attorney.
5. Take your original completed forms and copies to the clerk's office at the court. You will need at least three copies: one for you, one for the student, and one to serve on the respondent. If there are other persons to be protected by the order, you will need additional copies of the **TRO**. A protected person will need a copy of the **TRO** if it is necessary to call the police. The clerk will file the originals, assign a case number, and return the copies "file-stamped" to you. The clerk will write your hearing date on the *Notice of Court Hearing* (form SV-109).
6. If you are seeking a TRO (form SV-110), the clerk will tell you where and how to present your proposed order to a judge for consideration and signature. The court will decide within 24 hours whether or not to make the order. Sometimes the court decides right away. Ask the clerk if you should wait or come back later. If your request for a TRO is granted while you are still at the court, take the signed original back to the clerk to be filed.



7. If a **TRO** has been issued, ask the clerk whether you or your lawyer will need to deliver a file-stamped copy of the TRO to each law enforcement agency (police, marshal, or sheriff's office) that might be called on to enforce the order. If so, do so immediately.

**If the court issues a TRO, it will last until the hearing date.**

8. If the student does not speak English, when you file your papers, ask the clerk if a court interpreter will be available for the hearing. You can also use form [INT-300, Request for Interpreter \(Civil\)](#) or a local court form or website to request an interpreter. For more information about court interpreters, go to [selfhelp.courts.ca.gov/request-interpreter](http://selfhelp.courts.ca.gov/request-interpreter).
9. Have the respondent personally **served** with copies of the **Petition** (form SV-100), the *Notice of Court Hearing* (form SV-109), the **TRO** (form SV-110) (if issued), a blank **Response** (form [SV-120](#)), and a blank *Proof of Service of Response by Mail* (form [SV-250](#)). You **cannot** serve the respondent yourself. Service may be made by a licensed process server, the sheriff's department, or any person 18 years of age or older, other than you, the student, or anyone to be protected by the order. For help with service, ask the court clerk for form [SV-200-INFO, What Is "Proof of Personal Service"?](#)

**Service is essential. It tells the respondent about the order and the hearing. Without it, there cannot be a court hearing, and your temporary orders will no longer be good unless they are extended by the court. The respondent should be personally served immediately after the orders are signed by the judge, unless the court specifies a different time for service.**

10. After the respondent has been personally **served**, the person who served the respondent must complete and sign the original *Proof of Personal Service* (form [SV-200](#)). Take the signed original and copies back to the court clerk. The clerk will file the original and return "file-stamped" copies to you. Ask the clerk whether you should take a file-stamped copy to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.

11. Go to court on the date shown at item 4 on the *Notice of Court Hearing* (form SV-109). You do not need to bring any witnesses, but it helps to have more proof of the violence or threats than just one person's word.

You can bring to the hearing:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, emails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use form [MC-030, Declaration](#).)

The respondent has the right to attend the hearing, but he or she does not have the right to speak to the student or to any other person seeking protection. If anyone is afraid, tell the court officer.

SV-109 Notice of Court Hearing		Clerk stamps date here when form is filed.
<b>1 Petitioner (Educational Institution Officer or Employee)</b> a. Name: _____ Lawyer for Petitioner (if any for this case): Name: _____ State Bar No.: _____ Firm Name: _____ b. Address (If you have a lawyer, give your lawyer's information.): Address: _____ City: _____ State: _____ Zip: _____ Telephone: _____ Fax: _____ Email Address: _____		Fill in court name and street address: Superior Court of California, County of _____ Fill in case number: Case Number: _____
<b>2 Student in Need of Protection</b> Full Name: _____		
<b>3 Respondent (Person From Whom Protection Is Sought)</b> Full Name: _____ The court will complete the rest of this form.		
<b>4 Notice of Hearing</b> A court hearing is scheduled on the request for restraining orders against the respondent: <div style="border: 1px solid black; padding: 5px;">             Hearing Date: _____ Date: _____ Time: _____              Dept.: _____ Room: _____              Name and address of court if different from above: _____           </div>		

To the person in ③:

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

**5 Temporary Restraining Orders** (Any orders granted are on form SV-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form SV-100, Request for Private Postsecondary School Violence Restraining Orders, are (check only one box below):

- (1) ☐ All GRANTED until the court hearing.  
 (2) ☐ All DENIED until the court hearing. (Specify reasons for denial in b, below.)  
 (3) ☐ Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)

Judicial Council of California, [www.courts.ca.gov](http://www.courts.ca.gov)  
 Rev. January 1, 2025, mandatory form  
 Code of Civil Procedure, § 527.65  
 Approved by DOJ

Notice of Court Hearing  
 (Private Postsecondary School Violence Prevention)

SV-109, Page 1 of 3



- 12.If the judge signs the **Order** (form SV-130), ask the clerk to provide you with a file-stamped copy for each person to be protected. Ask the clerk whether you or your attorney will need to deliver a file-stamped copy of the **Order** to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.
- 13.If the respondent attended the hearing and heard the terms of the **Order** from the court, no additional proof of service is necessary. If the respondent did not attend the hearing, but the **Order** issued is the same as the TRO (except for the termination date), the **Order** may be served on the respondent by mail. File form [SV-260](#), *Proof of Service of Order After Hearing by Mail*. If the respondent did not attend the hearing and the **Order** differs from the TRO, arrange to have him or her personally **served** with a copy of the **Order**. File the completed *Proof of Personal Service* (form SV-200) with the court. Give a file-stamped copy of the **Order** and proof of service to your student and to each other protected person. Keep at least one copy for yourself.
- 14.Once the order is issued, only the judge can change or cancel it. You or the respondent would have to file a request with the court to cancel the order.
- 15.If the respondent does not obey the order, call the police. The respondent can be arrested and charged with a crime.

### What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410](#), *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO](#), *How to Request a Disability Accommodation for Court*.

### Information about the process is also available online.

See [selfhelp.courts.ca.gov/SV-restraining-order](http://selfhelp.courts.ca.gov/SV-restraining-order).

### For help in your area, contact:

[Local information may be inserted.]

**DRAFT**  
**2024-01-25**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

**1 Petitioner (Educational Institution Officer or Employee)**

a. Name:

Lawyer for Petitioner (if any for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Address (If you have a lawyer, give your lawyer's information.):

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

**2 Student in Need of Protection**

Full Name: \_\_\_\_\_

**3 Respondent (Person From Whom Protection Is Sought)**

Full Name: \_\_\_\_\_

*The court will complete the rest of this form.***4 Notice of Hearing****A court hearing is scheduled on the request for restraining orders against the respondent:****Hearing  
Date**→ Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

Name and address of court if different from above:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**To the person in ③:**

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

**5 Temporary Restraining Orders** (Any orders granted are on form SV-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form SV-100, Request for Private Postsecondary School Violence Restraining Orders, are (check only one box below):

(1) ☐ All **GRANTED** until the court hearing.(2) ☐ All **DENIED** until the court hearing. (Specify reasons for denial in b, below.)(3) ☐ Partly **GRANTED** and partly **DENIED** until the court hearing. (Specify reasons for denial in b, below.)



b. Reasons that Temporary Restraining Orders as requested in form SV-100, *Petition for Private Postsecondary School Violence Restraining Orders*, for personal conduct or stay-away are denied are:

- (1) ☐ The facts as stated in form SV-100 do not sufficiently show reasonable proof that the student has suffered a credible threat of violence made off the school campus or facility by the respondent, and that great or irreparable harm would result to the student if a temporary restraining order is not issued.
- (2) ☐ Other (specify): ☐ As stated on Attachment 5b.

6

Service of Documents by the Petitioner

At least ☐ five ☐ \_\_\_\_\_ days before the hearing , someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this form SV-109, *Notice of Court Hearing*, to the respondent along with a copy of all the forms indicated below:

- a. SV-100, *Petition for Private Postsecondary School Violence Restraining Orders* (file-stamped)
- b. ☐ SV-110, *Temporary Restraining Order* (file-stamped) **IF GRANTED**
- c. [SV-120](#), *Response to Petition for Private Postsecondary School Violence Restraining Orders* (blank form)
- d. [SV-120-INFO](#), *How Can I Respond to a Petition for Private Postsecondary School Violence Restraining Orders?*
- e. ☐ Other (specify): \_\_\_\_\_

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

\_\_\_\_\_

Judicial Officer

To the Petitioner:

- The court cannot make the restraining orders after the court hearing unless the respondent has been personally given (served) a copy of your request and any temporary orders. To show that the respondent has been served, the person who served the forms must fill out a proof of service form. Form [SV-200](#), *Proof of Personal Service*, may be used.
- For information about service, read form [SV-200-INFO](#), *What Is “Proof of Personal Service”?*
- You may ask to reschedule the hearing if you are unable to find the respondent and need more time to serve the documents, or for other good reasons. Read form [SV-115-INFO](#), *How to Ask for a New Hearing Date*.
- You must attend the hearing if you want the judge to make any of the orders you requested on form SV-100, *Petition for Private Postsecondary School Violence Restraining Orders*. Bring any evidence or witnesses you have. For more information, read form [SV-100-INFO](#), *How Do I Get an Order to Prohibit Private Postsecondary School Violence?*

**To the Respondent:**

- If you want to respond to the request for orders in writing, file form SV-120, *Response to Petition for Private Postsecondary School Violence Restraining Orders*, and have someone age 18 or older—**not you or anyone to be protected**—mail it to the petitioner.
- The person who mailed the form must fill out a proof of service form. Form [SV-250](#), *Proof of Service of Response by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- **At the hearing, the judge may make restraining orders against you that could last up to three years and may order you to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). If an order is granted, you will also be prohibited from owning, possessing, or buying body armor and will have to relinquish any body armor you have.**
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Read form SV-115-INFO, *How to Ask for a New Hearing Date*.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Disability Accommodation Request* (form [MC-410](#)). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

**—Clerk's Certificate—**

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

*Clerk's Certificate*  
[seal]

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

Clerk, by \_\_\_\_\_, Deputy

**DRAFT**  
**2024-01-25**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

**1 Petitioner (Educational Institution Officer or Employee)**

a. Name: \_\_\_\_\_

Lawyer for Petitioner (if any, for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information.):

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

**2 Student (Protected Person)**

Full Name: \_\_\_\_\_

**3 Respondent (Restrained Person)**

(Give all the information you know. Information with a star (\*) is required to add this order to the California police database. If age is unknown, give an estimate.)

\*Full Name: \_\_\_\_\_ \*Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
 \*Race: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_  
 \*Gender: ☐ M ☐ F ☐ Nonbinary Home Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Relationship to Protected Person: \_\_\_\_\_

**4 ☐ Additional Protected Persons**

In addition to the student, the following family or household members or other students are protected by the temporary orders indicated below:

Full Name	Gender	Age	Household Member?	Relation to Student
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

☐ Additional protected persons are listed at the end of this Order on Attachment 4.

**5 Expiration Date**

This Order expires at the end of the hearing scheduled for the date and time below:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m. ☐ p.m.

**This is a Court Order.**



**To the Person in ②:**

The court has issued the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may have to go to jail for up to one year, pay a fine of up to \$1,000, or both.

**⑥ Personal Conduct Orders**

☐ **Not Requested**    ☐ **Denied Until the Hearing**    ☐ **Granted as Follows:**

a. You are ordered **not** to do the following things to the student

☐ and to the other protected persons listed in ④:

- (1) ☐ Harass, molest, strike, assault (sexually or otherwise), batter, abuse, destroy personal property of, or disturb the peace of the person.
- (2) ☐ Commit acts of violence or make threats of violence against the person.
- (3) ☐ Follow or stalk the person during school hours or to or from the school.
- (4) ☐ Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by email, by fax, or by other electronic means.
- (5) ☐ Enter the person's school.
- (6) ☐ Take any action to obtain the person's address or locations. If this item is not checked, the court has found good cause not to make this order.
- (7) ☐ Other (*specify*):  
☐ Other personal conduct orders are attached at the end of this Order on Attachment 6a(7).  


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b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the petitioner.

**⑦ Stay-Away Order**

☐ **Not Requested**    ☐ **Denied Until the Hearing**    ☐ **Granted as Follows:**

a. You must stay at least \_\_\_\_\_ yards away from (*check all that apply*):

- (1) ☐ The student
- (2) ☐ Each other protected person listed in ④
- (3) ☐ The school
- (4) ☐ The student's home
- (5) ☐ The student's job or workplace
- (6) ☐ The student's children's school
- (7) ☐ The student's children's place of child care
- (8) ☐ The student's vehicle
- (9) ☐ Other (*specify*):  


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b. This stay-away order does not prevent you from going to or from your home or place of employment.

**This is a Court Order.**



**8 No Firearms (Guns), Firearm Parts, or Ammunition**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed in b.
- b. **Prohibited items are:**
  - (1) Firearms (guns);
  - (2) Firearm parts, meaning receivers, frames, or any item that may be used as easily turned into a receiver or frame (see Penal Code section 16531); and
  - (3) Ammunition.
- c. You must:
  - (1) Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control. This must be done within 24 hours of being served with this Order.
  - (2) File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form [SV-800](#)) for the receipt.)
- d. ☐ The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

**9 No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**10 Other Orders**

- ☐ Not Requested    ☐ Denied Until the Hearing    ☐ Granted as Follows (*specify*):

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- ☐ Additional orders are attached at the end of this Order on Attachment **10**.

**To the Person in 1:****11 Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. ☐ The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. ☐ The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.

**This is a Court Order.**

- 11** c. ☐ By the close of business on the date that this Order is made, the petitioner or the petitioner's lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agencies listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

- ☐ Additional law enforcement agencies are listed at the end of this Order on Attachment **11**.

- 12** **No Fee to Serve (Notify) Restrained Person** ☐ **Ordered** ☐ **Not Ordered**

The sheriff or marshal will serve this Order without charge because:

- a. ☐ The Order is based on a credible threat of violence or stalking.  
b. ☐ The petitioner is entitled to a fee waiver.

- 13** Number of pages attached to this Order, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*

### Warnings and Notices to the Restrained Person in **3**

#### **You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition**

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 8b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in item **8** above. The court will require you to prove that you did so.

#### **Notice Regarding Nonappearance at Hearing and Service of Order**

If you have been personally served with this Temporary Restraining Order and form SV-109, *Notice of Court Hearing*, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this Temporary Restraining Order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item **3**.

If this address is not correct or you wish to verify that the Temporary Restraining Order was converted into a restraining order at the hearing without substantive change, or to find out the duration of the order, contact the clerk of the court.

**This is a Court Order.**

## After You Have Been Served With a Restraining Order

- Obey all the orders. Any intentional violation of this Order is a misdemeanor punishable by a fine or by imprisonment in a county jail, or by both fine and imprisonment. (Pen. Code, § 273.6.)
- Read form [SV-120-INFO](#), *How Can I Respond to a Petition for Private Postsecondary School Violence Restraining Orders?*, to learn how to respond to this Order.
- If you want to respond, fill out form [SV-120](#), *Response to Petition for Private Postsecondary School Violence Restraining Orders*, and file it with the court clerk. You do not have to pay any fee to file your response if the petition claims that you threatened violence against or stalked the employee, or placed the employee in reasonable fear of violence.
- You must have form [SV-120](#) served on the petitioner or the petitioner's attorney by mail. You cannot do this yourself. The person who does the service should complete and sign form [SV-250](#), *Proof of Service of Response by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use form MC-030, *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to three years. Tell the judge why you disagree with the orders requested.

## Instructions for Law Enforcement

### Enforcing the Restraining Order

This order is enforceable 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 Restraining and Protective Orders System (CARPOS). Agencies are encouraged to enter violation messages into CARPOS. If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

### Start Date and End Date of Orders

This order *starts* on the date next to the judge's signature on page 4. The order *ends* on the expiration date in item 5 on page 1.

### If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

**This is a Court Order.**



## Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 6a(4) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(Clerk will fill out this part.)

### —Clerk's Certificate—

Clerk's Certificate  
[seal]

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

# Response to Petition for Private Postsecondary School Violence Restraining Orders

Clerk stamps date here when form is filed.

**DRAFT**  
**2024-01-29**  
**Not approved by**  
**the Judicial Council**

## Use this form to respond to the *Petition* (form SV-100)

- Read *How Can I Respond to a Petition for Private Postsecondary School Violence Restraining Orders?* (form SV-120-INFO) to protect your rights.
- Fill out this form and take it to the court clerk.
- Have someone age 18 or older—not you—serve the petitioner or the petitioner's lawyer by mail with a copy of this form and any attached pages. (Use form [SV-250](#), Proof of Service of Response by Mail.)

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

### 1 Petitioner (Educational Institution Officer or Employee)

Name: \_\_\_\_\_

### 2 Student Seeking Protection

Full Name: \_\_\_\_\_

### 3 Respondent (Person From Whom Protection Is Sought)

a. Your Name: \_\_\_\_\_

Your Lawyer (if you have one for this case)

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (You may give a mailing address if you want to keep your street address private; skip this if you have a lawyer.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

The court will consider your response at the hearing. Write your hearing date, time, and place from form SV-109, item (4) here:

Hearing  
Date

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

Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

**If you were served with a Temporary Restraining Order, you must obey it until the hearing.** At the hearing, the court may make orders against you that last for up to three years.

### 4 ☐ Personal Conduct Orders

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested.  
 (Specify why you disagree in item (12) on page 4.)
- c. ☐ I agree to the following orders (specify below or in item (12) on page 4):

\_\_\_\_\_

\_\_\_\_\_

### 5 ☐ Stay-Away Orders

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. (Specify why you disagree in item (12) on page 4.)
- c. ☐ I agree to the following orders (specify below or in item (12) on page 4):

\_\_\_\_\_

\_\_\_\_\_

**6** ☐ **Additional Protected Persons**

- a. ☐ I agree that the persons listed in item **(4)** of the Petition may be protected by the order requested.
- b. ☐ I do not agree that the persons listed in item **(4)** of the Petition may be protected by the order requested.

**7** **Firearms (Guns), Firearm Parts, and Ammunition**

If you were served with form SV-110, *Temporary Restraining Order*, you cannot own or possess any firearms (guns), firearm parts, or ammunition. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). (See item **(8)** of form SV-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) or firearms parts in your immediate possession or control within 24 hours of being served with form SV-110. You must file a receipt with the court. You may use *Receipt for Firearms and Firearm Parts* (form [SV-800](#)) for the receipt.

- a. ☐ I do not own or control any firearms (guns), firearm parts, or ammunition.
- b. ☐ I ask for an exemption from the firearms prohibition under Code of Civil Procedure section 527.9(f) because carrying a firearm is a condition of my employment, and my employer is unable to reassign me to another position where a firearm is unnecessary. (*Explain*):
- ☐ Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 7b—Firearms Surrender Exemption" as a title. You may use form [MC-025](#), Attachment.

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- c. ☐ I have turned in my firearms (guns) and firearm parts to the police or sold them to or stored them with a licensed gun dealer.
- A copy of the receipt ☐ is attached. ☐ has already been filed with the court.

**8** **No Body Armor**

If you were served with form SV-110, *Temporary Restraining Order*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply):

- a. ☐ I do not own or have any body armor.
- b. ☐ I have relinquished all body armor that I have in my possession.
- c. ☐ I was granted an exception, or will ask for an exception, to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (*Attach a copy of the letter granting permission, if you have one.*)

**9** ☐ **Other Orders**

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. *(Specify why you disagree in item 12 on page 4.)*
- c. ☐ I agree to the following orders *(specify below or in item 12 on page 4):*

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**10** ☐ **Denial**

I did not do anything described in item 8 of form SV-100. *(Skip to 12.)*

**11** ☐ **Justification or Excuse**

If I did some or all of the things that the petitioner has accused me of, my actions were justified or excused for the following reasons *(explain)*:

- ☐ Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 11—Justification or Excuse" as a title. You may use form MC-025, Attachment.

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Case Number:

15 Number of pages attached to this form, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Lawyer's name (if any)*

▶ \_\_\_\_\_  
*Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

\_\_\_\_\_  
*Type or print your name*

▶ \_\_\_\_\_  
*Sign your name*

## SV-120-INFO

# How Can I Respond to a Petition for Private Postsecondary School Violence Restraining Orders?

## What is a private postsecondary school violence restraining order?

It is a court order that prohibits you from doing certain things and going certain places.

## What does the order do?

The court can order you to:

- Not contact the student who is protected by the order
- Stay away from the student and the student's home, school, and other places
- Not have any firearms (guns), firearm parts, ammunition, or body armor as long as the order is in effect. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items you would not be allowed to have, please see [selfhelp.courts.ca.gov/restraining-orders/prohibited-items](https://selfhelp.courts.ca.gov/restraining-orders/prohibited-items).

## Who can ask for a private postsecondary school violence restraining order?

A school official at a private postsecondary school can ask for an order on behalf of an adult student who is worried about his or her safety because he or she has suffered a credible threat of violence that could be carried out on the school campus or facility.

## I've been served with a petition for private postsecondary school violence restraining orders. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* tells you when to appear in court. There may also be a *Temporary Restraining Order* forbidding you from doing certain things. You must obey the order until the hearing.

## What if I don't agree with what the order says?

You still must obey the order until the hearing. If you disagree with the orders the person is asking for, fill out form [SV-120](#), *Response to Petition for Private Postsecondary School Violence Restraining Orders*, before your hearing date and file it with the court. If you need to include attachments, you can use form [MC-025](#). You can get the forms from legal publishers or from the California Courts website at [www.courts.ca.gov/forms](https://www.courts.ca.gov/forms). You also may be able to find them at your local courthouse or county law library.

## What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine.

## Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of completed form SV-120 to the person named in item ① of the petition form SV-100 (or that person's lawyer). (This is called "service by mail.")

The person who serves the form by mail for you must fill out form [SV-250](#), *Proof of Service of Response by Mail*. Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.

## Should I go to the court hearing?

Yes. You should go to court on the date listed on form SV-109, *Notice of Court Hearing*. If you do not go to the hearing, the judge can make orders against you without hearing from you.

**SV-109 Notice of Court Hearing**

Clerk stamps date here when form is filed.

① **Petitioner (Educational Institution Officer or Employee)**

a. Name: \_\_\_\_\_

Lawyer for Petitioner (if any for this case): \_\_\_\_\_

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Address (If you have a lawyer, give your lawyer's information.): \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

② **Student in Need of Protection**

Full Name: \_\_\_\_\_

③ **Respondent (Person From Whom Protection Is Sought)**

Full Name: \_\_\_\_\_

The court will complete the rest of this form.

④ **Notice of Hearing**

A court hearing is scheduled on the request for restraining orders against the respondent:

Hearing Date: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

Name and address of court if different from above: \_\_\_\_\_

To the person in ③:

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

⑤ **Temporary Restraining Orders** (Any orders granted are on form SV-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form SV-100, *Request for Private Postsecondary School Violence Restraining Orders*, are (check only one box below):

(1) ☐ All GRANTED until the court hearing.

(2) ☐ All DENIED until the court hearing. (Specify reasons for denial in b, below.)

(3) ☐ Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)

Judicial Council of California, [www.courts.ca.gov](https://www.courts.ca.gov)  
Rev. January 1, 2025, Optional Form  
Code of Civil Procedure, §§ 527.85 and 527.9  
Approved by DOJ

**Notice of Court Hearing**  
(Private Postsecondary School Violence Prevention)

SV-109, Page 1 of 3



**How long does the order last?**

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. Any order issued at the hearing can last for up to three years.

**Do I need a lawyer?**

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

**Will I see the student at the court hearing?**

Yes. Assume that the student will attend the hearing. Do not talk to him or her unless the judge or that person's attorney says that you can.

**Can I bring a witness to the court hearing?**

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. You can use form [MC-030](#) for this.

**Information about the process is also  
available online.**

See [selfhelp.courts.ca.gov/SV-restraining-order](https://selfhelp.courts.ca.gov/SV-restraining-order).

**For help in your area, contact:**

*[Local information may be inserted.]*

**What if I don't speak English?**

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300](#), *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to [selfhelp.courts.ca.gov/request-interpreter](https://selfhelp.courts.ca.gov/request-interpreter).

**What if I have a gun?**

If a restraining order is issued, you cannot own, possess, or have a firearm (gun), firearm parts, ammunition, or body armor while the order is in effect. If you have a firearm (gun) or firearm parts in your immediate possession or control, you must sell it to or store it with a licensed gun dealer, or turn it in to a law enforcement agency.

**Can I agree with the protected person to  
cancel the order?**

No. Once the order is issued, only the judge can change or cancel it. You or the school official would have to file a request with the court to cancel the order.

**What if I have a disability?**

If you have a disability and need an accommodation while you are at court, you can use form [MC-410](#), *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO](#), *How to Request a Disability Accommodation for Court*.

# Private Postsecondary School Violence Restraining Order After Hearing

Clerk stamps date here when form is filed.

**DRAFT**  
**2024-01-25**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

## 1 Petitioner (Educational Institution Officer or Employee)

a. Name: \_\_\_\_\_

Lawyer for Petitioner (if any, for this case)

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

## 2 Student (Protected Person)

Full Name: \_\_\_\_\_

## 3 Respondent (Restrained Person)

(Give all the information you know. Information with a star (\*) is required to add this order to the California police database. If age is unknown, give an estimate.)

\*Full Name: \_\_\_\_\_ \*Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

\*Race: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_

\*Gender: ☐ M ☐ F ☐ Nonbinary Home Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Relationship to Protected Person: \_\_\_\_\_

## 4 ☐ Additional Protected Persons

In addition to the student, the following family or household members or other students are protected by the temporary orders indicated below:

Full Name	Gender	Age	Household Member?	Relation to student
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

☐ Additional protected persons are listed at the end of this Order on Attachment 4.

## 5 Expiration Date

*This Order, except for any award of lawyer's fees, expires at*

Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m. ☐ p.m.

If no expiration date is written here, this Order expires three years from the date of issuance.

**This is a Court Order.**



**6 Hearing**

- a. There was a hearing on *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
*(Name of judicial officer)*: \_\_\_\_\_ made the orders at the hearing.
- b. These people were at the hearing:
- (1) ☐ The petitioner/school representative *(name)*: \_\_\_\_\_
- (2) ☐ The lawyer for the petitioner/school *(name)*: \_\_\_\_\_
- (3) ☐ The student (4) ☐ The lawyer for the student *(name)*: \_\_\_\_\_
- (5) ☐ The respondent (6) ☐ The lawyer for the respondent *(name)*: \_\_\_\_\_
- ☐ Additional persons present are listed at the end of this Order on Attachment 6b.
- c. ☐ The hearing is continued. The parties must return to court on *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_.

**To the Respondent:**

**The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.**

**7 Personal Conduct Orders**

- a. You are ordered **not** do the following things to the student
- ☐ and to the other protected persons listed in **(4)**:
- (1) ☐ Harass, molest, strike, assault (sexually or otherwise), batter, abuse, destroy personal property of, or disturb the peace of the person.
- (2) ☐ Commit acts of violence or make threats of violence against the person.
- (3) ☐ Follow or stalk the person during school hours or to or from the school.
- (4) ☐ Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
- (5) ☐ Enter the person's school.
- (6) ☐ Take any action to obtain the person's address or locations. If this item is not checked, the court has found good cause not to make this order.
- (7) ☐ Other *(specify)*:  
☐ Other personal conduct orders are attached at the end of this Order on Attachment 7a(7).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

**This is a Court Order.**

**8 Stay-Away Orders**

a. You **must** stay at least \_\_\_\_\_ yards away from (*check all that apply*):

- |   |  |
|---|--|
| (1) <input type="checkbox"/> The student.                                       | (7) <input type="checkbox"/> The student's children's place of child care. |
| (2) <input type="checkbox"/> Each other protected person listed in <b>(4)</b> . | (8) <input type="checkbox"/> The student's vehicle.                        |
| (3) <input type="checkbox"/> The school.  | (9) <input type="checkbox"/> Other ( <i>specify</i> ):                     |
| (4) <input type="checkbox"/> The student's home.                                | _____  |
| (5) <input type="checkbox"/> The student's job or workplace.                    | _____  |
| (6) <input type="checkbox"/> The student's children's school.                   | _____  |

b. This stay-away order does not prevent you from going to or from your home or place of employment.

**9 No Firearms (Guns), Firearm Parts, or Ammunition**

a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed below in b.

b. **Prohibited items are:**

- (1) Firearms (guns);
- (2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
- (3) Ammunition.

c. If you have not already done so, you must:

- Within 24 hours of being served with this Order, sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your custody or control or that you possess or own.
- File a receipt with the court within 48 hours of receiving this Order that proves that your firearm (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form [SV-800](#)) for the receipt.)

d. ☐ The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

e. ☐ The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in **(3)** is not required to relinquish this firearm (*specify make, model, and serial number of firearm(s)*): \_\_\_\_\_

The firearm must be in the physical possession of the person in **(3)** only during scheduled work hours and during travel to and from their place of employment. Even if exempt under California law, the person in **(3)** may be subject to federal prosecution for possessing or controlling a firearm.

**10 No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**This is a Court Order.**



**11** ☐ **Costs**

You must pay the following amounts for costs to the petitioner:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

☐ Additional amounts are attached at the end of this Order on Attachment **11**.

**12** ☐ **Other Orders** (*specify*):

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☐ Additional orders are attached at the end of this Order on Attachment **12**.

**To the Person in 1:****13** **Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. ☐ The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. ☐ The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. ☐ By the close of business on the date that this Order is made, the petitioner or the petitioner's lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

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☐ Additional law enforcement agencies are listed at the end of this Order on Attachment **13**.

**14** **Service of Order on Respondent**

- a. ☐ The respondent personally attended the hearing, either physically or remotely (by telephone or videoconference). No other proof of service is needed.
- b. ☐ The respondent did not attend the hearing.
- (1) ☐ Proof of service of form SV-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are the same as in form SV-110 except for the expiration date. The respondent must be served with this Order. Service may be by mail.
- (2) ☐ The judge's orders in this form are different from the temporary restraining orders in form SV-110. Someone—but not the petitioner or anyone protected by this order—must personally serve a copy of this Order on the respondent.

**This is a Court Order.**



**15 No Fee to Serve (Notify) Restrained Person**

The sheriff or marshal will serve this Order without charge because the Order is based on a credible threat of violence or stalking.

**16** Number of pages attached to this Order, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*

**Warning and Notice to the Respondent:****You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition**

Unless item 9e is checked, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 9b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in **(9)** above. The court will require you to prove that you did so.

**Instructions for Law Enforcement****Enforcing the Restraining Order**

This Order is enforceable 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 Restraining and Protective Order System (CARPOS). Agencies are encouraged to enter violation messages into CARPOS. If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing (see **(14)**), the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

**Start Date and End Date of Orders**

This Order *starts* on the date next to the judge's signature on page 5 and *ends* on the expiration date in **(5)** on page 1.

**If the Protected Person Contacts the Restrained Person**

Even if the protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

**This is a Court Order.**

## Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 7a(4) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Clerk's Certificate  
[seal]

(Clerk will fill out this part.)  
—Clerk's Certificate—

I certify that this *Private Postsecondary School Violence Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

# Petition for Workplace Violence Restraining Orders

Clerk stamps date here when form is filed.

Read *How Do I Get an Order to Prohibit Workplace Violence* (form [WV-100-INFO](#)) before completing this form. **NOTE: Petitioner must be an employer with standing to bring this action under Code of Civil Procedure section 527.8.** Also fill out *Confidential CLETS Information* (form [CLETS-001](#)) with as much information as you know.

**DRAFT****6/5/2024****Not approved by  
the Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**

## 1 Petitioner (Employer or Collective Bargaining Representative)

a. Name: \_\_\_\_\_

is a ☐ Employer☐ Collective Bargaining Representative

Specify union: \_\_\_\_\_

and is filing this suit on behalf of the employee identified in item ②.

b. Lawyer for Petitioner (if any for this case)

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Petitioner's Address (If the petitioner has a lawyer, give the lawyer's information.)

c. Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

## 2 Employee Who Suffered Harassment, Violence, or Threat of Violence

Full Name: \_\_\_\_\_

Gender: ☐ M ☐ F ☐ Nonbinary Age: \_\_\_\_\_

Workplace Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

☐ This employee declines to be named in any restraining order issued as a result of this petition.☐ Additional employees suffered harassment, violence, or a threat of violence. Those employees, and whether they decline to be named in any restraining order issued as a result of this petition, are listed in Attachment 2.

## 3 Respondent (Person From Whom Protection Is Sought)

Full Name: \_\_\_\_\_ Age: \_\_\_\_\_

Address (if known): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

## 4 Protected Persons Not Listed in ②

a. Are you asking for protection for any family or household members of the employee or for any other employees at the employee's workplace or at other workplaces of the petitioner?

☐ Yes ☐ No (If yes, list them):Full NameGenderAgeHousehold Member?Relationship to Employee\_\_\_\_\_ ☐ Yes ☐ No\_\_\_\_\_ ☐ Yes ☐ No☐ Additional protected persons are listed in Attachment 4a.**This is not a Court Order.**

4 b. Why do these people need protection? *(Explain)*:

☐ Response is stated in Attachment 4b.

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5 **Relationship of Employee and Respondent**

a. How does the employee know the respondent? *(Describe)*: ☐ Response is stated in Attachment 5a.

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b. Respondent ☐ is ☐ is not a current employee of petitioner. *(Explain any decision to retain, terminate, or otherwise discipline the respondent)*: ☐ Response is stated in Attachment 5b.

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6 **Venue**

Why are you filing in this county? *(Check all that apply)*:

- a. ☐ The respondent lives in this county.  
b. ☐ The respondent has caused physical or emotional injury to the petitioner's employee in this county.  
c. ☐ Other *(specify)*: \_\_\_\_\_

7 **Other Court Cases**

a. Has the employee or any of the persons named in 4 been involved in another court case with the respondent?

☐ No ☐ Yes *If yes, check each kind of case and indicate where and when each was filed:*

	<u>Kind of Case</u>	<u>Filed in (County/State)</u>	<u>Year Filed</u>	<u>Case Number (if known)</u>
(1)	<input type="checkbox"/> Workplace Violence	_____	_____	_____
(2)	<input type="checkbox"/> Civil Harassment	_____	_____	_____
(3)	<input type="checkbox"/> Domestic Violence	_____	_____	_____
(4)	<input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(5)	<input type="checkbox"/> Paternity, Parentage, Child Support	_____	_____	_____
(6)	<input type="checkbox"/> Eviction	_____	_____	_____
(7)	<input type="checkbox"/> Guardianship	_____	_____	_____
(8)	<input type="checkbox"/> Small Claims	_____	_____	_____
(9)	<input type="checkbox"/> Postsecondary School Violence	_____	_____	_____
(10)	<input type="checkbox"/> Criminal	_____	_____	_____
(11)	<input type="checkbox"/> Other <i>(specify)</i> : _____	_____	_____	_____

b. Are any restraining orders or criminal protective orders now in effect relating to the employee or any of the persons in 4 and the respondent? ☐ No ☐ Yes *(If yes, attach a copy if you have one.)*

**This is not a Court Order.**



### 8 Description of Respondent's Conduct

- a. Respondent has (*check one or more*):
- (1) ☐ Assaulted, battered, or stalked the employee.
  - (2) ☐ Made a credible threat of violence against the employee by making knowing or willful statements or engaging in a course of conduct that would place a reasonable person in fear for his or her safety or the safety of his or her immediate family.
  - (3) ☐ Engaged in a course of conduct that seriously alarmed, annoyed, or harassed the employee and caused the employee substantial emotional distress. (*A course of conduct is more than one act.*)
- b. One or more of these acts (*check either or both*):
- (1) ☐ Took place at the employee's workplace.
  - (2) ☐ Can reasonably be construed to be carried out in the future at the employee's workplace.

Address of workplace: \_\_\_\_\_

- c. Describe what happened. *(Provide details; include the dates of all incidents beginning with the most recent; tell who did what to whom; identify any witnesses):*  
☐ Response is stated in Attachment 8c.

[illegible]

- d. Was the employee harmed or injured? ☐ Yes ☐ No (If yes, describe harm or injuries):  
☐ Response is stated in Attachment 8d.

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- e. Did the respondent use or threaten to use a gun or any other weapon? ☐ Yes ☐ No (If yes, describe):  
☐ Response is stated in Attachment 8e.

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**This is not a Court Order.**

- 8 f. For any of the incidents described above, did the police come? ☐ Yes ☐ No ☐ I don't know

If yes, did the employee or the respondent receive an Emergency Protective Order?

☐ Yes ☐ No ☐ I don't know

If yes, the order protects (*check all that apply*):

☐ the employee ☐ the respondent ☐ one or more of the persons in 4.

(*Attach a copy of the order if you have one.*)

**Check the orders you want ☒**

9 ☐ **Personal Conduct Orders**

I ask the court to order the respondent **not** to do any of the following things to the employee or to any person to be protected listed in 4:

- a. ☐ Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
- b. ☐ Commit acts of unlawful violence on or make threats of violence to the person.
- c. ☐ Follow or stalk the person during work hours or to or from the place of work.
- d. ☐ Contact the person, either directly or indirectly, by **any** means, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
- e. ☐ Enter the person's workplace.
- f. ☐ Other (*specify*):  
☐ As stated in Attachment 9f.

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*The respondent will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.*

10 ☐ **Stay-Away Orders**

- a. I ask the court to order the respondent to stay at least \_\_\_\_\_ yards away from (*check all that apply*):

- |  |  |
|--|--|
| (1) <input type="checkbox"/> The employee.                                       | (8) <input type="checkbox"/> The employee's vehicle.   |
| (2) <input type="checkbox"/> The other persons listed in 4 .                     | (9) <input type="checkbox"/> Other ( <i>specify</i> ): |
| (3) <input type="checkbox"/> The employee's workplace.                           | _____  |
| (4) <input type="checkbox"/> The employee's home.                                | _____  |
| (5) <input type="checkbox"/> The employee's school.                              | _____  |
| (6) <input type="checkbox"/> The school of the employee's children.              |  |
| (7) <input type="checkbox"/> The place of child care of the employee's children. |  |

**This is not a Court Order.**



- 10 b. If the court orders the respondent to stay away from all the places listed above, will he or she still be able to get to his or her home, school, or job? ☐ Yes ☐ No (If no, explain):  
☐ Response is stated on Attachment 10b.

11 **Firearm (Guns), Firearm Parts, and Ammunition**

Does the respondent own or possess any firearms (guns), firearm parts, or ammunition? This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

☐ Yes ☐ No ☐ I don't know

*If the judge grants a protective order, the respondent will be prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive firearms (guns), firearm parts, and ammunition while the protective order is in effect. The respondent will also be ordered to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts within his or her immediate possession or control. If an order is granted, the respondent will also be prohibited from owning, possessing, or buying body armor and would have to relinquish any they have.*

12 ☐ **Temporary Restraining Order**

I request that a Temporary Restraining Order (TRO) be issued against the respondent to last until the hearing. I am presenting form WV-110, *Temporary Restraining Order*, for the court's signature together with this Petition.

Has the respondent been told that you were going to go to court to seek a TRO against him or her?

☐ Yes ☐ No (If you answered no, explain why below):

☐ Reasons are stated in Attachment 12.

13 ☐ **Request for Less Than Five Days' Notice of Hearing**

*You must have your papers personally served on the respondent at least five days before the hearing, unless the court orders a shorter time for service. (Form [WV-200-INFO](#) explains what is proof of personal service. Form [WV-200](#), Proof of Personal Service, may be used to show the court that the papers have been served.)*

If you want there to be fewer than five days between service and the hearing, explain why:

☐ Reasons are stated in Attachment 13.

**This is not a Court Order.**



**14** ☐ **No Fee for Filing**

I ask that there be no filing fee because the respondent has threatened violence against the employee, or stalked the employee, or acted or spoken in a manner that has placed the employee in reasonable fear of violence.

**15** ☐ **No Fee to Serve Orders**

I ask the court to order the sheriff or marshal to serve the respondent with the others for free because this request for orders is based on a credible threat of violence or stalking.

**16** ☐ **Court Costs**

I ask the court to order the respondent to pay my court costs.

**17** ☐ **Additional Orders Requested**

I ask the court to make the following additional orders (*specify*):

☐ Additional orders requested are stated in Attachment 17.

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**18** Number of pages attached to this form, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Lawyer's name (if any)*

▶ \_\_\_\_\_  
*Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

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

\_\_\_\_\_  
*Name of petitioner*

▶ \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Title*

**This is not a Court Order.**



## WV-100-INFO How Do I Get an Order to Prohibit Workplace Violence?

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

### What is a workplace violence protective order?

Under California law (Code Civ. Proc., § 527.8), courts can make orders to protect an employee from suffering harassment, unlawful violence, or credible threats of violence at the workplace.

The court can order a person not to:

- Harass or threaten an employee;
- Contact or go near an employee; and
- Have any firearms (guns), firearm parts, ammunition, or body armor. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items a restrained person cannot have, please see [selfhelp.courts.ca.gov/restraining-orders/prohibited-items](https://selfhelp.courts.ca.gov/restraining-orders/prohibited-items).

These orders will be enforced by law enforcement agencies.

### Who can get a workplace violence protective order?

**Employers** can obtain court orders prohibiting harassment, unlawful violence, or credible threats of violence against their employees. An employer is defined as:

- Every person engaged in any business or enterprise in this state that has one or more persons in service under any appointment, contract of hire, or apprenticeship, express or implied, oral or written, irrespective of whether such person is the owner of the business or is operating on a concessionaire or other basis. (Lab. Code, § 350(a).)
- A federal, state, or local public agency; a city, county, district, or public corporation. (Code Civ. Proc., § 527.8(b)(3).)

**Collective Bargaining Representatives** can also obtain orders prohibiting harassment, unlawful violence, or credible threats of violence against employees. In order to bring a petition for an order under this law, the collective bargaining representative must serve as a collective bargaining representative for that employee in employment or labor matters at the employee's workplace.

Before completing the forms needed to obtain court orders under this statute, make certain you meet the definitions of "employer" or "collective bargaining representative" as defined above.

The statute differs from other California laws that allow victims of harassment, unlawful violence, or credible threats of violence to ask the court for these orders themselves. If anyone other than the employer or the collective bargaining representative wishes to apply to the court for an order prohibiting harassment, see *Can a Civil Harassment Restraining Order Help Me?* (form [CH-100-INFO](#))

### Who can an employer or collective bargaining representative protect under this law?

Under this statute, an employer or collective bargaining representative can obtain a court order that lasts up to three years on behalf of an employee. The order can also protect certain family or household members of the employee and other employees at the employee's workplace or at other workplaces of the employer.

**Note:** Before filing a petition, an employer or collective bargaining representative of an employee must provide the employee who has suffered harassment, unlawful violence, or a credible threat of violence from any individual, an opportunity to decline to be named in the restraining order. An employee's request to not be named in the order does not prohibit an employer or collective bargaining representative from seeking a restraining order on behalf of other employees at the workplace, and, if appropriate, other employees at other workplaces of the employer.

California law defines "employees" as:

- Every person, including aliens and minors, rendering actual service in any business for an employer, whether gratuitously or for wages or pay; whether the wages or pay are measured by the standard of time, piece, task, commission, or other method of calculation; and whether the service is rendered on a commission, concessionaire, or other basis. (Lab. Code, § 350(b).)
- Members of boards of directors and public officers.
- Volunteers or independent contractors who perform services for the employer at the employer's work site.

The “respondent” is the person against whom the employer or collective bargaining representative is requesting the protective order.

An employer may seek protection under this law if:

1. An employee has suffered harassment, unlawful violence, or a credible threat of violence from any individual;
2. The unlawful violence was carried out in the workplace, or the threat of violence can reasonably be construed to be carried out in the workplace;
3. The respondent’s conduct is not allowable as part of a legitimate labor dispute as permitted by Code of Civil Procedure section 527.3; and
4. The respondent is not engaged in constitutionally protected activity.

### What forms must be used to get the order?

1. *Petition for Orders Workplace Violence Restraining Orders (Petition)* (form [WV-100](#)). This form tells the judge the facts of the petitioner’s case and what orders the petitioner wants the court to make.
2. *Confidential Information for Law Enforcement* (form [CLETS-001](#)). This form will provide law enforcement agencies with the information needed to enforce any orders that are granted.
3. *Notice of Court Hearing* (form [WV-109](#)). This form tells the parties when the hearing on the petition will be held.
4. *Temporary Restraining Order (TRO)* (form [WV-110](#)). A TRO can be issued to provide protection to the employee until the hearing is held. It can be issued by the judge either with or without notice to the respondent.
5. *Workplace Violence Restraining Order After Hearing (Order)* (form [WV-130](#)). This is the form signed by the court following the hearing. The order can last for up to three years depending on what the judge rules.

These forms are all **mandatory**—that is, they must be used in the workplace violence prevention proceeding.

6. *Proof of Personal Service* (form [WV-200](#)). This form is used to show that the other party has been **served** with the petition and other forms as required by law.

### Where can I get these forms?

You can get the forms from legal publishers or from the California Courts website at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). You also may be able to find them at your local courthouse or county law library.

### Do I need a lawyer?

The employer or collective bargaining representative may be represented by a lawyer, but one is not required by law unless an employer that is a corporation is the petitioner. Because the employer’s or union’s lawyer will generally be representing the interests of the employee, the employee usually does not need his or her own lawyer. Whether or not the employer or collective bargaining representative has a lawyer, the respondent may have one.

### What steps are needed to get the court orders?

1. Fill in the **Petition** (form WV-100) completely and fill in items 1–3 of the *Notice of Court Hearing* (form WV-109). If you are seeking a **TRO**, also fill out form WV-110.
2. If you are seeking orders based on information from others and not based on what you have personally observed, you **must** have each of those persons complete a declaration to attach to the **Petition** (form WV-100). You may use form [MC-031](#), *Attached Declaration*.
3. Fill in *Confidential Information for Law Enforcement* (form CLETS-001) with as much information as you know. If the judge grants the order, the information on this form will be entered into a statewide protective-order database that will be available to law enforcement agencies if the order needs to be enforced.
4. If you are applying for a **TRO**, fill out form WV-110 completely. The petition and the declarations must give the details of the recent acts of harassment, violence, or credible threats of violence and the problems they have caused.

To obtain a **TRO**, you must notify the respondent of the request for the temporary order unless both of the following requirements are satisfied:

- a. It appears from facts shown on the petition that great or irreparable injury will result before the matter can be heard on notice; and



- b. You or your attorney certifies one of the following to the court under oath:
- (1) That within a reasonable time before presenting the petition to the court to ask for a TRO, you informed the respondent or the respondent's attorney when and where the request for a TRO would be made;
  - (2) That you in good faith attempted but were unable to inform the respondent and the respondent's attorney, specifying the efforts made to contact them; or
  - (3) That for reasons specified, you should not be required to inform the respondent or the respondent's attorney.
5. Take your original completed forms and copies to the clerk's office at the court. You will need **multiple copies**: one for you, one for **each person to be protected**, and one to serve on the respondent. **Each** protected person will need a copy of the **TRO** if it is necessary to call the police. The clerk will file the originals, assign a case number, and return the copies "file-stamped" to you. The clerk will write your hearing date on the *Notice of Court Hearing* (form WV-109).
6. If you are seeking a **TRO** (form WV-110), the clerk will tell you where and how to present your proposed order to a judge for consideration and signature. The court will decide within 24 hours whether or not to make the order. Sometimes the court decides right away. Ask the clerk if you should wait or come back later. If your request for a **TRO** is granted while you are still at the court, take the signed original back to the clerk to be filed.
7. If a **TRO** has been issued, ask the clerk whether you or your lawyer will need to deliver a file-stamped copy of the **TRO** to each law enforcement agency (police, marshal, or sheriff's office) that might be called on to enforce the order. If so, do so immediately.
8. If **a person to be protected by the order** does not speak English, when you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to [selfhelp.courts.ca.gov/request-interpreter](https://selfhelp.courts.ca.gov/request-interpreter).
9. Have the respondent personally **served** with copies of the **Petition** (form WV-100), the *Notice of Court Hearing* (form WV-109), the **TRO** (form WV-110) (if issued), a blank **Response** (form [WV-120](#)), and a blank Proof of Service of Response by Mail (form [WV-250](#)). You **cannot** serve the respondent yourself. Service may be made by a licensed process server, the sheriff's department, or any person 18 years of age or older **who is not involved in the case**. For help with service, ask the court clerk for form [WV-200-INFO, What Is "Proof of Personal Service"?](#)
- Service is essential. It tells the respondent about the order and the hearing. Without it, there cannot be a court hearing, and your temporary orders will no longer be good unless they are extended by the court. The respondent should be personally served immediately after the orders are signed by the judge, unless the court specifies a different time for service.**
10. After the respondent has been personally **served**, the person who served the respondent must complete and sign the original *Proof of Personal Service* (form WV-200). Take the signed original and copies back to the court clerk. The clerk will file the original and return "file-stamped" copies to you. Ask the clerk whether you should take a file-stamped copy to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.

**If the court issues a TRO, it will last until the hearing date.**



11. Go to court on the date shown at item 4 on the *Notice of Court Hearing* (form WV-109). You do not need to bring any witnesses, but it helps to have more proof of the violence or threats than just one person's word.

You can bring to the hearing:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, emails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use form [MC-030](#), *Declaration*.)

The respondent has the right to attend the hearing, but he or she does not have the right to speak to the employee or to any other person seeking protection. If anyone is afraid, tell the court officer.

12. If the judge signs the **Order** (form WV-130), ask the clerk to provide you with a file-stamped copy for each person to be protected. Ask the clerk whether you or your attorney will need to deliver a file-stamped copy of the **Order** to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.
13. If the respondent attended the hearing and heard the terms of the **Order** from the court, no additional proof of service is necessary. If the respondent did not attend the hearing, but the **Order** issued is the same as the TRO (except for the termination date), the **Order** may be served on the respondent by mail. File form [WV-260](#), *Proof of Service of Order After Hearing by Mail*. If the respondent did not attend the hearing and the **Order** differs from the TRO, arrange to have him or her personally **served** with a copy of the **Order**. File the completed *Proof of Personal Service* (form [WV-200](#)) with the court. Give a file-stamped copy of the **Order** and proof of service to your employee and to each other protected person. Keep at least one copy for yourself.
14. Once the order is issued, only the judge can change or cancel it. You or the respondent would have to file a request with the court to cancel the order.

**WV-109**
**Notice of Court Hearing**

Clerk stamps date here when form is filed.

① **Petitioner (Employer or Collective Bargaining Representative)**

a. Name:

Lawyer for Petitioner (if any for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Address (If you have a lawyer, give your lawyer's information.):

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Fill in case number:

Case Number: \_\_\_\_\_

② **Employee Who Petitioner Asserts Suffered Harassment, Violence, or Threat of Violence**

Full Name: \_\_\_\_\_

③ **Respondent (Person From Whom Protection Is Sought)**

Full Name: \_\_\_\_\_

The court will complete the rest of this form.

④ **Notice of Hearing**

A court hearing is scheduled on the request for restraining orders against the respondent:

Name and address of court if different from above: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Time: \_\_\_\_\_

Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

To the person in ③:

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

Judicial Council of California, [www.courts.ca.gov](#)  
Rev. January 1, 2025, Mandatory Form  
Code of Civil Procedure, § 527.8  
Approved by DOJ

**Notice of Court Hearing**  
(Workplace Violence Prevention)

WV-109, Page 1 of 3

15. If the respondent does not obey the order, call the police. The respondent can be arrested and charged with a crime.

## What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410](#), *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO](#), *How to Request a Disability Accommodation for Court*.

**Information about the process is also available online.**

See [selfhelp.courts.ca.gov/WV-restraining-order](https://selfhelp.courts.ca.gov/WV-restraining-order)

**For help in your area, contact:**

[Local information may be inserted.]

**DRAFT**  
**2024-01-29**

**Not approved by the  
Judicial Council**

**1 Petitioner (Employer or Collective Bargaining Representative)**

a. Name: \_\_\_\_\_

Lawyer for Petitioner (if any for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Address (If you have a lawyer, give your lawyer's information.):

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number:

**Case Number:**

**2 Employee Who Petitioner Asserts Suffered Harassment, Violence, or Threat of Violence**

Full Name: \_\_\_\_\_

**3 Respondent (Person From Whom Protection Is Sought)**

Full Name: \_\_\_\_\_

*The court will complete the rest of this form.*

**4 Notice of Hearing**

**A court hearing is scheduled on the request for restraining orders against the respondent:**

**Hearing  
Date**

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

Name and address of court if different from above:

**To the person in ③:**

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.



- 5 Temporary Restraining Orders *(Any orders granted are on form WV-110, served with this notice.)*
- a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form WV-100, *Request for Workplace Violence Restraining Orders*, are *(check only one box below)*:
- (1) ☐ All **GRANTED** until the court hearing.

(2) ☐ All **DENIED** until the court hearing. *(Specify reasons for denial in b, below.)*

(3) ☐ Partly **GRANTED** and partly **DENIED** until the court hearing. *(Specify reasons for denial in b, below.)*
- b. Reasons that Temporary Restraining Orders as requested in form WV-100, *Petition for Workplace Violence Restraining Orders*, for personal conduct or stay-away are denied are:
- (1) ☐ The facts as stated in form WV-100 do not sufficiently show reasonable proof that the employee has suffered harassment, unlawful violence, or a credible threat of violence by the respondent, and that great or irreparable harm to the employee would result if a temporary restraining order is not issued.

(2) ☐ Other *(specify)*: ☐ As stated on Attachment 5b.
- 

- 6 Service of Documents by the Petitioner
- At least ☐ five ☐ \_\_\_\_\_ days before the hearing , someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this form WV-109, *Notice of Court Hearing*, to the respondent along with a copy of all the forms indicated below:
- a. WV-100, *Petition for Workplace Violence Restraining Orders* (file-stamped)

b. ☐ WV-110, *Temporary Restraining Order* (file-stamped) **IF GRANTED**

c. [WV-120](#), *Response to Petition for Workplace Violence Restraining Orders* (blank form)

d. [WV-120-INFO](#), *How Can I Respond to a Petition for Workplace Violence Restraining Orders?*

e. ☐ Other *(specify)*: \_\_\_\_\_

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

\_\_\_\_\_

Judicial Officer

**To the Petitioner:**

- The court cannot make the restraining orders after the court hearing unless the respondent has been personally given (served) a copy of your request and any temporary orders. To show that the respondent has been served, the person who served the forms must fill out a proof of service form. Form [WV-200](#), *Proof of Personal Service*, may be used.
- You may ask to reschedule the hearing if you are unable to find the respondent and need more time to serve the documents, or for other good reasons. Read form [WV-115-INFO](#), *How to Ask for a New Hearing Date*.
- For information about service, read form [WV-200-INFO](#), *What Is "Proof of Personal Service"?*
- You must attend the hearing if you want the judge to make any of the orders you requested on form WV-100, *Petition for Workplace Violence Restraining Orders*. Bring any evidence or witnesses you have. For more information, read form WV-100-INFO, *How Do I Get an Order to Prohibit Workplace Violence?*

**To the Respondent:**

- If you want to respond to the request for orders in writing, file form [WV-120](#), *Response to Petition for Workplace Violence Restraining Orders*, and have someone age 18 or older—**not you or anyone to be protected**—mail it to the petitioner.
- The person who mailed the form must fill out a proof of service form. Form [WV-250](#), *Proof of Service of Response by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may make restraining orders against you that could last up to three years and may order you to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). **If an order is granted, you will also be prohibited from owning, possessing, or buying body armor and will have to relinquish any body armor you have.**
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Read form [WV-115-INFO](#), *How to Ask for a New Hearing Date*.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Disability Accommodation Request* (form [MC-410](#)). (Civ. Code, § 54.8.)

*(Clerk will fill out this part.)*

**—Clerk's Certificate—**

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

*Clerk's Certificate*  
[seal]

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

**1 Petitioner (Employer or Collective Bargaining Representative)**

a. Name: \_\_\_\_\_

Lawyer for Petitioner (if any, for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information.):

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

**DRAFT  
2024-01-29****Not approved by the  
Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:****2 Protected Person or Persons**

Full Name: \_\_\_\_\_

Full Name: \_\_\_\_\_

Full Name: \_\_\_\_\_

Full Name: \_\_\_\_\_

☐ Additional protected persons are listed at the end of this Order on Attachment 2.**3 Respondent (Restrained Person)***(Give all the information you know. Information with a star (\*) is required to add this order to the California police database. If age is unknown, give an estimate.)*

\*Full Name: \_\_\_\_\_ \*Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

\*Race: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_

\*Gender: ☐ M ☐ F ☐ Nonbinary Home Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Relationship to Protected Person: \_\_\_\_\_

**4 Expiration Date***This Order expires at the end of the hearing scheduled for the date and time below:*Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m. ☐ p.m.**This is a Court Order.**



**To the Respondent:**

The court has issued the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may have to go to jail for up to one year, pay a fine of up to \$1,000, or both.

**5 Personal Conduct Orders**

☐ **Not Requested**    ☐ **Denied Until the Hearing**    ☐ **Granted as Follows:**

a. You are ordered **not to** do the following things to **the protected person or persons listed in (2)**

- (1) ☐ Harass, molest, strike, assault (sexually or otherwise), batter, abuse, destroy personal property of, or disturb the peace of the person.
- (2) ☐ Commit acts of violence or make threats of violence against the person.
- (3) ☐ Follow or stalk the person during work hours or to or from the place of work.
- (4) ☐ Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by email, by fax, or by other electronic means.
- (5) ☐ Enter the workplace of the person.
- (6) ☐ Take any action to obtain the person's address or locations. If this item is not checked, the court has found good cause not to make this order.
- (7) ☐ Other (*specify*):  
☐ Other personal conduct orders are attached at the end of this Order on Attachment 5a(7).

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b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the petitioner.

**6 Stay-Away Order**

☐ **Not Requested**    ☐ **Denied Until the Hearing**    ☐ **Granted as Follows:**

a. You **must** stay at least \_\_\_\_\_ yards away from (*check all that apply*):

- (1) ☐ Each protected person listed in (2)    (3) ☐ Other (*specify*):
- (2) ☐ For each protected person listed in (2)
  - (a) ☐ The person's workplace
  - (b) ☐ The person's home
  - (c) ☐ The person's school
  - (d) ☐ The person's children's school
  - (e) ☐ The person's children's place of childcare
  - (f) ☐ The person's vehicle

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b. This stay-away order does not prevent you from going to or from your home or place of employment.

**This is a Court Order.**



**7 No Firearms (Guns), Firearm Parts, or Ammunition**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed in b.
- b. **Prohibited items are:**
- (1) Firearms (guns);
  - (2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
  - (3) Ammunition.
- c. You must:
- (1) Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control. This must be done within 24 hours of being served with this Order.
  - (2) File a receipt with the court within 48 hours of receiving this Order that proves that all your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form [WV-800](#)) for the receipt.)
- d. ☐ The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

**8 No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**9 Other Orders**

☐ **Not Requested**    ☐ **Denied Until the Hearing**    ☐ **Granted as Follows (specify):**

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☐ Additional orders are attached at the end of this Order on Attachment **9**.

**To the Petitioner:****10 Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. ☐ The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. ☐ The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.

**This is a Court Order.**

- 10 c. ☐ By the close of business on the date that this Order is made, the employer or the employer's lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agencies listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

\_\_\_\_\_

☐ Additional law enforcement agencies are listed at the end of this Order on Attachment 10.

11 **No Fee to Serve (Notify) Restrained Person** ☐ **Ordered** ☐ **Not Ordered**

The sheriff or marshal will serve this Order without charge because:

- a. ☐ The Order is based on a credible threat of violence or stalking.  
b. ☐ The petitioner is entitled to a fee waiver.

12 Number of pages attached to this Order, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*

**Warnings and Notices to the Restrained Person in 3**

**You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition**

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 7b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in item 7 above. The court will require you to prove that you did so.

**Notice Regarding Nonappearance at Hearing and Service of Order**

If you have been personally served with this Temporary Restraining Order and form WV-109, *Notice of Court Hearing*, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this Temporary Restraining Order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item 3.

If this address is not correct or you wish to verify that the Temporary Restraining Order was converted into a restraining order at the hearing without substantive change, or to find out the duration of the order, contact the clerk of the court.

**This is a Court Order.**



## After You Have Been Served With a Restraining Order

- Obey all the orders. Any intentional violation of this Order is a misdemeanor punishable by a fine or by imprisonment in a county jail, or by both fine and imprisonment. (Pen. Code, § 273.6.)
- Read form [WV-120-INFO](#), *How Can I Respond to a Petition for Orders to Stop Workplace Violence?*, to learn how to respond to this Order.
- If you want to respond, fill out form [WV-120](#), *Response to Petition for Workplace Violence Restraining Orders*, and file it with the court clerk. You do not have to pay any fee to file your response if the petition claims that you threatened violence against or stalked the employee, or placed the employee in reasonable fear of violence.
- You must have form WV-120 served on the petitioner or the petitioner's attorney by mail. You cannot do this yourself. The person who does the service should complete and sign form [WV-250](#), *Proof of Service of Response by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use form [MC-030](#), *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to three years. Tell the judge why you disagree with the orders requested.

## Instructions for Law Enforcement

### Enforcing the Restraining Order

This order is enforceable 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 Restraining and Protective Orders System (CARPOS). Agencies are encouraged to enter violation messages into CARPOS. If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

### Start Date and End Date of Orders

This order *starts* on the date next to the judge's signature on page 4. The order *ends* on the expiration date in item ④ on page 1.

### If a Protected Person Contacts the Restrained Person

Even if a protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

**This is a Court Order.**



**Conflicting Orders—Priorities for Enforcement**

If more than one restraining order has been issued protecting a protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 6a(4) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(Clerk will fill out this part.)

**—Clerk's Certificate—**

Clerk's Certificate  
[seal]

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

Instructions: Use this form to ask the court to reschedule the court date listed on, *Notice of Court Hearing* (form [WV-109](#)). Read *How to Ask for a New Hearing Date* (form [WV-115-INFO](#)) for more information.

Clerk stamps date here when form is filed.

**DRAFT**  
**2024-02-07**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number:

**Case Number:**

## 1 My Information

a. My name is: \_\_\_\_\_

b. I am the:

(1) ☐ **Petitioner** (employer or collective bargaining representative)  
(skip to **2**).

(2) ☐ **Respondent** (give your contact information below).

Address where I can receive mail:

This address will be used by the court and other party to notify you in this case. If you want to keep your home address private, you can use another address like a post office box or another person's address, if you have their permission. If you have a lawyer, give your lawyer's address and contact information.

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

My contact information (optional):

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Lawyer's information (skip if you do not have one):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

## 2 Information About My Case

a. The other party in this case is (full name): \_\_\_\_\_

b. I have a court hearing currently scheduled for (date): \_\_\_\_\_

**This is not a Court Order.**

**3 Is a Temporary Restraining Order in effect?**

- ☐ Yes. Date the order was made, if known: \_\_\_\_\_  
Please attach a copy of the order if you have one.
- ☐ No.
- ☐ I don't know.

**Notice:** If the court date is rescheduled, the *Temporary Restraining Order* (form [WV-110](#)) will remain in effect until the end of the new court date unless otherwise ordered by the court.

**4 Why does the court date need to be rescheduled?**

- a. ☐ I need more time to have the respondent personally served.
- b. ☐ I am the respondent, and this is my first request to reschedule the court date.
- c. ☐ Other reason:

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I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Sign your name*

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

\_\_\_\_\_  
*Lawyer's name, if you have one*



\_\_\_\_\_  
*Lawyer's signature*

**This is not a Court Order.**

Complete items ① and ② only.

① **Petitioner (Employer or Collective Bargaining Representative)**

② **Respondent:** \_\_\_\_\_

—The court will complete the rest of this form—

③ **Next Court Date**

a. ☐ The request to reschedule the court date is **denied**.

Your court date is: \_\_\_\_\_

(1) Any *Temporary Restraining Order* (form [WV-110](#)) already granted stays in full force and effect until the next court date.

(2) Your court date is not rescheduled because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. ☐ The request to reschedule the court date is **granted**. Your court date is rescheduled for the day and time listed below. See ④–⑧ for more information.

**New  
Court  
Date**

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

Name and address of court, if different from above:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

④ **Temporary Restraining Order**

a. ☐ There is no *Temporary Restraining Order* (TRO) in this case until the next court date because:

(1) ☐ A TRO was not previously granted by the court.

(2) ☐ The court terminates (cancels) the previously granted TRO because:

\_\_\_\_\_  
\_\_\_\_\_

b. ☐ A *Temporary Restraining Order* (TRO) is still in full force and effect.

(1) ☐ The court extends the TRO previously granted on (date) \_\_\_\_\_  
It now expires on (date): \_\_\_\_\_  
(If no date is listed, the TRO expires at the end of the court date listed in 3b.)

(2) ☐ The court changes the TRO previously granted and signs a new TRO (form WV-110).

c. ☐ Other (specify): \_\_\_\_\_

**DRAFT  
2024-01-09**

**Not approved by the  
Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number:

**Case Number:**

**Warning and Notice  
to the Respondent:**

If ④b is checked, a temporary restraining order has been issued against you. You must follow the orders until they expire.

**This is a Court Order.**



**5 Reason Court Date Is Rescheduled**a. ☐ There is good cause to reschedule the court date (*check one*):(1) ☐ The petitioner has not served the respondent.(2) ☐ Other:b. ☐ This is the first time that the respondent has asked for more time to prepare.c. ☐ The court reschedules the court date on its own motion.**6 Serving (Giving) Order to Other Party**

The request to reschedule was made by the:

a. ☐ **Petitioner**b. ☐ **Respondent**c. ☐ **Court**(1) ☐ You do not have to serve the respondent because they or their lawyer were at the court date or agreed to reschedule the court date.(2) ☐ You must have the respondent personally served with a copy of all the forms listed on form [WV-109](#), item **6**, by  
(date): \_\_\_\_\_(3) ☐ You must serve the respondent with a copy of this order. This can be done by mail. You must serve by  
(date): \_\_\_\_\_(4) ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(1) ☐ You do not have to serve the petitioner because they or their lawyer were at the court date or agreed to reschedule the court date.(2) ☐ You must have the petitioner personally served with a copy of this order by  
(date): \_\_\_\_\_(3) ☐ You must serve the petitioner with a copy of this order. This can be done by mail. You must serve by  
(date): \_\_\_\_\_(4) ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(1) ☐ Further notice is not required.(2) ☐ The court will mail a copy of this order to all parties by  
(date): \_\_\_\_\_(3) ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**This is a Court Order.**

**7 No Fee to Serve (Notify) Respondent** ☐ **Ordered** ☐ **Not Ordered**

The sheriff or marshal will serve this order for free because:

- a. ☐ The order is based on unlawful violence, a credible threat of violence, or stalking.
- b. ☐ The person in **1** is entitled to a fee waiver.

**8** ☐ **Other Orders**

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

\_\_\_\_\_  
Judicial Officer**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm) for *Request for Accommodations by Persons With Disabilities and Response* (form [MC-410](#)). (Civ. Code, § 54.8.)

**Instructions to Clerk**

If the hearing is rescheduled and the court extended, modified, or terminated a temporary restraining order, then the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

**—Clerk's Certificate—**

Clerk's Certificate [seal] I certify that this *Order on Request to Continue Hearing (Temporary Restraining Order) (CLETS-TWH)* (form WV-116) is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

**DRAFT**

**01/29/2024**

**Not approved by  
the Judicial Council**

### Use this form to respond to the *Petition* (form WV-100)

- Read *How Can I Respond to a Petition for Workplace Violence Restraining Orders?* (form [WV-120-INFO](#)) to protect your rights.
- Fill out this form and take it to the court clerk.
- Have someone age 18 or older—**not you**—serve the petitioner or the petitioner's lawyer by mail with a copy of this form and any attached pages. (Use form [WV-250](#), Proof of Service of Response by Mail.)

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

### 1 Petitioner (Employer or Collective Bargaining Representative)

Name: \_\_\_\_\_

### 2 Employee Who Petitioner Asserts Suffered Harassment, Violence, or Threat of Violence

Full Name: \_\_\_\_\_

### 3 Respondent (Person From Whom Protection Is Sought)

a. Your Name: \_\_\_\_\_

Your Lawyer (if you have one for this case)

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (You may give a mailing address if you want to keep your street address private; skip this if you have a lawyer.)

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

The court will consider your response at the hearing. Write your hearing date, time, and place from form WV-109, item (4) here:

**Hearing Date** → Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

**If you were served with a Temporary Restraining Order, you must obey it until the hearing.** At the hearing, the court may make orders against you that last for up to three years.

### 4 ☐ Personal Conduct Orders

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested.  
(Specify why you disagree in item (12) on page 4.)
- c. ☐ I agree to the following orders (specify below or in item (12) on page 4):

\_\_\_\_\_

### 5 ☐ Stay-Away Orders

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. (Specify why you disagree in item (12) on page 4.)
- c. ☐ I agree to the following orders (specify below or in item (12) on page 4):

\_\_\_\_\_



**6** ☐ **Protected Persons Not Listed in 2**

- a. ☐ I agree that the persons listed in item 4 of the Petition may be protected by the order requested.
- b. ☐ I do not agree that the persons listed in item 4 of the Petition may be protected by the order requested.

**7** **Firearms (Guns), Firearm Parts, and Ammunition**

If you were served with form WV-110, *Temporary Restraining Order*, you cannot own or possess any firearms (guns), firearm parts, or ammunition. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). (See item 8 of form WV-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control within 24 hours of being served with form WV-110. You must file a receipt with the court. You may use *Receipt for Firearms and Firearm Parts* (form [WV-800](#)) for the receipt.

- a. ☐ I do not own or control any firearms (guns), firearm parts, or ammunition.
- b. ☐ I ask for an exemption from the firearms prohibition under Code of Civil Procedure section 527.9(f) because carrying a firearm is a condition of my employment, and my employer is unable to reassign me to another position where a firearm is unnecessary. (*Explain*):
- ☐ Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 7b—Firearms Surrender Exemption" as a title. You may use form [MC-025](#), Attachment.

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- c. ☐ I have turned in my firearms (guns) and firearm parts to the police or sold them to or stored them with a licensed gun dealer.
- A copy of the receipt ☐ is attached. ☐ has already been filed with the court.

**8** **No Body Armor**

If you were served with form WV-110, *Temporary Restraining Order*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply):

- a. ☐ I do not own or have any body armor.
- b. ☐ I have relinquished all body armor that I have in my possession.
- c. ☐ I was granted an exception, or will ask for an exception, to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (*Attach a copy of the letter granting permission, if you have one.*)



**9** ☐ **Other Orders**

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. (*Specify why you disagree in item 12 on page 4.*)
- c. ☐ I agree to the following orders (*specify below or in item 12 on page 4*):

[illegible]

**10** ☐ **Denial**

I did not do anything described in item (8) of form WV-100. (Skip 12

**11** ☐ **Justification or Excuse**

If I did some or all of the things that the petitioner has accused me of, my actions were justified or excused for the following reasons (*explain*):

- ☐ Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write “Attachment 11—Justification or Excuse” as a title. You may use form MC-025, Attachment.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on its right side, suggesting it's resting on a surface.



Case Number:

15 Number of pages attached to this form, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Lawyer's name (if any)*

▶ \_\_\_\_\_  
*Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

\_\_\_\_\_  
*Type or print your name*

▶ \_\_\_\_\_  
*Sign your name*

## WV-120-INFO

# How Can I Respond to a Petition for Workplace Violence Restraining Orders?

## What is a workplace violence restraining order?

It is a court order that prohibits you from doing certain things and going certain places.

## What does the order do?

The court can order you to:

- Not contact people who are protected by the order.
- Stay away from people protected by the order and their home, workplace, and other places.
- Not have any firearms (guns), firearm parts, ammunition, or body armor as long as the order is in effect. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items you would not be allowed to have, please see [selfhelp.courts.ca.gov/restraining-orders/prohibited-items](https://selfhelp.courts.ca.gov/restraining-orders/prohibited-items).

## Who can ask for a workplace violence restraining order?

An employer or collective bargaining representative can ask for an order on behalf of an employee who has suffered harassment, violence, or a credible threat of violence at the workplace, or members of their household or other employees.

## I've been served with a petition for private workplace violence restraining orders. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* tells you when to appear in court. There may also be a *Temporary Restraining Order* forbidding you from doing certain things. You must obey the order until the hearing.

## What if I don't agree with what the order says?

You still must obey the order until the hearing. If you disagree with the orders the person is asking for, fill out form [WV-120 Response to Petition for Workplace Violence Restraining Orders](#), before your hearing date and file it with the court. If you need to include attachments, you can use form [MC-025](#). You can get the forms from legal publishers or from the California Courts website at [www.courts.ca.gov/forms](https://www.courts.ca.gov/forms). You also may be able to find them at your local courthouse or county law library.

## What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine.

## Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of completed form WV-120 to the person named in item ① of the petition form WV-100 (or that person's lawyer). (This is called "service by mail.")

The person who serves the form by mail for you must fill out form [WV-250, Proof of Service of Response by Mail](#). Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.

## Should I go to the court hearing?

Yes. You should go to court on the date listed on form WV-109, *Notice of Court Hearing*. If you do not go to the hearing, the judge can make orders against you without hearing from you.

**WV-109 Notice of Court Hearing**

Clerk stamps date here when form is filed.

① **Petitioner (Employer or Collective Bargaining Representative)**

a. Name: \_\_\_\_\_

Lawyer for Petitioner (if any for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Address (If you have a lawyer, give your lawyer's information.):

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Fill in court name and street address:  
Superior Court of California, County of \_\_\_\_\_

Fill in case number:  
Case Number: \_\_\_\_\_

② **Employee Who Petitioner Asserts Suffered Harassment, Violence, or Threat of Violence**

Full Name: \_\_\_\_\_

③ **Respondent (Person From Whom Protection Is Sought)**

Full Name: \_\_\_\_\_

The court will complete the rest of this form.

④ **Notice of Hearing**

A court hearing is scheduled on the request for restraining orders against the respondent:

Name and address of court if different from above:

Hearing Date: \_\_\_\_\_ Time: \_\_\_\_\_

Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

To the person in ③:

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

Judicial Council of California, [www.courts.ca.gov](https://www.courts.ca.gov)  
Rev. January 1, 2025, Mandatory Form  
Code of Civil Procedure, § 527.8  
Approved by DOJ

**Notice of Court Hearing**  
(Workplace Violence Prevention)

WV-109, Page 1 of 3  
→





## How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. Any order issued at the hearing can last for up to three years.

## Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

## Will I see the people to be protected at the court hearing?

Yes. Assume that the people to be protected will attend the hearing. Do not talk to them unless the judge or that person's attorney says that you can.

## Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. You can use form [MC-030](#) for this.

## Information about the process is also available online.

See [selfhelp.courts.ca.gov/WV-restraining-order](http://selfhelp.courts.ca.gov/WV-restraining-order).

## For help in your area, contact:

[Local information may be inserted.]

## What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300](#), *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to [selfhelp.courts.ca.gov/request-interpreter](http://selfhelp.courts.ca.gov/request-interpreter).

## What if I have a gun?

If a restraining order is issued, you cannot own, possess, or have a firearm (gun), firearm parts, ammunition, or body armor while the order is in effect. If you have a firearm (gun) or firearm parts in your immediate possession or control, you must sell it to or store it with a licensed gun dealer, or turn it in to a law enforcement agency.

## Can I agree with the protected person to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the employer would have to file a request with the court to cancel the order.

## What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410](#), *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO](#), *How to Request a Disability Accommodation for Court*.

**1 Petitioner (Employer or Collective Bargaining Representative)**

a. Name: \_\_\_\_\_

Lawyer for Petitioner *(if any, for this case)*

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address *(If you have a lawyer, give your lawyer's information.)*

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

**DRAFT  
ALT B  
06/5/2024**
**Not approved by  
the Judicial Council**
*Fill in court name and street address:*
**Superior Court of California, County of**
*Court fills in case number when form is filed.*
**Case Number:**
**2 Protected Person or Persons**

Full Name: \_\_\_\_\_

Full Name: \_\_\_\_\_

Full Name: \_\_\_\_\_

Full Name: \_\_\_\_\_

☐ Additional protected persons are listed at the end of this Order on Attachment 2.

**3 Respondent (Restrained Person)**
*(Give all the information you know. Information with a star (\*) is required to add this order to the California police database. If age is unknown, give an estimate.)*

\*Full Name: \_\_\_\_\_ \*Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

\*Race: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_

\*Gender: ☐ M ☐ F ☐ Nonbinary Home Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Relationship to Protected Person: \_\_\_\_\_

**4 Expiration Date**
*This Order, except for any award of lawyer's fees, expires at*

Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ a.m. ☐ p.m.

If no expiration date is written here, this Order expires three years from the date of issuance.

**This is a Court Order.**


**5 Hearing**

- a. There was a hearing on *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
*(Name of judicial officer)*: \_\_\_\_\_ made the orders at the hearing.
- b. These people were at the hearing:
- (1) ☐ The petitioner *(name)*: \_\_\_\_\_
- (2) ☐ The lawyer for the petitioner *(name)*: \_\_\_\_\_
- (3) ☐ The respondent (4) ☐ The lawyer for the respondent *(name)*: \_\_\_\_\_
- ☐ Additional persons present are listed at the end of this Order on Attachment 5b.
- c. ☐ The hearing is continued. The parties must return to court on *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_.

**To the Respondent:**

**The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.**

**6 Personal Conduct Orders**

- a. You are ordered **not to** do the following things to the protected person or persons listed in **2**
- (1) ☐ Harass, molest, strike, assault (sexually or otherwise), batter, abuse, destroy personal property of, or disturb the peace of the person.
- (2) ☐ Commit acts of violence or make threats of violence against the person.
- (3) ☐ Follow or stalk the person during work hours or to or from the place of work.
- (4) ☐ Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
- (5) ☐ Enter the person's workplace.
- (6) ☐ Take any action to obtain the person's address or locations. If this item is not checked, the court has found good cause not to make this order.
- (7) ☐ Other *(specify)*:
- ☐ Other personal conduct orders are attached at the end of this Order on Attachment 6a(7).
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

**This is a Court Order.**

**7 Stay-Away Orders**

a. You **must** stay at least \_\_\_\_\_ yards away from *(check all that apply)*:

(1) ☐ Each protected person listed in (2) (3) ☐ Other *(specify)*:

(2) ☐ For each protected person listed in (2)

(a) ☐ The person's workplace

(b) ☐ The person's home

(c) ☐ The person's school

(d) ☐ The person's children's school

(e) ☐ The person's children's place of child care

(f) ☐ The person's vehicle

b. This stay-away order does not prevent you from going to or from your home or place of employment.

**8 No Firearms (Guns), Firearm Parts, or Ammunition**

a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed below in b.

b. **Prohibited items are:**

(1) Firearms (guns);

(2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and

(3) Ammunition.

c. If you have not already done so, you must:

- Within 24 hours of being served with this Order, sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your custody or control or that you possess or own.
- File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form [WV-800](#)) for the receipt.)

d. ☐ The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

e. ☐ The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in (3) is not required to relinquish this firearm *(specify make, model, and serial number of firearm(s))*:

The firearm must be in the physical possession of the person in (3) only during scheduled work hours and during travel to and from their place of employment. Even if exempt under California law, the person in (3) may be subject to federal prosecution for possessing or controlling a firearm.

**This is a Court Order.**



**9 No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

**10 ☐ Costs**

You must pay the following amounts for costs to the petitioner:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

☐ Additional amounts are attached at the end of this Order on Attachment **10**.

**11 ☐ Other Orders (specify):**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

☐ Additional orders are attached at the end of this Order on Attachment **11**.

**To the Person in **1**:****12 Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (Check one):

- a. ☐ The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. ☐ The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. ☐ By the close of business on the date that this Order is made, the petitioner or the petitioner's lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

\_\_\_\_\_  
 \_\_\_\_\_

☐ Additional law enforcement agencies are listed at the end of this Order on Attachment **12**.

**This is a Court Order.**

**13 Service of Order on Respondent**

- a. ☐ The respondent personally attended the hearing, either physically or remotely (by telephone or videoconference). No other proof of service is needed.
- b. ☐ The respondent did not attend the hearing.
- (1) ☐ Proof of service of form WV-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are the same as in form WV-110 except for the expiration date. The respondent must be served with this Order. Service may be by mail.
- (2) ☐ The judge's orders in this form are different from the temporary restraining orders in form WV-110. Someone—but not the petitioner or anyone protected by this order—must personally serve a copy of this Order on the respondent.

**14 No Fee to Serve (Notify) Restrained Person** ☐ **Ordered** ☐ **Not Ordered**

The sheriff or marshal will serve this Order without charge because:

- a. ☐ The Order is based on a credible threat of violence or stalking.
- b. ☐ The petitioner is entitled to a fee waiver.

**15** Number of pages attached to this Order, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer***Warning and Notice to the Respondent:****You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition**

Unless item 8e is checked, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 8b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in (8) above. The court will require you to prove that you did so.

**This is a Court Order.**

**Instructions for Law Enforcement****Enforcing the Restraining Order**

This Order is enforceable 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 Restraining and Protective Order System (CARPOS). Agencies are encouraged to enter violation messages into CARPOS. If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing (see (13)), the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

**Start Date and End Date of Orders**

This Order *starts* on the date next to the judge's signature on page 5 and *ends* on the expiration date in (5) on page 1.

**If a Protected Person Contacts the Restrained Person**

Even if a protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

**Conflicting Orders—Priorities for Enforcement**

**If more than one restraining order has been issued protecting a protected person from the restrained person, the orders must be enforced in the following priority** (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 6a(4) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Clerk's Certificate  
[seal]

(Clerk will fill out this part.)  
—Clerk's Certificate—

I certify that this *Workplace Violence Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

① **Petitioner (Employer or Collective Bargaining Representative)**

Name: \_\_\_\_\_

② **Employee Who Suffered Harassment, Violence, or Threat of Violence**

Name: \_\_\_\_\_

③ **Respondent (Person From Whom Protection Is Sought)**

Name: \_\_\_\_\_

④ **Notice to Server**

The server must:

- Be 18 years of age or older.
- Not be listed in items ①, ②, or ④ of form WV-100.
- Give a copy of all documents checked in ⑤ below to the respondent. (You cannot send them by mail.) Then complete and sign this form and give or mail it to the petitioner.

**PROOF OF PERSONAL SERVICE**

⑤ I gave the respondent a copy of the forms checked below:

- a. ☐ WV-109, *Notice of Court Hearing*
- b. ☐ WV-110, *Temporary Restraining Order*
- c. ☐ WV-100, *Petition for Workplace Violence Restraining Orders*
- d. ☐ WV-120, *Response to Petition for Workplace Violence Restraining Orders* (blank form)
- e. ☐ WV-120-INFO, *How Can I Respond to a Petition for Workplace Violence Restraining Orders?*
- f. ☐ WV-130, *Workplace Violence Restraining Order After Hearing*
- g. ☐ WV-250, *Proof of Service by Mail* (blank form)
- h. ☐ WV-800, *Receipt for Firearms and Firearm Parts* (blank form)
- i. ☐ Other (specify): \_\_\_\_\_

⑥ I personally gave copies of the documents checked above to the respondent

- a. On (date): \_\_\_\_\_ b. At (time): \_\_\_\_\_ ☐ a.m. ☐ p.m.
- c. At this address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

⑦ **Server's Information**

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

(If you are a registered process server):

County of registration: \_\_\_\_\_ Registration number: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

\_\_\_\_\_  
Type or print server's name

\_\_\_\_\_  
Server to sign here

**DRAFT**  
**2024-01-09**

**Not approved by the**  
**Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**



**1 Petitioner (Employer or Collective Bargaining Representative)**

Name: \_\_\_\_\_

**2 Employee Who Suffered Harassment, Violence, or Threat of Violence**

Name: \_\_\_\_\_

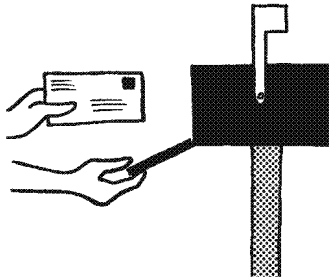
**3 Respondent (Person From Whom Protection Is Sought)**

Name: \_\_\_\_\_

**4 Notice to Server**

The server must:

- Be 18 years of age or older.
- Be a resident of or employed in the county where the mailing took place.
- Not be the respondent.
- Mail a copy of all documents checked in **5** below to the petitioner or the petitioner's lawyer.
- Complete and sign this form and give it to the respondent.

**DRAFT****01/09/2024****Not approved by  
the Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:****PROOF OF SERVICE BY MAIL****5** I am 18 years of age or older and not a party to this proceeding. I live or am employed in the county where the mailing took place. I mailed the petitioner or the petitioner's lawyer a copy of:

- a. Form WV-120, *Response to Petition for Workplace Violence Restraining Order* (completed)
- b. ☐ Other(specify): \_\_\_\_\_

**6** I placed copies of the documents listed above in a sealed envelope and mailed them as described below:

- a. Mailed to (name): \_\_\_\_\_
- b. To this address: \_\_\_\_\_
- City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_
- c. On (date): \_\_\_\_\_ Mailed from: City: \_\_\_\_\_ State: \_\_\_\_\_

**7 Server's Information**

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

(If you are a registered process server):

County of registration: \_\_\_\_\_ Registration number: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

Type or print server's name

Server to sign here

**Proof of Service of Order  
After Hearing by Mail**

Clerk stamps date here when form is filed.

You may serve form WV-130, Workplace Violence Restraining Order After Hearing, on the respondent by mail if the respondent was not at the hearing and:

- Before the hearing, the respondent was personally served with form WV-110, Temporary Restraining Order, and proof of service of form WV-110 was presented to the court at the hearing; and
- The judges orders in form WV-130 are the same as in form WV-110 except for the expiration date.

**DRAFT  
2024-01-09****Not approved by the  
Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

**1 Petitioner (Employer or Collective Bargaining Representative)**

Name: \_\_\_\_\_

**2 Employee Who Suffered Harassment, Violence, or Threat of Violence**

Name: \_\_\_\_\_

**3 Respondent (Restrained Person)**

Name: \_\_\_\_\_

**PROOF OF SERVICE BY MAIL**

- 4** I am 18 years of age or older and live or am employed in the county where the mailing took place. I am not the petitioner, the employee, or any person listed in item **4** of form WV-130. I mailed the respondent a copy of:

- a. Form WV-130, *Workplace Violence Restraining Order After Hearing*  
b. ☐ Other (specify): \_\_\_\_\_

- 5** I placed copies of the documents above in a sealed envelope and mailed them as described below:

- a. Mailed to (name): \_\_\_\_\_  
b. To this address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
c. On (date): \_\_\_\_\_ Mailed from: City: \_\_\_\_\_ State: \_\_\_\_\_

**6 Server's Information**

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

(If you are a registered process server):

County of registration: \_\_\_\_\_ Registration number: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

Type or print server's name

Server to sign here

DRAFT

01/09/2024

Not approved by  
the Judicial Council1 Petitioner (Employer or Collective Bargaining  
Representative)

a. Name: \_\_\_\_\_  
 Lawyer for Petitioner (if any for this case):  
 Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_

b. Address (If you have a lawyer, give your lawyer's information.):

Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

Court name and street address:

Superior Court of California, County of

2 Employee Who Suffered Harassment, Violence, or Threat  
of Violence

Full Name: \_\_\_\_\_

Fill in case number:

Case Number: \_\_\_\_\_

## 3 Respondent (Restrained Person)

Full Name: \_\_\_\_\_

Address (if known): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

## 4 Request to Renew Restraining Order

I ask the court to renew the *Workplace Violence Restraining Order After Hearing* (form WV-130). A copy of the order is attached.

- a. The order ends on (date): \_\_\_\_\_
- b. ☐ This is my first request to renew the order.  
☐ The order has been renewed \_\_\_\_\_ times.
- c. I want the order to be renewed for ☐ three years ☐ other (specify): \_\_\_\_\_
- d. I ask the court to renew the order because (explain below): ☐ Response is stated in Attachment 4d.

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I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

Type or print your name

Sign your name

This is not a Court Order.

**Notice of Hearing to Renew  
Restraining Order***Clerk stamps below when form is filed.***DRAFT****2024-01-09****Not approved by the  
Judicial Council****1 Petitioner (Employer or Collective Bargaining  
Representative)**

a. Name: \_\_\_\_\_  
 Lawyer for Petitioner (if any for this case):  
 Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_

b. Address (If you have a lawyer, give your lawyer's information.):

Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax No.: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

*Court name and street address:***Superior Court of California, County of****2 Employee Who Petitioner Asserts Suffered Harassment,  
Violence, or Threat of Violence**

Full Name: \_\_\_\_\_

*Fill in case number:***Case Number:****3 Respondent (Restrained Person)**

Full Name: \_\_\_\_\_

Address (if known): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**To the Respondent:****4 Court Hearing**

The judge has set a court hearing date. *Court will fill in box below.*

**The current restraining order stays in effect until the end of the hearing.****Hearing  
Date**

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

Name and address of court if different from above:

At the hearing, the judge can renew the current restraining order for up to another three years. You *must* continue to obey the current restraining order until the hearing. At the hearing, you can tell the judge if you do not want the order against you renewed. If the restraining order is renewed, you *must* obey the order even if you do not attend the hearing.

If you wish to make a written response to the request to renew the restraining order, you may fill out form [WV-720](#), *Response to Request to Renew Restraining Order*. File the original with the court before the hearing and have someone age 18 or older—not you—mail a copy of it to the petitioner at the address in ① at least \_\_\_\_\_ days before the hearing. Also file form [WV-250](#), *Proof of Service of Response by Mail*, with the court before the hearing.

**This is a Court Order.**

**To the Petitioner:****5 Service and Response**

Someone age 18 or older—**not you or anyone else protected by the restraining order**—must personally serve (give) a copy of the following forms on the respondent at least \_\_\_\_\_ days before the hearing.

- [WV-700](#), *Request to Renew Restraining Order*;
- WV-710, *Notice of Hearing to Renew Restraining Order* (this form);
- [WV-720](#), *Response to Request to Renew Restraining Order* (blank copy);
- WV-130, the current *Workplace Violence Restraining Order After Hearing* for which renewal is requested.

After the respondent has been served, file form [WV-200](#), *Proof of Personal Service*, with the court clerk. For help with service, read form [WV-200-INFO](#), *What Is “Proof of Personal Service”?*

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

\_\_\_\_\_  
*Judicial Officer*

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons with Disabilities and Response* (form [MC-410](#)). (Civ. Code, § 54.8.)

**This is a Court Order.**

**Request to Reschedule Hearing to  
Renew Restraining Order**

Clerk stamps date here when form is filed.

**Instructions:** Either party may use this form to ask the court to reschedule the hearing (court date) listed on form WV-710, *Notice of Hearing to Renew Restraining Order*. Note: If the hearing is rescheduled, the restraining order will be extended until the new court hearing.

**1 My Information**

a. My name is: \_\_\_\_\_

b. I am the (*check one*):(1) ☐ **Petitioner** (employer or collective bargaining representative)  
(*skip to 2*).(2) ☐ **Restrained Party** (*give your contact information below*).**Address where I can receive mail:**

This address will be used by the court and by the other party to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission. If you have a lawyer, give their information.

Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_**Additional contact information** (*optional*)

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

**Lawyer's information** (*skip if you do not have one*)

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number:

**Case Number:****2 Information About Your Case**a. The other party in this case is (*full name*): \_\_\_\_\_b. The court date is currently scheduled for (*date*): \_\_\_\_\_**This is not a Court Order.**

**3 Why does your court date need to be rescheduled?**

- a. ☐ I need more time to have the restrained party served.
- b. ☐ Other reason:

**4 Signature**

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Sign your name*

**5 Lawyer's signature (if you have one)**

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

\_\_\_\_\_  
*Lawyer's name*



\_\_\_\_\_  
*Lawyer's signature*

**Your Next Steps**

- Complete form [WV-716](#), *Order to Reschedule Hearing to Renew Restraining Order* (only items ① and ②).
- File forms WV-715 and WV-716 with the court. A judge will review your forms and decide whether to reschedule your court date.
- If the judge grants your request to reschedule your court date, you must have someone serve a copy of all forms listed on form WV-716, item ⑤. Your server can be the sheriff or another adult who is not involved in the case. For more information on how to serve the restrained person, go to [selfhelp.courts.ca.gov/WV-restraining-order/renew/sheriff-serves](https://selfhelp.courts.ca.gov/WV-restraining-order/renew/sheriff-serves).
- If the judge denies your request to reschedule, you must go to your court hearing (listed on form WV-710).

**Order to Reschedule Hearing  
to Renew Restraining Order**

*Clerk stamps date here when form is filed.*

(Complete ① and ② only. The court will complete the rest of this form.)

① **Petitioner (Employer or Collective Bargaining Representative):**

② **Restrained Party:** \_\_\_\_\_

③ **Next Court Date**

a. ☐ **Denied:** The request to reschedule the court date is denied.

Your court date is: \_\_\_\_\_

(1) The *Workplace Violence Restraining Order After Hearing* (form WV-130) granted in this case stays in full force and effect until your court date.

(2) Your court date is not rescheduled because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. ☐ **Granted:** The request to reschedule the court date is granted. Your court date is rescheduled for the day and time listed below. The current restraining order stays in effect until the hearing date below or the original expiration date, whichever is later. See ④–⑦ for more information.

**New  
Court  
Date**

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

Name and address of court, if different from above:

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number:*

**Case Number:**

**Warning and Notice to the Restrained Party:**

You must obey the restraining order while it is in effect.

**This is a Court Order.**





**4 Reason Court Date Is Rescheduled**

- a. ☐ The petitioner has not served the restrained party.
- b. ☐ Other reason:

**5 Serving (Giving) Order to Other Party**

The request to reschedule was made by the:

a. ☐ **Petitioner**

- (1) ☐ You do not have to serve the restrained party because they or their lawyer were at the court date or agreed to reschedule the court date.
- (2) ☐ You must have the restrained party personally served with a copy of all the forms listed on form [WV-710](#), item **5**, by (date): \_\_\_\_\_
- (3) ☐ You must have the restrained party served with a copy of this order. This can be done by mail. You must serve by (date): \_\_\_\_\_

(4) ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. ☐ **Restrained party**

- (1) ☐ You do not have to serve the petitioner because they or their lawyer were at the court date or agreed to reschedule the court date.
- (2) ☐ You must have the petitioner personally served with a copy of this order by (date): \_\_\_\_\_
- (3) ☐ You must have the petitioner served with a copy of this order. This can be done by mail. You must serve by (date): \_\_\_\_\_

(4) ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. ☐ **Court**

- (1) ☐ Further notice is not required.
- (2) ☐ The court will mail a copy of this order to all parties by (date): \_\_\_\_\_
- (3) ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**This is a Court Order.**



**6 No Fee to Serve (Notify) Restrained Person** ☐ **Ordered** ☐ **Not Ordered**

The sheriff or marshal will serve this order for free because:

- a. ☐ The order is based on unlawful violence, a credible threat of violence, or stalking.
- b. ☐ The person in **1** is entitled to a fee waiver.

**7** ☐ **Other Orders**

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

\_\_\_\_\_  
*Judicial Officer***Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm) for *Disability Accommodation Request* (form [MC-410](#)). (Civ. Code, § 54.8.)

**Instructions to Clerk**

If the court rescheduled the court date, the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

**—Clerk's Certificate—**

Clerk's Certificate

[seal]

I certify that this *Order to Reschedule Hearing to Renew Restraining Order* (form WV-716) is a true and correct copy of the original on file in the court.

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

**This is a Court Order.**

**Use this form to respond to the *Request to Renew Restraining Order* (Form WV-700)**

- Fill out this form and then take it to the court clerk.
- Have someone age 18 or older—**not you**—serve the petitioner by mail with a copy of this form and any attached pages. (*Use Form WV-250, Proof of Service of Response by Mail.*)

**1 Petitioner (Employer or Collective Bargaining Representative)**

Name: \_\_\_\_\_

**2 Employee Who Petitioner Asserts Suffered Harassment, Violence, or Threat of Violence**

Name: \_\_\_\_\_

**3 Respondent (Restrained Person)**

a. Your Name: \_\_\_\_\_

Your Lawyer (*if you have one for this case*):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (*you may give a mailing address if you want to keep your street address private; skip this if you have a lawyer*):

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

**4 Response**

- a. ☐ I agree to extend the order.
- b. ☐ I do not agree to extend the order.
- c. ☐ I agree to the following order instead (*specify below*):

☐ Check here if there is not enough space for your answer. Attach a sheet of paper and write "Attachment 4c—Order Requested" for a title. You may use Form MC-025, Attachment.

\_\_\_\_\_

\_\_\_\_\_

d. ☐ I ask the court not to renew the order for the following reasons (*specify below*):

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or Form MC-025 and write "Attachment 4d—Reasons Not to Renew," for a title.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**DRAFT**

**01/09/2024**

**Not approved by  
the Judicial Council**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Court fills in case number when form is filed.*

**Case Number:**

The court will consider your *Response* at the hearing. Write your hearing date, time, and place from Form WV-710 item ④ here.

**Hearing  
Date**

→ Date: \_\_\_\_\_

Time: \_\_\_\_\_

Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

**You must continue to obey the current restraining order until the hearing. At the hearing, the court can extend the order against you for up to another three years.**



Case Number:

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

\_\_\_\_\_  
*Lawyer's name, if you have one*



\_\_\_\_\_  
*Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Sign your name*

**DRAFT**  
**2024-01-22**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

**1 Petitioner (Employer or Collective Bargaining Representative)**

- a. Name: \_\_\_\_\_  
 Lawyer for Petitioner (if any for this case):  
 Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_
- b. Address (If you have a lawyer, give your lawyer's information.):  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

**2 Employee Who Suffered Harassment, Violence, or Threat of Violence**

Full Name: \_\_\_\_\_

**3 Respondent (Restrained Person)**

Full Name: \_\_\_\_\_

Address (if known): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**4 Hearing**There was a hearing on (date): \_\_\_\_\_ at (time): \_\_\_\_\_ ☐ a.m. ☐ p.m. Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

(Name of judicial officer): \_\_\_\_\_ made the orders at the hearing.

These people were at the hearing:

- a. ☐ The petitioner      c. ☐ The lawyer for the petitioner (name): \_\_\_\_\_  
 b. ☐ The respondent      d. ☐ The lawyer for the respondent (name): \_\_\_\_\_  
☐ Additional persons present are listed on Attachment 4.

**5 Renewal and Expiration**The request to renew the attached *Workplace Violence Restraining Order After Hearing*, originally issued on (date) \_\_\_\_\_, is:

- a.
- ☐
- GRANTED.**
- The attached order is renewed and will now expire on:

Time: \_\_\_\_\_ ☐ a.m. ☐ p.m. or ☐ midnight on (date): \_\_\_\_\_

If no expiration date is written here, the order expires three years from the date of the hearing in item (4).

- b.
- ☐
- DENIED.**
- The attached order expires as stated in item (5) of the order.

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

Judicial Officer \_\_\_\_\_

**This is a Court Order.**

**SRP24-31**

**Protective Orders: Revisions to Civil Forms to Implement New Law** (revise forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730)

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commenters, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>DRAFT Committee Response</b>
1.	California Department of Justice, Criminal Justice Information Systems Division Justice Data and Investigative Services Bureau, Law Enforcement Support Program by Brittany Phillips Investigative Database Services Section Manager	AM	[See comments below on specific issues.]	No response is required.
2.	California Department of Justice, Division of Law Enforcement Office of Gun Violence Prevention and the Bureau of Firearms by Ari Freilich Office of Gun Violence Prevention, Director	NI	The Office of Gun Violence Prevention and the Bureau of Firearms, within the Division of Law Enforcement in the California Department of Justice (DOJ), respectfully submit this public comment to share concerns and suggestions regarding inconsistent language and check box items in two existing Gun Violence Restraining Order (GVRO) Forms, the GV-030 and GV- 110.  [See comments below on specific issues.]	The committee appreciates the comments provided.
3.	Giffords Law Center to Prevent Gun Violence by Julia Weber, Esq., MSW Consultant	AM	[See comments below on specific issues.]	No response is required.
4.	John Hsu, Ph.D Berkeley	AM	I fully agree the Judicial Council's very progressive propositions. Yet, while the statutory languages appears clear, the Judicial	No response is required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SRP24-31

**Protective Orders: Revisions to Civil Forms to Implement New Law** (revise forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	DRAFT Committee Response
			Council, practitioners and all citizens still have guard against purposeful deception by others, [ ]. Please do so warn all the citizens. The Case below illustrates such a case. *[The remainder of this comment submitted on April 29, 2024 and another from the same commenter submitted May 1, 2024 address the details of a specific case and do not address any of the issues in the proposal. For that reason, they are not included here.]	
5.	Orange County Bar Association by Christina Zabat-Fran President	A	The proposed form appropriately addresses the stated purpose.  [See comments below on specific issues.]	The committee appreciates the comments provided.
6.	Superior Court of Los Angeles County by Bryan Borys Director of Research and Data Management	AM	The Court agrees with the proposal in SPR24-31, “Protective Orders: Revisions to Civil Forms to Implement New Law” if it is modified to allow more time for implementation. Six months are needed to update guided interview applications for trial courts that utilize them.	The committee does not recommend delaying implementation. While additional time may be needed to update guided interviews, the committee believes that it is important to have the required forms available as soon as possible, as the legislation went into effect on January 1, 2024.
7.	Superior Court of Riverside County, by Sarah Hodgson Chief Deputy of Legal Services / General Counsel	NI	Does the proposal appropriately address the stated purpose? <ul style="list-style-type: none"><li>• Yes, it addresses the stated purpose.</li></ul>	The committee appreciates the comments provided.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## SRP24-31

**Protective Orders: Revisions to Civil Forms to Implement New Law** (revise forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	DRAFT Committee Response
			<p>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</p> <ul style="list-style-type: none"> <li>• Update to CCPOR</li> <li>• Training staff who enters into CLETS or CCPOR</li> <li>• Revising procedures to include body armor</li> </ul> <p>[See comments below on specific issues.]</p>	The committee appreciates the information provided.
8.	Superior Court of San Diego County by Mike Roddy Executive Officer	A	<p>Q: Does the proposal appropriately address the state purpose? A: <b>Yes.</b></p>	The committee appreciates the information provided.
			<p>Q: Would the proposal provide cost savings? If so, please quantify. A: <b>No</b></p>	The committee appreciates the information provided.
			<p>Q: What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing</p>	The committee appreciates the information provided.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



## SRP24-31

**Protective Orders: Revisions to Civil Forms to Implement New Law** (revise forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730)

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List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	DRAFT Committee Response
			docket codes in case management systems, or modifying case management systems? <b>A: Implementation will require updating internal procedures/local packets and training affected business office and courtroom staff.</b>	
			Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <b>A: Yes, provided the final versions of the forms are provided to the court at that time. This will ensure that the court is able to provide training to staff, update its internal procedures and local packets, and obtain printed stock.</b>	The committee appreciates the information provided.
			Q: How well would this proposal work in courts of different sizes? <b>A: This proposal should work well, regardless of the size of the court.</b>  [See comments below on specific issues.]	The committee appreciates the information provided.
9.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) (TCPJAC/CEAC Joint Rules Subcommittee)	A	The JRS notes that the proposal is required to conform to a change of law.	The committee appreciates the information provided.

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## SRP24-31

**Protective Orders: Revisions to Civil Forms to Implement New Law** (revise forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730)

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List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	DRAFT Committee Response
10.	Amanda Wong, Deputy City Attorney Los Angeles	A	[No written comment provided.]	The committee appreciates the information provided.

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## SRP24-31

**Protective Orders: Revisions to Civil Forms to Implement New Law** (revise forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730)

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Gun Violence Restraining Order Forms		
Commenter	Comment	Committee Response
California Department of Justice, Criminal Justice Information Systems Division Justice Data and Investigative Services Bureau, Law Enforcement Support Program by Brittany Phillips Investigative Database Services Section Manager	<p>Proposed Rules, Forms, Standards, or Statutes does not include the GV-125. The GV-125 is part of the Gun Violence Form Series and used for individuals who have been served with a Petition for a Gun Violence Restraining Order and want to agree to voluntary give up their firearm rights without a court hearing.</p> <p>1. Section 3 of the current GV-125 lists:</p> <p>③ <b>Gun Violence Restraining Order</b></p> <p><input type="checkbox"/> • By checking this box and signing this form, I agree to give up my right to own, possess, or purchase firearms (guns), firearm parts, magazines, and ammunition for the time requested in the petition (between one to five years) or, if no time is specified, then for one year. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).</p> <p>• I am not contesting the petition.</p> <p>• I understand that the petitioner can request to renew this order for one to five years.</p> <p>• I understand that I can only request to terminate this order once per year while it is in effect.</p> <p>2. Section 4 of the current GV-125 lists:</p> <p>④ <b>Firearms (Guns), Firearm Parts, Ammunition, and Magazines</b></p> <p>• After you file this form, the court will issue a <i>Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order</i> (form GV-130) and send it to you and the petitioner in the mail.</p> <p>• This form will be listed in the statewide California Restraining and Protective Order System, where it will be accessible to all law enforcement.</p> <p>• You cannot own or possess any guns, other firearms (guns), firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, those items in your immediate possession or control within 48 hours of filing this form. You must file a receipt with the court. You may use <i>Receipt for Firearms, Firearm Parts, Ammunition, and Magazines</i> (form GV-800) for the receipt.</p> <p>a. <input type="checkbox"/> I do not own or control any firearms (guns), firearm parts, ammunition, or magazines.</p> <p>b. <input type="checkbox"/> I have turned in my firearms (guns), firearm parts, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt <input type="checkbox"/> is attached. <input type="checkbox"/> has already been filed with the court.</p>	<p>The committee appreciates the comments. The omission of form GV-125 from the proposal when it circulated for public comment was inadvertent. In light of this comment the committee recommends revisions to form GV-125 to implement AB 92 as described below.</p>

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## SRP24-31

**Protective Orders: Revisions to Civil Forms to Implement New Law** (revise forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730)

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Gun Violence Restraining Order Forms		
Commenter	Comment	Committee Response
	<p><b>CA DOJ Recommendations:</b></p> <p>1. CA DOJ would like to recommend that, for consistency purposes, the <u>GV-125 section 3</u> of the form be updated to read:</p> <p>“By checking this box and signing this form, I agree to give up my right to own, possess, or purchase firearms (guns), firearm parts, magazines, ammunition, <b>and Body Armor (as defined in Penal Code section 16288)</b> for the time requested in the petition (between one to five years) or, if no time is specified, then for one year. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receive or frame (see Penal Code section 16531).”</p>	<p>In light of this comment, the committee recommends adding a new sentence at the end of the bullet point in item 3 of form GV-125 stating that the petitioner is agreeing to give up their right to own, possess, or buy body armor.</p> <p>Additionally, in reviewing form GV-125, the committee noticed that the words describing the firearm prohibition do not track the statutory language like the other forms do. Accordingly, to promote consistency and to reflect the governing statute, the committee recommends that the first sentence of the first bullet point of item 3, read: “By checking this box and signing this form, I agree to give up my right to have in my custody or control, own, purchase, possess, or receive, or attempt to purchase or receive any firearms (guns), firearm parts, magazines, and ammunition for the time requested in the petition (between one to five years) or, if no time is specified, then for one year.”</p>
	<p>2. CA DOJ would like to recommend that the <u>GV-125 section 4</u> be updated to add a bullet that reads:</p> <p><b>“You cannot own, possess, or purchase body armor (as defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.”</b></p>	<p>In response to this comment, the committee recommends adding item 5 to form GV-125 alerting individuals to the new body armor prohibitions. Since this form may be filed in lieu of a response form, the committee recommends that this item require respondent to state if they have any body armor, whether it has been surrendered, and whether they will seek an exception to retain the body armor.</p>

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## SRP24-31

**Protective Orders: Revisions to Civil Forms to Implement New Law** (revise forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730)

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Gun Violence Restraining Order Forms		
Commenter	Comment	Committee Response
		Additionally, the committee recommends revising the first sentence of the third bullet in item 4 of this form the same way as item 3, described above, to keep the form consistent with the other GV forms.
California Department of Justice, Division of Law Enforcement Office of Gun Violence Prevention and the Bureau of Firearms by Ari Freilich Office of Gun Violence Prevention, Director	The Office of Gun Violence Prevention and the Bureau of Firearms, within the Division of Law Enforcement in the California Department of Justice (DOJ), respectfully submit this public comment to share concerns and suggestions regarding inconsistent language and check box items in two existing Gun Violence Restraining Order (GVRO) Forms, the GV-030 and GV-110.	The committee appreciates the information provided.
	<p><b>Regarding GV-030 Form (<i>Gun Violence Restraining Order After Hearing on EPO-002 (CLETS-HGV)</i>)</b>  <b>Request: Item 5(b) should be deleted from the GV-030 Form and item 5(a)(3) should be moved out of 5(a) and renumbered as 5(b) accordingly.</b>            The GV-030 Form's existing language includes some confusing and misleading phrasing in Item 5 that is inconsistent with the underlying statute and with the Judicial Council's other GVRO forms.</p> <p>On the GV-030 Form, Item 5 is where the court is prompted to document its findings upon issuing a final GVRO After a Hearing in a case that was originally initiated as a Gun Violence Emergency Protective Order (EPO-002). Unfortunately, the numbering and spacing in Item 5(a) wrongly suggest that in order</p>	The committee agrees that the Penal Code does not require a court to find that the respondent possesses firearms in order for a gun violence restraining order to issue after a hearing on an emergency gun violence restraining order (see Penal Code, §§ 18148 & 18175). Accordingly, the committee recommends that items 5a(3) and 5a(4) in the current version of form GV-030 be renumbered as items 5b and 5c. In reviewing this item and similar items on other forms (item 4 on form GV-110 and item 5 on form GV-130), the committee believes the forms could benefit from rewording subitems c for clarity but would like to receive public comment on any such revision. Accordingly, the committee will endeavor to further revise this item and corresponding items on other

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## SRP24-31

**Protective Orders: Revisions to Civil Forms to Implement New Law** (revise forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730)

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Gun Violence Restraining Order Forms		
Commenter	Comment	Committee Response
	<p>to issue a GVRO, courts must find that the respondent already has firearms in their possession. The language at the top of Item 5(a) states that the court must find by clear and convincing evidence that “the following are true” and then lists subparagraphs (1) through (4) within item 5(a).</p> <p>While Items 5(a)(1) and 5(a)(2) <i>are</i> requirements to issue a GVRO, 5(a)(3) (a finding that the court has credible information that the Restrained Person already owns or possess firearms or other prohibited items) is <i>not</i> a requirement to issue a GVRO. But because 5(a)(3) is listed below and within Item 5(a), this is unclear.</p> <p>We suggest that subparagraph 5(a)(3) be renumbered and spaced separately so it is not construed as a prerequisite for issuing a GVRO. Courts may issue GVROs upon finding that a person’s conduct indicates they are a significant danger to self or others because they have the <i>legal ability</i> to access or acquire firearms; the GVRO may proactively prevent harm by rendering the respondent ineligible to acquire firearms and ammunition whether or not they are already known to have firearms in their possession.</p> <p>In other GVRO forms, like the GV-110’s analogous Item 4, the check box to indicate that the court received credible information that the respondent possesses firearms is more clearly separated out into a separate paragraph. We urge consistency with this approach in the GV-030.</p>	<p>forms next year.</p>

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## SRP24-31

**Protective Orders: Revisions to Civil Forms to Implement New Law** (revise forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730)

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Gun Violence Restraining Order Forms		
Commenter	Comment	Committee Response
	<p><u>Additionally, Item 5(b) in the GV-030 is also of concern.</u> Item 5(b) provides a check box for the court to indicate that it is <i>not</i> issuing a GVRO and space to explain why. But the GV-030 form is itself a GVRO court order. (The GV-030 form states “This is a court order”). Item 6 of this form also notifies the respondent receiving the GV-030 form that they are prohibited from possessing firearms as a result of the GVRO. If for whatever reason a court used the GV-030 form to indicate that they are not issuing a GVRO, there would be significant risk of confusion and misreporting of the order. To prevent confusion and inconsistency with other GVRO forms, we suggest that Item 5(b) should be deleted from the GV-030.</p>	<p>The committee agrees that item 5b in the current version of form GV-030 may be confusing in light of the firearm prohibition in item 6 of the form. Accordingly, the committee recommends removing item 5b from the form. The committee understands that courts generally use a minute order to indicate that a petition has been denied.</p>
	<p><b><u>Regarding GV-110 Form (Temporary Gun Violence Restraining Order (CLETS-TGV))</u></b>  <b><u>Request: The first sentence of Item 6(c) should be deleted from the existing GV-110 Form.</u></b>  On the existing GV-110 Form, Item 4(b) provides a check box for the court to indicate whether the respondent owns or possesses firearms (or other prohibited items). As noted above in Comment #1, courts can issue Gun Violence Restraining Orders (GVROs) against respondents who may not yet have known firearms in their possession.</p> <p>However, the first sentence of Item 6(c) on the GV-110 automatically notifies the respondent in all temporary GVRO cases that “the court has received credible information that you own or possess one or more prohibited items that have not been turned in,</p>	<p>The committee believes that the first sentence in item 6(c) of form GV-110 was inadvertently included and thus recommends its removal.</p>

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## SRP24-31

**Protective Orders: Revisions to Civil Forms to Implement New Law** (revise forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730)

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Gun Violence Restraining Order Forms		
Commenter	Comment	Committee Response
	<p>sold, or stored...” There is no check box here. We believe this is simply a typo.</p> <p>For some respondents, this will be untrue and inconsistent with the court leaving the check box unmarked in Item 4(b) of the same form GV-110. This first sentence in Item 6(c) does not appear in the otherwise analogous Item 7(c) on the GV-130 Form for GVRs After Hearings and should be deleted from Item 6(c) of the GV-110.</p>	
Giffords Law Center to Prevent Gun Violence by Julia Weber, Esq., MSW Consultant	Giffords concurs with the comments provided by the Department of Justice’s Office of Gun Violence Prevention. Giffords also recommends ongoing training for court staff and judicial officers to support the implementation of these changes to ensure orders can be enforced and are as protective as possible. This should include addressing what constitutes firearm parts, processes for relinquishment, procedures for addressing non-compliance, and approaches to ensure risks associated with firearm access in domestic violence cases and matters involving children are handled as effectively and safely as possible. Giffords supports consistent implementation of firearm-prohibiting remedies in criminal and civil matters. That way, no matter which prohibiting remedy is ordered, similar information about how the prohibited person can comply with the order is provided, and there is appropriate follow up to ensure compliance with the courts’ orders.	The committee appreciates the information provided.
	Additionally, when firearm and ammunition orders are made, the forms should state, universally, that the person is prohibited “while	The committee does not recommend implementing this suggestion as it represents a significant change to

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## SRP24-31

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Gun Violence Restraining Order Forms		
Commenter	Comment	Committee Response
	the order is in place.” Currently, it may be misunderstood to suggest that a person will be permanently prohibited from having firearms and ammunition, which is generally inaccurate. See for example GV-30, #6(a) and consider adding, “While this order is in place...”.	the wording on all protective orders, none of the prohibited conduct language in protective orders is preceded by “while the order is in place.” The suggestion is also outside the scope of the current proposal. The committee will consider this suggestion in the future as time and resources permit.
Superior Court of Riverside County by Sarah Hodgson Chief Deputy of Legal Services / General Counsel	Suggestion: Item 8 on form GV-100 be deleted, the “no body armor” statement is unnecessary as the court must first grant the restraining order and a “no body armor” statement is contained on the GV-110, GV-120 and GV-130. Further information about the body armor restriction is provided for both petitioners and respondents on the GV-100-INFO and GV-120-INFO forms.	The committee declines this suggestion because it is appropriate for the petition to include all the relief sought, including any automatic prohibitions that result from the issuance of the restraining order. The committee also points out that it is recommending that similar statements about body armor appear on other restraining order petitions (see, e.g., form CH-100, item 10).

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## SRP24-31

**Protective Orders: Revisions to Civil Forms to Implement New Law** (revise forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730)

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Workplace Violence Restraining Order Forms		
Commenter	Comment	Committee Response
Orange County Bar Association by Christina Zabat-Fran President	Draft form WV-130 already provides for identification of anyone present “at the hearing”. The purpose is to provide the respondent with a record for potential appeal that their due process right to confront witnesses against them was preserved.	The committee appreciates the information provided. The committee agrees that form WV-130 as circulated included a checkbox in item 5b for the court to identify anyone present at the hearing.
Superior Court of Riverside County Riverside by Sarah Hodgson Chief Deputy of Legal Services / General Counsel	Suggestion: Form WV-130 should not state the employee must attend the hearing (in person). Instead, they should have the option to appear remotely (via zoom, if available) in case the Judicial Officer has questions or concerns regarding the request.	Code of Civil Procedure, section 527.8 does not require the employee who suffered harassment, violence, or threat of violence to attend the hearing in person, or otherwise, and form WV-130 does not contain any such requirement. The committee does not recommend adding one. The workplace violence restraining order forms currently do not advise any case participants about the ability to appear remotely. The committee will consider adding such information as time and resources permit.
	Should form WV-130 state whether the employee who suffered harassment, violence, or threat of violence attended the hearing? If so, what purpose does it serve? <ul style="list-style-type: none"> <li>To be consistent with the other protective order forms and general orders (judicial council forms), this information should be included.</li> </ul>	In reviewing form WV-130 and the comments received, the committee concludes that item 5b is clearer without separate subitems for the employee who suffered harassment, violence, or threat of violence, and their attorney. The committee reached this conclusion because some requests for workplace violence restraining orders are based on threats to multiple employees, who may appear at the hearing as witnesses. These employees are not parties to the case. Accordingly, the committee recommends having item 5 of form WV-130 identify the <i>parties</i>

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## SRP24-31

**Protective Orders: Revisions to Civil Forms to Implement New Law** (revise forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730)

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Workplace Violence Restraining Order Forms		
Commenter	Comment	Committee Response
		(the petitioner, who will be the employer or the collective bargaining representative, and the respondent) who attended the hearing and having any witnesses (including employees who suffered harassment, violence, or threat of violence) be identified in Attachment 5b.
Superior Court of San Diego County by Mike Roddy Executive Officer	Q: Should form WV-130 state whether the employee who suffered harassment, violence, or threat of violence attended the hearing? If so, what purpose does it serve? <b>A: Yes. This would be consistent with other Judicial Council order after hearing forms that indicate which parties were present.</b>	See above response to Superior Court of Riverside County.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** August 6, 2024

**Rules Committee action requested** [Choose from the drop-down menu below]:

**Recommend JC approval (has circulated for comment)**

**Title of proposal:** Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody Orders

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*

Approve forms FL-580-INFO and FL-581; revise forms FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, and FL-585

*Committee or other entity submitting the proposal:*

Family and Juvenile Law Advisory Committee and Tribal Court—State Court Forum

*Staff contact (name, phone and e-mail):* Ann Gilmour [ann.gilmour@jud.ca.gov](mailto:ann.gilmour@jud.ca.gov)

*Identify project(s) on the committee's annual agenda that is the basis for this item:*

Annual agenda approved by Rules Committee on (date): October 28, 2023

Project description from annual agenda: Family and Juvenile Law Advisory Committee Annual Agenda item 9: Tribal court orders that involve the custody of a child are entitled to full faith and credit under section 1911(d) of the Indian Child Welfare Act and recognition and enforcement under the Uniform Child Custody Jurisdiction and Enforcement Act as specifically set forth in Family Code sections 3402(p) and 3404. Currently, however, there is no mechanism to have tribal court child custody orders recognized and enforced within the state court system. This is causing confusion and resulting in difficulties having tribal court custody orders recognized and enforced.

Tribal Court —State Court Forum Annual Agenda approved by Executive and Planning Committee: April 12, 2023 item 2: Tribal court orders that involve the custody of a child are entitled to full faith and credit under 1911(d) of the Indian Child Welfare Act and recognition and enforcement under the Uniform Child Custody Jurisdiction and Enforcement Act as specifically set out in Family Code sections 3402(p) and 3404. Currently, however, there is no mechanism to have tribal court child custody orders recognized and enforced within the state court system. This is causing confusion and resulting in difficulties having tribal court custody orders recognized and enforced.

**Out of Cycle:** *If requesting September 1 effective date or out of cycle, explain why:*

**Additional Information for Rules Committee:** (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was

☒ reviewed by EGG on (date) June 21, 2024

☒ approved by Office Director (or Designee) (name) Audrey Fancy  
on (date) June 25, 2024

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **Form Translations** (check all that apply)

This proposal:

☐ includes forms that have been translated.

☐ includes forms or content that are required by statute to be translated. Provide the code section that

(05/20/24)

mandates translation: Click or tap here to enter text.

☐ includes forms that staff will request be translated.

- **Form Descriptions** (for any report with new or revised forms)
  - ☒ The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).
- **Self-Help Website** (check if applicable)
  - ☒ This proposal may require changes or additions to self-help web content.



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

**Item No.:**

For business meeting on September 20, 2024

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### **Title**

Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody Orders

### **Agenda Item Type**

Action Required

### **Effective Date**

January 1, 2025

### **Rules, Forms, Standards, or Statutes Affected**

Approve forms FL-580-INFO and FL-581; revise forms FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, and FL-585

### **Date of Report**

July 18, 2024

### **Recommended by**

Tribal Court–State Court Forum  
Hon. Abby Abinanti, Cochair  
Hon. Joyce D. Hinrichs, Cochair

### **Contact**

Ann Gilmour, Attorney, 415-865-4207  
[ann.gilmour@jud.ca.gov](mailto:ann.gilmour@jud.ca.gov)

Family and Juvenile Law Advisory  
Committee  
Hon. Stephanie E. Hulse, Chair

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## **Executive Summary**

The Tribal Court–State Court Forum and the Family and Juvenile Law Advisory Committee recommend that the Judicial Council approve two new forms and revise four existing forms to clarify that the requirement to recognize and enforce child custody orders under the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act (found in Family Code sections 3400–3465) applies to custody orders issued by a tribal court. Tribal court judges report that they have experienced problems having their child custody orders registered and enforced because the existing form refers only to out-of-state custody orders and does not reference tribal court orders.

## Recommendation

The Tribal Court–State Court Forum and the Family and Juvenile Law Advisory Committee recommend that the Judicial Council, effective January 1, 2025:

1. Approve *How to Register and Request Enforcement of Your Out-of-State or Tribal Custody Order* (form FL-580-INFO) to set out the process and requirements for registration and enforcement of these orders;
2. Approve *Petition for Enforcement of Out-of-State or Tribal Custody Order and Application for Warrant to Take Physical Custody of Child* (form FL-581) for optional use when there has been a breach of a registered out-of-state or tribal child custody order;
3. Revise *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105/GC-120) and *Attachment to Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105(A)/GC-120(A)) to include tribal court orders and accommodate use in juvenile proceedings;
4. Revise *Registration of Out-of-State Custody Order* (form FL-580) to include reference to tribal court orders in the title and throughout the body of the form and allow use in family law, guardianship, or juvenile proceedings in which a child custody order is made; and
5. Revise *Request for Hearing Regarding Registration of Out-of-State Custody Decree* (form FL-585) to include tribal court orders and change the language in the title from “decree” to “order” to be consistent with language used in other forms and in the statute.

The proposed new and revised forms are attached at pages 7–18.

## Relevant Previous Council Action

The Judicial Council has acted on several occasions to adopt and revise forms to implement the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).<sup>1</sup> The council has also acted to support the recognition and enforcement of tribal court orders across jurisdictional lines. Specifically, in 2011, the council adopted California Rules of Court, rule 5.386, amended rule 2.300, and approved form DV-610 to facilitate the recognition and enforcement of restraining orders issued by tribal courts. The Judicial Council also sponsored Senate Bill 406 (Stats. 2014, ch. 243), the Tribal Court Civil Money Judgment Act,<sup>2</sup> which simplified and clarified the process by which tribal court civil money judgments are recognized and enforced in California.<sup>3</sup>

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<sup>1</sup> See, for instance, California Rules of Court, rule 5.52 concerning required declaration under the UCCJEA, [www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5\\_52](http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_52), and rule 5.151(d)(5)(E), [www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5\\_151](http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_151).

<sup>2</sup> Available at [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140SB406](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB406).

<sup>3</sup> See Judicial Council of Cal., Advisory Com. Rep., *Judicial Council–sponsored Legislation: Tribal Court Civil Judgment Act* (Oct. 26, 2012), [www.courts.ca.gov/documents/jc-20121214-itemG.pdf](http://www.courts.ca.gov/documents/jc-20121214-itemG.pdf).

In 2020, the Legislature passed Assembly Bill 627 (Stats. 2021, ch. 58),<sup>4</sup> Judicial Council–sponsored legislation that added section 2611 to the Family Code and revised various provisions of the Tribal Court Civil Money Judgment Act found in the Code of Civil Procedure. The provisions ensure that divorce or dissolution judgments issued by tribal courts that include division of pension assets are effective and, in particular, are recognized as meeting the requirements of the Employee Retirement Income Security Act of 1974. AB 627 mandated that the Judicial Council adopt forms to implement the legislation.

## **Analysis/Rationale**

The proposal is urgently needed to remedy a problem that is causing significant public safety concerns when tribal child custody orders are ignored and not enforced and responds to the concerns that have been identified by tribal court judges, administrators, and advocates.

Tribal courts have authority to issue child custody orders in cases under their jurisdiction. These custody orders may be issued in cases that are akin to California juvenile, family, or probate guardianship proceedings. State and federal law mandate recognition of these orders. The Indian Child Welfare Act (25 U.S.C. § 1901 et seq.) provides at section 1911(d):

The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

The Uniform Child Custody Jurisdiction and Enforcement Act<sup>5</sup> is promulgated by the Uniform Law Commission to encourage states to adopt laws consistent with the federal Parental Kidnapping Prevention Act (28 U.S.C. § 1738A) that discourage individuals from forum shopping when they are involved in child custody disputes. The law sets forth common principles for establishing court jurisdiction over child custody matters and provides for interjurisdictional enforcement of these orders.

Courts in jurisdictions that have adopted the UCCJEA must comply with the statute when custody and visitation issues arise in proceedings for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence.<sup>6</sup>

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<sup>4</sup> Available at [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB627](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB627).

<sup>5</sup> For a full description, see [www.uniformlaws.org/committees/community-home?CommunityKey=4cc1b0be-d6c5-4bc2-b157-16b0baf2c56d](http://www.uniformlaws.org/committees/community-home?CommunityKey=4cc1b0be-d6c5-4bc2-b157-16b0baf2c56d).

<sup>6</sup> See U.S. Department of Justice, Office of Justice Programs, “The Uniform Child-Custody Jurisdiction and Enforcement Act,” *Juvenile Justice Bulletin* (December 2001), [www.ojp.gov/pdffiles1/ojdp/189181.pdf](http://www.ojp.gov/pdffiles1/ojdp/189181.pdf), and Family Code section 3402(d), which defines the proceedings to which it applies:



The UCCJEA, implemented in California at Family Code sections 3400–3465 (Link A) and *Registration of Out-of-State Custody Order* (form FL-580), provides for the recognition and enforcement of out-of-state child custody orders. Although implemented in the Family Code, it is not limited to out-of-state child custody cases arising in what would be family law cases in California. As discussed in the legislative analysis when the UCCJEA was adopted in California, the legislation has “a broad definition of coverage that, with the exception of adoption, includes virtually all cases that can involve custody of or visitation with a child as a ‘custody determination.’”<sup>7</sup> With respect to child custody orders issued by tribes, Family Code section 3404(c) provides that “[a] child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this part must be recognized and enforced.”

Although Family Code section 3404 also provides, in subdivision (b), that “[a] court of this state shall treat a tribe as if it were a state of the United States,” tribal court judges and personnel report that they are experiencing problems having their custody orders, in all case types, recognized and enforced because of confusion around the use of form FL-580 for tribal court orders and in case types that would not be defined as “family law” cases under California law. In several instances state court clerks have refused to accept tribal court orders for filing.

Further, tribal court personnel report instances in which district attorneys and law enforcement have declined to act under Family Code section 3131 in relation to a tribal court order that is not registered with the state court. Section 3131 requires the district attorney to take all actions necessary to locate and return a child when the child has been taken in violation of a custody order. Failure to act on tribal court orders has resulted in children being left in dangerous situations.

To address this problem, the committees recommend revising several existing forms that implement the UCCJEA to incorporate reference to tribal courts and clarify that the forms can be used to register child custody orders that arise in proceedings akin to juvenile and probate guardianship cases as well as for child custody orders that arise in divorce, dissolution, and other family law cases. In addition, the committees recommend reorganization of some forms for greater clarity, and to conform to gender neutral language standards, and consistency with other forms.

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“Child custody proceeding” means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for dissolution of marriage, legal separation of the parties, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Chapter 3 (commencing with Section 3441).

<sup>7</sup> Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Sen. Bill 668 (1999–2000 Reg. Sess.) as amended Apr. 4, 1999, p. 4, [www.leginfo.ca.gov/pub/99-00/bill/sen/sb\\_0651-0700/sb\\_668\\_cfa\\_19990512\\_195713\\_sen\\_floor.html](http://www.leginfo.ca.gov/pub/99-00/bill/sen/sb_0651-0700/sb_668_cfa_19990512_195713_sen_floor.html).

Specifically, the *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105/GC-120) and *Attachment to Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105(A)/GC-120(A)) forms would be revised by changing the parenthetical language in the caption box on form FL-105/GC-120, add a check box in item 1 for the authorized representative of an agency that is party to the proceedings, reorganize items 2 and 3 for clarity, remove the fields in item 3 to specify the sex of the child as this is not required by statute, add “tribe” in items 4 and 5 as an option for the jurisdiction in which another proceeding for custody of the child could be taking place, adding instructions to form FL-105(A)/GC-120(A), and making formatting changes consistent with other forms.

The *Registration of Out-of-State Custody Order* (form FL-580) would be revised by adding reference to tribal custody orders in the title, adding language in items 3 and 4 to reference removal of physical or legal custody of a child by an agency, removing the field in item 1 to specify the sex of the child as this is not required by statute, changing gender-specific “mother” and “father” to “parent”, clarifying the date on which the registered order can be enforced by adding language to item 2 on page 3 of the form and adding new item 6, adding a reference to *Request for Hearing Regarding Registration of Out-of-State Custody Decree* (form FL-585) to item 3 on page 3; and revising the title to include reference to the notice of registration contained at page 3 of the form.

The committees also recommend the adoption of two new forms. The proposed new *How to Register and Request Enforcement of Your Out-of-State or Tribal Custody Order* (form FL-580-INFO) provides a guide and reference to the legal requirements and process for registering and enforcing an out of state or tribal custody order. The proposed *Petition for Enforcement of Out-of-State or Tribal Custody Order and Application for Warrant to Take Physical Custody of Child* (form FL-581) for optional use when there has been a breach of a registered out-of-state or tribal child custody order. Currently there is no form to assist litigants who might need to take action to enforce their custody orders.

### **Policy implications**

As discussed above, this proposal is intended to clarify existing law to confirm that child custody orders issued by a tribal court that fall within the scope of the UCCJEA are to be recognized and enforced in California in the same manner as child custody orders from sister states.

### **Comments**

The proposal circulated for public comment from March 29 through May 3, 2024, as part of the spring 2024 invitation-to-comment cycle. It was sent to the standard mailing list for family and juvenile law proposals that includes appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, court administrators and clerks, attorneys, family law facilitators and self-help center staff, legal services attorneys, social workers, probation officers, Court Appointed Special Advocate (CASA) programs, and other juvenile and family law professionals. It was also sent to tribal leaders, tribal advocates, and tribal attorneys and distributed through the California Department of Social Services’ Office of

Tribal Affairs list serve to reach those with an interest in the Indian Child Welfare Act and tribal issues.

Nine comments were received. None of the commenters opposed the proposal. Two approved if amended and seven approved of the proposal as circulated. The comments were primarily technical and grammatical in nature and, as set out in more detail in the comment chart attached at pages 20–28, most of the proposed revisions were adopted. In addition to the revisions suggested by commenters. The committees also recommended several revisions to the forms to make them more consistent with other forms and more easily usable in various programs. Specifically, form FL-105/GC-120 was revised to standardize the number of children accommodated by the form and to ensure that there was not a page break within a table. The language in item 4 of form FL-580-INFO was revised to align with the language used in other information sheets that discuss fee waivers. Caption boxes were updated to conform to new standards in the Judicial Council forms manual.

### **Alternatives considered**

The committees considered whether the issues identified by tribal courts and tribal advocates could be addressed through training, but determined there was enough ambiguity in the existing forms that revisions were warranted. The committees also considered whether legislation was necessary but concluded that existing law provided sufficient support that the clarification of application and process could be accomplished through forms.

### **Fiscal and Operational Impacts**

Several court commenters (Superior Court of Los Angeles County, Superior Court of Riverside County, and Superior Court of San Diego County), although generally approving of the proposal, indicated that they did not believe there would be cost savings to the courts and that there would be costs associated with updating case management systems, local forms packets, and procedures, and training staff and others.

On the other hand, one commenter (a legal research attorney with the Superior Court of Alameda County) noted that the clarifying language around address confidentiality will be helpful in solving the problem of courts not having information about the state the child lived in for UCCJEA purposes when an address is marked as confidential. This commenter stated that this change could avoid rejections of proposed judgments and court reviews, which could produce savings to the courts.

### **Attachments and Links**

1. Forms FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, FL-580-INFO, FL-581, and FL-585, at pages 7–18
2. Chart of comments, at pages 19–27
3. Link A: Uniform Child Custody Jurisdiction and Enforcement Act,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displayexpandedbranch.xhtml?tocCode=FAM&division=8.&title=&part=3.&chapter=&article=](https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=FAM&division=8.&title=&part=3.&chapter=&article=)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>   <b>DRAFT</b> Not Approved by the Judicial Council 07102024 am
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
<i>(This section applies to cases other than probate guardianships.)</i> PETITIONER: RESPONDENT:  OTHER PARTY: CHILD'S NAME (Juvenile cases only):	
<i>(This section applies only to probate guardianship cases.)</i> GUARDIANSHIP OF (name):	CASE NUMBER:
<b>DECLARATION UNDER UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA)</b>	

1. I am (check one): ☐ a party to this proceeding to determine custody of a child ☐ the authorized representative of the agency, which is a party to this proceeding to determine custody of a child.

2. There are (specify number): \_\_\_\_\_ minor children who are subject to this proceeding, as follows (list oldest child first):

Full Name	Date of birth	Place of birth (city and state)
a.		
b.		
c.		
d.		

☐ Check this box if you need to list more children. (On form [MC-020](#) or a separate piece of paper, write "FL-105, Attachment 2, Additional Children" at the top, provide all requested information for each additional child, and attach to this form.)

3. a. ☐ Check this box if there is only one child or if all of the children listed in item 2 have lived together for the past five years. (Provide the current address of the child listed in item 2a and their residence history for the past five years. If the current address is confidential under Family Code section 3429, check the box and provide only the state of residence.)

Dates of residence (Month/Year)		Residence (City, State)	Person child lived with and complete current address	Relationship
From:	To present	<input type="checkbox"/> Confidential (list state only)	<input type="checkbox"/> Confidential (list state only)	
From:	To:			
From:	To:			
From:	To:			
From:	To:			

☐ Additional addresses are listed on Attachment 3a. (Form [MC-020](#) may be used for this purpose.)

b. ☐ Check this box if there is more than one child and all the children have not lived together for the past five years. (Attach form FL-105(A)/GC-120(A) and list each other child's current address and their residence history for the past five years.)

CASE NAME:	CASE NUMBER:
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4. Do you have information about, or have you participated as a party or as a witness or in some other capacity in, another court case or custody or visitation proceeding, in California or elsewhere, concerning a child subject to this proceeding?

☐ Yes ☐ No (If yes, attach a copy of the orders if you have one and provide the following information):

Proceeding	Case number	Court (name, state or tribe, location)	Court order or judgment (date)	Name of each child	Your connection to the case	Case status
a. <input type="checkbox"/> Family						
b. <input type="checkbox"/> Probate Guardianship						
c. <input type="checkbox"/> Other						

Proceeding	Case Number	Court (name, state or tribe, location)
d. <input type="checkbox"/> Juvenile		
e. <input type="checkbox"/> Adoption		

5. ☐ One or more domestic violence restraining/protective orders are now in effect. (Attach a copy of the orders if you have one and provide the following information):

Court	County	State or Tribe	Case Number (if known)	Orders expire (date)
a. <input type="checkbox"/> Criminal				
b. <input type="checkbox"/> Family				
c. <input type="checkbox"/> Juvenile				
d. <input type="checkbox"/> Other				

6. Do you know of any person who is not a party to this proceeding who has physical custody of or claims to have rights to custody of or visitation with any child in this case? ☐ Yes ☐ No (If yes, provide the following information):

a. Name and address of person:

☐ Has physical custody  
☐ Claims custody rights  
☐ Claims visitation rights

Name of each child:

b. Name and address of person:

☐ Has physical custody  
☐ Claims custody rights  
☐ Claims visitation rights

Name of each child:

c. Name and address of person:

☐ Has physical custody  
☐ Claims custody rights  
☐ Claims visitation rights

Name of each child:

7. Number of pages attached: \_\_\_\_\_

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

Date:

\_\_\_\_\_  
 (NAME OF DECLARANT)



\_\_\_\_\_  
 (SIGNATURE OF DECLARANT)

**NOTICE TO DECLARANT: You have a continuing duty to inform this court if you obtain any information about a custody proceeding in a California court or any other court concerning a child subject to this proceeding.**

CASE NAME:	CASE NUMBER:
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**ATTACHMENT TO  
DECLARATION UNDER UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA)**

**Instructions:** *If all the children subject to the proceeding have not lived together for the last five years, use as many copies of this form as needed to list all the children. Number each item and each page consecutively, and attach all pages to form FL-105/GC-120.*

3. b. \_\_\_\_\_ Name of child: \_\_\_\_\_ *(Provide the child's current address and their residence history for the past **five years**. If the current address is confidential under Family Code section 3429, check the box and provide only the state of residence.)*

☐ Residence information is the same as given for the child listed in item 2a on form FL-105/GC-120. *(If **not** the same, provide the information below.)*

Dates of residence (Month/Year)		Residence (City, State)	Person child lived with (name and complete current address)	Relationship
From:	To present			
		<input type="checkbox"/> Confidential <i>(list state only)</i>	<input type="checkbox"/> Confidential <i>(list state only)</i>	
From:	To:			
From:	To:			
From:	To:			
From:	To:			

3. b. \_\_\_\_\_ Name of child: \_\_\_\_\_ *(Provide the child's current address and their residence history for the past **five years**. If the current address is confidential under Family Code section 3429, check the box and provide only the state of residence.)*

☐ Residence information is the same as given for the child listed in item 2a on form FL-105/GC-120. *(If **not** the same, provide the information below.)*

Dates of residence (Month/Year)		Residence (City, State)	Person child lived with (name and complete current address)	Relationship
From:	To present			
		<input type="checkbox"/> Confidential <i>(list state only)</i>	<input type="checkbox"/> Confidential <i>(list state only)</i>	
From:	To:			
From:	To:			
From:	To:			
From:	To:			

Page \_\_\_\_ of \_\_\_\_

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY</p> <p>NAME:</p> <p>FIRM NAME:</p> <p>STREET ADDRESS:</p> <p>CITY: STATE: ZIP CODE:</p> <p>TELEPHONE NO.: FAX NO.:</p> <p>EMAIL ADDRESS:</p> <p>ATTORNEY FOR (name):</p>	<p><i>FOR COURT USE ONLY</i></p>   <p><b>DRAFT</b></p> <p>Not approved by the Judicial Council FL-580.v6.07112024.am</p>
<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b></p> <p>STREET ADDRESS:</p> <p>MAILING ADDRESS:</p> <p>CITY AND ZIP CODE:</p> <p>BRANCH NAME:</p>	
<p>PETITIONER:</p> <p>RESPONDENT:</p>	
<p><b>REGISTRATION OF OUT-OF-STATE OR TRIBAL CUSTODY ORDER AND NOTICE OF REGISTRATION</b></p>	<p>CASE NUMBER:</p>

1. The minor children covered by the out-of-state or tribal custody order are (name each):
 

<u>Child's name</u>	<u>Date of birth</u>	<u>Age</u>
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2. a. Petitioner has been awarded ☐ custody ☐ visitation of those minor children.  
 b. Petitioner is the ☐ parent ☐ other (specify): \_\_\_\_\_ of those minor children.  
 c. Petitioner's address is:\*
  
3. a. Please select (1) or (2):  
 (1) ☐ The ☐ physical ☐ legal custody of the minor children has been removed from \_\_\_\_\_ ; or  
     (list names)  
 (2) ☐ Respondent has been awarded ☐ custody ☐ visitation of the minor children.  
 b. Respondent: \_\_\_\_\_ is a parent of those minor children.  
    Respondent: \_\_\_\_\_ is a parent of those minor children.  
    Respondent: \_\_\_\_\_ is (specify): \_\_\_\_\_ of those minor children.  
 c. Respondent's address (state for each):\*
  
4. ☐ Another person or agency has been awarded ☐ custody ☐ visitation of those minor children.  
 a. The name of that person or agency is (name): \_\_\_\_\_  
 b. That person or agency is the ☐ parent ☐ other (specify): \_\_\_\_\_ of those minor children.  
 c. That person or agency's address is:\*
  
5. A completed *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105/GC-120) is attached to this registration.

\* If there are issues of domestic violence or child abuse, you may give a mailing address instead.

PETITIONER: RESPONDENT:	CASE NUMBER:
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6. I request that the attached out-of-state **or tribal** custody order be registered in this court.
- a. The court, county, and state **or tribe** where order was made are *(specify)*:
  - b. The date when the most recent order for child custody **or** visitation was made in that case *(specify)*:
  - c. Two copies, including one certified copy of that out-of-state **or tribal** order, are attached to this registration and made a part of it.
  - d. To the best of my knowledge and belief, this order has not been modified.

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

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

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

  
\_\_\_\_\_  
(SIGNATURE )



PETITIONER: RESPONDENT:	CASE NUMBER:
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**NOTICE OF REGISTRATION OF OUT-OF-STATE OR TRIBAL CUSTODY ORDER**

1. To:
    - a. Petitioner at address in item 2c on page 1
    - b. Respondent at address in item 3c on page 1
    - c. ☐ Other person who has been awarded custody or visitation in this custody order at address in item 4c on page 1
2. The attached out-of-state or tribal custody order can be enforced as of the date of registration in the same manner as an order issued by a California court. **This means the attached order can be enforced today.**
3. If you want to contest the validity of this registered out-of-state or tribal custody order, you must request a hearing date that is within 20 days of the date that this notice was mailed to you (see clerk's date of mailing below). A request for a hearing must be in writing and filed in this case using *Request for Hearing Regarding Out-of-State or Tribal Custody Order* (form FL-585).
  4. If you do not request this hearing, the out-of-state or tribal order will be confirmed in California and you will not be able to challenge its validity in the future.
5. At the hearing, the court will confirm the out-of-state or tribal order unless you can prove one of the following:
    - a. The issuing court did not have jurisdiction under chapter 2 (commencing with section 3421) of part 3 of division 8 of the California Family Code.
    - b. The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under chapter 2 (commencing with section 3421) of part 3 of division 8 of the California Family Code .
    - c. You were entitled to notice of the original order, but did not receive that notice in accordance with the standards of California Family Code section 3408 in the proceedings before the court that issued the order of which registration is sought.
  6. **If you request a hearing, the attached order remains enforceable while you await the hearing.**

**CLERK'S CERTIFICATE OF MAILING**

I certify that I am not a party to this case and that a copy of this *Registration of Out-of-State or Tribal Custody Order and Notice of Registration* and all attachments were sent to each person named in item 1 above by first-class mail. The copies were enclosed in envelopes with postage fully prepaid. The envelopes were addressed to the persons named in item 1 at the addresses listed above, sealed, and deposited with the United States Postal Service.

At (place):

On (date):

Date:

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

**FL-580-INFO****How to Register and Request Enforcement of Your Out-of-State or Tribal Custody Order**

This form explains what to do if you want to register and enforce a child custody order made by the court of another state, an Indian tribe, or another country.

**1. Where do I register the order?**

You can register a child custody order from the court of another state, country, or tribal court with any superior court in California. You can find a listing of California courts here:

[www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm)

**2. How do I register the order?**

You can either bring the required documents to the court clerk's office for registration or you can mail them to the court. Before you mail the documents, you should contact the court to confirm the correct department and address for mailing the documents. (See Family Code, § [3445](#).)

**3. What documents do I need to give the court?**

The documents you need to give the court to register your order are set out in Family Code section 3445(a):

- a. A letter or other document requesting registration. You may use form [FL-580](#), *Registration of Out-of-State or Tribal Custody Order and Notice of Registration*.
- b. Two copies of the out-of-state or tribal custody order that you want to register. One of the copies needs to be certified.
- c. A statement or declaration signed under penalty of perjury that, as far as you know, the order you are registering has not been modified or changed. This declaration is contained in item 6d on page 2 of form [FL-580](#).
- d. Unless there have been allegations of domestic violence or child abuse, you must also include your address and the address of any parent or person acting as a parent who has been awarded custody or visitation of the child.

**4. Is there a fee?**

Ask the clerk what the filing fee is. If you cannot afford to pay the filing fee, ask the clerk how to apply for a fee waiver. Form [FW-001](#) is available for this purpose.

**5. What can I ask the court to do?**

If you want the assistance of the court and/or law enforcement to enforce the terms of the custody order because someone is violating the order, you can file form FL-581, *Petition for Enforcement of Out-of-State or Tribal Custody Order*, either at the same time you register your custody order or later. The request must contain all the information set out in Family Code section [3448](#)(b) and be signed under penalty of perjury. You must attach to your request certified copies of the order you want enforced. At the time you request enforcement, you can also ask the court to order you physical custody of the child, attorney's fees, and assistance from law enforcement. Sometimes law enforcement can help locate the child or execute a warrant to take physical custody of the child. (See Family Code, §§ [3131](#), [3448](#)(b)(5).)

**6. What happens after I register my order?**

After you send or give your documents to the court, the court will file your order as a foreign judgment and give any other person you named who has, or claims a right to, custody or visitation with the child (or children) notice of the documents you have filed. (This notice is on page 3 of form FL-580.) The people who get notice have 20 days to ask for a hearing to object to the validity of the registered order. (See Family Code, § [3445](#)(b).)

**7. What if another person objects to registration of the order?**

If someone objects to the registration of the custody order, you will get notice of the time and date that the court has set for a hearing. You or your attorney should go to the hearing. At the hearing, the court will consider whether the court that issued the custody order had jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) to make the order; whether the order has ever been vacated, stayed, or modified by a court with jurisdiction; and whether the person objecting to the order received notice of the order before it was made. (See Family Code, § [3445\(d\)](#).)

**8. When will my order be confirmed?**

If at a hearing the court finds that the registered order is valid, or if no one contests the order within 20 days, the court will confirm the order and give notice of the confirmation to you and all the other people served with notice of registration of the order. (See Family Code, § [3445\(e\)](#).)

**9. When is the order enforceable?**

The registered order is enforceable from the date it is registered with the court unless and until the court finds the order is not valid. You do not have to wait for the court's confirmation. (See Family Code, §§ [3445\(c\)\(1\)](#), [3446](#).)

**10. What happens if I ask for help with enforcement?**

If you ask the court for an order enforcing the custody order (see paragraph 5 above) either at the same time you register the order or later, the court will order the person who has the child in violation of the custody order to come to court, and will set a hearing for as soon after the person is served with that order as possible (usually the next court day). (See Family Code, § [3448\(c\)](#).)

**11. What happens at the enforcement hearing?**

You or your attorney must attend this hearing. At this hearing, the court will consider whether the child custody order has been registered and confirmed, and whether the order was later vacated, stayed, or modified by a court with jurisdiction. If the original order has not been registered and confirmed, the court will consider whether the court that issued it had jurisdiction under the UCCJEA, and whether the respondent was entitled to notice of the original order issued by the out-of-state or tribal court but did not receive it. (See Family Code, § [3448\(d\)](#).)

- Copies of the filed forms FL-580 and FL-105/GC-120 are attached. A certified copy (*or copy of a certified copy*) of any order confirming registration is attached.

- |               |                |
|---------------|----------------|
| Child's Name: | Date of Birth: |
|               |                |
|               |                |
|               |                |
|               |                |

- Page 1 of 2

PETITIONER: RESPONDENT:	CASE NUMBER:
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7. To the best of my knowledge the out-of-state or tribal child custody determination has not been vacated, stayed, or modified by a court whose decision must be enforced under California law.
8. To the best of my knowledge, there (*check one*) ☐ is ☐ is not another court case pending that could affect this case, including cases and hearings related to domestic violence, protective orders, termination of parental rights, and adoptions. If there is, complete the following:  
 Name of Court:  
 Case Number:  
 Type of Case:  
 Date of Action:
9. ☐ I ask that the court (*check all that apply*):
- a. ☐ Order the respondent to bring the child or children to court at the time and place set for hearing of this petition.
  - b. ☐ Issue a warrant to take physical custody of the child or children prior to the hearing on this matter.  
 The child is immediately likely to suffer serious physical harm or to be removed from this state because:
  - c. ☐ Authorize California law enforcement to help, if necessary, to enforce this court's order;
  - d. ☐ Order respondent to pay attorney's fees.
  - e. ☐ Other:

Date:

(TYPE OR PRINT NAME)

▶

(SIGNATURE OF ATTORNEY)

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

(TYPE OR PRINT NAME)

▶

(SIGNATURE OF PETITIONER)

1. A hearing on this application will be held as follows:

a. Date:	Time:	Dept.:	Div.:	Room:
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2. I request that the registration of custody be vacated (canceled) because:

- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

PETITIONER: RESPONDENT:	CASE NUMBER:
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CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this cause and that a true copy of the *Request for Hearing Regarding Registration of Out-of-State or Tribal Custody Order* was mailed first class, postage fully prepaid, in a sealed envelope addressed as shown below, and that the notice was mailed  
at (place): \_\_\_\_\_, California,  
on (date): \_\_\_\_\_

Date: \_\_\_\_\_ Clerk, By \_\_\_\_\_, Deputy

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SPR 24-36

**Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody Orders** (Approve forms FL-580-INFO and FL-581; revise forms FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, and FL-585)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
1.	California CASA Association By Sharon Lawrence, Chief Executive Officer (San Diego)	A	These proposed amendments clarify but don't change existing law and are OK. In Summary:	The committees appreciate the feedback.
			FL-105: OK as proposed	
			FL105A: OK as proposed	
			FL-580: OK as proposed	
			FL-580-INFO: Ok as proposed	
			FL-581: OK as proposed	
2.	California Lawyers Association: Executive Committee of the Family Law Section (FLEXCom) By Justin M. O'Connell, FLEXCOM Legislation Chair	A	FLEXCOM agrees with this proposal.	The committees appreciate the feedback.
3.	California Tribal Families Coalition By Kimberly Cluff, Legal Director (Sacramento)	A	The California Tribal Families Coalition (CTFC) submits this letter to the Tribal Court–State Court Forum and the Family and Juvenile Law Advisory Committee regarding the proposed new Judicial Council forms and revision of four existing forms to confirm and clarify that the State Courts are required to recognize and enforce child custody orders issued by a tribal court under the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act (found in sections 3400–3465 of the Family Code).	The committees appreciate the feedback.
			The proposed two new Judicial Council forms and revision of four existing forms related to child custody will assist in resolving the problem of tribal court orders not being registered and	The committees appreciate the feedback.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



**Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody Orders** (Approve forms FL-580-INFO and FL-581; revise forms FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, and FL-585)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			enforced by state courts because the existing forms refers only to out-of-state custody orders and do not reference tribal court orders.	
			CTFC as a tribal non-profit organization providing legal counsel to tribes in state court cases involving tribal citizen children is aware of incidences of state courts failing to recognize and enforce tribal courts orders, and thus CTFC supports implementing the two new proposed forms and the revising of existing forms.	The committees appreciate the feedback.
4.	Knox-Davies, William Legal Research Attorney (Judgment Review) Superior Court of California, County of Alameda	A	The new language at 3.a [on form FL-105), "Check if the address is confidential under Family Code section 3429 and only put in the state" is terrific. Parties - especially self-represented parties - frequently claim an address is confidential and then don't provide the State information. The practice makes it impossible for the court to properly evaluate the FL-105 and determine the child's home state. This results in many rejections of proposed judgments being reviewed under CRC 5.407 that could be avoided if litigants at least said what state the child was residing in. This change will ameliorate this issue greatly.	The committees appreciate the feedback.
5.	Orange County Bar Association By Christina Zabat-Fran (President)	A/M	The proposal appropriately addresses the stated purpose, and is sufficient in its current form. We offer some minor suggestions as to the first form amended (FL-105 – Declaration Under UCCJEA).	The committees appreciate the feedback. Responses to specific comments are below.
			For the multiple boxes where one is prompted to "Check if the address is confidential under Family Code section 3429 and only put in the state," we	The committees considered this recommendation but decline to make this change because the name of a tribe is not normally part of an address.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR 24-36

**Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody Orders** (Approve forms FL-580-INFO and FL-581; revise forms FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, and FL-585)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			suggest modifying the prompt to “. . . only put the state (and tribe if applicable).” This suggested modification keeps with the proposal’s intent to recognize both state and tribal locations for relevant proceedings.	
			For the two sections on page two for “Court (name, state or tribe, location),” we suggest “Court (name, state [and tribe if applicable], location).” As tribal contact addresses are typically in city/state/zip code format, the form should be clarified in the suggested manner to ensure that both state and tribe information is included to identify the correct proceedings.	The committees considered this recommendation but decline to make this change because the information sought in items 4 and 5 is related to jurisdiction only. Therefore, the name of the tribe would supplant the name of the state, if the case described in these items were under the jurisdiction of a tribal court.
			For the section on page three for “State or Tribe” as to domestic restraining orders, we suggest, for the same reasons outlined above, modifying to “State (and Tribe if applicable).”	See above.
6.	Superior Court of California, County of Los Angeles By Bryan Borys, Director of Research and Data Management	A	The following comments are representative of the Superior Court of California, County of Los Angeles (Court), and do not represent or promote the viewpoint of any particular judicial officer or employee.	The committees appreciate the feedback.
			In response to the Judicial Council of California’s “ITC SPR24-36 Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody,” the Court agrees with the proposal and its ability to appropriately address its stated purpose.	The committees appreciate the feedback.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR 24-36

**Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody Orders** (Approve forms FL-580-INFO and FL-581; revise forms FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, and FL-585)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			Although the Court does not see any cost savings from the proposal, it anticipates minimal implementation requirements, which include but are not limited to: 1) Training for staff, 2) Updating policies and procedures, 3) Adding new event codes and forms to the case management system.	The minimal costs to the courts in implementing the proposal are noted.
			Lastly, the Court agrees that three months from Judicial Council approval of this proposal until its effective date will provide sufficient time for implementation and that this proposal would work well in courts of different sizes.	The committees appreciate the feedback.
7.	Superior Court of California, County of Riverside	A	Generally, in favor of the proposal.	The committees appreciate the feedback.
			The proposal to revise the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) forms, specifically FL-105, FL-580, and FL-585 will address the challenges faced in registering and enforcing tribal court orders. By expanding the scope of the forms to encompass both out-of-state and tribal court orders, the proposed changes would ensure a more inclusive and comprehensive approach to custody matters. The new forms such as FL-580-INFO and FL-581 would serve to clarify the registration process for the public and provide a structured mechanism for enforcing out-of-state or tribal custody orders.	The committees appreciate the feedback.
			<u>Does the proposal appropriately address the stated purpose?</u> Yes, the updates to the FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, and FL-585 forms	The committees appreciate the feedback.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody Orders** (Approve forms FL-580-INFO and FL-581; revise forms FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, and FL-585)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			and the adoption of new forms FL-580-INFO and FL-581 should address the issues of tribal custody orders being ignored and not enforced, as identified by tribal court judges, administrators and advocates.	
			<u>Would the proposal provide cost savings? If so, please quantify?</u> There would be no cost savings to the court.	The committees appreciate the feedback.
			<u>What would the implementation requirements be for courts-for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe)?</u> A comprehensive approach will include training staff (including public service, courtroom, and judicial officers), revising procedures and training guides, and modifying case management systems.	The committees appreciate the feedback.
			<u>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</u> Yes	The committees appreciate the feedback.
			<u>How well would this proposal work in court of different sizes?</u> The proposal should work for courts of all sizes.	The committees appreciate the feedback.
8.	Superior Court of California, County of San Diego By Michael Roddy, Executive Officer	A/M	Q: Does the proposal appropriately address the state purpose? <b>A: Yes.</b>	The committees appreciate the feedback.
			Q: Would the proposal provide cost savings? If so, please quantify.	The committees appreciate the feedback.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody Orders** (Approve forms FL-580-INFO and FL-581; revise forms FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, and FL-585)

All comments are verbatim unless indicated by an asterisk (\*).

Commenter	Position	Comment	Committee Response
		<b>A: No.</b>	
		Q: What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? <b>A: Implementation will require updating the case management system, local packets, and procedures to include new/revised forms and training business office and courtroom staff. In addition, courts would need to inform their judicial officers and their justice partners (child welfare agency, probation department, tribal agencies, attorney offices, CASA offices, et al.) of the new and amended forms.</b>	The committees appreciate the feedback.
		Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <b>A: Yes, provided the final versions of the forms are provided to the court at that time. This will ensure the court is able to provide training to staff, update its internal procedures and local packets, and obtain printed stock.</b>	The committees appreciate the feedback.
		Q: How well would this proposal work in courts of different sizes? <b>A: This proposal should work well, regardless of the size of the court.</b>	The committees appreciate the feedback.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody Orders** (Approve forms FL-580-INFO and FL-581; revise forms FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, and FL-585)

All comments are verbatim unless indicated by an asterisk (\*).

Commenter	Position	Comment	Committee Response
		<b>FL-105/GC-120:</b> Caption: Top left box on page 1, row 4 – Suggest inserting “probate” to distinguish this box from guardianships established in juvenile court. “ <i>(This section applies only to <u>probate</u> guardianship cases.)</i> ”	The proposal was revised in response to this comment.
		Suggest adding a new box on the left between the fourth and fifth boxes (i.e., beneath the box for guardianships and above the box containing the form title in boldface), as follows:  <div style="border: 1px solid black; padding: 10px; text-align: center;"><i>(This section applies only to juvenile court cases.)</i></div>	The proposal was revised in response to this comment.
		Item 2: suggest adding a check box to the left of “My present address ...” because residence addresses won’t necessarily be confidential in all cases.	The proposal was revised in response to this comment.
		Item 3.c.: suggest revising to state: “Additional residence information for a child listed in item <b>3a</b> or <b>3b</b> is continued on attachment 3c.”	The proposal was revised in response to this comment.
		Item 4.b.: suggest inserting “Probate” before Guardianship.	The proposal was revised in response to this comment.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody Orders** (Approve forms FL-580-INFO and FL-581; revise forms FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, and FL-585)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			Item 4.d.: suggest revising “Juvenile Delinquency” to “Juvenile Justice” or revising to simply “Juvenile.”	The proposal was revised in response to this comment.
			<b>FL-105(A)/GC-120(A):</b> Top Row, Left Column: Suggest changing “child a” to “child 3a or child 3b.”	The proposal was revised in response to this comment.
			<b>FL-580:</b> Caption: Should the caption match that of FL-105/GC-120, e.g. by adding a row for probate guardianship cases?	The committees considered this comment but concluded that a row for probate guardianship cases was not necessary for the form to be usable for probate guardianship orders.
			Items 2, 3, and 4: Suggest using “the minor children” consistently throughout.	The proposal was revised in response to this comment.
			<b>FL-580-INFO:</b> Page 1, Paragraph 3.c.: Suggest inserting “on page 2” after “item 6(d)” because there is another item 6(d) on page 3 of the form.	The proposal was revised in response to this comment.
			<b>FL-581:</b> Caption on page 1 and header on page 2: suggest changing “PLAINTIFF” to “PETITIONER” for consistency with other UCCJEA forms.	The proposal was revised in response to this comment.
			Caption: Should the caption match that of FL-105/GC-120, e.g. by adding a row for probate guardianship cases?	The committees considered this comment but concluded that a row for probate guardianship cases was not necessary for the form to be usable for probate guardianship orders.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR 24-36

**Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody Orders** (Approve forms FL-580-INFO and FL-581; revise forms FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, and FL-585)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			Item 7: If the petitioner does not know whether this statement is true, should there be a way for the petitioner to indicate their lack of knowledge?	The proposal was revised to include language “To the best of my knowledge” at the beginning of the item.
			Signatures: Should there be an oath line (“I declare under penalty of perjury . . .”) above the first date line as there are above the second and third date lines?	The proposal was revised in response to this comment.
9.	Valdez, Norman J. McArthur, CA	A		
			[No further comments were provided.]	The committees appreciate the feedback.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** August 13, 2024

**Rules Committee action requested** [Choose from the drop-down menu below]:

**Submit to JC (without circulating for comment)**

**Title of proposal:** Family and Juvenile Law: Technical Changes

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*

Revise forms FL-161, FL-334, FL-400,  
JV-228-INFO, and JV-253

*Committee or other entity submitting the proposal:*

Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and e-mail):* Kerry Doyle, 415-865-8791, [kerry.doyle@jud.ca.gov](mailto:kerry.doyle@jud.ca.gov)

*Identify project(s) on the committee's annual agenda that is the basis for this item:*

Annual agenda approved by Rules Committee on (date): October 26, 2023, amended February 9, 2024

Project description from annual agenda: Item 13. Rules and Forms: Miscellaneous Technical Changes. Develop rule and form changes as necessary to correct errors meeting the criteria of rule 10.22(d)(2): "a nonsubstantive technical change or correction or a minor substantive change that is unlikely to create controversy...."

**Out of Cycle:** *If requesting September 1 effective date or out of cycle, explain why:*

**Additional Information for Rules Committee:** (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was

☒ reviewed by EGG on (date) 7/9/24

☒ approved by Office Director (or Designee) (name) Audrey Fancy, Anna Maves  
on (date) 7-11-24, 7-15-24

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **Form Translations** (check all that apply)

This proposal:

☐ includes forms that have been translated.

☐ includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)

☐ includes forms that staff will request be translated.

- **Form Descriptions** (for any report with new or revised forms)
  - ☐ The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).
- **Self-Help Website** (check if applicable)
  - ☐ This proposal may require changes or additions to self-help web content.



# Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

[www.courts.ca.gov](http://www.courts.ca.gov)

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-162*

For business meeting on September 19–20, 2024

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**Title**

Family and Juvenile Law: Technical Changes

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2025

**Rules, Forms, Standards, or Statutes Affected**

Revise forms FL-161, FL-334, FL-400, JV-228-INFO, and JV-253

**Date of Report**

July 29, 2024

**Recommended by**

Judicial Council staff  
Kerry Doyle, Attorney  
Gabrielle Selden, Attorney  
Center for Families, Children & the Courts

**Contact**

Kerry Doyle, 415-865-8791  
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Gabrielle Selden, 415-865-8085  
[gabrielle.selden@jud.ca.gov](mailto:gabrielle.selden@jud.ca.gov)

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### Executive Summary

Judicial Council staff have noted minor errors in five forms and recommend revising them to make nonsubstantive technical changes and corrections to improve their accuracy and to avoid causing confusion for court users, clerks, and judicial officers.

### Recommendation

Judicial Council staff recommend that the Judicial Council, effective January 1, 2025:

1. Revise *Continuation of Property Declaration* (form FL-161) to:

- Substitute the correct form number;
- At the footer on page 1, substitute the correct form number and use “Form Adopted for Mandatory Use”; and

- Add “(mm/dd/yyyy)” to the “DATE INCURRED” column on page 2 to make it consistent with the “DATE ACQUIRED” column on page 1.
2. Revise *Declaration Regarding Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order* (form FL-334) to:
    - Update the format of the caption;
    - Correct item 3a to delete the duplicate word “current”;
    - Correct item 3b(1) so that the language is consistent with the language in item 3a about the time frame within which the party obtained the address for service, as follows: “I contacted the other party directly within the past 30 days and he or she gave me the above address. The other party gave me the address listed in item 3a within 30 days before the request was served”;
    - Correct item 3b(2) similarly, as follows: “I have been at that address in connection with a custody and visitation or other matter within the past 30 days. I have been at the address listed in item 3a within 30 days before the request was served”;
    - Revise item 3b(4) to replace “he or she” with “the other party” so that the item is gender neutral;
  3. Revise *Order for Child Support Security Deposit and Evidence of Deposit* (form FL-400) to replace the terms “obligor” and “obligee” with, respectively, “parent ordered to pay support” and “person ordered to receive support” to be consistent with the updated terminology in other governmental child support forms approved by the council effective January 1, 2020 (e.g., *Stipulation and Order* (form FL-625));
  4. Revise *Background on Release of Information to Medical Board of California* (form JV-228-INFO) at item 1 to correct “renewing the data” to “reviewing the data”;
  5. Revise *Order on Request to Reschedule Restraining Order Hearing* (form JV-253) to:
    - Correct the title of the form in the footer on pages 2 and 3 by removing the word “Temporary” as the form is used to reschedule restraining order hearings and the inclusion of the word “temporary” in the footer on these pages is in error; and
    - Correct item 4b on page 1 by changing “retraining order” to “restraining order”.

The proposed revised forms are attached at pages 4–12.

### **Relevant Previous Council Action**

The Judicial Council has previously acted on these forms but this proposal only involves minor corrections that are unrelated to prior council action.

**Analysis/Rationale**

The changes to these forms are technical in nature and necessary to ensure the forms are accurate and up to date.

**Policy implications**

There are no policy implications to this proposal.

**Comments**

This proposal was not circulated for public comment because the changes involve nonsubstantive technical changes or corrections, and are therefore within the Judicial Council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

**Alternatives considered**

None.

**Fiscal and Operational Impacts**

This proposal should not have any fiscal or operational impacts on courts or litigants other than the costs of replacing outdated forms. In implementing the revised forms, courts will incur standard reproduction costs. Because the proposed changes are technical corrections, case management systems are unlikely to need updating to implement them.

**Attachments and Links**

1. Forms FL-161, FL-334, FL-400, JV-228-INFO, and JV-253, at pages 4–12

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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☐ PETITIONER'S    ☐ RESPONDENT'S

☐ COMMUNITY AND QUASI-COMMUNITY PROPERTY DECLARATION

☐ SEPARATE PROPERTY DECLARATION

A		B	C	D	E	F	
ITEM NO.	BRIEF DESCRIPTION	DATE ACQUIRED (mm/dd/yyyy)	GROSS FAIR MARKET VALUE	AMOUNT OF DEBT	NET FAIR MARKET VALUE	PROPOSAL FOR DIVISION Award or Confirm to: PETITIONER RESPONDENT	
			\$	\$	\$	\$	\$

A		B	C	D	
ITEM NO.	DEBTS— SHOW TO WHOM OWED	DATE INCURRED (mm/dd/yyyy)	AMOUNT OF DEBT	PROPOSAL FOR DIVISION Award or Confirm to: PETITIONER RESPONDENT	
			\$	\$	\$

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>   <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b> <b>07/11/2024</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	
<b>DECLARATION REGARDING ADDRESS VERIFICATION—          POSTJUDGMENT REQUEST TO MODIFY A CHILD CUSTODY,          VISITATION, OR CHILD SUPPORT ORDER</b>	CASE NUMBER:

1. I am the ☐ attorney for ☐ petitioner ☐ respondent ☐ other parent ☐ other party in this matter.
  
2. ☐ **The request is to modify a judgment or permanent order only for child support and a local child support agency is providing services in the case.** Service of the request solely to modify child support will be made on the other party by serving the local child support agency at least 30 days prior to the hearing as provided in Family Code sections 17404(e)(3) and 17406(f).
  
3. ☐ **The request is to modify a judgment or permanent orders for child custody, visitation, or child support.**  
 Note: If you cannot verify the other party's current residence or office address, mail service may not be used. The other party must be personally served. *Proof of Personal Service* (form FL-330) may be used for this purpose.
  - a. Before the request was served on the other party by mail, I verified in the previous 30 days that the other party's current residence or office address is (*specify*):
  
  - b. I can confirm that the above address is the other party's **current residence or office address** because (*specify*):
    - (1) ☐ The other party gave me the address listed in item 3a within 30 days before the request was served.
    - (2) ☐ I have been at the address listed in item 3a within 30 days before the request was served.
    - (3) ☐ It is the new address that the other party provided on *Notice of Change of Address* (form MC-040) or other pleading and filed with the court on (*specify date*):
    - (4) ☐ It is the office address that the other party last gave on a document filed with the court in this case that was also served on me as a party in the case.
    - (5) ☐ I sent the other party a letter by mail to the address in (2) with return receipt requested and the other party signed and accepted the letter at that address within the past 30 days.
    - (6) ☐ I confirmed by another method (*specify*):  
☐ Continued in Attachment 3b(6).

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 PERSON COMPLETING THIS FORM)
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PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARTY:	CASE NUMBER:
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## NOTICE AND SERVICE INFORMATION

If you want to change a judgment or permanent order for child custody, visitation, or child support, a person at least 18 years of age or older must serve the request on the other party by (1) personal delivery or (2) first-class mail or airmail, postage prepaid. Requests to modify a judgment or permanent order for matters other than child custody, visitation, or child support must be served on the other party by personal service.

- **If your request is to change a judgment or permanent orders only for child support and a local child support agency is currently providing services, the other party may be served by mail at the office of the local child support agency. Where service is made by mail on the local child support agency, the following apply:**

1. The local child support agency must be served not less than 30 days before the hearing date.
2. Attach a copy of this completed form to the proof of service by mail; and
3. File this original form at the court clerk's office.

- **If your request is to change a judgment or permanent order for child custody, visitation, or child support and you have verified the other party's current residence or office address, you must:**

1. Complete this form to provide the other party's current residence or business address and indicate how you obtained the other party's current residence or office address.
2. Attach a copy of this completed form to the proof of service by mail; and
3. File this original form at the court clerk's office.

- **If you cannot verify the other party's current residence or office address, mail service may not be used. The other party must be personally served. *Proof of Personal Service* (form FL-330) may be used for this purpose.**

PARTY WITHOUT ATTORNEY OR ATTORNEY STATE BAR NUMBER:		FOR COURT USE ONLY  <b>DRAFT</b>  <b>NOT APPROVED BY THE JUDICIAL COUNCIL</b>  <b>07/15/2024</b>
NAME:		
FIRM NAME:		
STREET ADDRESS:		
CITY:	STATE: ZIP CODE:	
TELEPHONE NO.:	FAX NO.:	
EMAIL ADDRESS:		
ATTORNEY FOR (name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PETITIONER: RESPONDENT:		
<b>ORDER FOR CHILD SUPPORT SECURITY DEPOSIT AND EVIDENCE OF DEPOSIT</b>		CASE NUMBER:

### ORDER FOR CHILD SUPPORT SECURITY DEPOSIT

1. The parent ordered to pay support (name): is ordered to deposit the sum of (specify): \$ as security for the payment of child support. The money must be deposited in an interest-bearing account with a state or federally chartered commercial bank, a trust company authorized to transact trust business in California, or a savings and loan association, or in shares of a federally insured credit union doing business in California and having a trust department. **The money may be withdrawn only upon order of this court.**
2. Evidence of the deposit must be filed with this court by the parent ordered to pay support and served on the person ordered to receive support not later than (date):

Date:



JUDICIAL OFFICER

### EVIDENCE OF DEPOSIT

3. ☐ The parent ordered to pay support has deposited (specify): \$ of child support on (date): in an interest-bearing account as security for payment.  
The deposit account is blocked so the sums may be withdrawn only upon presentation of a certified copy of a court order specifying the amount to be withdrawn and the person to whom the money should be paid.
4. ☐ The parent ordered to pay support has replenished the child support security deposit by depositing (specify): \$ on (date):

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

Date:



(TYPE OR PRINT NAME)

(SIGNATURE)

Title:

Name of financial institution:

Address:

Telephone No.:

Account No.:

The original signed Evidence of Deposit should be filed with the court and a copy mailed to the person ordered to receive payment.

## 1 Why you are receiving forms JV-228 and JV-229

You have been prescribed three or more psychotropic medications at the same time for 90 days or longer. The Medical Board of California (“board”) will look into the care your doctor provided to you and may need more information to determine if the doctor properly prescribed medication for you.

California law requires the board to review medical doctors prescribing psychotropic medication to youth in foster care. As part of this review, the California Department of Health Care Services (DHCS) and the California Department of Social Services (CDSS) provide prescribing and other data to the board under a unique number assigned to you, but with no personal identifying information. This means that the board does not know your name or other personal information about you, and does not know how to contact you.

After reviewing the data provided by DHCS and CDSS, a medical expert may decide that prescribing practices by one or more doctors involved in your care should be examined more closely. To look into the quality of medical care you were provided, the board may ask you for your name and contact information, so board staff can contact you to get further details about your care and get your permission to review your medical records. You do not need to respond to contacts from the board, even if you agreed to the release of your information. The decision to respond to the board is up to you.

The board encourages you to authorize this review, because it is important to ensure doctors are appropriately prescribing medications to youth in foster care.

## 2 Information that may be made known

The medical board may also request that you give your permission to DHCS and CDSS to connect your name to the prescribing and other data that was provided to the board under a unique number. This means the medical board will know:

- Your name and that you are or were in foster care;
- Your contact information;
- What psychotropic medications you were prescribed;

- How much of each medication you were prescribed;
- The start and stop dates for each medication;
- Who prescribed them to you; and
- Your age and weight at the time you were prescribed these medications.

This information may help the board evaluate the quality of care you received from your doctors.

You may also allow the board to see your medical records if the board needs them to decide whether the doctor broke the law or prescribed too much psychotropic medication to you.

**You do not have to release any information to the board, and you may choose not to share your information with the board. Further, if you do not release your information, there will be no impact on or changes to the services, treatment, or care you receive from the government.**

## 3 Confidentiality of information

Please be aware that all of the state agencies involved are committed to protecting your privacy. The medical board is required by law to keep all information used in their investigations confidential.

## 4 Withdrawal of authorization

You can change your mind and withdraw your authorization to give information to the medical board at any time. You can do this by signing, or having your attorney sign, *Withdrawal of Release of Information to Medical Board of California* (form JV-229) and your attorney will file it with the court.

# Order on Request to Reschedule Restraining Order Hearing

Clerk stamps date here when form is filed.

**DRAFT**  
**Not approved by**  
**the Judicial Council**  
**07/29/24**

Complete items ① and ② only.

① **Protected Party:** \_\_\_\_\_② **Person to Be Restrained:** \_\_\_\_\_*(The court will complete the rest of this form.)*

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Fill in child's name

Child's name: \_\_\_\_\_

Fill in case number:

Case Number: \_\_\_\_\_

③ **Next Court Date**a. ☐ The request to reschedule the court date is **denied**.

Your court date is: \_\_\_\_\_

(1) Any temporary restraining order (form JV-250 or form JV-260) already granted stays in full force and effect until the next court date.

(2) Your court date is not rescheduled because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_b. ☐ The request to reschedule the court date is **granted**. Your court date is rescheduled for the day and time listed below. See ④–⑧ for more information.Name and address of court, if different from above: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**New  
Court  
Date** →

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

④ **Temporary Restraining Order**a. ☐ **There is no temporary restraining order (TRO) in this case until the next court date** because:(1) ☐ A TRO was not previously granted by the court.(2) ☐ The court terminates (cancels) the previously granted TRO because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_b. ☐ **A temporary restraining order (TRO) is in full force and effect** because:(1) ☐ The court extends the TRO previously granted on (date): \_\_\_\_\_  
It now expires on (date): \_\_\_\_\_*(If no expiration date is listed, the TRO expires at the end of the court date listed in ③ b.)*(2) ☐ The court changes the TRO previously granted and signs a new TRO. The new TRO is attached to this order.c. ☐ Other (specify): \_\_\_\_\_**Warning and Notice to  
the Restrained Party:**

If ④ b is checked, a  
temporary restraining  
order has been issued  
against you. You must  
follow the orders until  
they expire.

**This is a Court Order.**

**5 Reason Court Date Is Rescheduled**a. ☐ There is good cause to reschedule the court date (*check one*):(1) ☐ The protected party has not served the party to be restrained.(2) ☐ Other (*explain*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_b. ☐ This is the first time that the party to be restrained has asked for more time to prepare.c. ☐ The court reschedules the court date on its own motion.**6 Serving (Giving) Order to Other Party**

The request to reschedule was made by the:

a. ☐ **Protected party**(1) ☐ You do not have to serve the party to be restrained because they or their lawyer were at the court date or agreed to reschedule the court date.(2) ☐ You must have the party to be restrained personally served with a copy of this order, the request for restraining order, and any temporary restraining order granted, by (*date*): \_\_\_\_\_(3) ☐ You must have the party to be restrained served with a copy of this order. This can be done by mail. You must serve by (*date*): \_\_\_\_\_(4) ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_b. ☐ **Party to be restrained**(1) ☐ You do not have to serve the protected party because they or their lawyer were at the court date or agreed to reschedule the court date.(2) ☐ You must have the protected party personally served with a copy of this order by (*date*): \_\_\_\_\_(3) ☐ You must have the protected party served with a copy of this order. This can be done by mail. You must serve by (*date*): \_\_\_\_\_(4) ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_c. ☐ **Court**(1) ☐ Further notice is not required.(2) ☐ The court will mail a copy of this order to all parties by (*date*): \_\_\_\_\_(3) ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**This is a Court Order.**

**7 Enter Order into Database**

Within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

- a. ☐ The court will enter the order into CLETS.
- b. ☐ The court or someone it designates will send a copy of this order to a local law enforcement agency.

If the court designates someone, provide the person's name: \_\_\_\_\_

**8 ☐ Other Orders**

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**9 ☐ Attached Pages** (*All of the attached pages are part of this order.*)

- a. Number of pages attached to this three-page form: \_\_\_\_\_
- b. Attachments include forms (*check all that apply*):
- ☐ JV-250      ☐ JV-260      ☐ JV-272      ☐ Other: \_\_\_\_\_

**Judge's Signature**

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

\_\_\_\_\_  
*Judge or Judicial Officer*

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm) for *Disability Accommodation Request* (form MC-410). (Civil Code section 54.8.)

**Instructions to Clerk**

If the hearing is rescheduled and the court extended, modified, or terminated a temporary restraining order, then the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS, unless the court has designated the person named in ⑦b to send a copy to law enforcement. The entry or sending of the order must be done within one business day from the day the order is made.

**—Clerk's Certificate—**

Clerk's Certificate

I certify that this *Order on Request to Reschedule Restraining Order Hearing* (form JV-253) is a true and correct copy of the original on file in the court.

[seal]

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

**This is a Court Order.**

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** 8/6/2024

**Rules Committee action requested** [Choose from the drop-down menu below]:

**Recommend JC approval (has circulated for comment)**

**Title of proposal:** Criminal Law and Family Law: Changes to Form MIL-100

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*

Revise form MIL-100

*Committee or other entity submitting the proposal:*

Criminal Law Advisory Committee and Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and e-mail):* Sarah Fleischer-Ihn, 415-865-7702, [sarah.fleischer-ihn.jud.ca.gov](mailto:sarah.fleischer-ihn.jud.ca.gov) and Gabrielle D.Selden, 415-865-8085 [gabrielle.selden@jud.ca.gov](mailto:gabrielle.selden@jud.ca.gov)

*Identify project(s) on the committee's annual agenda that is the basis for this item:*

Annual agenda approved by Rules Committee on (date): Criminal: October 26, 2023 (amended February 7 and 9, 2024); Family/Juvenile: October 26, 2023 (amended February 9, 2024)

Project description from annual agenda: Criminal Law Advisory Committee: Revise Notification of Military Status form (MIL-100) to 1) state that, in a criminal case, either the defendant or defendant's counsel may file the notification with the court; 2) add language stating that in a criminal case, the court will send the form to the county veteran's service office to confirm the person's military status, 3) add a reference to CalVet, the state Department of Veteran's Affairs, and 4) reference pretrial diversion offering treatment as an alternative to trial, conviction, and incarceration under Penal Code section 1001.80. The Family and Juvenile Law Advisory Committee is also recommending revisions to the form to comply with SB 1182 (Stats. 2022, ch. 385), which added new statutory provisions regarding considerations for veterans in family court.

Family and Juvenile Law Advisory Committee: Item 2 SB 1182 (Eggman) Family Law (Ch. 385. Stats. of 2022) Requires, effective January 1, 2024, a family court to provide referrals to resources for self-identified veterans appearing before the court, including how to contact the local Department of Veterans Affairs (CalVet); requires, when a self-identified veteran files their status on the Judicial Council's military service form, that the court transmit a copy of the form to the CalVet, and for CalVet to contact the veteran within a reasonable time; and requires, when a family court that finds the effects of a parent's, legal guardian's, or relative's mental illness are a factor in determining the best interest of the child for purposes of custody or visitation, to put its reasons for the finding on the record and provide the affected parent, legal guardian, or relative with a list of local resources for mental health treatment.

**Out of Cycle:** *If requesting September 1 effective date or out of cycle, explain why:*

**Additional Information for Rules Committee:** (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was

☒ reviewed by EGG on (date) 6/6/2024

☒ approved by Office Director (or Designee) (name) Anna Maves, Kara Portnow, Francine Byrne on (date) 7/12/2024, 6/12/2024, 7/18/2024

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **Form Translations** (check all that apply)

This proposal:

- ☐ includes forms that have been translated.
- ☐ includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- ☐ includes forms that staff will request be translated.

- **Form Descriptions** (for any report with new or revised forms)

☐ The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

☐ This proposal may require changes or additions to self-help web content.





# Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

[www.courts.ca.gov](http://www.courts.ca.gov)

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-144*

For business meeting on September 20, 2024

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**Title**

Criminal Law and Family Law: Changes to Form MIL-100

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2025

**Rules, Forms, Standards, or Statutes Affected**

Revise form MIL-100

**Date of Report**

August 5, 2024

**Recommended by**

Criminal Law Advisory Committee

Hon. Brian M. Hoffstadt, Chair

Hon. Lisa Rodriguez, Vice-Chair

**Contact**

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[gabrielle.selden@jud.ca.gov](mailto:gabrielle.selden@jud.ca.gov)

Family and Juvenile Law Advisory Committee

Hon. Stephanie E. Hulsey, Chair

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### Executive Summary

The Family and Juvenile Law Advisory Committee and Criminal Law Advisory Committee recommend revising form MIL-100. The Family and Juvenile Law Advisory Committee recommends revising form MIL-100 to implement the requirements of Family Code section 211.5, which was added by Senate Bill 1182 (Stats. 2022, ch. 385). The changes allow the court to comply with section 211.5 when the form is filed in a family law case involving a veteran. The Criminal Law Advisory Committee recommends additional revisions to form MIL-100 to clarify procedures under Penal Code section 858 when the form is filed in a criminal case and to reference treatment options for pretrial diversion under Penal Code section 1001.80. The committees also recommend updating and reformatting the information in the form for improved readability and usefulness.

## Recommendation

Effective January 1, 2025, the Family and Juvenile Law Advisory Committee and Criminal Law Advisory Committee recommend revising *Notification of Military/Veteran/Reserve/Active Status* (form MIL-100) to implement Family Code section 211.5, which was added by Senate Bill 1182 (Stats. 2022, ch. 385). In addition, the committees recommend revising the form to clarify procedures under Penal Code section 858 when the form is filed in a criminal case, and update and reformat information on the form for legal accuracy and improved readability.

The revised version of form MIL-100 is attached at pages 12–13.

## Relevant Previous Council Action

*Notification of Military/Veteran/Reserve/Active Status* (form MIL-100) is an optional form that the Judicial Council initially approved, effective January 1, 2014,<sup>1</sup> as recommended by the Collaborative Justice Courts Advisory Committee. The form notifies the court that a party is a current or former member of the armed services or reserves so that the court may consider legal issues when military status is relevant, including sentencing requirements under the Penal Code, and identify available outside resources for military and former military court users.<sup>2</sup> Currently, the person completing the form must self-identify as (1) “the person listed in item 1” (a current or former member of the armed services or reserves), (2) “an attorney in the above entitled case,” or (3) “other (*specify*).”

This form has been revised three times since its adoption to comply with changes in the law—most recently, effective January 1, 2021.<sup>3</sup>

## Analysis/Rationale

Senate Bill 1182 added section 211.5 to the Family Code, as follows:

- (a) (1) Commencing January 1, 2024, in proceedings under this code, a court shall provide self-identified veterans with a list of resources for veterans, including information about how to contact the local office of the Department of Veterans Affairs.
- (2) The veteran may, at their discretion, provide the information about their veteran status on the Judicial Council military service form, file the form with the court, and serve it on the other parties to the action.

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<sup>1</sup> The Judicial Council report regarding the adoption of form MIL-100 can be found at [www.courts.ca.gov/documents/jc-20131025-itemA32.pdf](http://www.courts.ca.gov/documents/jc-20131025-itemA32.pdf).

<sup>2</sup> The Judicial Council report regarding revisions to form MIL-100, effective January 1, 2015, can be found at [www.courts.ca.gov/documents/jc-20141212-itemA2.pdf](http://www.courts.ca.gov/documents/jc-20141212-itemA2.pdf).

<sup>3</sup> The Judicial Council report regarding revisions to form MIL-100, effective January 1, 2021, can be found at <https://jcc.legistar.com/View.ashx?M=F&ID=8771183&GUID=20C61B6B-54AB-434A-9EE2-41FADF6632AD>.

(b) (1) When a person files a form identifying the person as a veteran pursuant to paragraph (2) of subdivision (a), the court shall transmit a copy of the form to the Department of Veterans Affairs.

(2) Upon receipt of a copy of the form, the Department of Veterans Affairs shall, within a reasonable time, contact the person using the information provided on the form.

(c) On or before January 1, 2024, the Judicial Council may amend or develop the rules and forms necessary to implement this section.

According to legislative analysis, the above procedures will provide veterans navigating a family law case with the same access to resources and care through the California Department of Veterans Affairs (CalVet) that are available to veterans who have a criminal case. These services can be invaluable to veterans who are dealing with post-traumatic stress disorder, traumatic brain injuries, or a service-linked mental health issue.<sup>4</sup> Further, the new procedures are intended to increase cultural competency, consistency, and flexibility among family court professionals about the needs of veterans in family court.<sup>5</sup>

In criminal cases, a defendant may acknowledge active duty or veteran status to the court by filing form MIL-100.<sup>6</sup> As required by statute, the form includes information about rights related to criminal defendants who have active duty or veteran status.<sup>7</sup>

## **The Proposal**

Drawing from each committee's respective subject matter expertise, the Criminal Law Advisory Committee led the development of the proposed changes to the form that relate to criminal cases, and the Family and Juvenile Law Advisory Committee led the development of the proposed changes to the form relating to family law cases under Family Code section 211.5. The committees jointly recommend changes to improve the form's readability and usefulness.

This form would be revised to include the following:

- Replace an option in item 2b to identify the person the form is about as “[a] veteran of the state or federal armed services or reserves” with “formerly served in the state or federal armed services or reserves (regardless of discharge status)”;
- A revised item 3 for the person completing the form to specify the type of case (criminal law, family law, or another type of civil case) and whether the person is filing on their own behalf or is the attorney of record or other legally authorized representative;

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<sup>4</sup> Office of Sen. Floor Analyses, bill analysis of Sen. Bill 1182 (Aug. 5, 2022), p. 5 (Link A).

<sup>5</sup> *Ibid.*

<sup>6</sup> Pen. Code, § 858(d), (e).

<sup>7</sup> Pen. Code, § 858(c).

- For the criminal law case section of item 3, a change in the description for the attorney check box to “an attorney representing the person listed in item 1 in the above entitled case” and deleting the entry for “other (*specify*)” to better align with Penal Code section 858;
- For the family law case and other civil law case sections of item 3, a replacement of the check boxes for “other (*specify*)” with check boxes noting the filer is “legally authorized to act on behalf of the person listed in item 1 (*explain*)”;
- A reformatted notice box at the bottom of the form to specify the requirements in criminal law cases and family law cases for sending the form to veteran agencies;
- A change in the notice box to more accurately indicate that the form is being “filed” instead of “submitted” in the criminal law or family law case;
- A reference to Family Code section 211.5 in the footer of page 1 and on page 2;
- A reference on page 2 to pretrial diversion offering treatment as an alternative to trial, conviction, and incarceration under Penal Code section 1001.80;
- A new section below the notice box for the court to use to specify the date that the form was sent to the listed veteran agencies; and
- Reorganized and reformatted information on page 2 to make the form easier to read.

***Notice requirements under Family Code section 211.5***

Under section 211.5(b), “[w]hen a person files a form identifying the person as a veteran pursuant to paragraph (2) of subdivision (a), the court shall transmit a copy of the form to the Department of Veterans Affairs. (2) Upon receipt of a copy of the form, the Department of Veterans Affairs shall, within a reasonable time, contact the person using the information provided on the form.”

The committees propose that the notice box include a section for “Family Law Cases” and that it be written in plain language the same as the criminal law notice rather than use the exact language of the statute. Because the legislative history of SB 1182 uses the term “Department of Veterans Affairs (CalVet),” the committees propose that the notice box include this same reference to “(CalVet).” Because the notice applies specifically to a veteran who files the form in a family law case, the family law notice would read as follows:

When a veteran files this form in a family law case, the court will send a copy of the form to the California Department of Veterans Affairs (CalVet). CalVet will, in a reasonable time, contact the person listed in item 1 using the information provided in this form.

### ***Requirements under Penal Code section 858***

Penal Code section 858 contemplates that the defendant or defendant's counsel, with the defendant's consent, would file form MIL-100.<sup>8</sup> Accordingly, the committees propose specifying in item 3 that, in a criminal case, either the defendant or defendant's counsel is filing the form.

In a criminal case, the court is required to send a copy of the form to the county veterans service officer to confirm the defendant's military service. (Pen. Code, § 858(e).) However, the current form does not mention this confirmation requirement. To better communicate this requirement, the committees propose revising the form to state that the court will send a copy of the form to the county veterans service officer "to confirm the person's military status."

In a criminal case, the court is also required to send a copy of the form to the Department of Veterans Affairs. (Pen. Code, § 858(e).) The form includes a notice box about this requirement. As noted, the committees propose using the term "California Department of Veterans Affairs (CalVet)" in the family law notice due to the legislative history of SB 1182. For consistency, the committees recommend adding a similar reference to CalVet in the criminal law notice.

Based on comments received, the committees also recommend adding language to the notice box that a court may send a copy of the form to the U.S. Department of Veterans Affairs, as related to providing benefits and services under Penal Code sections 1001.80 and 1170.9, and rephrasing language about contact information for the county veterans service office.

### ***Other changes***

The committees decided to recommend that the heading "Noncriminal Cases" on page 2 be changed to "Civil Law Cases" because the latter is more legally accurate under California Rules of Court, rule 1.6(3). Rule 1.6(3) provides that "Civil case" means a case prosecuted by one party against another for the declaration, enforcement, or protection of a right or the redress or prevention of a wrong. Civil cases include all cases except criminal cases and petitions for habeas corpus.

The committees propose reorganizing and reformatting page 2 of the form so that the content is easier to read. To this end, the "Civil Law Cases" and "Criminal Cases" content would be reformatted in two side-by-side columns below an introductory paragraph and above a section that lists and describes the statutes noted in the form. In addition, a short sentence below the "Civil Law Cases" heading is proposed to define its meaning, and a brief description of Family Code section 211.5 would be listed in the lower-third section of the page.

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<sup>8</sup> "The court shall advise the defendant that the defendant should consult with counsel prior to submitting the form and that the defendant may, without penalty, decline to provide this information to the court." (Pen. Code, § 858(d).) "If the defendant acknowledges active duty or veteran status and submits the Judicial Council military service form to the court, the defendant shall file the form with the court and serve the form on the prosecuting attorney and defense counsel." (Pen. Code, § 858(e).)

## **Policy implications**

The proposal is intended to conform the form to state and federal law, provide additional information that may be helpful to the party completing the form, and update citations. In this respect, the form promotes Goal III (Modernization of Management and Administration) of the Strategic Plan for California’s Judicial Branch, as it helps implement an effective, statewide practice for serving the needs of servicemembers and veterans.

## **Comments**

The proposal circulated for public comment from March 29, 2024, to May 3, 2024, as part of the regular spring comment cycle. The invitation to comment was sent to the standard mailing list for family law and criminal law proposals.

The committees received a total of eight comments. Commenters included four courts (the Superior Courts of Los Angeles, Orange, Riverside, and San Diego Counties), the Orange County Bar Association, and two judicial officers and one Senate consultant responding as individuals. Two commenters agreed with the proposal. Two commenters agreed with the proposal, if modified. Four commenters did not indicate their position but responded to specific questions in the invitation to comment that the committees asked commenters to consider or included suggestions for revising the form. No commenters disagreed with the proposal.

The Criminal Law Advisory Committee and Family and Juvenile Law Advisory Committees jointly reviewed the public comments and have responded to each. A chart with the full text of the comments received and the committees’ responses is attached at pages 14–28. The main comments and the committees’ responses to them are discussed below.

### ***Comments about the items identifying that an attorney is completing the form***

As noted above, item 3 is for the person completing the form to specify the type of case (criminal law, family law, or another type of civil case) and whether the person is filing on their own behalf or is the attorney of record. No commenters objected to the proposal to change the description in item 3a, for the attorney check box for criminal cases, from “an attorney in the above entitled case” to “an attorney representing the person listed in item 1 in the above entitled case.” Thus, the committee recommends that the revision be incorporated among other changes to the form.

In response to the committees’ specific question about item 3b, identifying the person completing the form in family law cases, four commenters stated that the check box should be changed to the language proposed for 3a in criminal cases—specifically, “an attorney representing the person listed in item 1 in the above entitled case.” Three commenters did not specifically address the question.

Having received no objections, the committees recommend that item 3b be revised, as proposed for item 3a. For consistency among the entries in item 3, the committees further recommend that in item 3c (“Other civil law case”) the checkbox for an attorney be revised to use the same

language in items 3a and 3b to identify that the person who checks the second check box is “an attorney representing person listed in item 1 in the above entitled case.”

***Comments about whether others can complete the form in family and other civil law cases***

Five commenters responded to the question about whether items 3b and 3c, the checkboxes to indicate that the form is being filed in a family law case or other civil law case, should include a check box to allow a person other than an active military service member, reserve member, or veteran (or their attorney) to complete the form.

Two commenters did not believe that items 3b and 3c should include a check box to allow a person other than an active military service member, reserve member, or veteran (or their attorney) to complete the form.

Two commenters responded that the form should allow persons other than the active military service member, reserve member, or veteran (or their attorney) to complete the form. Both commenters stated that there may be reasons why another person might want to inform the court, and each noted that such persons would include parents or other family members, spouses, military personnel, fellow military members, or veterans. Another commenter responded that “[i]ncorporating a checkbox for third parties to fill out and submit this form could prove beneficial. In cases involving juveniles, for example, various parties may need to submit the form. However, the form should not include an option for someone else to submit the form in family law cases.”

An additional commenter did not respond directly to the question but noted that, if the decision is to permit a third person to file the form, the form should be revised to provide the address of the servicemember or veteran, so the court can provide a list of resources as required.

The committees recommend limiting filing of the form by the party, their attorney, or someone legally authorized to act on behalf of the party in family and civil law cases. Although the committees specifically requested that commenters include a statute that supports allowing a person other than the active military service member, reserve member, or veteran (or their attorney) to complete the form in family and other civil law cases, none of the commenters provided such a reference in support of their answer. Nonetheless, the Servicemembers Civil Relief Act (SCRA) does permit persons who are legally authorized to act on behalf of a party to file the form in civil cases (see, e.g., 50 U.S.C. § 3902(a)(2) (a legal representative of a servicemember in noncriminal matters includes an individual possessing a power of attorney)).

Given the authority under the SCRA, the committees recommend adding a checkbox in items 3b and 3c stating “I am ... legally authorized to act on behalf of the person listed in item 1.” The committees believe that any revision that would expand the list beyond the party, the party’s attorney, or a person legally authorized to act on behalf of the party in family law and other civil law cases would require further direction and clarification from the Legislature.

In light of the above revisions to the form after comment, the committees also recommend revising the first field of the form's caption. The committee recommends that the caption begin with "ATTORNEY OR PARTY WITHOUT ATTORNEY" instead of "PERSON COMPLETING THIS FORM." This change aligns the form with the standard caption in family and criminal forms.

### ***Comments about the notice box***

The committees received two comments relating to the proposed changes to the notice box on page 1 about criminal law cases and family law cases. Regarding the criminal law case notice, two commenters stated that the language is not sufficient. They recommended that the criminal law notice be expanded to provide that both the California Department of Veterans Affairs (CalVet) and the U.S. Department of Veterans Affairs be notified.

Specifically, the commenters state that "it is the V.A. [the United States Department of Veterans Affairs] who sends a Veterans Justice Officer to be part of the collaborative teams who work in Veterans Treatment Courts. Also note that Penal Code § 858 states 'The form may be used in determining eligibility services pursuant to section 1170.9,' and that 1170.9 (g) states: 'The court and the assigned treatment program may collaborate with the Department of Veterans Affairs and the United States Department of Veterans Affairs to maximize benefits and services provided to the veteran.'"<sup>9</sup>

In a criminal case, Penal Code section 858 requires the form to be sent only to the county veterans service officer and the state Department of Veterans Affairs, not the federal department, which is referred to in related statutes as the U.S. Department of Veterans Affairs.<sup>10</sup> However, as the commenters point out, the military diversion and veterans treatment court statutes contemplate collaboration with the U.S. Department of Veterans Affairs for benefits and services, and Penal Code section 858(e) also states that the form may assist with an eligibility determination for services. Therefore, the committees agree with the comments and recommend adding language stating the courts may send a copy of the form to the U.S. Department of Veterans Affairs as related to providing benefits and services under Penal Code sections 1001.80 and 1170.9.

Another commenter raised an issue about the criminal law section of the notice regarding the local county veterans service office. Specifically, the commenter stated that, "[t]he colon is confusing in the Notice box under Criminal Law Cases, 'Local County Veterans Services Office Information (to be provided by local court):'."<sup>11</sup> The commenter proposed that the language in the parentheses be changed to "address to be provided by court." The committees agree, in part,

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<sup>9</sup> The committees note that the language in Penal Code section 1170.9(g) is also in section 1001.80(g), regarding military diversion programs.

<sup>10</sup> See Penal Code sections 1001.80(g), 1170.9(g).

<sup>11</sup> Under Penal Code section 858(c), the form must "include a space for the local court to provide the contact information for the county veterans service office."



with the suggestion and recommend revising the form to state “Contact information for the county veterans service office *(to be provided by the court)*:.”

### ***Comments about page 2***

A commenter suggested that page 2 of the form include “some simple web links to resources of value to the veterans.... VA health services, legal assistance services, etc..... Something along the lines of: If you are facing challenges with your mental well-being or substance use resulting from your service, there are resources to help you ...” The committees appreciate the feedback. However, because the suggestions are substantive revisions to the form, they would require additional public comment before they could be incorporated into the recommendations. Therefore, the committee will consider the changes in a future proposal.

### ***Other comments***

A comment from a consultant to Senator Susan Talamantes Eggman suggested revising item 2, which has checkboxes to identify whether the form is about someone who is a current member of the state or federal armed services or is “[a] veteran of the state or federal armed services or reserves.” The comment suggested referring to former service in the state or federal armed services or reserves, regardless of discharge date, rather than referring to veteran status. The commenter noted that certain individuals with military experience may not identify as veterans, such as women and those dishonorably discharged under the federal government’s former “Don’t Ask, Don’t Tell” policy. The committees agreed with the comment and recommended rephrasing item 2b accordingly.

A comment from the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee suggested that the form include “a section for court staff to indicate that the form was mailed to the Department of Veteran Affairs ‘CalVet’ and the date of mailing, so a declaration of mailing and separate entry would not need to be done by staff.” The committees agreed with the commenter’s suggestion and recommended adding a new section of the form, as follows:

**For Court Use Only**

Form sent to: ☐ California Department of Veterans Affairs on (date): \_\_\_\_\_

☐ County veterans service office on (date): \_\_\_\_\_

☐ U.S. Department of Veterans Affairs on (date): \_\_\_\_\_

The committees believe that this new content on form MIL-100 will help streamline the process for courts to comply with Penal Code section 858 and Family Code section 211.5, as courts would not have to complete a separate declaration of mailing and entry.

Another commenter recognized that Penal Code section 858 is included in the footer on page 1 of the form but that it is not mentioned anywhere else on the form. The commenter inquired whether “something was inadvertently omitted in this regard.”

In response, the committees note that items 1 to 3 of form MIL-100 are intended to effectuate Penal Code section 858(e) by allowing a defendant or defendant's counsel to acknowledge active duty or veteran status by filing the form with the court. Form MIL-100 also effectuates Penal Code section 858(c)'s requirements that the form includes information explaining rights under section 1170.9 and related statutes of individuals who have active duty or veteran status and a space for the local court to provide the contact information for the county veterans service office. The information explaining those rights is found on page 2 under the heading "California Penal Code section 1170.9."

## **Alternatives considered**

### ***Form proposal***

The Family and Juvenile Law Advisory Committee considered not proposing changes to form MIL-100 because SB 1182 does not specifically mandate that the Judicial Council amend form MIL-100. However, the committee determined that revisions were needed to the notice box at the bottom of page 1 of the current form because the language in the Family Code about the transmission of the form by the family court to the California Department of Veterans Affairs differs from the requirements in criminal cases.

### ***Discussion about other persons completing the form on behalf of an active military service member, reserve member, or veteran***

In proposing revisions to the current item 3 of form MIL-100, the committees considered whether the entries for items 3b ("Family law case") and 3c ("Other civil law case") should be followed by a check box for "Other (*specify*):" to allow a person other than an active military service member, reserve member, or veteran (or their attorney) to complete the form.

The committees were concerned that this could be a sensitive issue for some active military service members, reserve members, or veterans. For example, some active members or veterans may not want another person to be able to file this form to disclose their status. As discussed earlier, the committees recommend limiting filing of the form by the party, their attorney, or someone legally authorized to act on behalf of the party in civil and family law cases.

Absent further legal authority regarding family law and other civil law cases, the committees determined that they cannot recommend that the form maintain a broad "Other (*specify*):" check box in the family law case items and other civil law case items on the form.

## **Fiscal and Operational Impacts**

The impact to the courts includes the cost to educate judicial officers and court staff about the changes in the law and procedures to implement the law. In family law cases, the impact to the courts includes that court clerks would be required to take additional steps to send copies of form MIL-100 to the California Department of Veterans Affairs, and courts would be required to provide the parties with a list of local resources for mental health treatment.

## Attachments and Links

1. Revised form MIL-100, at pages 12–13
2. Chart of Comments, at pages 14–28
3. Link A: Senate Floor Analyses (Aug. 5, 2022),  
[leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=202120220SB1182](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220SB1182)
4. Link C: Senate Bill 1182,  
[leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220SB1182](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1182)

DRAFT

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>  <b>DRAFT -</b>  NOT APPROVED BY THE JUDICIAL COUNCIL  v. 8/05/24
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<b>NOTIFICATION OF MILITARY/VETERAN/RESERVE/ACTIVE STATUS</b>	CASE NUMBER:

1. **This form is about (name):** \_\_\_\_\_ who is a party in this case.

2. **The person listed in item 1:**

- a. ☐ Is currently serving in the state or federal armed services or reserves.  
 b. ☐ Formerly served in the state or federal armed services or reserves (regardless of discharge status).  
 Discharge date (specify if applicable): \_\_\_\_\_

3. **This form can be filed in any case type.**

(Specify below the type of case in which the form is filed, and identify the person completing this form):

- a. ☐ **Criminal law case.** I am (check one):  
☐ the person listed in item 1.  
☐ an attorney representing the person listed in item 1 in the above entitled case.  
 b. ☐ **Family law case.** I am (check one):  
☐ the person listed in item 1.  
☐ an attorney representing the person listed in item 1 in the above entitled case.  
☐ legally authorized to act on behalf of the person listed in item 1 (explain): \_\_\_\_\_  
 c. ☐ **Other civil law case** (specify case type): \_\_\_\_\_ I am (check one):  
☐ the person listed in item 1.  
☐ an attorney representing the person listed in item 1 in the above entitled case.  
☐ legally authorized to act on behalf of the person listed in item 1 (explain): \_\_\_\_\_

4. I am providing this notification to the court based on information and belief.

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

\_\_\_\_\_  
 (TYPE OR PRINT NAME OF PERSON FILING THIS FORM)

\_\_\_\_\_  
 (SIGNATURE)

<b>Notice</b>	<p><b>Criminal Law Cases.</b> If this form is filed in a criminal law case, the court will send a copy of the form to the California Department of Veterans Affairs (CalVet) and the county veterans services officer to confirm the person's military status. Contact information for the county veterans service office (to be provided by the court): _____</p> <p>The court may also send a copy of the form to the U.S. Department of Veterans Affairs, as related to providing benefits and services under Penal Code sections 1001.80 and 1170.9.</p> <p><b>Family Law Cases.</b> When a veteran files this form in a family law case, the court will send a copy of the form to the California Department of Veterans Affairs (CalVet). CalVet will, in a reasonable time, contact the person listed in item 1 using the information provided in this form.</p>
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**For Court Use Only**

Form sent to: ☐ California Department of Veterans Affairs on (date): \_\_\_\_\_  
☐ County veterans services office on (date): \_\_\_\_\_  
☐ U.S. Department of Veterans Affairs on (date): \_\_\_\_\_

**No filing fee or court costs are to be charged for this form.**

## YOU SHOULD TALK WITH YOUR ATTORNEY (IF YOU HAVE ONE) ABOUT THE FOLLOWING INFORMATION

If you are a current or former member of the state or federal armed services or reserves, you may be entitled to certain rights under the law. Filling out form MIL-100 is a way you can let the court know about your military experience. This information may help the court consider possible benefits and protections in your case. This form can be used for any type of case and can be filled out at any time. Giving this information to the court is voluntary. Form MIL-100 only needs to be filed with the court only one time per case.

### CIVIL LAW CASES

Civil cases include all cases (except criminal cases), such as those filed in family, juvenile, or probate court in which a party is asking the court for orders against another person to protect or enforce their legal rights, prevent a harm, or remedy a wrong.

If you are a party to a civil law case be sure to complete all the appropriate forms needed for your case. For example, filing this form does not substitute for the filing of other required forms or petitions in cases where you are filing:

- For relief from financial obligation during military service;
- A notification of military deployment and request to modify a support order; or
- For other relief under the Servicemembers Civil Relief Act (50 U.S.C. §§ 3901–4043).

#### Examples of required forms are:

- (1) *Notice of Petition and Petition for Relief From Financial Obligation During Military Service* (form MIL-010); and
- (2) *Notice of Activation of Military Service and Deployment and Request to Modify a Support Order* (form FL-398).

### CRIMINAL CASES

If you are a party to a criminal case, you are not required to have an honorable discharge, to have combat service, or to be accepted into or involved in a Veterans Court to be eligible for the possible rights and protections under the law.

If you are a current or former member of the state or federal armed services or reserves who may be suffering from sexual trauma, also known as military sexual trauma (MST), traumatic brain injury (TBI), posttraumatic stress disorder (PTSD), substance abuse, or mental health issues as a result of your military service, and charged with a crime, you may be eligible for certain rights under the law.

Some examples of benefits of a defendant in a criminal case who is a veteran or is on active duty or in the reserves include possible consideration for alternative sentencing, restoration relief such as sealing your record, and diversion in misdemeanor cases.

If you submit this form in a criminal case, you must file it with the court and serve a copy of it on the prosecuting attorney and defense counsel.

Below is a brief description of possible rights and protections under the following California laws:

#### Family Code section 211.5

- Filing this form in a family law case may help you receive information from CalVet and learn about available mental health resources.

#### Penal Code section 1001.80

- Pretrial diversion program offering treatment instead of trial and potential conviction and incarceration;
- Dismissal of eligible criminal charges following satisfactory performance in program;
- Arrest deemed to have "never occurred" as part of restoration of rights following successful completion of program.

#### Penal Code section 1170.9

- Treatment instead of prison or jail time for certain crimes;
- Felonies reduced to misdemeanors;
- Restoration of rights, dismissal of penalties, and/or setting aside of conviction for certain crimes;
- A greater chance of receiving probation;
- Conditions of probation deemed satisfied early, other than any victim restitution ordered.

#### Penal Code section 1170.91

- The court must consider circumstances from which the defendant may be suffering as a result of military service as a factor in mitigation during felony sentencing, which could result in a more lenient sentence.

## SPR24-18

### Criminal Law and Family Law: Changes to Form MIL-100 (Revise form MIL-100)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
1.	Hon. Daniel J. Healy Superior Court of Solano County	N/I	<p>I am joining in Justice Moore’s excellent observations regarding revisions to MIL-100 as follows:</p> <p><b>Item 3:</b> The present form has a choice of who may submit the form: <input type="checkbox"/> the person listed in item 1 <input type="checkbox"/> an attorney in the above entitled case. The proposed form in 3. a. b. &amp; c. changes that to: I am (check one): the person listed in item 1. an attorney representing the person listed in item in the above entitled case</p> <p><b>COMMENT:</b> Persons other than veteran or their lawyer may wish to inform the court that someone involved in the case is either active duty service member or a veteran – parents or other family members, spouses, military personnel, fellow military members or veterans. I agree that there is no reason to have more inclusive options here.</p>	<p>The committees appreciate the comments.</p> <p>The committees believe the proposed revisions accurately reflect statutory language intending for the party or their counsel to notify the court of the party’s active duty or veteran status.</p> <p>In criminal cases, Penal Code section 858(e) states that the defendant, in consultation with counsel, may acknowledge active duty or veteran status through filing form MIL-100. Additionally, the defendant may, without penalty, decline to provide this information.</p> <p>In family law cases, Family Code section 211.5 (a)(2) provides that, “[t]he veteran may, at their discretion, provide the information about their veteran status on the Judicial Council military form, file the form with the court, and serve it on the other parties to the action.”</p> <p>The committees believe that revising the form as suggested would require further direction and clarification from the legislature.</p>

## SPR24-18

### Criminal Law and Family Law: Changes to Form MIL-100 (Revise form MIL-100)

All comments are verbatim unless indicated by an asterisk (\*).

Commenter	Position	Comment	Committee Response
		<p><b>Regarding the black box titled “Criminal Law Case”:</b></p> <p>The proposed form states “the court will send a copy of the form to the county veterans service officer to confirm the person’s military status and the California Department of Veterans Affairs (CalVet).”</p> <p><b>COMMENT:</b> I agree with Justice Moore’s comments: “This language is fine so far as it goes, but it’s not enough. Penal Code §§ 1001.80(g) and 1170.9 (g) refers to “the Department of Veterans Affairs <b>and</b> the United States Department of Veterans Affairs. Thus, when it comes to criminal cases, both CalVet and the V.A. need to be notified. Additionally, it is the V.A. who sends a Veterans Justice Officer to be part of the collaborative teams who work in Veterans Treatment Courts. Also note that Penal Code § 858 states “The form may be used in determining eligibility services pursuant to section 1170.9,” and that 1170.9 (g) states: “The court and the assigned treatment program may collaborate with the Department of Veterans Affairs and the United States Department of Veterans Affairs to maximize benefits and services provided to the veteran.”</p> <p>Thus, in that <b>Criminal Law Case</b> box, notice must be given to <b>both</b> CalVet and the V.A.”</p> <p><b>Regarding the Executive Summary and Origin:</b></p>	<p>No response required.</p> <p>The committees agree, in part, and recommend adding language stating that courts may send a copy of the form to the U.S. Department of Veterans Affairs as related to providing benefits and services under Penal Code sections 1001.80 and 1170.9.</p>

## SPR24-18

### Criminal Law and Family Law: Changes to Form MIL-100 (Revise form MIL-100)

All comments are verbatim unless indicated by an asterisk (\*).

Commenter	Position	Comment	Committee Response
		<p>On the first page, it states: “The Criminal Law Advisory committee proposes additional revisions to form MIL-100 to clarify procedures under section 858 when the form is filed in a criminal case, and to reference treatment options for pretrial diversion under Penal Code section 1001.80.”</p> <p><b>COMMENT:</b> Justice Moore noted that Penal Code § 858 is referenced in the footer but not elsewhere in the form.</p> <p><b>ADDITIONAL MOTIVATIONAL INFORMATION WOULD BE USEFUL:</b> It seems to me that on page 2 of the form we could include some simple web links to resources of value to the veterans.... VA health services, legal assistance services, etc..... Something along the lines of: If you are facing challenges with your mental well being or substance use</p>	<p>Page 1 of MIL-100 is intended to effectuate Penal Code section 858(e) by allowing a defendant to acknowledge active duty or veteran status by filing MIL-100 with the court.</p> <p>MIL-100 also effectuates Penal Code section 858(c)’s requirements that the form include information explaining rights under section 1170.9 and related statutes of individuals who have active duty or veteran status and a space for the local court to provide the contact information for the county veterans service office. The information explaining those rights is found on page 2 under the heading “California Penal Code section 1170.9.”</p> <p>The committees appreciate the feedback and will consider it in a future proposal.</p>



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	Commenter	Position	Comment	Committee Response
			resulting from your service, there are resources to help you.....	
2.	Hon. Eileen Moore California Court of Appeal, Fourth District	N/I	<p>The following are my comments regarding the proposed changes to MIL-100.</p> <p><b>Regarding Item 3:</b> The present form has a choice of who may submit the form: <input type="checkbox"/> the person listed in item 1 <input type="checkbox"/> an attorney in the above entitled case.</p> <p>The proposed form in 3. a. b. &amp; c. changes that to: I am (check one): the person listed in item 1. an attorney representing the person listed in item in the above entitled case</p> <p><b>MY COMMENT:</b> There may be many reasons why a person other than the actual person who serves/served in the military of the person's lawyer might want to inform the court that someone involved in the case is either active duty service member or a veteran.</p> <p>Examples:</p> <p>The parents of an injured/troubled active duty service member or a veteran The children of an injured/troubled active duty service member or a veteran</p> <p>The spouse or significant other of an injured/troubled active duty service member or a veteran</p>	<p>The committees appreciate the comments.</p> <p>No response required.</p> <p>No response required.</p> <p>The form continues to allow filing in family law and civil cases.</p> <p>The committees believe the proposed revisions accurately reflect statutory language intending for the party or their counsel to notify the court of the party's active duty or veteran status.</p> <p>In criminal cases, Penal Code section 858(e) states that the defendant, in consultation with counsel, may acknowledge active duty or veteran status through filing form MIL-100. Additionally, the defendant may, without penalty, decline to provide this information.</p> <p>In family law cases, Family Code section 211.5 (a)(2) provides that "[t]he veteran may, at their discretion, provide the information about their veteran status on the Judicial Council military</p>

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			<p>A medical/mental health provider of an injured/troubled active duty service member or a veteran</p> <p>The commander of an injured/troubled active duty service member or a veteran</p> <p>A close friend of an injured/troubled active duty service member or a veteran</p> <p>All of these people might be interested in the well being of the active duty service member or a veteran. The courts and the parties, in search of justice, need to know when they have someone who serves/has served in an action. The limitation on the proposed form to just the criminal defendant and the attorney does not contemplate use of the form in any other type of case.</p> <p>Note that the legislative history of Family Code § 211.5 states: “No parent should lose custody of their child solely to a manageable mental health issue.” There very well may be parties in family law cases who have a mental health issue resulting from military service and who do not tell their lawyers about it. Perhaps they don’t realize it themselves. That’s where family, friends and treatment providers may provide needed information to the court.</p> <p>This limitation should be removed and the language of item 3 on the present form should be retained.</p>	<p>form, file the form with the court, and serve it on the other parties to the action.”</p> <p>The committees are adding an option for a person legally authorized to act on behalf of a party to file the form in civil and family law matters (see, e.g., 50 U.S.C. 3902(a)(2) [a legal representative of a servicemember in noncriminal matters includes an individual possessing a power of attorney]).</p> <p>The committees believe that further revising the form as suggested would require additional direction and clarification from the legislature.</p>

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			<p><b>Regarding the black box titled “Criminal Law Case”:</b></p> <p>The proposed form states “the court will send a copy of the form to the county veterans service officer to confirm the person’s military status and the California Department of Veterans Affairs (CalVet).”</p> <p><b>MY COMMENT:</b> This language is fine so far as it goes, but it’s not enough. Penal Code §§ 1001.80(g) and 1170.9 (g) refers to “the Department of Veterans Affairs <b>and</b> the United States Department of Veterans Affairs. Thus, when it comes to criminal cases, both CalVet and the V.A. need to be notified. Additionally, it is the V.A. who sends a Veterans Justice Officer to be part of the collaborative teams who work in Veterans Treatment Courts. Also note that Penal Code § 858 states “The form may be used in determining eligibility services pursuant to section 1170.9,” and that 1170.9 (g) states: “The court and the assigned treatment program may collaborate with the Department of Veterans Affairs and the United States Department of</p>	<p>The committees agree and recommend adding language stating the courts may send a copy of the form to the U.S. Department of Veterans Affairs as related to providing benefits and services under Penal Code sections 1001.80 and 1170.9.</p>

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			<p>Veterans Affairs to maximize benefits and services provided to the veteran.”</p> <p>Thus, in that <b>Criminal Law Case</b> box, notice must be given to <b>both</b> CalVet and the V.A.</p> <p><b>Regarding the Executive Summary and Origin:</b></p> <p>On the first page, it states: “The Criminal Law Advisory committee proposes additional revisions to form MIL-100 to clarify procedures under section 858 when the form is filed in a criminal case, and to reference treatment options for pretrial diversion under Penal Code section 1001.80.”</p> <p><b>MY COMMENT:</b> I see that the proposed form does have Penal Code § 858 in the footer, but I don’t see it mentioned anywhere else on the form. I am not sure whether something was inadvertently omitted in this regard.</p>	<p>Items 1 to 3 of MIL-100 are intended to effectuate Penal Code section 858(e) by allowing a defendant to acknowledge active duty or veteran status by filing MIL-100 with the court.</p> <p>MIL-100 also effectuates Penal Code section 858(c)’s requirements that the form include information explaining rights under section 1170.9 and related statutes of individuals who have active duty or veteran status and a space for the local court to provide the contact information for the county veterans service office. The information explaining those rights is found on</p>

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	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
				page 2 under the heading “California Penal Code section 1170.9.”
3.	Jacob Fraker, MSW Senate Consultant - CA Legislative LGBTQ Caucus Office of the Chair, Senator Susan Talamantes Eggman		<p>For Question 2 Part b – Instead of saying “A veteran of the state or federal armed services or reserves”. My suggestion would be to change to “Formerly served in the state or federal armed services or reserves (regardless of discharge status)”</p> <p>It is also important to acknowledge that studies have documented the fact that some women veterans don’t self-identify themselves, acknowledge themselves or may not understand that they are military “veterans”. When Women Veteran were asked if they served in the military they answered “yes” more than they did when asking them if they were a veteran. Additionally, those who were dishonorably discharged, particularly under Don’t Ask Don’t Tell, do not or struggle to identify as “veterans”. Using that word may lead some folks to not fill out the form or feel they can’t fill out the form.</p>	The committees agree and recommend replacing references to being a veteran with “formerly served in the state or federal armed services or reserves.”
4.	Orange County Bar Association by Christina Zabat-Fran, President	A	Revises military form 100 to comply with Family Code § 211.5 when the form is filed in a family law case involving a person who has military service and to clarify procedures under Penal Code 858 when the form is used in a criminal case. Clarifies differences between criminal and family court procedures used to voluntarily connect those with military background to available services. Meets the stated purpose.	The committees appreciate the comment.

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5.	Superior Court of Los Angeles County by Bryan Borys, Director of Research and Data Management	A	<p>The following comments are representative of the Superior Court of California, County of Los Angeles (Court), and do not represent or promote the viewpoint of any particular judicial officer or employee.</p> <p>The Court agrees with the proposal in SPR24-18, “Criminal Law and Family Law: Changes to Form MIL-100.”</p> <p>For clarity purposes, it is suggested that item 3b read “an atty representing the person listed in item 1 in the above-entitled matter.”</p>	<p>The committees appreciate the comment.</p> <p>No response required.</p> <p>The committees recommend that item 3b be revised, as suggested by the commenter.</p>
6.	Superior Court of Orange County by Family Law and Juvenile Divisions	N/I	<p>Yes, the proposal appropriately addresses the stated purpose.</p> <p><i>For family courts: Please state the reason for your response to the following: Regarding item 3b, should the check box for the attorney follow the current language stating “an attorney in the above-entitled case” or should it be changed to the language proposed for 3a in criminal cases: “an attorney representing the person listed in item 1 in the above-entitled case”?</i></p> <p>Proposed language should align with 3a for criminal cases to avoid confusion. “An attorney” suggests any attorney may file the MIL-100 form, posing confidentiality risks. It’s best for the party or their attorney of record to file due to confidentiality and attorney-client privilege concerns. “An attorney representing the person” is ethically bound to their client's</p>	<p>The committees appreciate the comments.</p> <p>The committee recommends that item 3b be revised, as suggested by the commenter.</p>

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		<p>interests but “an attorney” lacks specificity, risking privacy violations.</p> <p><i>Should items 3b. and 3c. include a check box to allow a person other than an active military service member, reserve member, or veteran (or their attorney) to complete the form? (If you are aware of a statute that supports your answer, please include it in your comments.)</i></p> <p>Incorporating a checkbox for third parties to fill out and submit this form could prove beneficial. In cases involving juveniles, for example, various parties may need to submit the form. However, the form should not include an option for someone else to submit the form in family law cases.</p> <p><i>Would the proposal provide cost savings? If so, please quantify.</i></p> <p>No, the proposal does not appear to provide any cost savings.</p> <p><i>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</i></p> <p>Implementation would require revising procedures and providing communication to judicial officers and staff.</p>	<p>The committees appreciate this comment, but has concluded, based on statutory provisions, to only add an option for a person legally authorized to act on behalf of a party to file the form in civil and family law matters (see, e.g., 50 U.S.C. 3902(a)(2) [a legal representative of a servicemember in noncriminal matters includes an individual possessing a power of attorney]).</p> <p>The committees appreciate this comment.</p> <p>The committees appreciate this comment.</p> <p>The committees appreciate this comment.</p>

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			<p><i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> Yes, three months would provide sufficient time for implementation in Orange County.</p> <p><i>How well would this proposal work in courts of different sizes?</i> Our court is a large court, and this could work for Orange County.</p>	
7.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	<p><i>Q: Does the proposal appropriately address the state purpose?</i> A: Yes.</p> <p><i>Q: For family courts: Please state the reason for your response to the following: Regarding item 3b, should the check box for the attorney follow the current language stating “an attorney in the above-entitled case” or should it be changed to the language proposed for 3a in criminal cases: “an attorney representing the person listed in item 1 in the above-entitled case”?</i> A: It should be changed to the language in 3a since the form only includes the address of the person completing the form. Presumably CalVet would use that address to contact the military member/veteran. If the form is submitted by an attorney other than the one representing the military member/veteran, they may not have the individual’s current address.</p>	<p>The committees appreciate the comment.</p> <p>The committee recommends that item 3b be revised, as suggested by the commenter.</p>



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		<p><i>Q: Should items 3b. and 3c. include a check box to allow a person other than an active military service member, reserve member, or veteran (or their attorney) to complete the form? (If you are aware of a statute that supports your answer, please include it in your comments.)</i></p> <p>A: No.</p>	As described in more detail in response to prior comments, the committees recommend that item 3b and 3c be revised to allow a person legally authorized to act on behalf of the party to file the form.
		<p><i>Q: Would the proposal provide cost savings? If so, please quantify.</i></p> <p>A: No.</p>	The committees appreciate the comment.
		<p><i>Q: What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</i></p> <p>A: Implementation will require training staff and updating internal procedures.</p>	The committees appreciate the comments.
		<p><i>Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i></p> <p>A: Yes, provided the final versions of the forms are provided to the court at that time. This will ensure the court is able to provide training to staff and update its internal procedures.</p>	The committees appreciate this comment.

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			<p><i>Q: How well would this proposal work in courts of different sizes?</i></p> <p>A: This proposal should work well, regardless of the size of the court.</p> <p>General Comments</p> <p>Should an item 5 be added to include the contact information for the veteran since the form may be completed by someone other than the veteran?</p>	<p>The committees appreciate this comment.</p> <p>The committees appreciate the commenter's question, but the committees' recommendations contemplate that no one other than the party, their counsel, or someone with legal authority to act on behalf of the party in family and civil cases will file the form, so the form's header requiring the party or attorney's contact information is sufficient.</p>
8.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) by TCPJAC/CEAC Joint Rules Subcommittee (JRS)	AM	<p>The JRS notes that the proposal is required to conform to a change of law.</p> <p>The JRS also notes the following:</p> <p>Staff will need to be trained to mail the form to CalVet when one is filed (assuming only in Family Law and Criminal, as there does not seem to be such a requirement for other case types?) Training should be minimal, (probably an email to staff in the affected department will suffice). Procedures will need to be updated to include the extra step, which would be minimal. As far as keeping the list of resources- a court will need to determine who will prepare and maintain a list of resources. Preparing and maintaining a list of resources will not be costly but it could be timely, especially with creating the initial list. Docket codes may also be needed in CMS to indicate the form was mailed to CalVet on the case types that require mailing.</p>	<p>The committees appreciate the comments.</p> <p>No response required.</p>

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		<p><u>Responses to the committee's specific questions:</u></p> <ol style="list-style-type: none"><li>1. 3b should be changed to the language proposed for 3a in criminal cases for consistency and if the language stays as currently proposed, the attorney for the other side could potentially file this form with the court when the veteran may not want it filed.</li><li>2. As to items 3b and 3c, if the decision is to permit a person other than the veteran to complete and file MIL-100 there should be a place on the form to provide the address of the veteran, so the court can provide a list of resources as required.</li><li>3. The proposal will not provide a cost savings. An additional form will need to be filed and the court will be required to mail or deliver it to CalVet.</li><li>4. As stated above, Staff will need to be trained to mail the form (minimal training.) Courts will need to determine who will prepare and maintain a list of resources, (potentially Self-Help.) CMS systems may need to be updated.</li><li>5. 3 months is sufficient time for implementation.</li><li>6. Larger courts will be impacted because there will be more filings. Smaller court may have a difficult time providing a list of resources, if there are not any available resources available in the area.</li></ol>	<p>The committee recommends that item 3b be revised, as suggested by the commenter.</p> <p>The committees' recommendations contemplate that no one other than the party, their counsel, or someone with legal authority to act on behalf of the party in family and civil cases will file the form.</p> <p>The committees appreciate the comment.</p> <p>The committees appreciate the comment.</p> <p>The committees appreciate the comment.</p> <p>The committees appreciate the comment.</p>

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			<p><u>Suggested Modifications</u></p> <p>The colon is confusing in the Notice box under Criminal Law Cases, “Local County Veterans Services Office Information (to be provided by local court):”. Propose the language in the parenthesis be changed to “address to be provided by court.”</p> <p>It would be helpful if the forms included a section for court staff to indicate that the form was mailed to the Department of Veteran Affairs “CalVet” and the date of mailing, so a declaration of mailing and separate entry would not need to be done by staff. Propose the forms have a space for the clerk to indicate notice was sent on (date)</p>	<p>The committees recommend revising the language to read “contact information to be provided by the local court.”</p> <p>The committees recommend revising the forms as suggested by adding a section for court staff to indicate when the form was sent to CalVet, the county veterans service office, and/or the U.S. Department of Veterans Affairs.</p>

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