Item number: 23

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: September 11, 2025

Rules Committee action requested [Choose from drop-down menu below]:
Recommend JC approval (has circulated for comment)

Title of proposal: Probate Conservatorship: Acceptance of Transfers Under the CCJA

Proposed rules, forms, or standards (include amend/revise/adopt/approve)*:*
Amend rule 7.1050 and revise forms GC-366 and GC-368.

Committee or other entity submitting the proposal:
Probate and Mental Health Advisory Committee

Staff contact (name, phone and email)*: Julia Kaufman, 916-263-5814, julia.kaufman@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 22, 2024
Project description from annual agenda: The committee will develop a recommendation to amend rule 7.1050 and revise forms GC-366, GC-368, and, perhaps, GC-367 to allow courts, in accepting transfer of a conservatorship into California from another state, tribe, or foreign country, to report determinations affecting voting rights of conservatees as required by elections Code section 2211.5, perform required monitoring of conservators, and make any modifications to out-of-state conservatorship orders necessary to conform to California law.

Out of Cycle/Early Implementation: *If requesting July 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 18, 2025
  ☒ approved by Office Director (or Designee) (*name*) Audrey Fancy
  on (date) July 1, 2025

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

REPORT TO THE JUDICIAL COUNCIL

Item No.:
For business meeting on October 24, 2025

Title
Probate Conservatorship: Acceptance of Transfers Under the California Conservatorship Jurisdiction Act

Rules, Forms, Standards, or Statutes Affected
Amend rule 7.1050; revise forms GC-366 and GC-368

Recommended by
Probate and Mental Health Advisory Committee
Hon. Jayne Chong-Soon Lee, Chair

Report Type
Action Required

Effective Date
January 1, 2026

Date of Report
August 8, 2025

Contact
Julia Kaufman, 916-263-5814
julia.kaufman@jud.ca.gov

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Executive Summary

Under recent statutory changes enacted by Assembly Bill 2841 (Stats. 2022, ch. 807), the courts are required to provide specific information to the Secretary of State when a person has been disqualified from voting. In addition, a member of the Probate and Mental Health Advisory Committee noted difficulty in obtaining necessary information when reviewing a request to accept transfer of a conservatorship from another jurisdiction. The Probate and Mental Health Advisory Committee recommends amending one rule of court and revising two optional forms to provide the court with information it needs for the transfer of conservatorships into California and the reporting duties imposed by the Elections Code. These changes will make proceedings more efficient and conform to the statutory changes.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2026:

1. Amend California Rules of Court, rule 7.1050 to require the information provided with a petition for appointment of a conservator to be provided with a petition to accept transfer of a conservatorship from another jurisdiction;

2. Revise *Petition for Orders Accepting Transfer* (form GC-366) to add a definition and instructions and to require attachment of the proposed order; and

3. Revise *Final Order Accepting Transfer* (form GC-368) to improve clarity and promote compliance with the content requirements for a court order.

The proposed amended rule and revised forms are attached at pages 5–9.

Relevant Previous Council Action

Rule 7.1050 was adopted effective January 1, 2001. Prior amendments are not relevant to the recommendations in this report. Forms GC-366 and GC-368 were adopted effective January 1, 2019. A 2020 revision to form GC-366 also has no bearing on these recommendations.

Analysis/Rationale

The Legislature enacted the California Conservatorship Jurisdiction Act (CCJA) in 2014.[1] The act provides, among other things, a mechanism for a conservator to use to transfer a conservatorship established in another state to California[2]. Before issuing a final order accepting transfer of an out-of-state conservatorship to California under the CCJA, the court must make specific findings, including the eligibility of the proposed conservator to serve and the appropriateness of the powers requested.[3] To make these determinations and issue narrowly tailored orders that protect a conservatee's interests, the court needs detailed information about the proposed conservator to conduct appropriate background investigations as well as information on the powers previously granted to compare to those allowed under California law.

Separately, Elections Code section 2211.5 requires the clerk of the superior court to notify the Secretary of State of each judicial determination affecting a person's competency to vote.[4] This notification must include personal identification information including all known names, date of birth, and the last four digits of the person's Social Security number.

The current transfer procedure does not provide the court with all the information it needs to evaluate a request to transfer a conservatorship or to notify the Secretary of State regarding voting competency. The optional *Petition for Orders Accepting Transfer* (form GC-366) provides only the most basic information regarding the proposed conservator and factors relevant

[1] Prob. Code, §§ 1980–2033, added by Senate Bill 940 (Stats. 2014, ch. 553). See Link A.

[2] Prob. Code, §§ 2002–2003. Under the CCJA, "state" includes a federally recognized Indian tribe and a district, territory, or possession described in Probate Code section 1982(m).

[3] Prob. Code, § 2002(f), (h).

[4] Section 2211.5 was added to the Elections Code by AB 2841 (Stats. 2022, ch. 807). See Link B.

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to determining jurisdiction for the transfer, but very little information regarding the sufficiency of the out-of-state orders as compared to those required by California law. Instead, it allows the petitioner to merely allege that the out-of-state orders do not conflict with California law. The optional *Final Order Confirming Transfer* (form GC-368) also contains only limited findings and permits for the attachment of the original conservatorship order from the previous location to be used as the order for conservatorship in California, with no assurances that the original out-of-state order contains the findings and orders necessary for a valid conservatorship in California.

Unlike the transfer process, when a person files a petition for appointment of a conservator in California, the petitioner must submit *Confidential Supplemental Information* form (form GC-312) and *Confidential Conservator Screening Form* (form GC-314) to the court with the petition. (Cal Rules of Court, rule 7.1050(a).) These forms provide detailed information regarding the proposed conservatee and the conservator, respectively, including their Social Security numbers which are necessary for background checks. Form GC-312 includes detailed information regarding the condition of the conservatee and any alternatives to the conservatorship that were considered. Form GC-314 provides information regarding the appropriateness of the proposed conservator to be appointed, including the relationship between the proposed conservatee and proposed conservator, any financial obligations that may exist, and the criminal history of the proposed conservator. In addition, the mandatory *Order Appointing Probate Conservator* (form GC-340) used for all conservatorships originating in California provides the information required by California law, including the determinations regarding voting restrictions, medical authority or other powers granted, and whether a bond must be posted.

The Probate and Mental Health Advisory Committee therefore recommends amending rule 7.1050 to require a conservator appointed in another jurisdiction to include form GC-312 and form GC-314 with their petition for orders accepting the transfer of the conservatorship to California.

The committee also recommends revising item 6c on *Petition for Orders Accepting Transfer* (form GC-366) and items 5 and 13 on *Final Order Accepting Transfer* (form GC-368) to require that a proposed *Order Appointing Probate Conservator* (form GC-340) must be attached to form GC-366 and an executed form GC-340 must be attached to form GC-368. Requiring a proposed form GC-340 to be attached to the petition will provide the court with all findings and orders that are being requested. Requiring a completed form GC-340 to be attached to the final order confirming transfer ensures appointment of a conservator in California in compliance with all statutory requirements and the specific determinations regarding competency to vote that must be reported. In short, the inclusion of these forms in the transfer process will provide the court the necessary information to make all statutorily required determinations and issue orders in compliance with California law. The committee also recommends several nonsubstantive modifications to the forms to increase clarity, such as adding the CCJA's definition of "state" to the first page of both forms.

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Policy implications

This recommendation is required to implement changes to the law. Additionally, the committee anticipates a likely result in a reduction of continuances by providing the courts with the information necessary to obtain background checks prior to the hearing dates.

Comments

This proposal was circulated for public comment from April 14, 2025, to May 23, 2025, as part of the spring 2025 rules and forms comment cycle. Two organizations and three superior courts submitted comments on this proposal. All commenters agreed with the proposal as drafted or indicated that the proposal appropriately addressed the stated purpose. Commenters noted that the changes will address the current problem that courts have in obtaining personal information necessary for the required background checks. The noted costs were minimal, mostly training on new procedures, but a few commenters noted these costs may be offset by greater efficiency in investigations and in the issuance of orders and letters. A chart with the full text of the comments received and the committee's responses is attached at pages 10–13.

Alternatives considered

The committee considered not changing the rule or forms, but that would have left the courts with insufficient information to act in conformity with the law.

Fiscal and Operational Impacts

The proposed changes impose no specific implementation costs on the court. Commenters noted possible costs for training court staff to advise them of the rule and forms change and updating case management systems. One commenter expressed the view that the proposed changes will save time and resources due to fewer continuances and greater efficiency in court investigations.

Attachments and Links

1. Cal. Rules of Court, rule 7.1050, at page 5
2. Forms GC-366 and GC-368, at pages 6–9
3. Chart of comments, at pages 10–13
4. Link A: Sen. Bill 940 (Stats. 2014, ch. 553), *https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB940*
5. Link B: Assem. Bill 2841 (Stats. 2022, ch. 807), *https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2841*

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Rule 7.1050 of the California Rules of Court is amended, effective January 1, 2026, to read:

Rule 7.1050. Conservator forms

(a) Forms to be submitted with petition

Each petitioner, unless the petitioner is a bank or other entity entitled to conduct the business of a trust company, must submit to the court with the petition for appointment of conservator or the petition for orders accepting transfer a completed *Confidential Supplemental Information* statement (form GC-312). In addition, each proposed conservator, except a bank or other entity entitled to conduct the business of a trust company, or a public guardian, must submit a completed *Confidential Conservator Screening Form* (form GC-314).

(b)–(c) * * *

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ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	FOR COURT USE ONLY
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:		
CONSERVATORSHIP OF *(name):* CONSERVATEE		CASE NUMBER:
PETITION FOR ORDERS ACCEPTING TRANSFER (California Conservatorship Jurisdiction Act)		HEARING DATE AND TIME: DEPT.:

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Not approved by the Judicial Council

1. Protected person's (the conservatee's or ward's) personal information:
   Name:
   Residence address:

   Telephone number: Email address:

2. I, *(name):*
   was appointed the conservator or guardian for the person named in 1 by a court of record of the state* of *(specify):* (the transferring state) on *(date):* . My appointment remains in effect.

3. ☐ The California Conservatorship Jurisdiction Act (CCJA) (Prob. Code, §§ 1981–2033) applies to this proceeding because the protected person:
   - Is 18 years of age or older;
   - Is **not** involuntarily committed to a mental health facility or receiving any other involuntary mental health care or treatment; and
   - Has **not** been diagnosed or assessed with a developmental disability.

4. ☐ A certified copy of the provisional order of transfer issued by a court of record in the transferring state is attached to this form.

   The existing protective proceeding is best described under California law as *(check all that apply):*

   a. ☐ A conservatorship of the person *(The court order gives me powers and duties to manage the protected person's needs for food, clothing, shelter, or health care.)*

   b. ☐ A conservatorship of the estate *(The court order gives me powers and duties to manage the protected person's finances and property.)*

*Under the California Conservatorship Jurisdiction Act, "state" includes a federally recognized Indian tribe and a district, territory, or possession described in Probate Code section 1982(m).

CONSERVATORSHIP OF *(name):* CONSERVATEE	CASE NUMBER:

5. Factors relevant to determining the jurisdiction of the California court:

a. ☐ The conservatee has been physically present in California since *(date):* and remains present in California.

b. ☐ The conservatee was physically present in California from *(date):* to *(date):* , ending within six months of the date this petition is filed.

c. ☐ The conservatee has the following connections to California *(list all that apply):*

(1) ☐ The following relatives and other persons required to receive notice of the proceeding reside in California:

☐ Continued on Attachment 5c(1). *(Use a blank sheet of paper or form MC-025.)*

(2) ☐ The conservatee was physically present in California during the following periods:

From *(date):* to *(date):*

From *(date):* to *(date):*

From *(date):* to *(date):*

From *(date):* to *(date):*

☐ Continued on Attachment 5c(2). *(Use a blank sheet of paper or form MC-025.)*

(3) ☐ The conservatee will move permanently to California and reside at the following address *(provide if known):*

(4) ☐ The conservatee holds a legal or beneficial interest in the following property located in California *(describe each piece of property; give the street address of real property or the location of personal property):*

☐ Additional property is described on Attachment 5c(4). *(Use a blank sheet of paper or form MC-025.)*

(a) Estimated value of real property in California: $

(b) Estimated value of personal property in California: $

(c) Annual gross income from

(i) Real property: $

(ii) Personal property: $

(iii) Pensions: $

(iv) Wages: $

(v) Public assistance benefits: $

(vi) Other: $

Subtotal of (c): $

(d) **Total** of (a), (b), and (c): $

(5) ☐ The conservatee has the following other ties to California *(for example, voter registration, driver's license, tax filing):*

☐ Continued on Attachment 5c(5). *(Use a blank sheet of paper or form MC-025.)*

CONSERVATORSHIP OF *(name):* CONSERVATEE	CASE NUMBER:

6. I request that the court:

   a. Accept transfer of this proceeding and recognize the transferring state's conservatorship order.

   b. (1) ☐ Appoint me as conservator of the ☐ person ☐ estate under California law for the person named in 1, or
   (2) ☐ Appoint *(name):*
   (mailing address):

   (telephone number): *(email):*
   (relationship to conservatee): , who is eligible for appointment under California law,
   as conservator of the ☐ person ☐ estate for the person named in 1.

   c. Issue the attached *Order Appointing Probate Conservator* (form GC-340).

   (1) ☐ The attached order does not modify the powers granted to the conservator or any other material terms in the transferring state's conservatorship order.

   (2) ☐ The attached order modifies the powers granted to the conservator or other material terms in the transferring state's conservatorship order to conform to California law as follows:

   (a) Powers modified:

   (b) Duties modified:

   (c) Bond modified:

   (d) Other information needed:

   ☐ Additional modifications are included on Attachment 6c(2). *(Attach a blank sheet of paper or form MC-025.)*

   d. Issue *Letters of Conservatorship* (form GC-350) upon the appointee's qualification.

7. ☐ A *Petition for Appointment of Temporary Conservator* (form GC-111) is filed with this petition.

8. ☐ The conservatee ☐ has ☐ has not been diagnosed with a major neurocognitive disorder (major NCD, such as dementia).

   a. ☐ A completed *Petition for Exclusive Authority to Give Consent for Medical Treatment* (form GC-380), with *Attachment Requesting Special Orders Regarding a Major Neurocognitive Disorder* (form GC-313), is filed with this petition.

   b. ☐ I intend to petition the court for major NCD/dementia powers under section 2356.5 of the Probate Code as soon as the court issues a final order accepting transfer of this conservatorship.

I declare under penalty of perjury under the laws of the State of California that the information stated on this form and any attachments is true and correct.

Date:

(TYPE OR PRINT NAME)

▶ (SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	*FOR COURT USE ONLY*
NAME:		
FIRM NAME:		
STREET ADDRESS:		
CITY:	STATE: ZIP CODE:	**DRAFT**
TELEPHONE NO.:	FAX NO.:	**Not approved by**
EMAIL ADDRESS:		**the Judicial Council**
ATTORNEY FOR (*name*):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
CONSERVATORSHIP OF THE ☐ PERSON ☐ ESTATE OF *(name):* CONSERVATEE		
FINAL ORDER ACCEPTING TRANSFER (California Conservatorship Jurisdiction Act)		CASE NUMBER:

1. The court held a hearing to review the conservatorship and determine its conformity to California law on *(date):* .
2. The court has read and considered the report of the review investigation conducted under Probate Code section 1851.1, which was filed on *(date):* . Based on the information in the report and all other evidence admitted at the hearing,

THE COURT FINDS THAT:

3. ☐ Notice of the hearing was given as required by law.
4. The conservatee ☐ attended ☐ was excused under Probate Code section 1825 and did not attend the hearing.
5. An *Order Appointing Probate Conservator* (form GC-340) is also being filed. The powers granted to the conservator or other material terms in the original conservatorship order ☐ were ☐ were not modified to conform to California law.
6. ☐ The conservatee does not wish to petition for termination of the conservatorship.
7. ☐ The conservatee does not object to the appointment of the person identified below as conservator in California.
8. ☐ The conservatee was informed of their rights to attend the hearing and to be represented by legal counsel of their choice or, if desired, by counsel appointed by the court.
9. ☐ The conservatorship is still the least restrictive alternative necessary to protect the conservatee's interests.
10. ☐ Other *(specify):*

    ☐ Additional findings are set forth on Attachment 5c(1).

11. The court has received a final order issued by a court of record in *(state*):* confirming the transfer of the conservatorship to California.

THE COURT ORDERS THAT:

12. The transfer of the conservatorship proceeding to California is accepted.
13. Name:
    Address:
    Telephone number: Email address:
    is appointed conservator of the ☐ person ☐ estate for *(name):*
    under California law as specified in the accompanying *Order Appointing Probate Conservator* (form GC-340).
    The clerk is ordered to issue *Letters of Conservatorship* (form GC-350) when the appointee has qualified under section 2002(i)(2).

Date:

(JUDICIAL OFFICER)

***Under the CCJA, "state" includes a federally recognized Indian tribe and a district, territory, or possession described in Probate Code section 1982(m).**

SPR25-23

Probate Conservatorship: Acceptance of Transfers Under the California Conservatorship Jurisdiction Act (Amend Cal. Rules of Court, rule 7.1050, revise forms GC-366 and GC-368)

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)	A	The JRS also notes the following impact to court operations:
			• Impact on existing automated systems.
			  o Possible costs to revise local rules and forms, and update CMS.
			• Results in additional training, which requires the commitment of staff time and court resources.
			  o Possible costs to train employees.
			
			Presently, Probate has difficulty obtaining APS referral screenings and CLETS results for probate investigators for CCJA transfer-in petitions because the petitioner is not required to provide the date of birth for the conservatee and conservator through the confidential supplemental information and the confidential screening form. Probate is also unable to issue letters when parties do not submit a proposed GC-340 order appointing conservator with the transfer petition. This proposal should address these problems.
				The committee appreciates these comments. No further response is required.

2.	Orange County Bar Association by Mei Tsang, President	A	The Orange County Bar Association agrees with this proposal and believes that it appropriately addresses the stated purpose.	The committee appreciates this comment. No further response is required.
3.	Superior Court of Los Angeles County by Stephanie Kuo, Legislative Analyst	A	In response to the Judicial Council of California's ITC, "Probate Conservatorship: Acceptance of Transfers Under the California Conservatorship Jurisdiction Act," the Court agrees with the proposal and that it appropriately addresses the stated purposes.	The committee appreciates this comment. No further response is required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

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SPR25-23

Probate Conservatorship: Acceptance of Transfers Under the California Conservatorship Jurisdiction Act (Amend Cal. Rules of Court, rule 7.1050, revise forms GC-366 and GC-368)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			The proposal will not provide costs savings. To implement, the Court will need to train its judicial officers and staff on the amendment to rule 7.1050 and new requirements or mandatory forms for it. The Court will also need to modify its staff manual with the updated requirements. Three months from Judicial Council approval should be sufficient time for implementation. The proposal will work well in courts of different sizes.	No further response is required.
4.	Superior Court of San Bernardino County Staff Probate Committee	NI	Does the proposal appropriately address the stated purpose? **A: Yes, the proposal addresses the stated purpose.**	The committee appreciates these comments. No further response is required.
			Would the proposal provide costs savings? If so, please quantify. **A: Yes, the cost savings would come from the reduction of continuances caused by the inability to complete investigations. Cost savings would also come from investigators being able to conduct their investigation more efficiently and timely.**	No further response is required.
			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: Training staff. Updating procedures to include requiring the proposed required forms. Form packets revisions.**	No further response is required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

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SPR25-23

Probate Conservatorship: Acceptance of Transfers Under the California Conservatorship Jurisdiction Act (Amend Cal. Rules of Court, rule 7.1050, revise forms GC-366 and GC-368)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? **A: Yes.**	No further response is required.
			How well would this proposal work in courts of different sizes? **A: Unknown.**	No further response is required.
			Q: Does the proposal appropriately address the stated purpose? **A: Yes.**	No further response is required.
5.	Superior Court of San Diego County by Mike Roddy, Executive Officer	A	Q: Would the proposal provide costs savings? If so, please quantify. **A: No.**	The committee appreciates these comments. No further response is 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? **A: Clerical staff, courtroom clerks, Judicial Officers and Examiners will require training. Training should be minimal, no more than 30-minutes. No changes to the case management system will be required since the form names are not changing.**	No further response is required.
			Q: Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? **A: Yes.**	No further response is required.

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Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR25-23

Probate Conservatorship: Acceptance of Transfers Under the California Conservatorship Jurisdiction Act (Amend Cal. Rules of Court, rule 7.1050, revise forms GC-366 and GC-368)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			Q: How well would this proposal work in courts of different sizes? **A: It appears the proposal would work for courts of all sizes.**	No further response is required.
			General Comment: This change was much needed and will help courts confirm the conservators are only retaining powers and authority that is authorized under the California Probate Code.	No further response is required.

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RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: September 11, 2025

Rules Committee action requested [Choose from drop-down menu below]:
Recommend JC approval (has circulated for comment)

Title of proposal: Probate Conservatorships: Information for Conservatees

Proposed rules, forms, or standards (include amend/revise/adopt/approve)*:*
Approve form GC-342; revise forms GC-341 and GC-341(MA)

Committee or other entity submitting the proposal:
Probate and Mental Health Advisory Committee

Staff contact (name, phone and email)*: Corby Sturges, 415-865-4507, 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 22, 2024
Project description from annual agenda: The committee will develop a recommendation to revise Notice of Conservatee's Rights (form GC-341), as required by Probate Code section 1830(c), and Duties of Conservator (form GC-348), as required by Probate Code section 1834(a), as well as a new form—either a standalone form or an attachment to form GC-341—for use to list the specific rights retained by the conservatee and any other information required by Probate Code section 1835.5 that is not already included in the order of appointment. (AB 1663 (Stats. 2022, ch. 894).)

Out of Cycle/Early Implementation: *If requesting July 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)* 7/11/2025
  ☒ approved by Office Director (or Designee) (*name*) Audrey Fancy
  on (date) 7/14/2025

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)
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  ☒ 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

REPORT TO THE JUDICIAL COUNCIL

Item No.:
For business meeting on October 24, 2025

Title
Probate Conservatorship: Information for Conservatees

Rules, Forms, Standards, or Statutes Affected
Approve form GC-342; revise forms GC-341 and GC-341(MA)

Recommended by
Probate and Mental Health Advisory Committee
Hon. Jayne Chong-Soon Lee, Chair

Report Type
Action Required

Effective Date
January 1, 2026

Date of Report
July 21, 2025

Contact
Corby Sturges, 415-865-4507
corby.sturges@jud.ca.gov

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Executive Summary

Probate Code section 1835.5 requires the court, within 30 days of appointing a conservator, to provide the conservatee with specified information, including a personalized list of rights retained by and withheld from the conservatee. Several statutes enacted over the past 10 years have also expanded and clarified the rights of all conservatees. In response to these changes to the law, the Probate and Mental Health Advisory Committee recommends approving one form for optional use by courts to use to provide the information required by section 1835.5, revising the mandatory form used to give notice of the general rights of conservatees to update it, and revising the address attachment to the general notice form to conform to the revisions to the principal form.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2025:

1. Approve *Personalized Information for Conservatee—Probate* (form GC-342) for optional use by courts to provide the information required by Probate Code section 1835.5;

2. Revise and retitle *Notice of Conservatee's Rights* (form GC-341) as *Notice of Conservatee's Rights—Probate*, update and reorganize the rights listed, and make technical and conforming stylistic changes; and

3. Revise and retitle *Attachment to Notice of Conservatee's Rights* (form GC-341(MA)) as *Attachment to Notice of Conservatee's Rights—Probate*, add items for use to document recipients of form GC-341, and make technical and conforming stylistic changes.

The proposed new and revised forms are attached at pages 7–15.

Relevant Previous Council Action

Effective January 1, 2008, the Judicial Council adopted form GC-341 and approved form GC-341(MA) to implement the requirement in Probate Code section 1830(c) to develop the notice of rights of conservatees required by that same statute. The council has never revised these forms.

Analysis/Rationale

When the probate court appoints a conservator, it grants the conservator powers to make certain decisions and take certain actions on behalf of the conservatee, but the appointment does not remove all rights from the conservatee. Since 2007, Probate Code section 1830(c) has required a conservator to send to the conservatee and the conservatee's relatives named in the conservatorship petition a copy of the conservator's appointment order with a notice of the rights of conservatees attached.[1] These rights include, among others, having a lawyer represent them, asking a judge to modify or end the conservatorship, and entering into transactions to provide the basic necessities of life for themselves and their families.

Effective January 1, 2023, Assembly Bill 1663 (Stats. 2022, ch. 894, § 9) added section 1835.5 to the code to require the court to provide specified information in writing to the conservatee within 30 days of appointing a conservator and annually thereafter. The information must include a personalized list of rights retained by and withheld from the conservatee. This is important because the grant of powers to a conservator does not necessarily or automatically result in a corresponding limit on or removal of the conservatee's rights to make those decisions or take those actions. For example, a conservatee may consent to medical treatment unless adjudicated to lack the capacity to do so. The conservator may also consent to the conservatee's medical treatment as long as the conservatee does not object to the treatment.[2]

[1] Subdivision (c) was added to section 1830 by Assembly Bill 1363 (Stats. 2006, ch. 493, § 10). Section 1830(c) was amended, effective January 1, 2008, to require the conservator to deliver these materials within 30 days of the issuance of the appointment order. All further statutory references are to the Probate Code unless otherwise specified.

[2] § 2354(a). In some cases, the removal of a right from a conservatee does not confer a corresponding power on the conservator. For example, disqualifying a conservatee from voting does not give the conservator any power to vote on the conservatee's behalf. (See § 1910; Elec. Code, §§ 2208–2209.)

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Personalized Information for Conservatee—Probate (form GC-342)

As noted above, section 1835.5 requires the court to provide specific information to the conservatee, which includes the name and contact information of the conservator; a description of the conservatorship; the role, duties, and contact information of the court investigator and the "court alternatives program";[3] "the person to petition to end or change the conservatorship and contact information for the person to contact to begin that process";[4] and a personalized list of rights retained by and withheld from the conservatee.[5] The committee recommends the approval of form GC-342 for this purpose. Because several courts have developed local forms for use to implement the requirement in section 1835.5, the committee recommends approval of form GC-342 for optional use.

Notice of Conservatee's Rights (form GC-341)

Since 2008, when form GC-341 was adopted, the Legislature has amended the conservatorship statutes several times.[6] These amendments have cumulatively expanded the rights held by conservatees to an extent sufficient to require revisions to form GC-341 to maintain its accuracy. The statutory amendments also reflect an intent, exemplified in section 2113, for the conservator to accommodate the desires of the conservatee unless doing so "would violate the conservator's fiduciary duties to the conservatee or impose an unreasonable expense on the conservatorship estate."[7] A conservator must, to the greatest extent possible, support the conservatee in maximizing their autonomy and making their own decisions and must regularly inform the conservatee of decisions made on their behalf.[8] The committee recommends adding this information to form GC-341. In addition, the committee recommends retitling the form *Notice of Conservatee's Rights—Probate* to move "probate" from the form family name to the title, revising the form to increase its readability, and making technical and conforming stylistic changes.

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[3] § 1835.5(b)(3). Assembly Bill 1663 also added section 1836 to the code. (Stats. 2022, ch. 894, § 10.) Contingent on an appropriation by the Legislature, that section requires the Judicial Council to establish a "conservatorship alternatives program" within each self-help center in every superior court. (§ 1836.) The Legislature has not yet appropriated the requisite funds. The committee recommends addressing the requirement to provide information about a program that might not yet exist by allowing a court that *has* established a conservatorship alternatives program to check a box indicating that and then to provide the program's contact information.

[4] § 1835.5(b)(4). The statutory language notwithstanding, a petition to change or end a conservatorship is not directed to a person. Presenting the quoted information on a form, therefore, presents a challenge. The committee recommends directing the conservatee to inform the court investigator of their wish to file a petition to terminate or modify the conservatorship. Once the court learns of the conservatee's wish to petition, the court may set a hearing, notify the conservatee's attorney of record, or, if the conservatee does not have an attorney and does not plan to get one, appoint an attorney to file the petition and represent the conservatee. (§§ 1051, 1852.)

[5] § 1835.5(b).

[6] Significant examples are Senate Bill 589 (Stats. 2015, ch. 736), Assembly Bill 1194 (Stats. 2021, ch. 417), Assembly Bill 1663 (Stats. 2022, ch. 894), and Assembly Bill 2960 (Stats. 2022, ch. 420, §§ 32–41).

[7] § 2113, added by Assembly Bill 1363 (Stats. 2006, ch. 493, § 13) and amended by AB 1663 (Stats. 2022, ch. 894, § 15).

[8] § 2113.

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Attachment to Notice of Conservatee's Rights (form GC-341(MA))

The committee recommends retitling this form *Notice of Conservatee's Rights—Probate* so that this form's title conforms to the revised title of form GC-341. To reduce the occasions requiring use of multiple pages of the form, the committee also recommends adding more items to document the persons to whom the appointment order and notice of rights were mailed.

Policy implications

The recommended action is needed to conform to changes in the law and to comply with an ongoing legislative mandate. In addition, the action will improve the quality of justice and service to conservatees and promote their access to the court process by providing them with required information in forms that use simpler language and more accessible formatting.

Comments

The proposal circulated for public comment from April 14 to May 23 as part of the spring 2025 rules-and-forms cycle to the advisory committee's regular mailing list as well as the probate listserve. The committee received seven comments, including comments from the Joint Rules Subcommittee (JRS) of the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee and three superior courts. Three commenters, including the JRS, agreed with the proposal. Two commenters agreed and suggested modifications, one commenter did not agree, and one commenter did not indicate a position. The committee has modified its recommendation in several respects in response to comment. A chart of all comments received and committee responses is attached at pages 16–29.

The Orange County Bar Association did not agree with the recommendation to develop two forms to implement the requirements in sections 1830(c) and 1835.5. The commenter suggested adoption of a single mandatory form to implement both statutes. Because of the numerous differences between the duties imposed by section 1830(c) and those imposed by section 1835.5, however, the committee continues to recommend two separate forms. A conservator must use form GC-341 to comply with the one-time requirement in section 1830(c) to deliver "an information notice of the rights of conservatees" attached to a copy of the appointment order to the conservatee and the relatives named in the petition no later than 30 days after the conservator's appointment. A court may use form GC-342, which is optional, or a local form to fulfill its duty to provide personalized information to a conservatee within 30 days of the appointment of a conservator and annually thereafter.[9] In addition to a personalized list of rights retained by the conservatee and rights withheld, the form must include information about the conservator, the court investigator, the court's conservatorship alternatives program, if any, and the nature of the conservatorship.[10] Courts that have developed local forms for this purpose will be able to continue using those forms if they prefer to do so.

[9] § 1835.5.

[10] § 1835.5(b). For a detailed description of the differing purposes of the forms, see the response to the bar association's comment in the attached comment chart, at pages 15–18.

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The Superior Court of San Diego County suggested multiple changes to the proposed forms. The committee has accepted several of those changes but has also declined some. In particular, the court suggested that items 6 and 7 on form GC-342 use only two columns, titled "Your Rights" and "Rights that are No Longer Yours and/or Belong to Conservator(s)," instead of three columns. The committee decided to retain three columns because, as explained on page 2 and in footnote 2, two columns would not capture those acts or decisions that are within the authority of both the conservator and conservatee.

The committee also does not recommend adding a subitem in item 6 to address a limited conservatee's right to contract. Although item 6 focuses on personal care and item 7 focuses on estate management, both items should be completed for every conservatorship to indicate the rights retained by the conservatee as well as those limited by the court. Item 7 includes an opportunity to describe the allocation of the right to contract between the conservator and conservatee. Nothing in item 7 precludes the court from using that item to indicate whether it has limited the right to contract of a limited conservatee of the person.

Finally, the committee has accepted the court's suggestion to remove the clerk's certificate from form GC-342 because it would impose an unwarranted burden on the courts. However, the committee has declined the court's suggestion to add a certificate of mailing. In the absence of statutory direction, the committee prefers to leave each court free to document its processes in the manner best suited to its local practices and case management system.

Alternatives considered

The committee considered not taking action but determined that an optional statewide form would assist courts in fulfilling their obligation under section 1835.5 and that revisions to form GC-341 were required to conform to changes to the law enacted since the council adopted the form. The committee also considered proposing form GC-342 for mandatory use, both as a separate form and combined with form GC-341. For the reasons discussed above and in the chart of comments, as well as to allow courts that have developed local forms to implement Probate Code section 1835.5 to continue using those forms, the committee recommends form GC-342 for approval as a separate, optional form.

Fiscal and Operational Impacts

The proposal will impose one-time costs for courts to update case management systems and, in courts that plan to use form GC-342, train staff to send the form to conservatees. The JRS and the courts gave varying estimates of the extent of training needed. The Superior Court of San Diego County alone suggested a need for significant training. The recurring costs of sending form GC-342 or a local form annually to every conservatee are unavoidable under the law.

Attachments and Links

1. Forms GC-341, GC-341(MA), and GC-342, at pages 7–15
2. Chart of comments, at pages 16–29

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3. Link A: Prob. Code, § 1830, *https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=1830*
4. Link B: Prob. Code, § 1835.5, *https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=1835.5*

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ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	FOR COURT USE ONLY
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:		
CONSERVATORSHIP OF THE ☐ PERSON ☐ ESTATE OF *(name):* ☐ LIMITED CONSERVATEE		
NOTICE OF CONSERVATEE'S RIGHTS—PROBATE		CASE NUMBER:

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Not approved by the Judicial Council

When a court appoints a conservator, it grants the conservator powers to make decisions and manage the personal care, finances, or both of a person, called the *conservatee,* who cannot do those things for themselves. The conservator has legal duties to take proper care of the conservatee and the conservatee's finances and to act in the conservatee's best interest. But the conservatee does not automatically lose the right to make all decisions about their personal care or finances.

A conservatee has the right to be treated with compassion and respect, to have the conservator ask about their wishes and follow those wishes unless doing so would violate the conservator's duties, and to have the conservator inform them regularly of decisions about their affairs. All conservatees keep their basic human rights.

A conservatee has the right to ask the conservator questions about the conservator's actions and decisions. If the conservatee is not satisfied with the conservator's answers, they may contact their lawyer or, if they no longer have a lawyer, the court investigator with their concerns and complaints. The investigator's name and contact information are printed on the order of appointment that this form is attached to.

If a conservatee cannot resolve a disagreement with the conservator after working with their lawyer or the investigator, the conservatee may ask the court to review the conservator's decision or action and tell the conservator what to do. If the conservatee no longer has a lawyer and does not plan to hire one, the court will appoint one. The conservatee may also ask the court to remove the conservator or to terminate (end) the conservatorship.

Even if the conservatee never contacts the court, the court investigator will periodically visit the conservatee, check on their welfare, ask about their wishes, and remind them of their rights.

A CONSERVATEE'S RIGHTS

1. After appointment of a conservator, every conservatee has the right to:
   - Receive, from the conservator, a copy of the order of appointment and pages 1 and 2 of this form;
   - Be represented by a lawyer and have the court appoint a lawyer for them;
   - Ask a judge to change the conservator;
   - Ask a judge to end the conservatorship;
   - Make or change their will; and
   - Enter into transactions, to the extent reasonable, to provide for their basic needs and those of their spouse and minor children or for the basic living expenses of their registered domestic partner.

(Conservatee's rights continued on next page)

CONSERVATORSHIP OF THE ☐ PERSON ☐ ESTATE OF *(name)*: CONSERVATEE	CASE NUMBER:

A CONSERVATEE'S RIGHTS (continued)

2. Unless the court has limited or taken away the right, a conservatee also keeps the right to:
   - Give or withhold informed consent to medical treatment, including treatment with medication;
   - Give or withhold informed consent to medication for treatment of a major neurocognitive disorder;
   - Withhold consent to placement in a residential facility with a secured perimeter;
   - Receive visits from family and friends;
   - Receive personal mail, email, and phone calls;
   - Control whom to have social and sexual relationships with;
   - Get married or enter into a registered domestic partnership;
   - Register to vote and cast a vote in local, state, and national elections; and
   - Directly receive and control their own wages or salary.

3. A conservatee may engage in certain activities only if the court has made an order expressly allowing them. These activities may include:
   - Deciding where to live;
   - Making their own educational decisions;
   - Receiving and controlling an allowance for personal expenses; and
   - Entering into specific transactions or types of transactions as appropriate in the circumstances and subject to limits and conditions in the court order.

4. If the court has appointed a *limited conservator*, the limited conservatee keeps the right to take an action or make a decision **unless** the court has expressly given the limited conservator the power to take that action or make that decision **and** has also taken the right away from the conservatee. In particular, a limited conservatee keeps the following rights that a conservatee loses by default:
   - Making decisions about where to live;
   - Making their own educational decisions; and
   - Entering into contracts or transactions that obligate their estate.

TO THE CONSERVATEE

Within 30 days of their appointment, your *conservator* will send you a copy of the appointment order and pages 1–2 of this form. In addition, the *court* will give you information about your conservatorship on *Personalized Information for Conservatee—Probate* (form GC-342) or a similar local form. That form will describe your conservatorship; give the name and contact information of your conservator; give the role, duties, name, and contact information of the court investigator; and list the specific rights you keep in the conservatorship and the rights the court has ordered taken away from you. The form will also list any activities the court specifically ordered the conservator to allow you to engage in. The court will give you updated personalized information once a year as long as your conservatorship lasts.

(Proof of mailing on page 3 and instructions for mailing on page 4)

CONSERVATORSHIP OF THE ☐ PERSON ☐ ESTATE OF *(name):* CONSERVATEE	CASE NUMBER:

PROOF OF DELIVERY BY MAIL

1. I am 18 years of age or older. 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 mailed this *Notice of Conservatee's Rights—Probate* to each person named below, attached to a conformed copy of the order appointing a conservator (form GC-340) or a limited conservator (form GC-339) filed on *(date):* and showing the filing date and the judicial officer's signature, by enclosing it in an envelope addressed as shown below **and** *(check one):*
   a. ☐ **depositing** 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. ☐ **placing** 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 THE NOTICE AND ORDER WERE MAILED

Name and relationship to conservatee	Address *(number, street, city, state, and zip code)*
1. Conservatee	
2. Attorney for conservatee	
3. Spouse or registered domestic partner	
4. Relationship:	
5. Relationship:	
6. Relationship:	
7. Relationship:	

☐ Continued on an attachment. *(You may use form GC-341(MA) to show additional names and addresses.)*

CONSERVATORSHIP OF THE ☐ PERSON ☐ ESTATE OF *(name):* CONSERVATEE	CASE NUMBER:

INSTRUCTIONS FOR MAILING COPIES OF *NOTICE OF CONSERVATEE'S RIGHTS—PROBATE* WITH THE ORDER APPOINTING A CONSERVATOR OR A LIMITED CONSERVATOR

1. **What to mail:** The conservator, the conservator's attorney of record, or the attorney's employee must mail a copy of this *Notice of Conservatee's Rights—Probate*, **attached to a copy of the court order** appointing a conservator or a limited conservator **showing the judicial officer's signature and the filing date**, to each person described in item 2 below.

2. **Who must receive the mailing:** The following persons must receive copies of this *Notice of Conservatee's Rights—Probate* with the appointment order.
   a. The conservatee;
   b. The conservatee's attorney;
   c. The conservatee's spouse or registered domestic partner and the following relatives within the second degree:
      (1) Parents;
      (2) Children 12 years of age or older (see item e below if there are children under the age of 12);
      (3) Grandparents;
      (4) Grandchildren 12 years of age or older (see item e below if there are grandchildren under the age of 12); and
      (5) Siblings, including half-siblings.
   d. If the conservator does not know of any spouse or registered domestic partner or second-degree relative of the conservatee, copies of this *Notice* and the appointment order must be mailed to any of the following persons known to the conservator:
      (1) The spouse or registered domestic partner of a predeceased parent of the conservatee;
      (2) Children of a predeceased spouse or predeceased registered domestic partner of the conservatee 12 years of age or older (see item e below if there are children under the age of 12);
      (3) Siblings of the conservatee's parents (that is, the conservatee's aunts and uncles), if any, or, if none, to their natural and adoptive children 12 years of age or older (see item e below if there are children under the age of 12); and
      (4) The natural and adoptive children of the conservatee's siblings 12 years of age or older (see item e below if there are children under the age of 12).
   e. If a person described above is under the age of 12, copies of this *Notice* and the appointment order must be mailed to a parent, guardian, or other person having legal custody of the person entitled to notice with whom the person entitled to notice resides.

3. **When the mailing must be completed:** The mailing described in item 1 must be completed on or before the 30th day following the filing date of the order appointing a conservator or a limited conservator.

4. **Fill out Proof of Delivery by Mail:** The conservator or the attorney of record must fill out the Proof of Delivery by Mail on page 3, including the correct addresses of the persons to receive the mailing, described in item 2, above, *before* making the copies to be mailed. If the Proof of Delivery by Mail does not have enough space for the names and addresses of all persons who will receive the mailing, the names and addresses not shown on the Proof of Delivery by Mail must be shown on one or more additional pages attached to this form. (*Attachment to Notice of Conservatee's Rights—Probate* (form GC-341(MA)) may be used for this purpose.) *After* the mailing described in item 5 below, the conservator or the attorney must date and sign the Proof of Delivery by Mail.

5. **How to mail:** The conservator, the conservator's attorney of record, or an employee of the attorney must do the following:
   a. Place copies of this *Notice of Conservatee's Rights—Probate* and conformed copies of the order appointing a conservator or a limited conservator in sealed envelopes addressed to each person named on the Proof of Delivery by Mail or attached additional pages at the address shown for that person with postage fully prepaid.
   b. Deposit (mail) the sealed envelopes with the United States Postal Service on the date and from the place (city and state) shown in item 4 of the Proof of Delivery by Mail on page 3.

6. **Filing this form:** The conservator or the attorney of record must file with the court the original *Notice of Conservatee's Rights—Probate* with a signed and dated Proof of Delivery by Mail and all attached additional address pages. **Do not attach a copy of the order appointing a conservator or a limited conservator when filing the original *Notice of Conservatee's Rights—Probate*.**

GC-341(MA)

CONSERVATORSHIP OF THE ☐ PERSON ☐ ESTATE OF *(name)*: CONSERVATEE	CASE NUMBER:

ATTACHMENT TO NOTICE OF CONSERVATEE'S RIGHTS—PROBATE

(This attachment is for use with form GC-341.)

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

	Name and relationship to conservatee	Address *(number, street, city, state, and zip code)*
___	Relationship:	
___	Relationship:	
___	Relationship:	
___	Relationship:	
___	Relationship:	
___	Relationship:	
___	Relationship:	
___	Relationship:	
___	Relationship:	
___	Relationship:	
___	Relationship:	
___	Relationship:	
___	Relationship:	
___	Relationship:	

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	*FOR COURT USE ONLY*
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:		
CONSERVATORSHIP OF THE ☐ PERSON ☐ ESTATE OF *(name):* ☐ LIMITED CONSERVATEE		
PERSONALIZED INFORMATION FOR CONSERVATEE—PROBATE		CASE NUMBER:

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Not approved by the Judicial Council

TO THE CONSERVATEE

The court named above has appointed one or more conservators for you. This form gives the name and contact information of your conservator or conservators, describes your conservatorship, gives the name and contact information of the court investigator and describes the investigator's role and duties, and provides a personalized list of the rights that you keep under the conservatorship and the rights that the court has ordered withheld from you.

1. a. The conservator of your ☐ person ☐ estate is

   (name):

   (address):

   (telephone number): *(email address):*

   b. ☐ The court has appointed a second conservator for you. The conservator of your ☐ person ☐ estate is

   (name):

   (address):

   (telephone number): *(email address):*

   c. ☐ The court has appointed more than two conservators for you. The name, contact information, and type of each additional conservator are stated on Attachment 1.

2. Your conservatorship is *(check all that apply):*

   a. ☐ A conservatorship **of the person.** This means that your conservator has powers and duties to arrange for your health care, make sure you have enough food and clothing, and make sure you live in a safe home.

   b. ☐ A conservatorship **of the estate.** This means that your conservator has powers and duties to manage your money and property for your benefit.

   c. ☐ A **limited** conservatorship. This means that your conservator has only the powers and duties specified in the court's appointment order. The court may have given the limited conservator powers and duties to provide for your personal care, manage your money or property, or both.

CONSERVATORSHIP OF THE ☐ PERSON ☐ ESTATE OF *(name):* CONSERVATEE	CASE NUMBER:

3. a. The name and contact information of the ***court investigator*** who was initially appointed in your conservatorship are:

   (name):

   (address):

   (telephone number): *(email address):*

   If you have questions or concerns about the conservatorship or your conservator's actions before an investigator visits, you can contact the investigator above to ask questions or express your concerns.

   b. The court will appoint a ***court investigator*** to monitor and review your conservatorship. It might be a different person from the investigator named above. The investigator will visit you within the next 12 months and explain your conservatorship to you; find out whether you want to change your conservator or end the conservatorship; determine whether you still need a conservatorship or need a conservatorship with different powers and rights; check whether the conservator is managing your living arrangements, personal care, and finances in your best interests; and determine whether you can communicate a desire to vote. After the visit, the investigator will file a report making recommendations to the court.

   c. If you want to ask the court to end or change your conservatorship, you can also contact the court investigator. The investigator will tell the judge in your case. The court may then set a hearing or notify your lawyer. If you don't have a lawyer and do not plan to get one, the court will appoint a lawyer to help you ask the court for the orders you want.

4. a. ☐ The court's self-help center has a ***conservatorship alternatives program***. The program can give you information and education about less restrictive alternatives to conservatorship, including supported decision-making agreements.

   b. You can contact the conservatorship alternatives program as shown below:

   (building address):

   (mailing address):

   (telephone number): *(email address):*

   The program is open from *(time):* to *(time):* on *(days):*

GENERAL RIGHTS UNDER A CONSERVATORSHIP

5. Under your conservatorship, you still have the right to:
   a. Make and communicate your own informed choices to the greatest extent possible.
   b. Be informed on a regular basis of the decisions your conservator has made for you.
   c. Remain as independent as possible and live in the least restrictive setting needed to protect your health and safety.
   d. Make or change your will.
   e. Enter into reasonable transactions to provide for your basic needs and those of your children and spouse or domestic partner.
   f. Have a lawyer represent you.
   g. Ask a judge to review your concerns about the conservatorship or your complaints about the actions of your conservator.
   h. Ask a judge to change your conservator.
   i. Ask a judge to end your conservatorship.

CONSERVATORSHIP OF THE ☐ PERSON ☐ ESTATE OF *(name):* CONSERVATEE	CASE NUMBER:

YOUR PERSONALIZED LIST OF RIGHTS UNDER THE CONSERVATORSHIP

The court's appointment order grants your conservator powers and modifies your rights as shown below and on the next page.

Note: Sometimes, the court will grant your conservator the power to make a decision and not withhold or take away your right to make the same decision. That means you can make that kind of decision alone, and your conservator can make that kind of decision alone only (1) if you do not object or (2) in an emergency.

6. **Powers and rights to provide for your personal care and safety** *(check all that apply):*

	Conservator has this power	You have this right	You do not have this right	Power or right to:
a.	☐	☐	☐	Decide where you live.
b.	☐	☐	☐	Make your own health-care decisions.
c.	☐	☐	☐	Decide who takes care of you.
d.	☐	☐	☐	Make decisions about your education.
e.	☐	☐	☐	Have your family and friends visit you.
f.	☐	☐	☐	Receive telephone calls.
g.	☐	☐	☐	Receive personal mail.
h.	☐	☐	☐	Receive personal email and text messages.
i.	☐	☐	☐	Control who has access to your confidential personal papers.
j.	☐	☐	☐	Decide whether you reside in a secured-perimeter residential care facility.
k.	☐	☐	☐	Decide whether you take medication to treat major neurocognitive disorders.
l.	☐	☐	☐	Decide who you can have social and sexual relationships with.
m.	☐	☐	☐	Decide whether you get married or form a domestic partnership.
n.	☐	☐	☐	Register to vote and cast your vote in local, state, and national elections.

o. ☐ More information about powers or rights related to your personal care and safety *(describe below):*

CONSERVATORSHIP OF THE ☐ PERSON ☐ ESTATE OF *(name):* CONSERVATEE	CASE NUMBER:

7. **Powers and rights to manage your income, money, and other property (estate or finances)** *(check all that apply):*

	Conservator has this power	You have this right	You do not have this right	Power or right to:
a.	☐	☐	☐	Directly receive and control your own wages or salary.
b.	☐	☐	☐	Take possession of and manage your money and property.
c.	☐	☐	☐	Control who has access to your confidential financial records or papers.
d.	☐	☐	☐	Make contracts or enter into transactions with your money or property *(check one):* ☐ All contracts and transactions. ☐ Only the contracts and transactions described in Attachment 7d.
e.	☐	☐	☐	Prosecute, defend, compromise, or settle claims by or against you or your estate *(check one):* ☐ All claims and proceeds. ☐ Only the claims and proceeds described in Attachment 7e.
f.	☐	☐	☐	Receive and control an allowance of *(amount):* $ of your own funds every *(time period):* for personal expenses.

g. ☐ More information about powers or rights related to managing your money or property *(describe below):*

Date:

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

(SIGNATURE OF PERSON COMPLETING THIS FORM)

(ROLE OR TITLE OF PERSON COMPLETING THIS FORM)

SPR25-24

Probate Conservatorships: Rights of Conservatees (Approve form GC-342; revise forms GC-341 and GC-341(MA))

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	Desiree Davis	AM	The font should be larger on the form providing information to the conservatees about the conservatorship.	The committee appreciates this comment. Although the Judicial Council form standards preclude increasing the size of the typeface, the committee has increased the space between items and between lines of text and made additional formatting changes to increase the readability and accessibility of forms GC-341 and GC-342.
2.	Hon. Michelle H. Gilleece, Judge Superior Court of California, County of San Bernardino Fontana	A	No further comment.	The committee acknowledges the commenter's support for the proposal. No response required.
3.	Orange County Bar Association by Mei Tsang, President	N	The Orange County Bar Association disagrees with this proposal and believes that it does not appropriately address the stated purpose of complying with amended statutory requirements. Clarity of the conservatee rights is an important objective since the statutes require the noticed information of rights to be "in plain language" (Probate Code 1835.5). It appears that Forms GC-341 and GC-342 overlap in significant areas. And it is not clearly stated why two forms are necessary to inform the conservatee of his/her rights. Nor is it clear why Form GC-341 only references Probate Code 1830 (Contents of the	The committee appreciates these comments. The forms overlap because they serve separate but overlapping statutory purposes. Probate Code section 1830(c) requires a conservator, within 30 days of appointment, to deliver to the conservatee a copy of the order of appointment—which, under section 1830(a), must include the name and contact information of the conservator and investigator—and an attached "information notice of the rights of conservatees." The statute also requires the Judicial Council to develop the required notice; this means that the notice developed by the council, form GC-341, is mandatory, as it has been since its adoption, effective January 1, 2008. Form GC-341 refers to sections 1830 and 2113 because it implements requirements established by

DRAFT

	Commenter	Position	Comment	Committee Response
			Conservatorship Order) and Probate Code 2113 (Fiduciary Duties of the Conservatorship), but fails to mention the basic requirements of Probate Code 1835.5 (Notice of Conservatee Rights). Form GC-342 appears to be more specific & personalized in contemplation of Probate Code 1835.5, while Form GC-341 appears to be more of a general form of advisement to all conservatees. They should be combined into one mandatory form for all courts.	those sections; it does not, and is not intended to, implement the requirements of section 1835.5. Form GC-342, on the other hand, is intended to implement section 1835.5. That section requires the court, within 30 days of appointing a conservator and annually thereafter, to provide specific information to a conservatee. The required information includes (but is not limited to) the name and contact information of the conservator, the investigator, the conservatorship alternatives program, and the "person to petition to end or change the conservatorship"; a description of the conservatorship; a description of the role and duties of the investigator; and a personalized list of the rights the conservatee retains under the conservatorship as well as any rights withheld by the court. Section 1835.5 does not require the use of a form to provide the required information. The descriptions above disclose multiple differences between the duty in Probate Code section 1830 and the duty in 1835.5, including: ● The *persons* subject to the duty (conservator v. court); ● The *manner* of performing the duty (deliver as permitted under section 1215 v. "provide"); ● The *scope* of required information (general rights of conservatees v. particular rights of the specific conservatee and names and contact information of conservator and investigator); ● The required *frequency* of the performance of

DRAFT

	Commenter	Position	Comment	Committee Response
				the duty (once v. annual); and • The requirement of a *form* (mandatory form v. no required form). These differences have led the committee to conclude that separate forms, one mandatory and one optional, will better serve to implement the requirements of the respective statutes.
			Finally, the OCBA disagrees that revisions should not be made to Form GC-348 "Duties of Conservator" to bring it in conformity with the amended statutes at this time due to lack of "current committee resources." Unless Form GC-348 is changed at the same time or shortly after, then the parties to conservatorships will face differing instructions, substantial confusion, and varying interpretations between the conservatee (and his/her counsel) and the conservator (and his/her counsel).	The committee agrees that form GC-348 should be updated as soon as possible and plans to do so at the first opportunity. However, any confusion caused by the updating of the forms at different times should be insignificant, in part because forms GC-341 and GC-348 already differ in multiple respects. In addition, the conservator and conservatee should not view either of these forms as "instructions," but only as general advisements of typical boundaries in a complex legal relationship. To the extent that the court gives "instructions" to a particular conservator, those are found in the appointment order and letters, as provided by the applicable provisions of the Probate Code and California Rules of Court, and supplemented by orders issued over the duration of the conservatorship.
			If for economic reasons it is not possible to revise Form GC-348 at this time nor combine the Forms GC-341 and GC-342 into one form then the language on the last paragraph of page 2 of Form GC-341 should be highlighted and bolded to better advise the conservatee of his/her other rights.	The committee agrees with the suggestion to make the last paragraph on page 2 of form GC-341 more prominent. The committee has modified its recommendation to add a border around the paragraph and add a heading in bold type.

DRAFT

SPR25-24

Probate Conservatorships: Rights of Conservatees (Approve form GC-342; revise forms GC-341 and GC-341(MA))

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
4.	Superior Court of California, County of Los Angeles by Stephanie Kuo, Legislative Analyst	A	*[Does the proposal appropriately address the stated purpose?]* Yes, the proposal appropriately addresses the stated purpose. *[Would the proposal provide cost savings? If so, please quantify.]* The proposal will not provide cost savings. *[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?]* To implement, the Court will need to add the revised form GC-341 to its conservatorship packet. It will also need to add the updated form information to the Probate Legal Unit (PLU) in case review. *[Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?]* Three months from Judicial Council approval should be sufficient time for implementation. *[How well would this proposal work in courts of different sizes?]* The proposal would work well across courts of	The committee appreciates these comments. No response required. No response required. No response required. The committee notes that this year only two months will pass between Judicial Council approval and the effective date of the forms. Other courts have indicated that this lead time is sufficient; the committee hopes it will also work for the Los Angeles superior court. No response required.

DRAFT

SPR25-24
Probate Conservatorships: Rights of Conservatees (Approve form GC-342; revise forms GC-341 and GC-341(MA))
All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			different sizes.	
5.	Superior Court of California, County of San Bernardino by Probate Committee staff	NI	*Does the proposal appropriately address the stated purpose?* Yes, the proposal addresses the stated purpose. *The committee has proposed form GC-342 for optional use. Would the alternative of adopting it for mandatory use instead of optional use unduly interfere with existing trial court practices or otherwise impose an undue burden on the courts?* Using this form as mandatory use would be beneficial by remaining consistent in what is required. There is no anticipation of an undue burden on the courts. *Would the proposal provide cost savings? If so, please quantify.* No, there would be costs making this form available and printing and providing the form to the party. *What would the implementation requirements be for courts—for example, training staff (please*	The committee appreciates these comments. No response required. The committee agrees that a mandatory statewide form would create greater consistency. The statute, however, specifies the content of the required notice in such detail that any marginal increase in consistency attributable to a mandatory form would be outweighed by the costs incurred by courts that have already developed a local form that faithfully implements the statute. In addition, the San Diego court stated that a mandatory form would impose a burden on the court, and the JRS noted that an optional form would not burden the courts. The committee therefore recommends approval of form GC-342 for optional use. No response required.

DRAFT

	Commenter	Position	Comment	Committee Response
			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? Creating entry code in the case management system. Training staff to provide this form. Revising process/procedure. *Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?* Yes. *How well would this proposal work in courts of different sizes?* Unknown.	 No response required. No response required. No response required.
6.	Superior Court of California, County of San Diego by Mike Roddy, Executive Officer	AM	*Does the proposal appropriately address the stated purpose?* Yes. *The committee has proposed form GC-342 for optional use. Would the alternative of adopting it for mandatory use instead of optional use unduly interfere with existing trial court practices or otherwise impose an undue burden on the courts?* Yes. As noted in the proposal, this legislative requirement was effective January 1, 2023, which required courts to adopt local forms and configure case management systems to meet this new requirement. In San Diego, we were able to configure a form to be generated out of the case management system. Once the conservatorship	The committee appreciates these comments. No response required. The committee recognizes the potential burden on court operations of adopting form GC-342 for mandatory use and therefore continues to recommend its approval for optional use.

DRAFT

	Commenter	Position	Comment	Committee Response
			is established, entries are made to populate conservatee powers/rights in the initial form. Once the initial data entry is complete and no changes in the conservatorship occur, we are able to print the form each year and batch mail it to the conservatee. If this form was mandated, we would have to have staff manually complete the information each year in addition to manually printing and mailing. This would be a significant increase in workload. *Would the proposal provide cost savings? If so, please quantify.* No, as mentioned in the previous question, if we were to implement this new form, it would be an increase in workload and staffing needs. *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?* If we were to implement this new form, the clerical staff would need a significant amount of training regarding which boxes to mark, based on what is on the order and Letters of Conservatorship. Additionally, we would need to update the case management system. *Would two months from Judicial Council approval of this proposal until its effective date*	See response to previous comment. No additional response required.

DRAFT

	Commenter	Position	Comment	Committee Response
			provide sufficient time for implementation? If the form remains optional, yes.	No response required.
			How well would this proposal work in courts of different sizes? It appears the proposal would work for courts of all sizes.	No response required.
			GC-341—*Notice of Conservatee's Rights* ● **Title:** It does not seem necessary to retitle the form when the proposed new form's title does not contain a possessive for "Conservatee." The forms are distinguished enough as currently titled. This minor change will require case management system updates which would otherwise not be needed.	The committee agrees and has modified its recommendation accordingly.
			● **Item #2:** Should the two powers relating to major neurocognitive disorder be included here? When investigators encounter a conservatee taking MNCD medication or living in a secured facility and the conservator(s) do not have those powers, this is brought to the court's attention. In other words, if the conservators do not have these powers, does the conservatee have the power to self-medicate or choose to live in a secured facility?	The committee has modified item 2 to indicate that, in the absence of a court order limiting or modifying the right to refuse or consent to medical treatment, a conservatee retains the right to refuse or consent to take medications for treatment of a major neurocognitive disorder even though the conservator may not authorize such treatment. On the other hand, a conservator of the person has the power to establish the conservatee's residence in California; the conservatee does not have that right unless the court affirmatively grants it. The conservatee may not, therefore, choose to live in a secured-perimeter residential facility if the conservator chooses a less restrictive residence. The conservatee does, however, retain the right to refuse to live in such a facility unless the court has authorized the conservator under section 2356.5(b)

DRAFT

	Commenter	Position	Comment	Committee Response
				to place the conservatee there.
			● **Item #3:** Propose striking the language noted here: *A conservatee may also engage in other activities if the court has expressly allowed them in an order made at the time of the conservator's appointment or later on a request for authority or permission to engage in the activity.*	The committee does not recommend deleting the entire sentence but has shortened it.
			● **Item #4:** Propose striking, "in an order" from the intro statement and insert "has" before "also taken the right away from the conservatee."	The committee agrees and has modified its recommendation accordingly.
			● **Final Paragraph:** Propose striking, "assigned to your case," in reference to the court investigator. Not all counties assign an investigator for the duration of the case. Ours are rotated for the review investigations. The proposed GC-342 refers to the "initially appointed" court investigator.	The committee agrees and has modified its recommendation accordingly.
			GC-342*—Personalized Information for Conservatee—Probate*	
			● **Header:** Based on the header, it is unclear who will be completing this form. Probate Code section 1835.5 requires the court to provide the information to the conservatee; however, the form includes a header for an attorney or party without attorney.	The committee agrees that it is not clear who must complete the form. The statute requires the court to *provide* the information but does not require the court to create or develop the information. Just as many courts require parties to complete proposed orders and attachments for the court's adoption and signature, courts could also direct the petitioner or conservator or their counsel to complete this form for the court's use. The committee expects that if court staff complete the

DRAFT

	Commenter	Position	Comment	Committee Response
				form, they may leave the Attorney/Party info box at the top of page 1 blank.
			• **Caption:** Propose adding a check box for "Limited Conservatorship," to clearly identify the type of conservatorship.	The committee agrees in principle with the suggestion and recommends adding a check box to the captions of forms GC-341 and GC-342 for use to indicate that the subject of the proceeding is a limited conservatee.
			• **Item #3b:** Propose striking, "If your conservatorship goes well…" The Court Investigator is required to review the conservatorship whether it goes well or not. The court is unclear regarding the intent of this statement. If it does not go well (i.e., APS referral), they may review sooner? Also propose replacing "decide" and "check on" with "determine."	The committee agrees in part with the suggested change and has modified the language recommended in item 3b.
			• **Item #5b:** Propose striking, "on a regular basis." This phrasing is open to interpretation, better to leave it out.	The committee does not recommend the suggested change. This particular language is drawn directly from section 2113 of the Probate Code. Removing it from the form would entail reading the language out of the statute. The committee declines to do that.
			• **Item #5f:** Propose striking "to." "Have a lawyer to represent you."	The committee agrees with the suggestion and has modified it recommendation accordingly.
			• **Item #5g:** "Ask a judge to review your concerns about the conservatorship or your complaints about the actions of your conservator." This is not mentioned in Probate Code section 1835.5. What is the basis for including it here?	Probate Code section 1835.5 does not purport to set forth an exhaustive list of a conservatee's rights or to limit the information to be sent to the conservatee. Probate Code sections 2359 and 2403 authorize a conservatee to file petitions asking the court to instruct, respectively, the conservator of

DRAFT

	Commenter	Position	Comment	Committee Response
				the person and of the estate. Section 2403(a) specifies that the petition and instructions may address "the administration, management, investment, disposition, care, protection, operation, or preservation of the estate, or the incurring or payment of costs, fees, or expenses." Section 2359 places no such limit on the subjects that may be addressed by the petition or instructions in a conservatorship of the person. In some circumstances, section 1852 requires the court to notify the conservatee's attorney, if any, or to appoint counsel to file the petition and represent the conservatee.
			• **Item #5h:** Propose adding an "(s)" to conservator.	The committee does not recommend the suggested change. Rule 1.5(d)(3) of the California Rules of Court provides that "[e]ach number (singular or plural) includes the other." That principle of construction applies to the language of Judicial Council forms as well, and the suggested change is therefore unnecessary.
			• **Item #6:** Having three columns to mark can be confusing for the person completing the form and may contribute to incorrect information being sent out. Our local form pared it down to two columns, "Your Rights" and "Rights that are No Longer Yours and/or Belong to Conservator(s)."	The committee does not recommend the suggested change, as it would not capture those acts or decisions that are within the authority of both the conservator and conservatee, for example, the authority under section 2354 to give informed consent to the conservatee's medical treatment. In those circumstances, it would be inaccurate to indicate that the authority or right belongs to the conservator and that it is no longer the conservatee's.
			• **Item #6h:** The Probate Code does not currently reference conservatee's right to	The committee has interpreted the scope of the legislative intent underlying section 2351(a) to

DRAFT

	Commenter	Position	Comment	Committee Response
			receive email or text messages. Is the assumption that this falls under Probate Code section 2351 and a specific order granting this power to the conservator(s) is required?	encompass all commonly used modes of informal communication.
			• **Item #6p:** An additional line item is needed for the right to contract. This is typically captured under the Estate section, but for limited conservatorships, this is one of the standard seven powers that can be "limited." See 2351.5(b)(4): The right of the limited conservatee to contract. If this is a limited conservatorship of the person only, we would need a box to mark under the person section. It wouldn't make sense to mark it under the estate section if there is no conservatorship of the estate.	The committee does not recommend the suggested change. Although item 6 focuses on personal care and item 7 focuses on estate management, both items should be completed for every conservatorship to indicate the rights retained by the conservatee as well as those limited by the court. Item 7 includes an opportunity to describe the allocation of the right to contract between the conservator and conservatee. If the court has not limited the right to contract of a limited conservatee of the person, item 7 would indicate that the conservatee retains the right to contract.
			• **Item #7e:** The second checkbox should reference Attachment 7e, rather than 7d.	The committee has corrected the error.
			• **Item #7f:** We would prefer the form not specify the amount or time period for the allowance. This could change at every accounting and it would be an undue burden for the person preparing this form to have to research and confirm the allowance has not changed.	The committee does not recommend the requested change. The bare fact that the court has ordered an allowance without specification of the amount and frequency is of little value to the conservatee. Furthermore, section 1835.5 requires the court to provide the conservatee with updated information annually; after the first year, that is twice as frequently as a conservator of the estate must file an accounting. (See Prob. Code, § 2620(a) (accounting due 1 year after appointment and biennially thereafter).) The annual updates require staff to determine not only whether the court has modified the allowance but whether it has made any other orders affecting the conservatorship.

DRAFT

	Commenter	Position	Comment	Committee Response
			● **Clerk's Certificate:** The Probate Code does not require a certified copy be provided to the conservatee. ● **Service:** Since the Court is required to provide this information to the conservatee, the form should include a Clerk's Certificate of Service by Mail.	The committee agrees and has modified its recommendation to remove the clerk's certificate. The requirement of a certificate would impose an unnecessary burden on the courts. The committee does not recommend the suggested change. In the absence of statutory direction, the committee prefers to leave each court free to document its processes in the manner best suited to its local practices and case management system.
7.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and Court Executives Advisory Committee (CEAC) Joint Rules Subcommittee ("JRS")	A	The JRS notes that the proposal is required to conform to a change of law. The JRS also notes the following impact to court operations: ● Impact on existing automated systems. o Some counties have created local rules and forms to implement the statute and have a local Personalized Information Conservatee form. The statewide optional form will not burden those counties. Counties without a form may find that the form saves time and they will need to add it to their case management systems or websites. ● Results in additional training, which requires the commitment of staff time and court resources. o Staff will need to be trained on the new form. However, court attorneys should already be familiar with the rights;	The committee appreciates these comments. No further response required. The committee recognizes that some courts have created local forms to implement the requirements of Probate Code section 1835.5 and therefore continues to recommend the approval of form GC-342 for optional use. No response required.

DRAFT

SPR25-24

Probate Conservatorships: Rights of Conservatees (Approve form GC-342; revise forms GC-341 and GC-341(MA))

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			courtroom assistants may find this form easier to enter than individually written orders; and court technology support just needs to add forms or links to its website which should take little time.	

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RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: September 11, 2025

Rules Committee action requested [Choose from drop-down menu below]:
Recommend JC approval (has circulated for comment)

Title of proposal: Family Law and Protective Orders: Implementation of SB 599 and AB 3072

Proposed rules, forms, or standards (include amend/revise/adopt/approve)*:*
Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; approve forms DV-105-INFO, DV-150; FL-311-INFO, and FL-351; and revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), and FL-355.

Committee or other entity submitting the proposal:
Family and Juvenile Law Advisory Committee

Staff contact (name, phone and email)*: Frances Ho, 415-865-7662, frances.ho@jud.ca.gov; Gabrielle D. Selden, 415-865-8085, 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*): October 22, 2024; Amended November 26, 2024
Project description from annual agenda: Item 1. Project Summary: 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 (Item 1c: AB 3072 (Petrie-Norris) Child custody: ex parte orders (Stats. of 2024, Ch. 317).

Item 5.Project Summary: As directed by the Ad Hoc Workgroup on Post-Pandemic Initiatives (P3), develop materials to ensure that court-ordered virtual visitation works effectively when in-person visitation is not feasible. As P3 has noted: Virtual visitation can promote relationships between parents and children and between children and their siblings. Virtual visitation can also help improve (1) co-parenting relationships between foster caregivers and parents working to reunify with their children in the dependency system, (2) co-parenting relationships between parents who have children involved in the juvenile justice system, and (3) coparenting relationships with parents involved in family court matters. In addition, Senate Bill 599 (Stats. of 2023, Ch.493) requires the council to develop standards for supervised visitation providers. The committee will develop a proposal responsive to the P3 directive and SB 599.

Out of Cycle/Early Implementation: *If requesting July 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)* 07/28/2025
  ☒ approved by Office Director (or Designee) (*name*) Anna Maves, Principal Managing Attorney

on (date) 07/31/2025

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

REPORT TO THE JUDICIAL COUNCIL

Item No.: 25-157
For business meeting on October 24, 2025

Title
Family Law and Protective Orders: Implementation of Senate Bill 599 and Assembly Bill 3072

Rules, Forms, Standards, or Statutes Affected
Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; approve forms DV-105-INFO, DV-150, FL-311-INFO, and FL-351; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), and FL-355

Recommended by
Family and Juvenile Law Advisory Committee
Hon. Tari L. Cody, Cochair
Hon. Stephanie E. Hulsey, Cochair

Report Type
Action Required

Effective Date
January 1, 2026

Date of Report
August 20, 2025

Contact
Frances Ho, 415-865-7662
frances.ho@jud.ca.gov

Gabrielle Selden, 415-865-8085
gabrielle.selden@jud.ca.gov

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Executive Summary

To implement Senate Bill 599 (Caballero; Stats. 2023, ch. 493) and Assembly Bill 3072 (Petrie-Norris; Stats. 2024, ch. 317), the Family and Juvenile Law Advisory Committee recommends adopting a new rule of court; amending a standard of judicial administration; and approving and revising domestic violence restraining order and family law forms. The committee also recommends minor technical changes to two domestic violence information forms.

Recommendation

To implement the requirements of SB 599 and AB 3072, the Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2026:

1. Adopt rule 5.252 of the California Rules of Court;

2. Amend standard 5.20 of the California Standards of Judicial Administration;

3. Approve two forms in the DV series:
   - *Asking for Child Custody and Visitation Orders* (form DV-105-INFO); and
   - *Mandatory Findings for Child Custody and Visitation Order* (form DV-150);

4. Revise five forms in the DV series:
   - *Request for Child Custody and Visitation Orders* (form DV-105);
   - *How Can I Respond to a Request for Domestic Violence Restraining Order?* (form DV-120-INFO);
   - *Child Custody and Visitation Order* (form DV-140);
   - *How Do I Ask to Change or End a Domestic Violence Restraining Order?* (form DV-300-INFO); and
   - *How Do I Ask the Court to Renew My Restraining Order?* (form DV-700-INFO);

5. Approve two forms in the FL series:
   - *What Are Visitation or Parenting Time Orders?* (form FL-311-INFO); and
   - *Mandatory Findings for Child Custody and Visitation (Parenting Time) Orders* (form FL-351);

6. Revise six forms in the FL series:
   - *Information Sheet for Request for Order* (form FL-300-INFO);
   - *Temporary Emergency (Ex Parte) Orders* (form FL-305);
   - *Child Custody and Visitation (Parenting Time) Application Attachment* (form FL-311);
   - *Declaration of Supervised Visitation and Exchange Services Provider (Nonprofessional)* (form FL-324(NP));
   - *Declaration of Supervised Visitation and Exchange Services Provider (Professional)* (form FL-324(P));
   - *Child Custody and Visitation (Parenting Time) Order Attachment* (form FL-341);
   - *Supervised Visitation (Parenting Time) and Exchanges Order* (form FL-341(A)); and
   - *Stipulation and Order for Custody and/or Visitation (Parenting Time)* (form FL-355).

The proposed new rule and standard and new and revised forms are attached at pages 13–82.

Relevant Previous Council Action

The council has not previously taken action on a proposal to implement SB 599 or AB 3072. However, from April 2 to May 3, 2024, two separate invitations to comment relating to SB 599 circulated for public comment: one to make necessary changes to family law rules and forms and

DRAFT

one to make necessary changes related to domestic violence forms.[1] Instead of recommending those proposed revisions with a January 1, 2025, effective date, the Family and Juvenile Law Advisory Committee decided that the proposals should be combined and circulated for comment in April 2025, to (1) respond to commenters who suggested more significant changes to the domestic violence and family law forms to implement the new laws around virtual visitation and (2) seek comment on two new forms developed to document mandatory findings related to child custody and visitation, including findings required by SB 599.[2]

The council has adopted and approved revisions to the standard and forms in this report when changes to the law so required and in response to suggestions made by the public, judicial officers, and court professionals. With respect to:

- The DV forms, forms DV-105 and DV-140 were last revised in 2024 to make minor technical changes. Form DV-700-INFO was last revised in 2024 to implement new laws and form DV-300-INFO was approved in 2025 to implement a new law that required the council to create a specific set of forms in the DV series for requests to modify domestic violence restraining orders.[3]

- Standard 5.20 and forms FL-324(NP) and FL-324(P), they were amended and revised, effective January 1, 2021, to reflect additional requirements for professional providers of supervised visitation mandated by Family Code section 3200.5.

- The FL forms, form FL-300-INFO was revised, effective January 1, 2025, to add information about how to ask the court to modify or terminate a domestic violence restraining order; form FL-305 was revised, effective July 1, 2016, to include technical changes requested by court professionals; forms FL-311 and FL-341 were revised, effective January 1, 2023, to reflect amendment to Family Code section 3011; form FL-341(A) was revised, effective January 1, 2015, to eliminate references to "therapeutic visitation" under Family Code section 3200.5; and form FL-355 was approved effective January 1, 2004, to provide a standard stipulation form for parents to ask the court to adopt their parenting plan as the court's order.

DRAFT

[1] Judicial Council of Cal., Invitation to Comment SPR 24-25, *Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92*, *https://courts.ca.gov/system/files/itc/spr24-25.pdf*; and Judicial Council of Cal., Invitation to Comment SPR 24-26, *Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599*, *https://courts.ca.gov/system/files/itc/spr24-26.pdf.*

[2] SB 599 added Family Code section 3011(e), which requires the court to make findings if a party is staying in a confidential location due to domestic violence.

[3] Fam. Code, § 6345e.

Analysis/Rationale

Effective January 1, 2024, SB 599 made a number of changes to Family Code sections 3011, 3100, and 3200 regarding child custody and visitation orders. They included the following:

- For child custody and visitation orders in cases where there are allegations of a history of abuse or substance abuse by a parent, the court must state in writing or on the record that the order "protects the safety of the parties and the child," in addition to being in the best interests of the children;[4]

- When a domestic violence restraining order has been made, the court must consider whether the best interests of the child require the court to make virtual visitation orders, in addition to considering whether visits should be suspended or denied;[5]

- Virtual visitation is defined as the "use of audiovisual electronic communication tools to provide contact between a parent and their children as part of a parenting plan or custody order. Virtual visitation may be supervised or unsupervised, based on the court's determination of what is in the best interests of the child";[6] and

- If the court finds that a party is living in a domestic violence shelter or other confidential location, the court must consider a number of factors in deciding whether in-person visitation is in the best interests of the children.[7]

Effective January 1, 2025, AB 3072 amended Family Code section 3064 to require the court to consider a parent's illegal access to firearms or ammunition when deciding whether there is an immediate harm to a child for purposes of modifying a custody or visitation order on an ex parte basis.[8]

New rule of court and standard of judicial administration

To implement SB 599, the committee recommends adopting California Rules of Court, rule 5.252 (Guidelines for developing parenting plans and issuing court orders involving virtual visitation). The rule will provide guidelines applicable to orders for virtual visitation made in all proceedings under the Family Code. Specifically, the rule lists factors that parents and the court should consider to ensure that parenting plans and orders for virtual visits result in meaningful parenting time (e.g., ensuring that parties have access to technology to enable virtual visitation). The rule also contains factors that the court is already statutorily required to consider that are relevant to any parenting plan that includes virtual visits.

DRAFT

[4] Fam. Code, § 3011a(2)(B)(5)(A).

[5] *Id.*, § 3100(b).

[6] *Id.*, § 3100(e).

[7] *Id.*, § 3100(d)(2).

[8] AB 3072 also amended Family Code section 3100, but those amendments do not require form revisions.

To reflect the amendments to Family Code sections 3100 and 3200 made by SB 599, the committee also recommends amending standard 5.20 of the California Standards of Judicial Administration (Uniform standards of practice for providers of supervised visitation) as follows:

- Adding a reference to "virtual visitation" in subdivision (a)(2)(B);
- Expanding the definition of "provider" in subdivision (b)(3) to include employees designated by the superior court to provide visitation and exchange services or assist with those services;
- Adding subdivision (b)(7) to define "virtual visitation" as it appears in section 3100; and
- Adding subdivision (s) to require professional and nonprofessional providers to consider specific issues and require professional providers to have written policies and procedures in place before commencing virtual visitation services.

In addition to changes that reflect SB 599, the committee recommends reformatting subdivision (a) of the standard to make it easier to read. The committee also recommends a global change to the standard to specify that it applies to supervised exchange services in addition to supervised visitation services. This change aligns the standard with Family Code section 3200.5 (Supervised Visitation and Exchange Services, Education, and Counseling). To this end, the committee recommends replacing references to "supervised visitation" with "supervised visitation and exchange services."

Forms for mandatory findings: DV-150, FL-351, FL-355

The committee recommends approving two new optional forms and revising one optional form to document certain mandatory findings related to child custody and visitation orders, as required by SB 599, AB 3072, and existing law.[9]

If findings are required in a domestic violence restraining order matter, the court could use *Mandatory Findings for Child Custody and Visitation Order* (form DV-150) to capture written findings required under certain provisions of the Family Code. *Mandatory Findings for Child Custody and Visitation (Parenting Time) Orders* (form FL-351) would be used in the same way as form DV-150 for custody and visitation orders issued in family court.[10] For example, form FL-351 could be used when a domestic violence case has been consolidated with a family law action (a divorce, nullity, legal separation, parentage case) and when a party files an action in family court to change the custody and visitation orders that remain in effect after the domestic violence restraining order after hearing has expired.

Additionally, the committee recommends revising *Stipulation and Order for Custody and/or Visitation (Parenting Time)* (form FL-355), which serves as the cover sheet of the parents'

[9] The proposed forms also contain findings required under Family Code sections 3011 and 3044.

[10] Form FL-351 circulated for comment as form FL-341(F).

DRAFT

agreement about child custody and visitation (parenting time), to add new headings, a new item 5b on page 1, and to move the court's findings and order to a new second page. The proposed revisions make clear that the court is required to make mandatory findings in cases involving allegations of abuse, substance abuse, or domestic violence, even when the parties have an agreement. The committee also recommends revising the title of form FL-355 to delete "Visitation of Children" and replace it with "Visitation (Parenting Time)." This change would make the form consistent with the title of the forms it references.

Changes to child custody and visitation request forms: DV-105, FL-311

To implement SB 599, the committee recommends incorporating virtual visitation as an option for parenting time in two forms. Virtual visitation is added as an option at items 10, 12, and 13b on *Request for Child Custody and Visitation Orders* (form DV-105) and items 3c, 4b, and 6e on *Child Custody and Visitation (Parenting Time) Application Attachment* (form FL-311). For form DV-105, the committee also recommends adding an instruction at item 4 to highlight the importance of completing the item, reformatting and revising the informational boxes on page 4, and listing professional provider information before nonprofessional provider information at items 12 and 13a.

For form FL-311, the committee proposes additional substantive revisions to educate form users about child custody and visitation, and to improve the user's experience with completing the form. The changes include:

- Inserting information in a notice box on page 1 about California's public policies regarding child custody and visitation;
- Reformatting item 2, the request for custody, to look more like the request for custody on the petitions and responses to petitions filed in family court;
- Reformatting the table in item 4 to make the proposed visitation (parenting time) schedule easier to complete and read;
- Relocating the request for child custody and visitation (parenting time) for cases involving allegations of a history of abuse or substance abuse from items 2 and 3 to item 5 and consolidating them into one item; and
- Moving the request for child custody mediation from item 4 to item 10 and adding information about mandatory mediation and the ability of a party to ask for separate sessions at separate times for cases involving domestic violence.

Changes to child custody and visitation order forms: DV-140, FL-341, FL-341(A)

For order forms, the committee recommends adding virtual visitation at items 9e, 10d, 12, and 13 on *Child Custody and Visitation Order* (form DV-140), item 9e on *Child Custody and Visitation (Parenting Time) Order Attachment* (form FL-341), and item 6a(2) on *Supervised Visitation (Parenting Time) and Exchanges Order* (form FL-341(A)).

DRAFT

The committee also recommends additional changes to form DV-140, which include:

- Making professional and nonprofessional supervised visitation separate items (items 9 and 10);

- Adding an option to name an alternate provider for professional supervised visitation, in the event that the chosen provider is unavailable and an option for the court to indicate whether a party was provided with a list of providers (item 9b);

- Removing the space (at items 7c and 11a of the existing form DV-140) for the court's reasons for granting sole custody, joint custody, or unsupervised visits to the restrained person as this information is now contained on proposed form DV-150;

- Adding *Mandatory Findings*, at item 14, for the court to indicate whether findings are required, and if required, whether they were made on the record or in writing; and

- Adding *Criminal Protective Order*, at item 16, to allow the court to list any relevant criminal protective orders, as required under Family Code section 3100(c).

The committee recommends additional changes to form FL-341, which include:

- Revising the order for the parties to attend mediation in item 6 to accommodate courts that do not specify the exact date, time, and location of the mediation on the order;

- Adding item 7b to allow the parties or the court to attach *Joint Legal Custody Attachment* (form FL-341(E)) or Attachment 7b to identify orders for joint legal custody;

- Adding a reference to proposed new form FL-351 in item 8; and

- Reformatting item 9 regarding visitation to match the formatting in form FL-311.

The recommended additional changes to form FL-341(A) include:

- Expanding the form to two pages and updating and reformatting the content to align with the content of form DV-140 related to supervised visitation;

- Separating the orders for professional and nonprofessional providers into items 4 and 5, adding links to online resources for the nonprofessional provider in item 5, and adding a new section to provide more detailed orders for supervised exchanges;

- Adding checkboxes below the title in the header to allow the court to specify whether the form is an attachment to form FL-341 or to another form; and

- Removing the line for the date and signature of the judicial officer to reflect that the form is an attachment to an order (and that the order itself will contain the judicial officer's signature).

DRAFT

Changes to implement AB 3072: forms DV-120-INFO, FL-300-INFO, FL-305
To implement AB 3072, the committee recommends revising several forms.

How Can I Respond to a Request for Domestic Violence Restraining Order? (form DV-120-INFO) would be revised to include information about the impact of a parent having illegal access to firearms or ammunition on custody and visitation orders.[11]

Information Sheet for Request for Order (form FL-300-INFO) would be updated at item 9 to clarify the definition of "immediate harm to a child" and specify that, under AB 3072, the court must consider whether a parent has illegal access to firearms or ammunition when deciding whether there is immediate harm to a child. Other minor changes are proposed at items 3d and 3g to indicate that a form listed may or may not be one that a party is required to file.

The committee recommends revising items 2 and 3 of *Temporary Emergency (Ex Parte) Orders* (form FL-305) to more clearly state the requirements under Family Code section 3064 when the court is determining that the party has shown immediate harm to a child that requires temporary emergency orders to protect the child or children. The orders relating to child abduction prevention would be moved from item 3d on the current form to item 3b to emphasize that the court may also make temporary emergency orders for child custody under section 3064 if there is an immediate risk that the child will be removed from the State of California.

New INFO forms on child custody and visitation: DV-105-INFO, FL-311-INFO
The committee recommends new information forms on child custody and visitation orders for the DV and FL form series. Commenters in a previous forms proposal suggested adoption of this type of information sheet, which the committee agreed would be beneficial to parties in domestic violence and family law matters. In addition, the information sheets respond to the direction of the Ad Hoc Workgroup on Post-Pandemic Initiatives that the Judicial Council develop materials to ensure that court-ordered virtual visitation works effectively when in-person visitation is unfeasible.[12]

In domestic violence cases, it is particularly important for parties to be informed of the various options for visitation (e.g., supervised visits, supervised exchanges) and laws around child custody. *Asking for Child Custody and Visitation Orders* (form DV-105-INFO), would provide this information and would include information on virtual visitation. Additionally, to implement AB 3072, form DV-105-INFO would include information about the impact of a parent having illegal access to firearms or ammunition on custody and visitation orders.

[11] The recommended revisions to implement AB 3072 are highlighted in yellow. In a separate proposal, the committee is recommending revisions to form DV-120-INFO to add information (highlighted in grey) to implement Assembly Bill 2759. See Judicial Council of Cal., Advisory Com. Rep., *Protective Orders: Changes to Domestic Violence and Juvenile Forms to Implement Assembly Bill 2759* (pending).

[12] Judicial Council of Cal., Advisory Com. Agenda., *Family and Juvenile Law Advisory Committee Annual Agenda—2025* (Oct. 22, 2024), item 5, *https://courts.ca.gov/documents/famjuv-annual.pdf*.

DRAFT

For family law cases, *What Are Visitation or Parenting Time Orders?* (form FL-311-INFO) would help educate parties and court professionals about four types of visitation orders and would define *virtual visitation* and other terms. This proposed form also includes links to existing information sheets relating to child custody, because the information is also essential for parties' understanding of how to develop parenting plans or request court orders. Finally, it includes links to form DV-105-INFO and resources to find legal help, as well as a worksheet for parents to use to help plan for virtual visits with their children, whether or not they are supervised by court order.

Other forms that require changes: DV-300-INFO, DV-700-INFO, FL-324(NP), FL-324(P)
In addition to the proposed form revisions to implement SB 599 and AB 3072, the committee proposes minor revisions to four forms.

Revisions are needed to *How Do I Ask to Change or End a Domestic Violence Restraining Order?* (form DV-300-INFO) to correct references to form DV-310 and to instruct restrained persons to use *Proof of Personal Service* (form FL-330) instead of form DV-200, which can only be used by the protected person.

How Do I Ask the Court to Renew My Restraining Order? (form DV-700-INFO) also requires a minor change. On page 1, under the paragraph "What if I want to change (modify) my restraining order?," the reader should be directed to form DV-300-INFO instead of DV-400-INFO. The latter was revoked and replaced with form DV-300-INFO, which outlines the new process for requesting a change to a domestic violence restraining order.

The committee also recommends revising *Declaration of Supervised Visitation and Exchange Services Provider* (Nonprofessional) (form FL-324(NP)) and *Declaration of Supervised Visitation and Exchange Services Provider* (Professional) (form FL-324(P)) to specify that they apply to supervised exchange services, as well as to supervised visitation services. This change is consistent with the changes being proposed to standard 5.20 of the Standards of Judicial Administration.

Policy implications
In addition to implementing legislative changes, this recommendation promotes Goal I, "Access, Fairness, Diversity, and Inclusion," of the *Strategic Plan for California's Judicial Branch*[13] by providing procedures and forms that are efficient and easy to understand.

Comments from prior circulations
The Family and Juvenile Law Advisory Committee proposed new and revised DV forms to implement SB 599 in an invitation to comment that circulated from April 2 to May 3, 2024, as SPR24-25. As a result of comments received on that proposal, the committee deferred the

[13] For information about the *Strategic Plan for California's Judicial Branch*, visit *https://courts.ca.gov/policy-administration/judicial-council/judicial-branch-strategic-plan*.

DRAFT

portion of the proposal that implemented SB 599. The comments received on that proposal that relate to implementation of SB 599 are included in Attachment A.[14]

At the same time, the committee also proposed new and revised FL forms to implement SB 599 in a separate invitation to comment, SPR24-26. The comment chart from this circulation is included in this report as Attachment B.

Comments

This proposal was circulated for public comment from April 14 through May 23, 2025. The proposal received twelve comments: Three were from superior courts; two were from bar associations; two were from agencies that serve, or advocate on behalf of, survivors of domestic violence;[15] one was from a professional association of supervised visitation providers; and one was from the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee; and two were from individuals. Four agreed with the proposal; four agreed, if modified; four did not indicate a position; and no commenter disagreed with the proposal.

The substantive comments and the committee's responses are summarized below. All comments and the committee's responses are provided in the comment chart, at pages 83–149.

Changes to rule 5.252

Some commenters suggested making the guidelines in rule 5.252 mandatory. The committee decided that not all of the guidelines should be mandatory. Instead, the committee decided to reorganize the rule to set out those guidelines that incorporate references to Family Code sections (legislatively required considerations) and those that do not. When making an order for virtual visitation, the rule provides that judicial officers and parties developing parenting plans must consider the guidelines listed in rule 5.252(b)(1) and should, but are not required to, consider the guidelines listed in rule 5.252(b)(2).

Forms DV-150 and FL-351

The committee sought comment on whether forms DV-150 and FL-351 should be mandatory or optional. As stated by commenters, mandatory forms provide statewide consistency and minimize errors from using varying formats. While the committee recognized the benefits of mandatory forms, the committee concluded that the forms should be optional to provide judicial officers flexibility. The committee noted that the evidence presented in cases can vary widely. While these forms may work for simpler cases, the format of the forms would not work for more complex cases. Because of the set format, judicial officers who require more space would likely use a separate document to record their written findings and attach it to these multipage forms,

[14] All comments received on SPR24-25, including those unrelated to implementation of SB 599, are attached to the Judicial Council report entitled *Protective Orders: Implementation of Body Armor Restrictions Under Assembly Bill 92*, available at *https://jcc.legistar.com/View.ashx?M=F&ID=13261944&GUID=F6EF8BFC-C1D4-44F5-9149-344CDDAF4C73*.

[15] One of these comments was from a group of 13 agencies.

which would not promote consistency and would lead to varying formats. The new forms are recommended as optional to provide a new tool and best practice for judicial officers.

In light of comments received, the committee considered whether forms DV-150 and FL-351 (proposed as form FL-341(F)) should be attachment forms as proposed in the invitations to comment. The committee concluded that the proposed forms should be standalone forms to protect the privacy of litigants in these matters, as findings can contain sensitive facts or credibility determinations. Because parents may provide custody and visitation orders to law enforcement or children's schools, ensuring that findings are on a separate form would keep sensitive information separate from the order. Additionally, findings are not needed for enforcement purposes. The committee renumbered form FL-341(F) to FL-351 to reflect that it is now a standalone form.

The committee also incorporated several suggestions made by commenters, including adding instructions on when a mandatory finding applies and having the court indicate whether the finding applies to some or all the children listed on the order.

Change to form FL-311

The committee received a few comments expressing concern that the third entry in the new notice that summarizes California's public policy about child custody, located at the top of page 1 of form FL-311, does not accurately reflect Family Code section 3044. In response, the committee considered several options before deciding to recommend the following replacement text: "If a parent has been abusive, judges use laws to help protect children when deciding to make orders about child custody and visitation (parenting time). A judge may deny an abusive parent custody or unsupervised visitation with a child."

Changes to form FL-341(A)

The committee asked the public to comment about whether the date and signature line for the judicial officer should be deleted. Most commenters who responded to this question supported deleting the signature line for the judicial officer. The committee therefore recommends removing the date and judicial officer's signature line from form FL-341(A). The committee noted that the date and signature line for the judicial officer should only appear on the order to which the form is attached. In this instance, form FL-341(A) is a required attachment to form FL-341, and form FL-341 may be attached to orders made on forms FL-340, FL-180, FL-250, FL-355, or some other order. Removing the judicial officer's signature from form FL-341(A) makes the form consistent with other attachment-to-order forms, which do not contain signature lines. Furthermore, having additional places for a judicial officer signature could lead to enforcement issues if unintentionally left blank.

Changes to form FL-355

Commenters asked for clarification about whether form FL-355 can be used in cases where Family Code section 3044 applies because the form only addresses stipulations made when there are allegations under Family Code section 3011. The committee concluded that the court must independently determine the best interests of the child in cases involving Family Code section

DRAFT

3044. The parties cannot stipulate to whether Family Code section 3044 applies or whether the presumption has been rebutted. In light of this, the committee recommends revising the form to include notices on pages 1 and 2 that stipulations of this kind may not be approved by the court until the court has made the applicable findings.

A commenter also suggested that findings under Family Code section 3011 would not be required when parties enter into a stipulation. However, the committee concluded that stipulations are subject to the findings required under Family Code section 3011 because SB 599 amended the statute to remove the provision that the findings are not mandatory when the parties enter into a stipulation.[16]

Alternatives considered

The committee did not consider the alternative of taking no action because the Judicial Council is required to update rules and forms, as needed, to reflect SB 599 and AB 3072. To the extent the recommended revisions are not required by SB 599 and AB 3072, the committee considered taking no action but concluded that the revisions will benefit courts and court users.

The committee considered developing a single joint form that could be used instead of forms DV-150 and FL-351. However, the committee rejected that approach as the form sets refer to parties in different ways (i.e., protected and restrained persons for DV forms, and petitioner and respondent for FL forms).

Fiscal and Operational Impacts

The committee anticipates, and comments from the courts support, that this proposal would require courts to train court staff and judicial officers on the new and revised forms and rules. Courts will also incur costs to incorporate the forms into paper and electronic processes.

Attachments and Links

1. Cal. Rules of Court, rule 5.252, at pages 13–14
2. Cal. Stds. Jud. Admin., std. 5.20, at pages 15–23
3. Forms DV-105, DV-105-INFO, DV-120-INFO, DV-140, DV-150, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-311-INFO, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-351, and FL-355, at pages 24–82
4. Chart of comments, at pages 83–149
5. Attachment A: Chart of comments for invitation to comment SPR24-25
6. Attachment B: Chart of comments for invitation to comment SPR24-26
7. Link A: Sen. Bill 599 (Stats. 2023, ch. 493), *leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB599*
8. Link B: Assem. Bill 3072 (Stats. 2024, ch. 317), *leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB3072*

[16] Fam. Code, § 3011(a)(5)(B).

DRAFT

Rule 5.252 of the California Rules of Court is adopted, effective January 1, 2026, to read:

Chapter 8. Child Custody and Visitation (Parenting Time) Proceedings

Article 6. Virtual Visitation

Rule 5.252. Guidelines for developing parenting plans and issuing court orders involving virtual visitation

(a) Application

(1) This rule applies to orders for virtual visitation made in proceedings under the Family Code.

(2) Virtual visitation is defined in Family Code section 3100(f).

(b) Guidelines

In determining whether virtual visitation is in the best interest of the child, judicial officers and parties developing parenting plans:

(1) Must consider evidence of the following:

(A) Potential safety concerns, especially in cases involving domestic violence and abuse, including whether one of parties is living in a confidential shelter under Family Code section 3100(d)(1);

(B) The parties' access to firearms or ammunition under Family Code section 3100(d)(2);

(C) Information provided by any:

(i) Child participation in the proceeding under Family Code section 3042;

(ii) Attorney appointed to represent the child under Family Code section 3150;

(iii) Child custody recommending counselor authorized to provide a recommendation under Family Code section 3183(a);

(iv) Child custody mediator authorized to communicate with the court about the case under Family Code section 216 and rule 5.235 of the California Rules of Court;

DRAFT

(v) Child custody evaluator or other expert appointed under Family Code sections 3111 or 3118 or Evidence Code sections 730 or 733; or

(vi) Other person legally authorized to represent the child.

(2) Should consider evidence of the following:

(A) The child's age and capacity to participate in virtual visitation;

(B) The provider's experience and training with using remote technology to facilitate virtual visitation;

(C) The ability of the following persons to access the technology required to participate in, or implement, virtual visitation (for example, a computer, smartphone, laptop, desktop, or tablet, and an internet connection to allow for use of applications for audiovisual communications):

(i) The parents;

(ii) The child; and

(iii) The person providing, facilitating, or monitoring virtual visitation.

(D) Any other factors or information that weigh in favor of or against virtual visitation as part of the parenting plan or court order.

DRAFT

Standard 5.20 of the California Standards of Judicial Administration is amended, effective January 1, 2026, to read:

Standard 5.20. Uniform standards of practice for providers of supervised visitation and exchange services

(a) ~~Scope of service~~ Application and goals

~~This standard defines the standards of practice, including duties and obligations, for providers of supervised visitation under Family Code sections 3200 and 3200.5. Unless specified otherwise, the standards of practice are designed to apply to all providers of supervised visitation, whether the provider is a friend, relative, paid independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency. The goal of these standards of practice is to assure the safety and welfare of the child, adults, and providers of supervised visitation. Once safety is assured, the best interest of the child is the paramount consideration at all stages and particularly in deciding the manner in which supervision is provided. Each court is encouraged to adopt local court rules necessary to implement these standards of practice.~~

(1) This standard defines the standards of practice for providers of supervised visitation and exchange services, including the duties and obligations for providers of supervised visitation and exchange services under Family Code sections 3200 and 3200.5.

(2) Unless specified otherwise, the standards of practice are designed to apply to:

(A) All providers of supervised visitation and exchange services, whether the provider is a friend, relative, paid independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation and exchange services center or agency.

(B) Supervised visitation that occurs by the use of audiovisual electronic communication (known as "virtual visitation," as defined in (b)(7)).

(3) The goal of these standards of practice is to assure the safety and welfare of the child, adults, and providers of supervised visitation and exchange services. Once safety is assured, the best interest of the child is the paramount consideration at all stages and particularly in deciding the manner in which supervision is provided.

(4) Each court is encouraged to adopt local court rules as necessary to implement these standards of practice.

DRAFT

(b) Definition

For purposes of this standard, the following definitions apply:

(1) A "nonprofessional provider," as defined in Family Code section 3200.5, is any person who is not paid for providing supervised visitation and exchange services.

(2) A "professional provider," as defined in Family Code section 3200.5, is any person who is paid for providing supervised visitation and exchange services, or an independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation and exchange services center or agency.

(3) A "provider," as defined in Family Code section 3200, includes any individual who functions as a visitation and exchange services monitor, as well as supervised visitation centers. A provider may also include those employees and contractors designated by the superior court to provide supervised visitation and exchange services or assistance with those services.

(4) "Supervised visitation" is contact between a noncustodial party and one or more children in the presence of a neutral third person.

(5) "Exchange services" or "exchange" means the transfer of the child from one party to another by a professional or nonprofessional provider for the purpose of implementing a court order for visitation (parenting time).

~~(5)~~ (6) A "TrustLine provider~~,~~" is a professional provider of supervised visitation and exchange services ~~provider~~ who is registered on TrustLine, a database that is administered by the California Department of Social Services.

~~(6)~~ (7) "Virtual Visitation," as defined in Family Code section 3100, means use of audiovisual electronic communication tools to provide contact between a parent and their children as part of a parenting plan or custody order. Virtual visitation may be supervised or unsupervised, based on the court's determination of what is in the best interest of the child, but is not a means to implement exchange services.

(c) * * *

(d) Qualifications of nonprofessional providers

DRAFT

(1) Unless otherwise ordered by the court or stipulated by the parties, the nonprofessional provider must:

(A)–(C) * * *

(D) Agree to adhere to and enforce the court order regarding supervised visitation and exchange services.

(2) * * *

(3) Sign a local court form or *Declaration of Supervised Visitation and Exchange Services Provider (Nonprofessional)* (form FL-324(NP)) stating that all requirements to be a nonprofessional provider have been met.

(e) Qualifications of professional providers

The professional provider must:

(1)–(8) * * *

(9) Agree to adhere to and enforce the court order regarding supervised visitation and exchange services;

(10) Complete a Live Scan criminal background check, at the expense of the provider or the supervised visitation and exchange services center or agency, before providing visitation and exchange services;

(11)–(12) * * *

(13) Sign ~~a~~ *Declaration of Supervised Visitation and Exchange Services Provider (Professional)* (form FL-324(P)) stating that all requirements to be a professional provider have been met; and

(14) * * *

(f) Training for professional providers

(1) Before providing services, professional providers must complete 24 hours of training, including at least 12 hours of classroom instruction in the following subjects:

(A)–(I) * * *

DRAFT

(J) Issues relating to substance abuse, child abuse, sexual abuse, and domestic violence, including safety considerations for virtual visitation; and

(K) * * *

(2)–(3) * * *

(g) Safety and security procedures

All providers must make every reasonable effort to assure the safety and welfare of the child and adults during the visitation and exchange. Professional providers should establish a written protocol, with the assistance of the local law enforcement agency, that describes the emergency assistance and responses that can be expected from the local law enforcement agency. In addition, the professional provider should:

(1) Establish and state in writing minimum security procedures and inform the parties of these procedures before the commencement of supervised visitation and exchange services;

(2) Conduct comprehensive intake and screening to understand the nature and degree of risk for each case. The procedures for intake should include separate interviews with the parties before the first visit and exchange. During the interview, the provider should obtain identifying information and explain the reasons for temporary suspension or termination of a visit under this standard. If the child is of sufficient age and capacity, the provider should include the child in part of the intake or orientation process. Any discussion should be presented to the child in a manner appropriate to the child's developmental stage;

(3) Obtain during the intake process:

(A)–(B) * * *

(C) Any Judicial Council form relating to orders for supervised visitation and exchange services ~~orders~~;

(D)–(E) * * *

(4) Establish written procedures that must be followed in the event a child is abducted during supervised visitation and exchange services.

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(h) Ratio of children to provider

The ratio of children to a professional provider must be contingent on:

(1)–(2) * * *

(3) The number and ages of the children to be supervised during a visit and exchange;

(4) The number of people, as provided in the court order, visiting the child during the visit and exchange;

(5) The duration and location of the visit and exchange; and

(6) * * *

(i) Conflict of interest

All providers should maintain neutrality by refusing to discuss the merits of the case or agree with or support one party over another. Any discussion between a provider and the parties should be for the purposes of arranging visitation and exchange services, as well as providing for the safety of the children. In order to avoid a conflict of interest, the professional provider should not:

(1)–(4) * * *

(j) Maintenance and disclosure of records for professional providers

(1) Professional providers must keep a record for each case, including the following:

(A) A written record of each contact, ~~and~~ visit, and exchange;

(B) Who attended the visit and exchange;

(C) Any failure to comply with the terms and conditions of the visitation and exchange services; and

(D) * * *

(2) * * *

DRAFT

(3) If ordered by the court or requested by either party or the attorney for either party or the attorney for the child, a report about the supervised visit and exchange must be produced. These reports should include facts, observations, and direct statements and not opinions or recommendations regarding future visitation and exchanges. The original report must be sent to the court if so ordered, or to the requesting party or attorney, and copies should be sent to all parties, their attorneys, and the attorney for the child.

(4) * * *

(k) Confidentiality

Communications between parties and providers of supervised visitation and exchange services are not protected by any privilege of confidentiality. Professional providers should, whenever possible, maintain confidentiality regarding the case except when:

(1)–(5) * * *

(*l*) Delineation of terms and conditions

The provider bears the sole responsibility for enforcement of all the terms and conditions of any supervised visitation and exchange service. Unless otherwise ordered by the court, the provider should implement the following terms and conditions:

(1) * * *

(2) Enforce the frequency and duration of the visits and exchanges as ordered by the court;

(3)–(9) * * *

(10) Allow no visits and exchanges to occur while the visiting party appears to be under the influence of alcohol or illegal drugs;

(11)–(13) * * *

(m) Safety considerations for sexual abuse cases

In cases where there are allegations of sexual abuse, in addition to the requirements of (*l*), the provider should comply with the following terms and conditions, unless otherwise ordered by the court:

DRAFT

(1) Allow no ~~exchanges~~ giving or receiving of gifts, money, or cards;

(2)–(4) * * *

(5) Allow no supervised visitation and exchange services in the location where the alleged sexual abuse occurred.

(n) Legal responsibilities and obligations of a provider

All nonprofessional providers of supervised visitation and exchange services should, and all professional providers must:

(1) Advise the parties before commencement of supervised visitation and exchange services that no confidential privilege exists;

(2) * * *

(3) Suspend or terminate visitation and exchanges under (p).

(o) Additional legal responsibilities of professional providers

In addition to the legal responsibilities and obligations required in (n), professional providers must:

(1) Prepare a written contract to be signed by the parties before commencement of the supervised visitation and exchange services. The contract should inform each party of the terms and conditions of supervised visitation and exchange services; and

(2) Review custody and visitation orders relevant to the supervised visitation and exchange services.

(p) Temporary suspension or termination of supervised visitation and exchange services

(1) All providers must make every reasonable effort to provide a safe visit and exchange for the child and the noncustodial party.

(2) However, if a provider determines that the rules of the visit and exchange have been violated, the child has become acutely distressed, or the safety of the child or the provider is at risk, the visit and exchange may be temporarily interrupted, rescheduled at a later date, or terminated.

DRAFT

(3) All interruptions or terminations of supervised visits and exchanges must be recorded in the case file.

(4) All providers must advise ~~both~~ all parties of the reasons for interruption or termination of a visit ~~or termination~~ and exchange.

(q) Additional requirements for professional providers

Professional providers must state the reasons for temporary suspension or termination of supervised visitation and exchange services in writing and provide the written statement to both parties, their attorneys, the attorney for the child, and the court.

(r) Informational materials; procedures

(1) Each court is encouraged to make available to all providers informational materials about the role of a provider, the terms and conditions of supervised visitation and exchange services, and the legal responsibilities and obligations of a provider under this standard.

(2) By January 1, 2022, each court must develop and adopt local rules that establish procedures for processing and maintaining:

(A) *Declaration of Supervised Visitation and Exchange Services Provider (Professional)* (form FL-324(P)), along with the professional provider's original report required in (j)(3) of this standard; and

(B) The declaration regarding qualifications of the nonprofessional provider of supervised visitation and exchange services ~~provider's declaration regarding qualifications~~, whether the provider uses the court's local form or *Declaration of Supervised Visitation and Exchange Services Provider (Nonprofessional)* (form FL-324(NP)).

(s) Virtual visitation services

(1) Before the commencement of supervised visitation, the professional and nonprofessional provider must consider:

(A) The safety and privacy of the parties and the child if the case involves domestic violence and sexual abuse, including whether the party or child should have a private location;

DRAFT

(B) How the virtual visitation can be conducted in a manner that is age appropriate and based on the developmental needs of the child; and

(C) What the party will need, including audiovisual equipment or internet access, to ensure safe virtual visitation.

(2) Before the commencement of supervised visitation, professional providers must:

(A) Have written policies and procedures in place and must give the parties a copy of the written policies. The written policies must include information about the provider's qualifications, experience, and understanding of how remote technology works; and

(B) Give the parties a copy of the written policies.

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DV-105 Request for Child Custody and Visitation Orders

Case Number:

Instructions: Use this form to request orders for children you have with the person in (2). For more information on the orders you can request, read form **DV-105-INFO**, *Asking for Child Custody and Visitation Orders.*

This form is attached to form DV-100.

(1) Your Information

Name: _____

Relationship to children: ☐ Parent ☐ Legal Guardian ☐ Other *(describe):* _____

(2) Person You Want Protection From

Name: _____

Relationship to children: ☐ Parent ☐ Legal Guardian ☐ Other *(describe):* _____

(3) Children Under 18 Years Old *(for children you have with the person in (2), 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-105, Children" at the top and attach it to this form.)*

(4) City and State Where Children Lived *(If you do not complete this section, the judge may not be able to make custody and visitation orders.)*

a. Have all the children listed in (3) lived together for the last five years?
☐ No *(If no, complete form DV-105(A). Do not complete the section below.)*
☐ Yes *(If yes, complete the section below.)*

b. List where the children have lived for the last five years. Start with their current location.

Dates *(month/year)*	**City and State** *(include tribal land, if applies)*	**Children lived with** *(check all that apply):* **Me**	**Person in (2)**	**Other** *(relationship to child)*
From: _____ To present	☐ Check here if this address is private (confidential). List the state only.	☐	☐	☐
From: _____ Until: _____		☐	☐	☐
From: _____ Until: _____		☐	☐	☐
From: _____ Until: _____		☐	☐	☐
From: _____ Until: _____		☐	☐	☐
From: _____ Until: _____		☐	☐	☐

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 the section below):*

(Check all that apply. List where the case 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. Is there a current order for custody or visitation in effect?

☐ No

☐ Yes *(If yes, complete the section below):*

What did the judge order? *(Examples: who has custody of the children and what the visitation schedule is)*

_____

_____

_____

_____

_____

(Attach a copy of the order, if you have one.)

Why do you want to change the order?

_____

_____

_____

_____

_____

c. If there is another parent or legal guardian besides you and the person in 2, list their information below.

Name: _____ ☐ Parent ☐ Legal Guardian

This is not a Court Order.

Orders a Judge Can Make to Protect Your Children

To ask for orders to protect your children, answer the questions below.

6 Do you want to limit where the person in 2 can travel with your children?

☐ No

☐ Yes *(If yes, complete the section below):*

I ask the judge to order that the person in 2 must have written permission from me, or a court order, to take the children outside:

☐ The county of *(list):* _____

☐ California

☐ Other places *(list):* _____

7 Do you want the person in 2 to have access to the children's records or information?

☐ Yes

☐ No *(If no, complete the section below):*

a. I ask the judge to order that the person in 2 **not** access or have access to the records or information for:

☐ All the children listed in 3.

☐ Only the children listed here *(names):* _____

b. For the following records or information *(check all that apply):*

☐ Medical, dental, and mental health

☐ School and daycare

☐ Extracurricular activity, including summer camps and sports teams

☐ Child's employment (including volunteer and unpaid positions)

☐ Other *(describe):* _____

(If the judge makes this order, providers will not be able to release the protected information to the person in 2.)

8 Do you believe the person in 2 might abduct (kidnap) your children?

☐ No

☐ Yes *(To ask for orders to help prevent abduction, you must complete form DV-108, Request for Orders to Prevent Child Abduction, and attach it to this form.)*

This is not a Court Order.

Case Number:

Child Custody

You can ask a judge to make custody orders for your children. There are two types of custody in California: legal and physical custody. For both types of custody, parents can share custody (joint) or one parent can have full custody (sole).

- **Legal custody** means the person who makes decisions about the child's health, education, and welfare.
- **Physical custody** means the person who the child regularly lives with.

Any orders made by the judge now will last until your court date (about three weeks away). On your court date, the judge can change or extend the orders.

9 Do you want the judge to make child custody orders?

☐ No

☐ Yes *(If yes, complete the section below):*

Legal Custody *(check one):*

☐ Sole to me
☐ Sole to person in 2
☐ Jointly (shared) by me and person in 2
☐ Other *(describe):*

_____

Physical Custody *(check one):*

☐ Sole to me
☐ Sole to person in 2
☐ Jointly (shared) by me and person in 2
☐ Other *(describe):*

_____

Visitation (Parenting Time) with Children

Visitation (parenting time) is the time each parent spends with the child. If a parent does not get custody, that parent can have visits, if a judge believes it is safe and in the child's best interest. Visitation orders a judge can make include:

- No visits
- Virtual or in-person visits
- Visits supervised (monitored) by a third party
- Visits not supervised

Any orders made by the judge now will last until your court date (about three weeks away). On your court date, the judge can change or extend the orders. Answer the questions below to tell the judge what parenting time you want the person in 2 to have until your court date.

10 Do you want the person in 2 to have visits (parenting time) with the children?

☐ No, I ask the judge to order no visits for the person in 2 (*Stop here. You have finished completing this form.*)

☐ Yes *(Go to 11.)*

☐ Yes, but only virtual visits *(Go to 11.)*

11 Do you want visits with the children to be supervised (monitored) by a third party?

(To learn about supervised visitations, go to selfhelp.courts.ca.gov/guide-supervised-visitation.)

☐ Yes *(Go to 12.)*

☐ No *(Go to 13.)*

This is not a Court Order.

Case Number:

12 Details of Supervised (Monitored) Visits

a. **Who do you want to supervise the visits?** *(check one):*

(1) ☐ Professional *(list name, if known):* _____

Professional fees paid by: Me ____ % Person in 2 ____ % Other: _____ ____ %

(2) ☐ Nonprofessional, like a trusted relative or friend

(Name): _____ ☐ Check here if the person has agreed to supervise visits.

b. **Location of visits** *(check one):* ☐ In person at a safe location ☐ Virtual visit (not in person)

☐ Other *(describe):* _____

c. **How often and how long should the visits be?** *(check one):*

☐ Once a week, for *(number of hours):* _____

☐ Twice a week, for *(number of hours):* _____ each visit.

☐ Other *(describe):* _____

☐ Check here if you want to use the chart listed below for a schedule.

Plan for Supervised Visits Time		Virtual visit with person in 2	Person to bring children to and from visit *(or make available for virtual visit)*	Location of drop-off/pick-up
Monday	Start: End, if applies:	☐		
Tuesday	Start: End, if applies:	☐		
Wednesday	Start: End, if applies:	☐		
Thursday	Start: End, if applies:	☐		
Friday	Start: End, if applies:	☐		
Saturday	Start: End, if applies:	☐		
Sunday	Start: End, if applies:	☐		

Follow the plan listed above ***(check one):***

☐ Every week ☐ Every other week ☐ Other _____

Start date for visits ***(month, day, year):*** _____

(If you completed 12, you are done completing this form. Do not complete 13.)

This is not a Court Order.

Case Number:

13 Details of Unsupervised Visits

a. If the judge allows the person in 2 to have unsupervised visits with your children, you will have to tell the judge how you want to handle drop-off and pick-up of the children, also called exchanges.

Do you want exchanges to be supervised by a third party?

☐ No ☐ Yes *(If yes, do you want a professional or nonprofessional to supervise? Check 1 or 2)*

(1) ☐ Professional *(list name, if known):* _____

Professional fees paid by: Me ____ % Person in 2 ____ % Other: _____ ____ %

(2) ☐ Nonprofessional, like a trusted relative or friend

(Name): _____ ☐ Check here if the person has agreed to supervise visits.

b. **Parenting time you want the person in 2 to have with the children.**

(1) Location of visits *(check one):* ☐ In person at a safe location ☐ Virtual visit (not in person)
☐ Other *(describe):* _____

(2) Give details including when visits will happen, how often the visits should be, and who will be responsible for transporting the children. *(Use the lines or chart below):*

_____

_____

Plan for Unsupervised Visits Time		Virtual visit with person in 2	Person to bring children to and from visit *(or make available for virtual visit)*	Location of drop-off/pick-up
Monday	Start: End, if applies:	☐		
Tuesday	Start: End, if applies:	☐		
Wednesday	Start: End, if applies:	☐		
Thursday	Start: End, if applies:	☐		
Friday	Start: End, if applies:	☐		
Saturday	Start: End, if applies:	☐		
Sunday	Start: End, if applies:	☐		

Follow the schedule listed above *(check one):*
☐ Every week ☐ Every other week ☐ Other _____

Start date for visits *(month, day, year):* _____

This is not a Court Order.

DV-105-INFO Asking for Child Custody and Visitation Orders

What are child custody and visitation orders?

A decision by a judge that tells parents how they will be responsible for taking care of their children. The judge must grant orders that are in your child's best interests.

What is child custody?

There are two types of child custody:

- Physical custody: The person who the child lives with on a regular basis.
- Legal custody: The right for a person to make important decisions about the child's health care, education, and welfare.

For both types of custody, parents can share custody (joint custody) or one parent can have full custody (sole custody). A judge grants custody based on what's in the best interest of a child. Note that a parent can still have parenting time (visitation), even if the judge does not grant them custody. And if the judge finds that there has been domestic violence in your case, special laws on child custody may apply. For more information on the law, go to selfhelp.courts.ca.gov/domestic-violence-child-custody.

What is visitation or parenting time?

It is a schedule of how your children will spend time with each parent. A judge must decide on a schedule that is best for your children. If you have safety concerns, tell the judge by writing these concerns in your court papers.

How do I ask for child custody and visitation orders?

To ask for these orders with a restraining order, complete form DV-105, *Request for Child Custody and Visitation Orders*, and turn it in with the other court papers you must complete to ask for a restraining order. For more information on how to ask for a restraining order, read form DV-505-INFO, *How to Ask for a Domestic Violence Restraining Order*.

Do I have to pay to file form DV-105 with the court?

No, there is no court fee.

Types of Visitation

- **Unsupervised visits**

  A parent and child visit freely, without anyone else present. This may be a good option if there are no safety concerns.

- **Supervised visits**

  A parent and child have a neutral third person watching and listening during the visit. The neutral third person can be a professional or nonprofessional provider.

Professional provider

A professional provider is a person with special training that has passed a background check. Professional providers charge a fee. They are also mandated reporters, which means that they must report suspected child abuse to the local child welfare department (also known as CPS). Professional providers can be used for short visits (example: 1–2 hours). Your local court may have a list of local professional providers.

Nonprofessional provider

A nonprofessional provider is usually a friend or family member who does not have special training, and does not get paid for supervising visits. The provider you choose must:

- Make safety the top priority;
- Follow the judge's order;
- Speak the same language as the child and visiting parent; and
- Be comfortable ending the visit, if needed.

For more information on supervised visits, go to selfhelp.courts.ca.gov/guide-supervised-visitation.

- **Virtual Visits**

  A parent and child visit using electronic communication where they can see and hear each other (examples: Zoom, FaceTime, WhatsApp). Virtual visits may require the child and visiting parent to have access to the internet during the visit. Virtual visits may be a good option if you have safety concerns, or if the other parent lives far away from the children. It can also be a good option if the other parent hasn't seen the children in a long time. Virtual visits can be supervised or unsupervised. The length of each visit should also depend on the child's age (example: a younger child may not be able to pay attention for a long visit). For more information on virtual visits, go to selfhelp.courts.ca.gov/domestic-violence-child-custody.

- **No Visits**

  In some situations, it may not be safe for your child to visit with the other parent.

Will I have to meet the other parent for child exchanges?

You can ask for orders that would not require you to meet the other parent, like having the other parent pick up the children from school or daycare. Or you can ask for supervised exchanges. Like supervised visits, supervised exchanges mean that a neutral third person is involved and will help you exchange the children with the other parent so you don't have to meet with the other parent.

What if I am worried that the other parent will kidnap our children?

You can ask for the custody and visitation orders that will best protect your children. There are also other orders you can ask for to prevent abduction. If you want to ask for these orders, complete form DV-108, *Request for Orders to Prevent Child Abduction*, and turn it in with your completed form DV-105, and other required forms for your restraining order request.

What if the other parent has access to firearms and ammunition?

If a restraining order is granted against the other parent, that parent will not be able to have any firearms or ammunition. If the other parent has access to firearms or ammunition, you may include the information on form DV-100, *Request for Domestic Violence Restraining Order*. The court will consider whether a parent has illegal access to firearms and ammunition, when making custody and visitation orders. If you are staying in a confidential shelter, the judge must consider the other parent's access to firearms or ammunition in deciding whether the other parent should have in-person visits with your child.

Where can I find free legal help?

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. Find your local court's self-help center at selfhelp.courts.ca.gov/find. Also, free legal aid may be available in your community. For more information, go to lawhelpca.org.

Information about the court process is also available online

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 thehotline.org or call 1-800-799-7233.

What if I need an interpreter?



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 courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

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 can a restraining order do?

In a restraining order, a judge can order 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.

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 Pen. Code, § 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 Your 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.

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.

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 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 that may be able to help you.

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 "Conflicting Orders—Priorities for Enforcement" listed on the last page 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 selfhelp.courts.ca.gov/find.

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. If the judge has granted a restraining order against you, any violation of the order may impact your time with your children.

What if I have access to firearms or ammunition?

If a restraining order is granted against you, and you do not follow the judge's order to turn in your firearms and ammunition, you have violated the restraining order and can be charged with a crime, fined, or go to jail. If you have a child, having illegal access to firearms or ammunition may impact your visitation (parenting time) and whether you have custody of your child. If the other parent is staying in a confidential shelter, the court must consider your access to firearms or ammunition when deciding whether you should have in-person visits with your child.

What if I need to have a firearm or ammunition for my job?

If the judge grants a restraining order against you, you cannot have firearms or ammunition. The judge may give you permission to have a firearm or ammunition for work. Before permission can be granted, you will be required to show the judge that (1) carrying a firearm or ammunition is required for your work, and (2) your employer is unable to reassign you to another position where carrying a firearm or ammunition is not necessary. There are other things you will have to prove. For more information, go to selfhelp.courts.ca.gov/respond-to-DV-restraining-order/obey-firearms-orders/exception, or see Family Code section 6389(h).

DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

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.

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.

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, *How to Ask for a Domestic Violence Restraining Order*. You can also ask the court clerk about free or low-cost legal help.

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 thehotline.org or call 1-800-799-7233.

Information about the court process is also available online

selfhelp.courts.ca.gov/respond-to-DV-restraining-order

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.

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 courts.ca.gov/forms.htm for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

DV-140 Child Custody and Visitation Order

Case Number:

This form is attached to *(check one):* ☐ Form DV-110 ☐ Form DV-130 ☐ Form DV-310

1 Name of Protected Person: _____

Relationship to children: ☐ Parent ☐ Legal Guardian ☐ Other *(describe):* _____

2 Name of Restrained Person: _____

Relationship to children: ☐ Parent ☐ Legal Guardian ☐ Other *(describe):* _____

3 ☐ Children Under 18 Years Old

a. Name: _____ Date of birth: _____
b. Name: _____ Date of birth: _____
c. Name: _____ Date of birth: _____
d. Name: _____ Date of birth: _____

☐ (Check here if you have more children to list. On a separate piece of paper write "DV-140, Children" at the top and attach it to this form.)

4 ☐ No Travel With Children Without Permission

☐ Person in 1 ☐ Person in 2 ☐ Other *(name):* _____

must have written permission from the other parent, or a court order, to take the children outside of:

a. ☐ County of *(list):* _____
b. ☐ State of California
c. ☐ United States
d. ☐ Other place(s) *(list):* _____

This is a Court Order.

5 ☐ Stop Access to Children's School, Health, and Other Information

a. The person in 2 must not access or have access to the records or information for:
- ☐ All the children listed in 3.
- ☐ Only the children listed here *(names):* _____

b. From the following *(check all that apply):*
- ☐ Medical, dental, and mental health providers
- ☐ School and daycare providers
- ☐ Extracurricular activity providers (including summer camps and sports teams)
- ☐ Child's employers (including volunteer and unpaid positions)
- ☐ Other *(describe):* _____

If you are a provider listed above, you must not release information or records regarding the children listed in 5a to the person in 2.

6 ☐ Judge's Decision on Request for Orders to Prevent Child Abduction *(attach form DV-145)*

7 ☐ Child Custody

a. Legal Custody *(The person who makes decisions about the child's health, education, and welfare.)*
- ☐ Sole to Person in 1
- ☐ Sole to Person in 2
- ☐ Jointly (shared) by persons in 1 and 2
- ☐ Other *(describe):* _____

b. Physical Custody *(The person who the child regularly lives with.)*
- ☐ Sole to Person in 1
- ☐ Sole to Person in 2
- ☐ Jointly (shared) by persons in 1 and 2
- ☐ Other *(describe):* _____

Visitation (Parenting Time) With Children *(See 8–15.)*

8 ☐ Person in 2 must have no visitation with the children in 3 until further order of the court.

(If this form is attached to form DV-110, *Temporary Restraining Order*, this means that the judge has stopped your right to visit with your children temporarily. If you do not agree with this order, attend your court hearing.)

This is a Court Order.

9 ☐ Professional Supervised (Monitored) Visits With Children

a. Person to be supervised: ☐ Person in 1 ☐ Person in 2

b. Professional provider to supervise visits *(check 1, 2, or 3):*

(1) ☐ Chosen provider: _____ Telephone: _____
Address *(if known):* _____

If the chosen provider cannot provide services, parties must use the alternate provider.

Alternate provider: _____ Telephone: _____
Address *(if known):* _____

Person in 1 must contact chosen provider by *(date):* _____
Person in 2 must contact chosen provider by *(date):* _____

(2) ☐ A list of providers *(check one):*
☐ is attached to this order.
☐ given in court to ☐ Person in 1 ☐ Person in 2 .

☐ Person in 1 ☐ Person in 2 must choose and contact a provider by *(date):* _____

(3) ☐ Other: _____

c. Frequency of visits *(check one):*
☐ Once a week, for *(number of hours):* _____ each visit.
☐ Twice a week, for *(number of hours):* _____ each visit.
☐ Other *(describe):* _____

d. Fees paid by: Person in 1 ____ % Person in 2 ____ % Other _____ ____ %

e. Visits must be:
☐ In person at a safe location.
☐ Virtual (not in person). *(Before a provider is chosen, confirm that the provider offers virtual visits.)*
☐ Other: _____

This is a Court Order.

10 ☐ Nonprofessional Supervised (Monitored) Visits With Children

a. Person to be supervised: ☐ Person in 1 ☐ Person in 2

b. Nonprofessional provider (person) to supervise visits
Name: _____ Relationship to child: _____
Address *(if known)*: _____ Telephone *(if known)*: _____

c. Schedule for visits *(check one)*:
☐ Follow the Visitation Plan listed in 13.
☐ Other schedule *(give a detailed schedule)*: _____
_____

d. Location of visits:
☐ In person at a safe location *(give location)*: _____
☐ Virtual (not in person). *(Provider, child, and visiting parent may need access to internet.)*
☐ Other: _____
(For more information on safe locations and virtual visits, go to selfhelp.courts.ca.gov/guide-supervised-visitation.)

11 ☐ Supervised Exchanges (Drop-Off and Pick-up of Children)

(Complete this item and go to 12 to describe visitation plan.)

a. Person to be supervised: ☐ Person in 1 ☐ Person in 2

b. Provider (Person) to Supervise Exchanges

(1) ☐ Professional Provider
Name of provider *(if known)*: _____
Address *(if known)*: _____
Telephone *(if known)*: _____
Fees paid by: Person in 1 ____ % Person in 2 ____ % Other _____ ____ %
Person in 1 must contact provider by *(date)*: _____
Person in 2 must contact provider by *(date)*: _____
Location of exchanges to be decided by provider.

(2) ☐ Nonprofessional Provider
Name: _____ Relationship to child: _____
Address *(if known)*: _____
Telephone *(if known)*: _____
Safe location for exchanges: _____
(For more information on safe locations, go to selfhelp.courts.ca.gov/guide-supervised-visitation.)

This is a Court Order.

12 ☐ Visits With No Supervision (Unmonitored)

a. ☐ Person in 1 ☐ Person in 2 will visit with the children listed in 3

b. Visits must be:
- ☐ In person
- ☐ Virtual *(not in person) (Child and visiting parent may need access to the internet. For more information on virtual visits, go to* selfhelp.courts.ca.gov/domestic-violence-child-custody.*)*
- ☐ Other: _____

c. The visitation plan is *(check one):*
- ☐ Listed in 13.
- ☐ Described below:

_____
_____
_____
_____

13 ☐ Visitation Plan for Person in 2

	Time	Visit must be virtual	Person to bring children to and from visit *(or make child available for virtual visit)*	Location of drop-off/pick-up
Monday	Start: End, if applies:	☐		
Tuesday	Start: End, if applies:	☐		
Wednesday	Start: End, if applies:	☐		
Thursday	Start: End, if applies:	☐		
Friday	Start: End, if applies:	☐		
Saturday	Start: End, if applies:	☐		
Sunday	Start: End, if applies:	☐		

Follow the plan listed above *(check one):*
☐ Every week ☐ Every other week ☐ Other _____

Start date for visits *(month, day, year):* _____

This is a Court Order.

14 Mandatory Findings

(Findings required under Family Code sections 3011, 3044, and 3100.)

a. ☐ No findings required by law

b. ☐ Findings required by law

(1) ☐ The court has made the required findings. The court's reasons are in writing *(check one):*

☐ On form DV-150, *Mandatory Findings for Child Custody and Visitation Order*.

☐ Other: _____

(2) ☐ The court has made the required findings. The court's reasons were recorded *(check all that apply):*

☐ In a minute order ☐ By a court reporter ☐ Other: _____

15 ☐ Other Orders

Describe additional orders in the space below or use a separate attachment (e.g., FL-341(C), *Children's Holiday Schedule Attachment*).

_____

_____

16 ☐ Criminal Protective Order

List any criminal protective order protecting the person in (1) or any child in (3) from the person in (2).

Case number: _____ County: _____

Case number: _____ County: _____

(*If a criminal protective order is in effect, law enforcement must follow the priority of enforcement on form DV-110 or DV-130.*)

17 Country of Habitual Residence

The country of habitual residence of the child or children in this case is *(check one):*

☐ The United States,

☐ Other *(name of country):* _____.

18 Jurisdiction and Notice

This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (part 3 of the California Family Code starting with section 3400). The responding party was given notice consistent with the laws of the State of California.

19 Penalties for Violating This Order

If you violate this order, you may be subject to civil or criminal penalties, or both.

This is a Court Order.

DV-150 Mandatory Findings for Child Custody and Visitation Order

Clerk stamps date here when form is filed.

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 Protected Person

(name): _____

2 Restrained Person

(name): _____

3 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
  (Lawyer's name): _____
- ☐ The person in 2
- ☐ The lawyer for the person in 2
  (Lawyer's name): _____

4 ☐ The Restrained Person Is Granted Sole Custody, Joint Custody, or Unsupervised Visits

(Mandatory findings under Family Code section 3011: The court must complete this item when allegations of abuse have been made against the restrained person and the court grants the restrained person sole or joint legal or physical custody, or unsupervised visits.)

a. For *(check one):*

- ☐ The children listed on form DV-140, item 3
- ☐ Only the children listed here *(names of children):* _____

The court finds that the custody and visitation (parenting time) order is in the best interests of the children; is specific as to time, day, place, and manner of transfer of the children; and protects their safety and the safety of the parties.

b. Court's reasons for granting sole or joint physical or legal custody, or unsupervised visits:

_____
_____
_____
_____
_____
_____
_____

This is a Court Order.

5 ☐ The Restrained Person Is Granted Sole or Joint Custody and Has Committed Domestic Violence in the Last Five Years

(Mandatory findings under Family Code section 3044: The court must complete this item if the restrained person has committed domestic violence in the last five years and the court has granted sole or joint legal or physical custody to the restrained person.)

a. The restrained person is granted *(check all that apply):*
   - ☐ Sole or joint legal custody
   - ☐ Sole or joint physical custody

b. For *(check one):*
   - ☐ The children listed on form DV-140, item 3
   - ☐ Only the children listed here *(names of children):* _____

   _____

   The court finds that the custody order is in the best interests of the children. In deciding the best interests of the children, the court has **not** used the preference for frequent and continuing contact with both parents.

c. Court's reasons for granting sole or joint physical or legal custody:

5 d. The court has balanced all required factors:

(1) The restrained person has successfully completed a batterer intervention program that meets the requirements under Penal Code section 1203.097(c).

☐ Yes ☐ No

(Explain, as needed):

(2) The restrained person has completed a program for alcohol or drug abuse counseling.

☐ Yes ☐ No ☐ Does not apply. The court decided counseling was not appropriate.

(Explain, as needed):

(3) The restrained person has completed a parenting class.

☐ Yes ☐ No ☐ Does not apply. The court decided a parenting class was not appropriate.

(Explain, as needed):

(4) The restrained person is on probation or parole and has complied with all the terms and conditions.

☐ Yes ☐ No ☐ Does not apply. The restrained person is not on probation or parole.

(Explain, as needed):

(5) The restrained person has complied with (followed) all restraining and protective orders.

☐ Yes ☐ No

(Explain, as needed):

This is a Court Order.

5 d. (6) The restrained person has not committed additional acts of domestic violence.

☐ Yes ☐ No

(Explain, as needed):

(7) The court has found that the restrained person has one or more firearms or ammunition. The restrained person has relinquished all of these items and shown proof of relinquishment to the court.

☐ Yes ☐ No ☐ Does not apply

(Explain, as needed):

(8) Additional reasons, if any:

6 ☐ Court Has Granted In-Person Visits for Restrained Person

(Mandatory findings under Family Code section 3100: The court must complete this item if the court finds that the protected person is staying in a confidential location due to domestic violence or fear of domestic violence, and the court is granting in-person visits to the restrained person.)

a. The court finds that the protected person is staying in a confidential location due to domestic violence or fear of domestic violence.

b. For *(check one):*

☐ The children listed on form DV-140, item 3

☐ Only the children listed here *(names of children):*

The court finds that in-person visits with the restrained person are in the best interests of the children. The court's order for custody and visitation is designed to keep the location of the protected person confidential, and will protect all persons staying at the confidential location.

This is a Court Order.

6 c. In granting in-person visits, the court has considered the following required factors:

(1) Whether the restrained person has access to firearms or ammunition.

In considering this factor, the court found that the restrained person *(check one):*

☐ Does not have access to firearms or ammunition
☐ Does have access to firearms or ammunition
☐ Other: _____

(2) Whether the restrained person has complied with (followed) all restraining and protective orders.

In considering this factor, the court found that the restrained person *(check one):*

☐ Has complied with all restraining and protective orders
☐ Has not complied with all restraining and protective orders
☐ Other: _____

(3) Information provided under Family Code section 3011.

(4) Information provided under Family Code section 6306 (background check).

(5) The potential for revealing a confidential location.

(6) Additional information or reasons for court's decision, if any:

_____
_____
_____
_____

7 ☐ **Other Findings** *(if any):*

_____
_____
_____

Judge's Signature

Date: _____ _____

Judge or Judicial Officer

This is 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 only by a judge. For information on how to ask to change these orders, read form FL-300-INFO, *Information Sheet for Request for Order*.

Do I have to pay to file form DV-300 with the court?

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.

DV-300-INFO How Do I Ask to Change or End a Domestic Violence Restraining 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 ask to change these orders by following 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 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 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.

I have a disability. How can I get help?

You may use form MC-410 to request assistance. Contact the disability/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 courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

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. Go to thehotline.org or call 1-800-799-7233.

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 sos.ca.gov/registries/safe-home. Note that it may take several weeks to be approved.

DV-300-INFO How Do I Ask to Change or End a Domestic Violence Restraining Order?

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 court's website, go to 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 5d) to the protected person. It cannot be you or anyone listed on the restraining order. Your server must then complete form FL-330, *Proof of Personal Service*. Make a copy of the completed form FL-330 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 5d) to the restrained party. It cannot be you or anyone listed on the restraining order. Your server must then complete form DV-250, *Proof of Service of Mail (CLETS)*. 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-700-INFO How Do I Ask the Court to Renew My Restraining Order?

What does "renew" mean?

It means to extend your current restraining order (form DV-130). If renewed, the judge would extend it for at least five years, or make the order permanent (no expiration).

When do I ask for a renewal?

You must ask to renew your restraining order before your current restraining order expires. The expiration date is listed on the first page of your current restraining order. You can make the request up to three months before your order expires. Give yourself enough time, if possible, to fill out and file all the required paperwork before your order expires.

What if I want to renew a juvenile restraining order in Family Court?

If you have a juvenile restraining order (on form JV-255 or JV-265), that was based on domestic violence and the juvenile case has closed, you can ask the judge to renew your restraining order. Your restraining order is based on domestic violence if it was granted to protect you or your child from the other parent, or to protect you from someone you dated or had an intimate relationship with. If you are not sure whether your juvenile restraining order was based on domestic violence, talk to your lawyer. If you do not have a lawyer, your local self-help center may be able to help you. Find your local court's self-help center at selfhelp.courts.ca.gov/find.

Is there a court fee to ask for a renewal?

No.

Will I have to go to court?

Yes, if you ask for a renewal, you will get a court date. At your court hearing, the judge will ask you why you want your restraining order renewed. If you do not attend your hearing, your restraining order will not be renewed.

What if I also want to change (modify) my restraining order?

There is a different process to ask to change your restraining order. If you ask to renew your restraining order, and also ask to change your restraining order, you can ask the judge to decide both requests at the same time. For information on how to ask to change your order, read form DV-300-INFO, *How Do I Ask to Change or End a Domestic Violence Restraining Order?*

What if my restraining order expired but I still want protection?

You are not eligible for a renewal if you did not file your request to renew before your restraining order expired. You can still ask for protection by filing another request for restraining order. For more information, read form DV-505-INFO, *How to Ask for a Domestic Violence Restraining Order*.

What if my restraining order has been renewed before? Can I ask to renew it again?

Yes, a judge can renew your restraining order more than once. Follow the steps on the next page to ask for a renewal.

What if I've moved and want to file my request to renew in another county?

If you want to file your request in another county in California, you may ask the judge in your case to move (transfer) your case. This is called changing venue. For more information about how to make this request, your local self-help center may be able to help you, or contact a lawyer for advice.

DV-700-INFO How Do I Ask the Court to Renew My Restraining Order?

Steps to ask for a renewal

1 Complete two forms:

- Form DV-700, *Request to Renew Restraining Order*; and
- Form DV-710, *Notice of Hearing to Renew Restraining Order* (items 1 and 2 only).

2 File forms with court

File both forms with the court clerk. Make sure you include a copy of your current restraining order (form DV-130, JV-255, or JV-265) with form DV-700. You can file in person or electronically. For more information on how or where to file, go to the court's website.

3 Get your papers back from the court

Make sure you get at least two copies back: one for you and one to have served on the restrained person.

4 Have restrained person served with papers

You must have an adult personally give a copy of all the court papers (all forms listed on form DV-710, item 5) to the person you want a restraining order against. 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.

Serving papers can be a dangerous situation. If you want the sheriff to serve your papers, they will do so for free. If you want the sheriff to serve your papers, complete form SER-001, *Request for Sheriff to Serve Court Papers*. Give the sheriff a copy of the completed form and all papers that need to be served on the other side (all forms listed on form DV-710, item 5). For more information on service, go to selfhelp.courts.ca.gov/DV-restraining-order/renew/sheriff-serves.

If you can't serve the restrained person before your court hearing, you will need to ask the judge to reschedule your court hearing. Fill out and file forms DV-715 and DV-716. 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-716 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-710 or DV-716) if you still want to renew your restraining order.

5 Get ready for and attend your court hearing

At your court hearing, the judge will decide whether to grant your request to renew your restraining order. What you will need to prove at your court hearing will depend on if the other side attends the hearing:

- If the restrained person does not attend the hearing, the judge can renew your restraining order based on only your request.
- If the restrained person attends the hearing and does not agree to the renewal, then you must prove that you have a reasonable fear or concern that there is enough risk of further abuse if the order is not renewed. The further abuse can be different from the abuse that led to your restraining order. But you don't have to prove that you've been abused by the person since the restraining order has been in effect. The abuse that led to your restraining order may be enough to renew it.

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. For information on your court hearing, go to selfhelp.courts.ca.gov/DV-restraining-order/renew/court.

What if the judge renews my restraining order?

1. You will need form DV-730, *Order to Renew Domestic Violence Restraining Order*, signed by the judge. If the court does not complete this form for you, make sure you complete it and give it to the court clerk. Contact the court's self-help center if you need help.

2. You will need to get copies of form DV-730 once it is signed by the judge. Ask the court clerk when your forms will be ready. There is no fee for turning in this form, and you should receive free copies.

3. Look at form DV-730 to see if the judge ordered you to serve the form by mail or in person. If you are ordered to serve the form by mail, this means your server only has to mail a copy of the restraining order. But serving someone in person is always best. When you mail court papers, it may be hard to prove that the person actually received a copy, especially if the person moves a lot. Learn more about service at selfhelp.courts.ca.gov/DV-restraining-order/renew/serve-order.

Where can I find free help?

Free legal help is available at your court's self-help center. Find your local court's self-help center at 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 this process is also available online

selfhelp.courts.ca.gov/DV-restraining-order/renew

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.

I have a disability. How can I get help?

You may use form MC-410 to request assistance. Contact the disability/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 courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

What if I am worried about my safety?

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 thehotline.org or call 1-800-799-7233.

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 selfhelp.courts.ca.gov/family-law/agreements, 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

a. Form FL-300, *Request for Order,* is the basic form you need to file with the court. Depending on your request, you may need the forms listed in items b through h, below:

b. 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*

c. 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.

d. If you want spousal or partner support or orders about your finances, you may need or want to use these forms:
- ☐ A current FL-150, *Income and Expense Declaration*
- ☐ FL-157, *Spousal or Partner Support Declaration Attachment*

e. 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.)

f. 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.

g. If you plan to have witnesses testify at the hearing, you may want to use:
- ☐ FL-321, *Witness List*

h. 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.

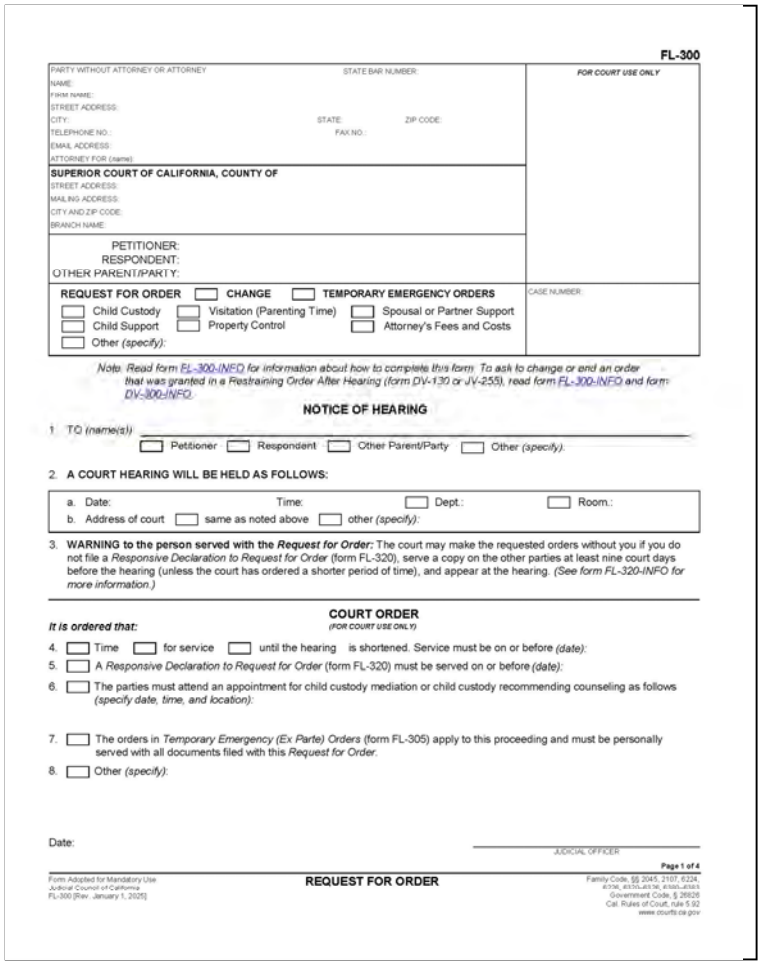
Item 3: This is a notice to all other parties.

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.



FL-300

PARTY WITHOUT ATTORNEY OR ATTORNEY — STATE BAR NUMBER: — FOR COURT USE ONLY
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:
OTHER PARENT/PARTY:

REQUEST FOR ORDER ☐ CHANGE ☐ TEMPORARY EMERGENCY ORDERS — CASE NUMBER:
☐ Child Custody ☐ Visitation (Parenting Time) ☐ Spousal or Partner Support
☐ Child Support ☐ Property Control ☐ Attorney's Fees and Costs
☐ Other (specify):

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 (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

Page 1 of 4

Form Adopted for Mandatory Use Judicial Council of California FL-300 [Rev. January 1, 2025] — **REQUEST FOR ORDER** — Family Code, §§ 2045, 2107, 6224, 6256, 6315–6316, 6385–6388; Government Code, § 26826; Cal. Rules of Court, rule 5.92 www.courts.ca.gov

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.

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 or irreparable harm to a party or children in the case, or an immediate loss or damage to property.

Under Family Code section 3064, "immediate harm to a child" includes, but is not limited to, a child:

- *Whose parent has committed acts of domestic violence; or*
- *Who is a victim of sexual abuse.*

When deciding whether there is immediate harm to a child, the court will consider whether a parent has illegal access to firearms or ammunition.

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 forms required by local court rules.
- Follow your court's local procedures for reserving the day for the hearing, submitting your paperwork, and paying filing fees.

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, 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 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).

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.

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 selfhelp.courts.ca.gov/court-based-self-help-services.

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.
- For information about preparing for and presenting your case at the hearing, visit these two online resources: selfhelp.courts.ca.gov/tips-your-day-court and selfhelp.courts.ca.gov/debt-lawsuits/trial/present-case.
- Information about having the other party or witnesses testify in court (including information about subpoenas) is online at selfhelp.courts.ca.gov/request-for-order/notice-attend-subpoena.

17 After the hearing, form FL-340 *Findings and Order After Hearing*, must be completed, 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 www.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.
- Contact the family law facilitator or self-help center for information and assistance, and referrals to local legal services providers. Go to selfhelp.courts.ca.gov/court-based-self-help-services.

PARTY WITHOUT ATTORNEY OR ATTORNEY	STATE BAR NUMBER:	*FOR COURT USE ONLY*
NAME:		DRAFT
FIRM NAME:		NOT APPROVED BY THE JUDICIAL COUNCIL
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:		
TEMPORARY EMERGENCY (EX PARTE) ORDERS		CASE NUMBER:

☐ Child Custody ☐ Visitation (Parenting Time) ☐ Property Control
☐ Other *(specify):*

1. **TO *(name):***

☐ Petitioner ☐ Respondent ☐ Other Parent/Party ☐ Other *(specify):*

A court hearing will be held on the *Request for Order* (form FL-300) served with this order, as follows:

a. Date: Time: ☐ Dept.: ☐ Room:

b. Address of court ☐ same as noted above ☐ other *(specify):*

2. **FINDINGS:** Temporary emergency (ex parte) orders are needed to:

a. ☐ Help prevent "immediate harm to the child" under Family Code section 3064, as described in item 3a.

b. ☐ Help prevent immediate risk that a child will be removed from the State of California.

c. ☐ Help prevent immediate loss or damage to property subject to disposition in the case.

d. ☐ Set or change procedures for a hearing or trial.

COURT ORDERS: The temporary emergency orders expire on the date and time of the hearing in (1), unless extended by court order.

3. ☐ **CHILD CUSTODY AND VISITATION (PARENTING TIME)**

a. ☐ It has been shown to the court that ☐ Petitioner ☐ Respondent ☐ Other Parent/Party *(specify name):*

(1) ☐ Has committed acts of domestic violence that are of recent origin or are part of a demonstrated and continuing pattern of domestic violence.

(2) ☐ Has committed acts of sexual abuse of the child that are of recent origin or are part of a demonstrated and continuing pattern of sexual abuse.

(3) ☐ Has illegal access to firearms or ammunition (including access to firearms or ammunition in violation of state or federal law, a restraining order, a protective order, or an injunction, or condition of probation or parole).

(4) ☐ Other *(specify):*

b. ☐ It has been shown to the court that there is an immediate risk that the child will be removed from the State of California. *Child Abduction Prevention Orders Attachment* (form FL-341(B)) is attached to this order.

c. Child's name | Date of Birth | Temporary physical custody, care, and control to: Petitioner | Respondent | Other Party/Parent

		☐	☐	☐
		☐	☐	☐
		☐	☐	☐
		☐	☐	☐

☐ Continued on Attachment 3c.

THIS IS A COURT ORDER.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

d. ☐ **Visitation (Parenting Time)**
When the court has granted temporary orders for child custody, it must consider if the best interests of the child require that visitation (parenting time) be suspended, denied, or supervised. Further, the temporary orders for custody, care, and control of the minor children in 3c are subject to the other party's or parties' rights of visitation (parenting time). The temporary orders for visitation (parenting time) are as follows:

☐ See Attachment 3d.

e. **Travel restrictions**

(1) The party or parties with temporary physical custody, care, and control of minor children **must not remove the minor children from the state of California unless the court allows it after a noticed hearing.**

(2) ☐ Petitioner ☐ Respondent ☐ Other Parent/Party must not remove their minor children *(specify):*

(a) ☐ from the state of California.

(b) ☐ from the following counties *(specify):*

(c) ☐ other *(specify):*

f. (1) **Jurisdiction:** This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (part 3 of the California Family Code, commencing with section 3400).

(2) **Notice and opportunity to be heard:** The responding party was given notice and an opportunity to be heard as provided by the laws of the State of California.

(3) **Country of habitual residence:** The country of habitual residence of the child or children is *(specify):*

☐ The United States of America ☐ Other *(specify):*

(4) **If you violate this order, you may be subject to civil or criminal penalties, or both.**

4. ☐ **PROPERTY CONTROL**

a. ☐ Petitioner ☐ Respondent ☐ Other Parent/Party is given exclusive temporary use, possession, and control of the following property that the parties ☐ own or are buying ☐ lease or rent

b. ☐ Petitioner ☐ Respondent ☐ Other Parent/Party is ordered to make the following payments on the liens and encumbrances 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:

5. ☐ All other existing orders, not in conflict with these temporary emergency orders, remain in full force and effect.

6. ☐ **OTHER ORDERS** *(specify):* ☐ Additional orders are listed in Attachment 6.

Date:

JUDICIAL OFFICER OF THE SUPERIOR COURT

THIS IS A COURT ORDER.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

CHILD CUSTODY AND VISITATION (PARENTING TIME) APPLICATION ATTACHMENT

—This is not a court order—

TO ☐ **Petition** ☐ **Response** ☐ **Request for Order** ☐ **Responsive Declaration to Request for Order**
☐ **Other** *(specify):*

This section is for information only and is not a part of your request for orders:

California's public policies and law on child custody and visitation include that:

- In general, children should have frequent and continuing contact with their parents, and parents should be encouraged to share the responsibility of raising their children, except when domestic abuse has happened or contact with a parent is not in the best interests of the children.
- When making any orders about physical and legal custody and visitation (parenting time), the court must consider the best interests of the child, which primarily include the health, safety, and welfare of the child.
- If a parent has been abusive, judges use laws to help protect children when deciding to make orders about child custody and visitation (parenting time). A judge may deny an abusive parent custody or unsupervised visitation with a child.
- Children have the right to be safe and free from abuse.
- A child's exposure to domestic violence and domestic violence committed where a child lives are detrimental to the health, safety, and welfare of the child.
- For more information, read selfhelp.courts.ca.gov/child-custody#best-interest and selfhelp.courts.ca.gov/domestic-violence-child-custody

Complete items 1 through 13 that apply to your request for orders.

1. **Minor Children** ☐ Attachment 1.

Child's name	Birthdate	Age

2. ☐ **Custody** of the minor children is requested as follows:

	Petitioner	Respondent	Joint	Other Parent/Party
a. Physical custody of children to..... *(The person with whom the child will regularly live)*	☐	☐	☐	☐
b. Legal custody of children to ..... *(The person who decides about the child's health, education, and welfare)*	☐	☐	☐	☐

Note: To ask the court for joint legal custody orders that specify when the parents must agree before making decisions (for example, before choosing or changing the children's school, doctor, or religious or school activities), use *Joint Legal Custody Attachment* (form FL-341(E)) or a document that includes the same content as form FL-341(E).

To learn about physical and legal custody, go to selfhelp.courts.ca.gov/child-custody.

c. ☐ There are allegations of a history of abuse or substance abuse in this case. *(You must complete item 5.)*

d. ☐ Other *(specify):*

3. ☐ **Visitation (Parenting Time)** I request that the court order *(check one):*

a. ☐ Reasonable right of visitation (parenting time) to the party in item 2a without physical custody, including but not limited to, virtual visitation. **(Not appropriate in cases involving domestic violence and substance abuse)**.

b. ☐ Visitation (parenting time) as described in the attached -page document dated *(specify date):*

c. ☐ The visitation schedule in item 5 that includes in-person, virtual, other visitation.

d. ☐ Supervised visitation. *(You must complete item 6.)*

e. ☐ No visitation (parenting time) to the person without physical custody for the reasons described in item 13.

Note: Unless specifically ordered, a child's holiday schedule order has priority over the regular parenting time.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

4. ☐ **Petitioner's** ☐ **Respondent's** ☐ **Other Parent's/Party's** visitation (parenting time) will be *(check all that apply):*

a. ☐ **In person,** as follows *(Specify start and ending date and time. If applicable, check "start of" OR "after school"):*

(1) ☐ **Weekends starting** *(date):*

(Note: The first weekend of the month is the first weekend with a Saturday.)

Weekend	Day(s)	Times			Start of (or After) School *(if applicable)*	
☐ 1st	from _____	at _____	☐ a.m.	☐ p.m.	☐ start of	☐ after
	to _____	at _____	☐ a.m.	☐ p.m.	☐ start of	☐ after
☐ 2nd	from _____	at _____	☐ a.m.	☐ p.m.	☐ start of	☐ after
	to _____	at _____	☐ a.m.	☐ p.m.	☐ start of	☐ after
☐ 3rd	from _____	at _____	☐ a.m.	☐ p.m.	☐ start of	☐ after
	to _____	at _____	☐ a.m.	☐ p.m.	☐ start of	☐ after
☐ 4th	from _____	at _____	☐ a.m.	☐ p.m.	☐ start of	☐ after
	to _____	at _____	☐ a.m.	☐ p.m.	☐ start of	☐ after
☐ 5th	from _____	at _____	☐ a.m.	☐ p.m.	☐ start of	☐ after
	to _____	at _____	☐ a.m.	☐ p.m.	☐ start of	☐ after

(a) ☐ The parties will alternate the fifth weekends, with the ☐ petitioner ☐ respondent ☐ other parent/party having the initial fifth weekend, starting *(date):*

(b) ☐ The ☐ petitioner ☐ respondent ☐ other parent/party will have the fifth weekend in ☐ odd ☐ even numbered months.

(2) ☐ **Alternate weekends starting** *(date):*

(Specify day(s) and times):	from _____	at _____	☐ a.m.	☐ p.m.	☐ start of	☐ after
	to _____	at _____	☐ a.m.	☐ p.m.	☐ start of	☐ after

(3) ☐ **Weekdays starting** *(date):*

(Specify day(s) and times):	from _____	at _____	☐ a.m.	☐ p.m.	☐ start of	☐ after
	to _____	at _____	☐ p.m.	☐ p.m.	☐ start of	☐ after

(4) ☐ Other visitation (parenting time) days and restrictions are ☐ listed in Attachment 5e(4)
☐ as follows:

b. ☐ **Virtual visitation**

I ask that the court order virtual visitation as described ☐ in Attachment 4b. ☐ below:

Virtual visitation means using audiovisual electronic technology (like a smartphone, tablet, smart watch, or computer) for a parent and a child to see and hear each other. Learn more about how to have safe virtual visits at selfhelp.courts.ca.gov/child-custody/virtual-visitation.

c. ☐ **Other ways that visitation (parenting time) can happen** that are in the best interests of the child *(specify):*

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

5. ☐ **Child custody and visitation when there are allegations of a history of abuse or substance abuse**

a. **Allegations**

(1) ☐ Petitioner ☐ Respondent ☐ Other parent/party is (or are) alleged to have a history of abuse against any of the following persons: a child, the other parent, their current spouse, or the person they live with or are dating or engaged to.

(2) ☐ Petitioner ☐ Respondent ☐ Other parent/party is (or are) alleged to have the habitual or continual illegal use of controlled substances, or the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances.

b. **Child custody**

(1) ☐ I ask that the court NOT order sole or joint custody of the minor child to the party or parties in 5a.

(2) ☐ Even though there are allegations, I ask that the court make the child custody orders in item 4.

(Write the reasons why you think it would be in the best interests of the child that the party or parties be granted child custody, even though there are allegations against them of a history of abuse or substance abuse. The orders that you request about child custody or visitation must also be specific as to time, day, place, and manner of transfer (exchange) of the child, as Family Code sections 3011(a)(5)(A) and 6323(c) require.)

☐ Below: ☐ Attachment 5b(2) ☐ Other *(specify):*

c. **Visitation (Parenting Time)**

(1) ☐ I ask that the court order supervised visitation as specified in item 6.

(2) ☐ I ask that the court order unsupervised visitation to the party or parties as specified in item 4.

(A) Even though there are allegations of a history of abuse or substance abuse, I request that the court order unsupervised visitation to *(specify):* ☐ petitioner ☐ respondent ☐ other parent/party.

(B) The reasons why the court should make the orders are

(Write the reasons why you think it would be in the best interests of the child that the party or parties be granted unsupervised visitation (parenting time) even though there are allegations against them of a history of abuse or substance abuse. The orders that you request about child custody or visitation must also be specific as to time, day, place, and manner of transfer (exchange) of the child, as Family Code sections 3011(a)(5)(A) and 6323(c) require.)

☐ Below: ☐ In Attachment 5c(2)(B) ☐ Other *(specify):*

(3) ☐ Other *(specify):*

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

6. ☐ **Supervised visitation (parenting time)**

(To learn about supervised visitation, go to: selfhelp.courts.ca.gov/guide-supervised-visitation.)

a. I ask that ☐ petitioner ☐ respondent ☐ other parent/party have supervised visitation with the minor children.

b. The reasons why the court should make the orders are *(specify):*
(Write the reasons why you think unsupervised visitation (parenting time) would NOT be in the best interest of the child.)
☐ Below ☐ In Attachment 6b ☐ Other *(specify):*

c. I ask that the visitations be monitored by *(name, if known):*
The provider's phone number is *(specify):*

(1) ☐ The person or agency is a professional provider.

(A) A professional provider must meet the requirements listed in *Declaration of Supervised Visitation and Exchange Services Provider* (Professional) (form FL-324(P)) and sign the declaration.

(B) Professional provider fees to be paid by: petitioner: percent. respondent: percent. other parent/party: percent.

(2) ☐ The person is a nonprofessional provider. The person must meet the requirements listed in *Declaration of Supervised Visitation and Exchange Services Provider (Nonprofessional)* (form FL-324(NP).

d. Location of supervised visitation. I request that supervised visitation be *(check one):*

(1) ☐ In person at a safe location.

(2) ☐ Virtual visitation (not in person).

(3) ☐ Other *(describe):*

e. Schedule for supervised visitation *(specify):*

(1) ☐ Once a week, for *(number of hours for each visit):*

(2) ☐ Two times each week, for *(number of hours for each visit):*

(3) ☐ As specified in item 4.

(4) ☐ Other *(describe):*

7. ☐ **Transportation for visitation (parenting time) and place of exchange**

Note: In cases of domestic violence, the court must have enough information to make orders that are specific as to the time, day, place, and manner of transfer (exchange) of the child for custody and visitation under Family Code section 6323(c).

a. The children must be driven only by a licensed and insured driver. The vehicle must be legally registered with the Department of Motor Vehicles and must have child restraint devices properly installed, as required by law.

b. ☐ Transportation **to** begin the visits will be provided by *(name):*

c. ☐ Transportation **from** the visits will be provided by *(name):*

d. ☐ The exchange point at the beginning of the visit will be *(address):*

e. ☐ The exchange point at the end of the visit will be *(address):*

f. ☐ During the exchanges, the party driving the children will wait in the car and the other party will wait in the home (or exchange location) while the children go between the car and the home (or exchange location).

g. ☐ Other *(specify):*

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

8. ☐ **Travel with children** The ☐ petitioner ☐ respondent ☐ other parent/party **must** have written permission from the other parent or party, or a court order, to take the children out of

a. ☐ the state of California.

b. ☐ the following counties *(specify):*

c. ☐ other places *(specify):*

9. ☐ **Child abduction prevention.** There is a risk that one of the parties will take the children out of California without the other party's permission. I request the orders set out on attached form FL-312.

10. ☐ **Child custody mediation**

I request an order for the parties to go to child custody mediation or child custody recommending counseling *(specify date, time, and location, if applicable):*

Note: Parents with a family court case who do not agree about child custody or visitation are required to attend mediation to try to develop a parenting plan that is in the best interest of their child. A party who alleges domestic violence in a written declaration under penalty of perjury or who is protected by a protective order may ask the mediator or child custody recommending counselor to meet with the parties separately and at separate times. A court order for separate sessions is not required.

11. ☐ **Children's holiday schedule.** I request the holiday and vacation schedule set out ☐ below ☐ on form FL-341(C)

12. ☐ **Additional custody provisions.** I request the additional orders for custody set out ☐ below ☐ on form FL-341(D)

13. ☐ **Other** *(specify):*

FL-311-INFO What Are Visitation or Parenting Time Orders?

What is visitation or parenting time?

Visitation (visits) or parenting time is an order for how your children will spend time with each parent that is in the best interests of the child.

For information about child custody, read:

- *Child Custody Information Sheet—Recommending Counseling* (form FL-313-INFO)
- *Child Custody Information Sheet—Child Custody Mediation* (form FL-314-INFO)

Four Types of Orders:

1 Scheduled visitation

These are orders with a set schedule of the dates and times that your children will be with each parent. The schedule can include holidays, special occasions, vacations, and other important dates for the family.

2 Reasonable visitation

These are open-ended orders that allow parents to work out a plan on their own. This type of plan can work if parents get along very well, can be flexible, and communicate well. Generally, this type of plan is not suitable for cases with domestic violence.

3 Supervised visitation

A judge makes these orders when there are safety concerns. A parent and child have a neutral third person watching and listening during the visit. The neutral third person can be professional or nonprofessional.

Professional provider

A professional provider (or "monitor") is a person with special training who has passed a background check. Professional providers charge a fee. They are also mandated reporters which means that they must report suspected child abuse to the local child welfare department (known as "CPS"). Your local court may have a list of local professional providers.

Nonprofessional provider

A nonprofessional provider is usually a friend or family member who is not paid and does not have special training, but must still make safety the top priority, follow the judge's orders, and be able to end a visit, if needed, to protect the child.

For more information about supervised visits, go to selfhelp.courts.ca.gov/guide-supervised-visitation.

4 No visitation

The court may make this order if visiting with a parent would not be safe for the children even if supervised.

What are virtual visits?

California law defines "virtual visits" as use of audiovisual electronic communication tools to provide contact between a parent and their children as part of a parenting plan or custody order. A parent and child must use some kind of electronic communication that allows them to see and hear each other (for example, using Zoom, FaceTime, or WhatsApp).

- Virtual visits may require access to the internet during the visit and may be supervised or unsupervised.
- For more information about virtual visitation, go to: selfhelp.courts.ca.gov/child-custody/virtual-visitation.

Are virtual visits a good option for us?

Virtual visits may be a good option if you have safety concerns, or if the other parent lives far away from the children. It can also be a good option if the other parent hasn't seen the children in a long time.

Some cases may not be appropriate for virtual visits, whether supervised or unsupervised. Your child's age may be a factor. Younger children may not be able to sit through a long virtual visitation. If virtual visits are part of the court-approved parenting plan, or part of your supervised visitation, you can use the worksheet on page 2 to help you plan for them.

What about orders for picking up and dropping off the child for visitation?

You can ask for orders that would not require you to meet the other parent, like having the other parent pick up your child from school or daycare. Or, you can ask for supervised exchanges. Supervised exchanges involve a neutral third person who will help you with transferring the children to the other parent so you don't have to meet with the other parent.

When you ask for visitation orders, give details about:

- When they should happen;
- How often they should happen; and
- Who will be responsible for transporting the children before and after each visit.

How do I ask the court for these orders?

- If you already have a family law case, you can ask the court for child custody, visitation (parenting time), and child exchange orders by completing *Request for Order* (form FL-300) and filing it in the court where your case was started. Information about how to file this and other forms is found in *Information Sheet for Request for Order (Family Law)* (form FL-300-INFO).
- If you need to start a case in family court to ask for these orders, information is available online to help you decide which type of case to file. Go to: selfhelp.courts.ca.gov/child-custody/filing-options.

Where can I find free legal help?

- Contact the self-help center in your court. Its 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. Find your local court's self-help center at selfhelp.courts.ca.gov/find.
- Contact a local legal aid agency or community-based nonprofit at www.lawhelpca.org.

What if there is domestic violence or a protective order?

- If there is domestic violence or a protective order, before making a parenting plan, talk with an attorney, counselor, child custody mediator, or child custody recommending counselor, or contact the self-help center in your court.
- Read *Asking for Child Custody and Visitation Orders* (form DV-105-INFO).
- For more information and resources, call the National Domestic Violence Hotline at 1-800-799-7233 or call 211 if available in your area.

Plan for Your Virtual Visits

(You can use this as a worksheet.)

◯ **Before** your visit, make sure the program, like a mobile app or web app, works on your phone or computer. Make sure you have an internet connection and know how to use the app.

◯ **Before** your virtual visit or virtual supervised visit, make a plan. For example, have an activity ready like reading a book to your child. The length of your visit should be age-appropriate. Review the court order to be clear on how long your visit will be.

Write your plan here:

_____

_____

_____

_____

_____

If you have virtual supervised visitation, ask the provider questions ahead of time (for example, during your scheduled orientation with the provider). You can write your questions here:

_____

_____

_____

◯ **During** your visit, make sure you:

- Find a quiet room or space for your virtual visits or virtual supervised visits.
- Have any games, books, or other activity ready and in front of you.
- Be ready to be flexible. Technical issues may come up that impact your visit.

◯ **During** your visit, make sure you do **not**:

- Have another person participate in the visit unless a judge gave the person permission to do so.
- Talk about your court case with your child.
- For virtual supervised visitation, do not whisper or communicate in other ways that would not allow the provider to see or hear your interaction with the child.

SUPERVISED VISITATION AND EXCHANGES SERVICES PROVIDER *(name and address)*: NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO. *(Optional)*: EMAIL ADDRESS *(Optional)*:	*FOR COURT USE ONLY* *DRAFT* *NOT APPROVED BY THE JUDICIAL COUNCIL*
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARTY/PARENT:	
DECLARATION OF SUPERVISED VISITATION AND EXCHANGE SERVICES PROVIDER (NONPROFESSIONAL)	CASE NUMBER:

1. **Purpose.** I submit this form to declare that *(check all that apply):*
   - a. ☐ I am not being paid to provide supervised visitation and exchange services.
   - b. ☐ I am in compliance with all mandatory requirements for nonprofessional providers of supervised visitation and exchange services as defined in Family Code section 3200.5 and standard 5.20 of the Standards of Judicial Administration.
   - c. ☐ I am in compliance with the alternative qualifications specified in 2b.

2. **Qualifications** *(complete a or b):*
   - a. ☐ *Standard qualifications*. I meet the qualifications to provide nonprofessional supervised visitation and exchange services under Family Code section 3200.5 as follows *(check all that apply):*
     - (1) ☐ I have no record of a conviction for child molestation, child abuse, or other crimes against a person.
     - (2) ☐ I will not be transporting the child.
     - (3) ☐ I will be transporting the child by automobile and I have proof of automobile insurance.
     - (4) ☐ I agree to adhere to and enforce the court order regarding supervised visitation and exchange services.
     - (5) ☐ There is no current or past court order in which I (the nonprofessional provider) was the person being supervised.
   - b. ☐ *Alternative qualifications*. I meet other qualifications to provide nonprofessional supervised visitation and exchange services, as follows *(check all that apply):*
     - (1) ☐ The court has ordered other qualifications and I meet those qualifications *(see attached copy of the court order).*
     - (2) ☐ The parties have stipulated (agreed) to different qualifications and I meet those qualifications *(see attached copy of the parties' stipulation (agreement), which was approved and signed by the court).*

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)

NOTICE: Additional requirements may apply to be able to serve as a nonprofessional supervised visitation and exchange services provider. See standard 5.20 of the Standards of Judicial Administration.

SUPERVISED VISITATION AND EXCHANGE SERVICES PROVIDER *(name and address)*: NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO. *(Optional)*: EMAIL ADDRESS *(Optional)*:	*FOR COURT USE ONLY* *DRAFT* *NOT APPROVED BY THE JUDICIAL COUNCIL*
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARTY/PARENT:	
DECLARATION OF SUPERVISED VISITATION AND EXCHANGE SERVICES PROVIDER (PROFESSIONAL)	CASE NUMBER:

1. **Purpose.** In this form, I declare that I comply with all mandatory requirements for professional providers of supervised visitation and exchange services under Family Code section 3200.5 and standard 5.20 of the Standards of Judicial Administration.
2. **Type of submission.** I am *(check a or b):*
   a. ☐ completing this form before I provide initial supervised visitation and exchange services in the case.
   b. ☐ updating this form and attaching an original report of the supervised visitation and exchanges that I monitored.
      (1) The report is dated *(specify date):*
      (2) ☐ Copies of the report were also sent to all parties and their attorneys ☐ and the attorney for the child.
3. I am paid to provide supervised visitation services and exchange services as an independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation and exchange services center or agency.
4. **Qualifications.** I meet the qualifications listed in Family Code section 3200.5 for this position as follows *(check all that apply):*
   a. ☐ I am 21 years of age or older.
   b. ☐ I have no record of a conviction for driving under the influence (DUI) within the last five years.
   c. ☐ I have not been on probation or parole for the last 10 years.
   d. ☐ I have no record of a conviction for child molestation, child abuse, or other crimes against a person.
   e. ☐ I have proof of automobile insurance for transporting the child.
   f. ☐ I have had no civil, criminal, or juvenile restraining orders within the last 10 years.
   g. ☐ There is no current or past court order in which I am the person being supervised.
   h. ☐ I agree to speak the language of the party being supervised and of the child, or I will provide a neutral interpreter over the age of 18 years who is able to do so.
   i. ☐ I agree to adhere to and enforce the court order regarding supervised visitation and exchange services.
   j. ☐ I completed a Live Scan criminal background check before providing services.
   k. ☐ I am registered as a TrustLine provider.
5. **Training.** I meet the training requirements under Family Code section 3200.5 as follows *(check all that apply):*
   a. ☐ I completed 24 hours of training, including at least 12 hours of classroom instruction in all required subjects.
   b. ☐ I completed the California Department of Social Services' online training course required for mandated reporters.

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)

NOTICE: See standard 5.20 of the California Standards of Judicial Administration for further requirements that may apply.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

CHILD CUSTODY AND VISITATION (PARENTING TIME) ORDER ATTACHMENT

TO ☐ ***Findings and Order After Hearing*** **(form FL-340)** ☐ ***Judgment*** **(form FL-180)** ☐ ***Judgment*** **(form FL-250)**
☐ ***Stipulation and Order for Custody and/or Visitation (Parenting Time)*** **(form FL-355)**
☐ **Other** *(specify):*

1. **Jurisdiction.** This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (Fam. Code, §§ 3400–3465).
2. **Notice and opportunity to be heard.** The responding party was given notice and an opportunity to be heard, as provided by the laws of the State of California.
3. **Country of habitual residence.** The country of habitual residence of the child or children in this case is
   ☐ the United States ☐ Other *(specify):*
4. **Penalties for violating this order.** If you violate this order, you may be subject to civil or criminal penalties, or both.
5. ☐ **Child abduction prevention.** There is a risk that one of the parties will take the children out of California without the other party's permission. (*Child Abduction Prevention Order Attachment* (form FL-341(B)) is attached and must be obeyed.)
6. ☐ The court refers the parties to child custody mediation or child custody recommending counseling as follows:

7. ☐ **Child custody**. Custody of the minor children of the parties is awarded as follows:

a. Child's Name	Birth Date	Legal custody to: *(person who decides about the child's health, education, and welfare)*	Physical custody to: *(person the child regularly lives with)*

b. ☐ Joint legal custody of the child or children will be exercised as specified in the following order: ☐ Attachment 7b
☐ *Joint Legal Custody Attachment* (form FL-341(E))

8. ☐ **Child custody and visitation (parenting time) involving allegations of a history of abuse or substance abuse**
   a. Allegations have been raised in form FL-311, other documents filed in the court, or in a court hearing that
      (1) ☐ Petitioner ☐ Respondent ☐ Other parent/party is (or are) alleged to have a history of abuse against any of the following persons: a child, the other parent, their current spouse, or the person they live with or are dating or engaged to.
      (2) ☐ Petitioner ☐ Respondent ☐ Other parent/party is (or are) alleged to have the habitual or continual illegal use of controlled substances, or the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances.
   b. ☐ The court does NOT grant sole or joint custody of the minor children to:
      ☐ petitioner ☐ respondent ☐ other parent/party
   c. ☐ (1) Even though there are allegations of a history of abuse or substance abuse, the court GRANTS sole or joint custody of the minor child as set out in item 7.
      (2) As required by Family Code section 3011(a)(5)(A), the court's reasons for making the orders:
         (A) ☐ Are in writing and filed separately (form FL-351 may be used for this purpose.)
         (B) ☐ Were recorded as follows: ☐ In a minute order ☐ By a court reporter
         ☐ Other *(specify):*
      (3) The court finds that the order is in the best interests of the child, protects the safety of the parties and the child, and is specific as to time, day, place, and manner of transfer (exchange) of the child as Family Code sections 3011(a)(5)(A) and 6323(c) require.

THIS IS A COURT ORDER.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

9. ☐ **Visitation (parenting time)**

a. ☐ Reasonable right of visitation to the party without physical custody **(not appropriate in cases involving domestic violence)**

b. ☐ See the attached _____ -page document

c. ☐ No visitation (parenting time)

d. ☐ The visitation (parenting time) will be supervised as specified in the attached *Supervised Visitation Order* (FL-341(A)).

e. ☐ Visitation (parenting time) for the ☐ petitioner ☐ respondent ☐ other *(name):* will be in person, by virtual visitation (not in person), and/or other ways as specified below:

(1) ☐ **In person,** as follows

(A) ☐ **Weekends starting** *(date):*

(Note: The first weekend of the month is the first weekend with a Saturday.)

Weekend	**Day(s)**	**Times**	**Start of (or After) School *(if applicable)***
☐ 1st	from _____	at _____ ☐ a.m. ☐ p.m.	☐ start of ☐ after
	to _____	at _____ ☐ a.m. ☐ p.m.	☐ start of ☐ after
☐ 2nd	from _____	at _____ ☐ a.m. ☐ p.m.	☐ start of ☐ after
	to _____	at _____ ☐ a.m. ☐ p.m.	☐ start of ☐ after
☐ 3rd	from _____	at _____ ☐ a.m. ☐ p.m.	☐ start of ☐ after
	to _____	at _____ ☐ a.m. ☐ p.m.	☐ start of ☐ after
☐ 4th	from _____	at _____ ☐ a.m. ☐ p.m.	☐ start of ☐ after
	to _____	at _____ ☐ a.m. ☐ p.m.	☐ start of ☐ after
☐ 5th	from _____	at _____ ☐ a.m. ☐ p.m.	☐ start of ☐ after
	to _____	at _____ ☐ a.m. ☐ p.m.	☐ start of ☐ after

(a) ☐ The parties will alternate the fifth weekends, with the ☐ petitioner ☐ respondent ☐ other parent/party having the initial fifth weekend, starting *(date):*

(b) ☐ The ☐ petitioner ☐ respondent ☐ other parent/party will have the fifth weekend in ☐ odd ☐ even numbered months.

(B) ☐ **Alternate weekends starting** *(date):*

from _____	at _____ ☐ a.m. ☐ p.m.	☐ start of	☐ after
to _____	at _____ ☐ a.m. ☐ p.m.	☐ start of	☐ after

(C) ☐ **Weekdays starting** *(date):*

from _____	at _____ ☐ a.m. ☐ p.m.	☐ start of	☐ after
to _____	at _____ ☐ p.m. ☐ p.m.	☐ start of	☐ after

(D) ☐ **Other visitation (parenting time) days and restrictions are** ☐ listed in Attachment 9e(1)(D)
(form MC-025 may be used for this purpose) ☐ as follows:

(2) ☐ **Virtual visitation**, as follows:

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

(3) ☐ **Other ways visitation can happen** that are in the best interests of the child are as follows:

10. ☐ **Supervised visitation (parenting time).**

Until ☐ further order of the court ☐ other *(specify):*
☐ petitioner ☐ respondent ☐ other parent/party *(name):*
will have supervised visitation (parenting time) with the minor children according to the attached ***Supervised Visitation Order*** **(form FL-341(A)).**

11. ☐ **Transportation for visitation (parenting time) and place of exchange**

a. The children must be driven only by a licensed and insured driver. The vehicle must be legally registered with the Department of Motor Vehicles, and must have child restraint devices properly installed, as required by law.

b. ☐ Transportation **to** begin the visits will be provided by the ☐ petitioner ☐ respondent ☐ other *(specify):*

c. ☐ Transportation **from** the visits will be provided by the ☐ petitioner ☐ respondent ☐ other *(specify):*

d. ☐ The exchange point at the beginning of the visit will be at *(address):*

e. ☐ The exchange point at the end of the visit will be at *(address):*

f. ☐ During the exchanges, the party driving the children will wait in the car and the other party will wait in the home (or exchange location) while the children go between the car and the home (or exchange location).

g. ☐ Other *(specify):*

12. ☐ **Travel with children**. The ☐ petitioner ☐ respondent ☐ other parent/party *(name):*
must have written permission from the other parent or a court order to take the children out of

a. ☐ the state of California.

b. ☐ the following counties *(specify):*

c. ☐ other places *(specify):*

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

13. ☐ **Holiday schedule**. The children will spend holiday time as listed ☐ below ☐ in the attached schedule. (*Children's Holiday Schedule Attachment* (form FL-341(C)) may be used for this purpose.)

14. ☐ **Additional custody provisions**. The parties will follow the additional custody provisions listed ☐ below ☐ in the attached schedule. (*Additional Provisions—Physical Custody Attachment* (form FL-341(D)) may be used for this purpose.)

15. **Access to children's records.** Both the custodial and noncustodial parent have the right to access records and information about their minor children (including medical, dental, and school records) and consult with professionals who are providing services to the children.

16. ☐ **Other** *(specify):*

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	CASE NUMBER:

SUPERVISED VISITATION (PARENTING TIME) AND EXCHANGES ORDER

ATTACHMENT TO: ☐ ***Child Custody and Visitation (Parenting Time) Order Attachment*** **(form FL-341)**
☐ **Other *(specify):***

1. Evidence has been presented in support of a request that the contact of ☐ Petitioner ☐ Respondent ☐ Other Parent/Party with the child or children be supervised based upon allegations of
   ☐ child abduction ☐ physical abuse ☐ drug abuse ☐ neglect
   ☐ sexual abuse ☐ domestic violence ☐ alcohol abuse ☐ other *(specify):*
   ☐ Petitioner ☐ Respondent ☐ Other Parent/Party disputes these allegations and the court reserves the findings on these issues pending further investigation and hearing or trial.
2. The court finds, under Family Code section 3100, that the best interest of the child or children requires that visitation by
   ☐ Petitioner ☐ Respondent ☐ Other Parent/Party must, until further order of the court, be limited to contact supervised by the person or supervised visitation center set forth in this order pending further investigation and hearing or trial.

THE COURT MAKES THE FOLLOWING ORDERS

3. **CHILDREN**
   a. Name: Date of birth:
   b. Name: Date of birth:
   c. Name: Date of birth:
   ☐ The names and birthdates of additional children are attached to the order.
4. ☐ **PROFESSIONAL SUPERVISED VISITATION WITH CHILDREN**
   a. Provider Information *(check one):*
      (1) ☐ Chosen provider *(name):* Telephone:
      Address *(if known):*
      If the chosen provider cannot provide services, parties must use the alternate provider.
      Alternate provider *(name):* Telephone:
      Address *(if known):*
      ☐ Petitioner ☐ Respondent ☐ Other Parent/Party to contact the provider by *(date):*
      (2) ☐ The parties have not yet chosen a provider. A list of professional providers *(check all that apply):*
      ☐ is attached to this order.
      ☐ was given in court to: ☐ Petitioner ☐ Respondent ☐ Other Parent/Party
      ☐ Petitioner ☐ Respondent ☐ Other Parent/Party must choose and contact a provider by *(date):*
      (3) ☐ The professional provider will be a mutually agreed-upon third party as arranged by the parties.
      (4) ☐ Other *(specify):*
   b. Frequency of visits *(check one):*
      (1) ☐ Once a week, for *(number of hours for each visit):*
      (2) ☐ Two times each week, for *(number of hours for each visit):*
      (3) ☐ According to the schedule specified in: ☐ Form FL-341 ☐ Other *(specify):*
   c. Visits must be *(check one):*
      (1) ☐ In person at a safe location.
      (2) ☐ Virtual visitation (not in person).
      (3) ☐ Other *(specify):*
   d. Payment responsibility: Petitioner: % Respondent: % Other: %

THIS IS A COURT ORDER.

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	CASE NUMBER:

5. ☐ **NONPROFESSIONAL SUPERVISED VISITATION WITH CHILDREN**

a. Nonprofessional provider (person) to supervise visits:
Name: Relationship to child:
Address *(if known):*
Telephone *(if known):*

b. Frequency of visits *(check one):*
(1) ☐ Once a week, for *(number of hours for each visit):*
(2) ☐ Two times each week, for *(number of hours for each visit):*
(3) ☐ According to the schedule specified in: ☐ Form FL-341 ☐ Other *(specify):*

c. Visits must be *(check one):*
(1) ☐ In person at a safe location.*(specify location):*
(2) ☐ Virtual visitation (not in person). *(Provider, child, and visiting parent may need to access the internet.)*
(3) ☐ Other *(specify):*

d. Resources for nonprofessional providers:
(1) Find your *Declaration* (form FL-324(NP)) at: courts.ca.gov/sites/default/files/courts/default/2024-11/fl324np.pdf.
(2) For online information, go to: www2.courtinfo.ca.gov/accesstovisitation/story_html5.html.
(3) For information about safe locations and virtual visits, go to: selfhelp.courts.ca.gov/guide-supervised-visitation.

6. ☐ **SUPERVISED EXCHANGES (Drop-off and Pick-up of Children)**

a. Type of provider:
(1) ☐ Professional provider
Name: Relationship to child:
Address *(if known):*
Payment responsibility Petitioner: % Respondent: % Other: %
☐ Petitioner ☐ Respondent ☐ Other Parent/Party to contact the provider by *(specify date)*
(date):
Location of supervised exchanges to be decided by the professional provider.

(2) ☐ Nonprofessional provider
Name: Relationship to child:
Address *(if known):*
Telephone *(if known):*
Safe location for exchanges:
(For more information, see item 5d. Resources for nonprofessional providers.)

b. Supervised exchanges will be according to the schedule specified:
(1) ☐ In form FL-341
(2) ☐ Other *(specify):*
(3) ☐ Below:

7. ☐ **THE COURT FURTHER ORDERS**

THIS IS A COURT ORDER.

PARTY WITHOUT ATTORNEY OR ATTORNEY	STATE BAR NUMBER:	*FOR COURT USE ONLY*
NAME:		
FIRM NAME:		DRAFT
STREET ADDRESS:		
CITY: STATE: ZIP CODE:		NOT APPROVED BY THE JUDICIAL COUNCIL
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:		
MANDATORY FINDINGS FOR CHILD CUSTODY AND VISITATION (PARENTING TIME) ORDERS		CASE NUMBER:

1. The matter was heard
   On *(date):* at *(time):* Dept.: Room:
   Judicial officer *(name):* ☐ Temporary judge
   On the request for order filed *(date):* by *(name):*

2. ☐ Present at the proceeding, if applicable:
   a. ☐ Petitioner *(name):* ☐ Attorney *(name):*
   b. ☐ Respondent *(name):* ☐ Attorney *(name):*
   c. ☐ Other parties or attorneys present *(specify):*

3. The court states its reasons in writing for granting *(check all that apply):*
   a. ☐ Sole or joint custody or unsupervised visitation under Family Code section 3011 in item 4.
   b. ☐ Sole or joint custody under Family Code section 3044 in item 5.
   c. ☐ In-person visitation under Family Code section 3100(e) in item 6.

4. ☐ **Child custody and visitation (parenting time) orders granted on allegations of abuse or substance abuse** *(Fam. Code, § 3011)*
   a. The court has granted sole or joint custody or unsupervised visitation even though there are allegations of a history of abuse or substance abuse against that parent.
   b. The court finds that the orders are in the best interests of the child, protects the safety of the parties and the child, and are specific as to time, day, place and manner of transfer (exchange) of the child, as Family Code sections 3011(a)(5)(A) and 6323(c) require.
   c. The court's reasons for granting sole or joint physical custody or legal custody, or unsupervised visits are stated
      ☐ In Attachment 4c. ☐ Below

Notice:
The court may use this form to provide its reasons in writing for granting: (1) sole or joint custody or unsupervised visitation to a parent alleged to have a history of abuse or substance abuse; (2) sole or joint custody to a parent who has committed domestic violence in the last five years; or (3) in-person visitation when a parent is staying in a confidential location due to domestic violence or fear of domestic violence. The court is not required to provide the reasons for granting the orders in writing if the court stated its reasons on the record (for example, in the minutes of a hearing, by a court reporter, or another method).

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

4. c. The court's reasons for granting sole or joint physical custody or legal custody, or unsupervised visits are stated below:

5. ☐ **Sole or joint custody granted to a parent who has committed domestic violence in the last five years**
(Fam. Code, § 3044)

a. The court has granted:

(1) ☐ Sole or joint physical custody of the children

(2) ☐ Sole or joint legal custody of the children

to a parent who has committed domestic violence in the last five years.

b. The court finds that the orders are in the best interest of the child, protect the safety of the parties and the child, and are specific as to time, day, place, and manner of transfer (exchange) of the child.

c. In deciding the best interest of the children, the court has **not** used the preference for frequent and continuing contact with both parents and has balanced all the factors under Family Code section 3044, as set out in item 5e.

d. The court's reasons for granting the custody orders are as stated: ☐ In Attachment 5d. ☐ Below

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

5. e. The court has balanced all of the required factors that are listed below.

(1) The parent has successfully completed a batterer intervention program that meets the requirements under Penal Code section 1203.097(c).

☐ Yes ☐ No

(Explain, as needed):

(2) The parent has successfully completed a program for alcohol or drug abuse counseling, if the court determined that counseling is appropriate.

☐ Yes ☐ No ☐ Does not apply. The court decided that counseling was not appropriate.

(Explain, as needed):

(3) The parent has completed a parenting class, if the court determined the class to be appropriate.

☐ Yes ☐ No ☐ Does not apply. The court decided that a parenting class was not appropriate.

(Explain, as needed):

(4) The parent is on probation or parole and has complied with the terms and conditions of probation or parole.

☐ Yes ☐ No ☐ Does not apply. The parent is not on probation or parole.

(Explain, as needed):

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

5. e. (5) The parent who is restrained by a protective order or restraining order has complied with its terms and conditions.

☐ Yes ☐ No ☐ Does not apply. The parent who committed abuse has not been restrained by a protective order or restraining order.

(Explain, as needed):

(6) The parent has not committed additional acts of domestic violence.

☐ Yes ☐ No

(Explain, as needed):

(7) The court has determined that, under Family Code section 6322.5, the parent is a restrained person in possession or control of a firearm or ammunition in violation of Family Code section 6389.

☐ Yes ☐ No ☐ Does not apply.

(Explain, as needed):

(8) Additional reasons, if any:

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

6. ☐ **In-person visitation granted when a parent is staying in a confidential location** (Fam. Code, § 3100(e))

a. The court finds that *(parent's name):*

is staying in a confidential location due to domestic violence or fear of domestic violence by the other parent.

b. For the children:

☐ named in the attached order

☐ only named below:

Child's name

The court finds that the custody and visitation (parenting time) orders granted are in the best interests of the child and are designed to keep the location of that parent confidential, and protect all persons staying at the confidential location.

c. In determining that in-person visitation is in the best interests of the child, the court has considered the following required factors.

(1) Whether the parent has access to firearms or ammunition.

In considering this factor, the court has taken into account whether the person granted in-person visitation:

☐ Has access to firearms and ammunition.

☐ Does not have access to firearms and ammunition.

☐ Is prohibited from having firearms or ammunition.

☐ Other considerations related to firearms and ammunition *(specify):*

(2) Whether there are restraining orders in effect and other matters relating to restraining orders.

The court has taken into account whether the person granted in-person visitation:

☐ Is the subject of an emergency protective order, protective order, or other restraining order.

☐ Violated the terms of that emergency protective order, protective order, or other restraining order.

☐ Complied with the terms of that emergency protective order, protective order, or other restraining order.

☐ Other considerations related to restraining orders or violation of restraining orders *(specify, as needed):*

(3) Information that the court obtained under Family Code section 3011.

(4) Confidential information that the court obtained from background checks conducted under Family Code section 6306.

(5) The potential for revealing the confidential location where the other parent is staying.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

6. c. (6) Additional information or reasons for the court's decisions, if any.

7. **Other findings, reasons, or information** *(if any):*

Date:

JUDICIAL OFFICER OF THE SUPERIOR COURT

PARTY WITHOUT ATTORNEY OR ATTORNEY	STATE BAR NUMBER:	FOR COURT USE ONLY
NAME:		
FIRM NAME:		
STREET ADDRESS:		
CITY:	STATE: ZIP CODE:	
TELEPHONE NO.:	FAX NO.:	**DRAFT**
EMAIL ADDRESS:		
ATTORNEY FOR *(name)*:		**NOT APPROVED BY THE JUDICIAL COUNCIL**
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
PETITIONER:		
RESPONDENT:		
OTHER PARENT/PARTY:		
STIPULATION AND ORDER FOR CUSTODY AND/OR VISITATION (PARENTING TIME) ☐ **MODIFICATION**		CASE NUMBER:

Notice: If there are allegations or findings of abuse, the judge may not enter an order based on a stipulation until you have a hearing.

The parties signing this stipulation agree that:

1. This court has jurisdiction over the minor children because California is the children's home state.
2. The habitual residence of the children is the United States of America.

In addition, the parties agree that *(check item 3 or 4):*

3. ☐ The attached agreement, dated *(specify):* and consisting of *(number):* pages is their agreement for custody and/or visitation (parenting time).
4. ☐ The attached forms are their agreement for custody and/or visitation (parenting time):
   ☐ FL-341 ☐ FL-341(A) ☐ FL-341(B) ☐ FL-341(C) ☐ FL-341(D) ☐ FL-341(E)

The parties further agree that *(check all that apply):*

5. a. ☐ Their agreement is in best interest of their child or children and they ask that it be made the order of the court.
   b. ☐ (1) The case involves allegations of a history of abuse or substance abuse by *(check all that apply):*
      (a) ☐ Petitioner ☐ Respondent ☐ Other parent/party is (or are) alleged to have a history of abuse against any of the following persons: a child, the other parent, their current spouse, or the person they live with or are dating or engaged to.
      (b) ☐ Petitioner ☐ Respondent ☐ Other parent/party is (or are) alleged to have the habitual or continual illegal use of controlled substances, or the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances.
   (2) Even though there are allegations specified above, the parties agree that the stipulation for child custody or unsupervised visitation (parenting time) is in the best interests of the child and is specific as to time, day, place, and manner of transfer (exchange) of the child, as Family Code sections 3011(a)(5)(B) and 6323(c) require.
6. **The parties acknowledge they were advised that any violation of this order may result in civil or criminal penalties, or both.**

Each party declares 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 PETITIONER)

Date:

(TYPE OR PRINT NAME) ▶ (SIGNATURE OF RESPONDENT)

Date:

(TYPE OR PRINT NAME) ▶ (SIGNATURE OF ATTORNEY FOR PETITIONER)

Date:

(TYPE OR PRINT NAME) ▶ (SIGNATURE OF ATTORNEY FOR RESPONDENT)

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF OTHER PARENT/PARTY)

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF ATTORNEY FOR OTHER PARENT/PARTY)

FINDINGS AND ORDERS

THE COURT FINDS:

1. This court has jurisdiction over the minor children because California is the children's home state.
2. The habitual residence of the children is the United States of America.
3. The parties have been advised that any violation of this order may result in civil or criminal penalties, or both.
4. The court finds that this order is in the best interests of the child or children listed in the parties' agreement.
5. ☐ Even though there are allegations in this case of a history of abuse or substance abuse by a party or parties, the court orders sole custody, joint custody, or unsupervised visitation (parenting time) to a party or partes with an alleged history of abuse or substance abuse, as provided in the parties' stipulation.
   a. As required by Family Code section 3011(a)(5)(A), the court's reasons for making the orders *(check all that apply):*
      (1) ☐ Are in writing and filed separately. (Form FL-351 may be used for this purpose.)
      (2) ☐ Were recorded as follows *(specify):* ☐ In a minute order ☐ By a court reporter ☐ Other *(specify):*
   b. The court finds that the order is in the best interests of the child and is specific as to time, day, place, and manner of transfer (exchange) of the child, as Family Code sections 3011(a)(5)(B) and 6323(c) require.
6. The court adopts the parties' agreement regarding child custody and/or visitation (parenting time) as the order of the court, as specified in the attached:
   ☐ document dated *(specify):* and consisting of *(number):* pages or ☐ forms:
   ☐ FL-341 ☐ FL-341(A) ☐ FL-341(B) ☐ FL-341(C) ☐ FL-341(D) ☐ FL-341(E)
7. ☐ Other orders:

Date:

JUDICIAL OFFICER

Stipulations and Family Code section 3044

Where past abuse has been found or alleged, the court must not sign a stipulation in which the parties state that Family Code section 3044 does not apply. When there has been a finding of domestic violence in the last five years, the court must not sign a stipulation in which the parties agree that the presumptions have been rebutted. The court must independently determine the best interest of the child in these cases.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	California Association of Supervised Visitation Providers (CASVSP) by Debbie Comstock, Board Chair	NI	We are always supportive of changes that define opportunities to provide safety in child and custody challenges, especially as they relate to professional supervised visitation providers. CASVSP is in communication with over two hundred Providers in the State with regards to opportunities to train and encourage safe practices as defined in Standard 5.20. From this perspective, we wish to make the following comments:	No response required.
			The proposal does address the stated purpose.	Thank you for your response.
			The proposed attachment forms, DV 150, should be mandatory.	While the committee recognizes the benefits of mandatory forms, the committee concluded that forms DV-150 and FL-351 (proposed as form FL-341(F)) should be optional to provide judicial officers flexibility. The committee noted that the evidence presented in cases can vary widely. While the form may work for simpler cases, the format of the form would not work for more complex cases. Because of the set format, judicial officers who require more space would likely use a separate document to record their written findings and attach it to the multipage form, which would not promote consistency and would lead to varying formats. The new forms are recommended as optional to provide a new tool and best practice for judicial officers. The committee also concluded that forms DV-150 and FL-351 (proposed as form FL-341(F)) should

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
				be standalone forms rather than attachments to protect the privacy of litigants in these matters as findings can contain sensitive facts or credibility determinations. Because parents may provide custody and visitation orders to law enforcement or children's schools, ensuring that findings are on a separate form would keep sensitive information separate from the order.
			The proposed attachment change to FL-341F should be mandatory.	See above response as relates to form FL-341(F), which is now recommended as form FL-351.
			The proposed form FL-341A should not remove the date and signature line for the judicial officer. When a judicial officer signs and dates form FL-341(A), it confirms that the Court has reviewed and made the specific orders related to supervised visitation. This signature ensures that there is no ambiguity about whether the Court has adopted the terms outlined in the attachment as enforceable orders. In matters involving supervised visitation, where clarity and enforceability are particularly critical, the presence of the judge's signature helps all parties, including service providers and parents, understand that the orders are official and must be followed. We do not as providers, find it beneficial for our role, to remove the signature line from the form.	The committee appreciates the commenter's feedback. In light of all the comments received on this issue, the committee recommends removing the judicial officer's signature line on form FL-341(A). The judicial officer's signature should only appear on the order to which the form is attached. In this instance, form FL-341(A) is a required attachment to form FL-341, and form FL-341 may be attached to orders made on forms FL-340, FL-180, FL-250, FL-355, or some other order. Removing the judicial officer's signature from form FL-341(A) makes the form consistent with other attachment to order forms, which do not contain signature lines.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
				Additionally, having additional places for a judicial officer signature could lead to enforcement issues if unintentionally left blank.
			CASVSP appreciates being able to submit comments on these proposed changes. While there are many other suggestions made in the document, we recognize an intentional effort on the part of the Committee to continue making safety a priority in child and custody cases and supervised visitation. We trust that our comments will be taken into consideration and look forward to the positive impact these changes will have on the safety and well-being of children and families. We are committed to working collaboratively with the Committee to ensure that these standards are effectively implemented.	Thank you for your response.
2.	California Lawyers Association Family Law Section Executive Committee (FLEXCOM) by Shannon Quinley FLEXCOM Legislation Chair and by Saul Bercovitch, Associate Executive Director, Governmental Affairs, California Lawyers Association	A	FLEXCOM agrees with this proposal. FLEXCOM supports the adoption of both DV-150 and FL-341(F) for mandatory use.	While the committee recognizes the benefits of mandatory forms, the committee concluded that forms DV-150 and FL-351 (proposed as form FL-341(F)) should be optional to provide judicial officers flexibility. The committee noted that the evidence presented in cases can vary widely. While the form may work for simpler cases, the format of the form would not work for more complex cases. Because of the set format, judicial officers who require more space would likely use a separate document to record their written findings

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
				and attach it to the multipage form, which would not promote consistency and would lead to varying formats. The new forms are recommended as optional to provide a new tool and best practice for judicial officers. The committee also concluded that forms DV-150 and FL-351 (proposed as form FL-341(F)) should be standalone forms rather than attachments to protect the privacy of litigants in these matters as findings can contain sensitive facts or credibility determinations. Because parents may provide custody and visitation orders to law enforcement or children's schools, ensuring that findings are on a separate form would keep sensitive information separate from the order.
			FLEXCOM suggests that the date and signature line on FL-341(F) be deleted to avoid confusion about the enforceability of the order if the judicial officer inadvertently neglects to sign FL-341(F) but signs elsewhere on the multi-page order.	The committee agrees and does not recommend including a judicial officer signature line on attachment forms. Doing so is unnecessary as the order itself includes the judicial officer's signature. As stated by commenter, having additional places for a judicial officer signature could lead to enforcement issues if unintentionally left blank. However, because form FL-341(F) is now a standalone form (now recommended as form FL-351), it does contain a judicial officer signature line.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			FLEXCOM also suggests deleting the box on FL-341(F) indicating that the form may be attached to *Stipulation and Order for Custody and/or Visitation (Parenting Time)* (form FL-355) because Family Code §3011 indicates that mandatory findings would not be required when the parties enter into a stipulation. Deletion should be made in two places on page 1, directly under the title and at section 1(b).	The committee does not recommend deleting the check box for FL-341(F) (now recommended as form FL-351) on form FL-355. SB 599 amended Family Code section 3011 to remove the provision that the findings are not mandatory when the parties enter into stipulation. Section 3011(a)(5)(B) specifically provides that: Nothing in this paragraph eliminates the requirement that the contents of the stipulation be in the best interest of the child and be specific as to time, day, place, and manner of transfer of the child if the parties do stipulate in writing or on the record regarding custody or visitation.
3.	California Partnership to End Domestic Violence by Christopher Negri, Associate Director of Policy	AM	The California Partnership to End Domestic Violence (the Partnership) greatly appreciates the opportunity to comment on the above listed proposed rules and form revisions. The Partnership is California's recognized domestic violence coalition, representing over 1,000 advocates, organizations and allied groups. With offices in Sacramento, the Partnership's diverse membership spans the entire state. Through our public policy, communications and capacity-building efforts, we align prevention and intervention strategies to advance social change. The Partnership believes that by sharing expertise, advocates and	No response required.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			policy-makers can end domestic violence. Working at the state and national levels for nearly 40 years, the Partnership has a long track record of successfully passing over 200 pieces of legislation addressing domestic violence. The Partnership and its members contributed to the passage of SB 599. We are pleased now to offer comments related to its implementation and that of AB 3072.	
			With regard to DV-150, we would recommend selecting a form number other than DV 150, as we are concerned it may cause confusion. FL 150 is one of the most common forms in use. We would also suggest that the form ask if the restrained person has completed a 52 week batterer intervention program.	The committee recommends keeping the form number as form DV-150, as FL and DV forms often use the same numbers. The committee has revised item 5d(1) to add that the program complies with the requirements of Penal Code section 1203.097, which includes the requirement that programs be 52 weeks long.
			With regard to DV-105, we would recommend that the phrasing "in person at a safe location" be changed to "in-person" or "in-person at a public location only," as a "safe location" is too subjective of a standard. We would suggest that there should be an option to distinguish between pre-hearing and post-hearing visitation requests.	The committee does not recommend this change. The committee determined that including "at a safe location" can help flag the issue of ensuring that locations for visits are safe. The committee does not recommend this change. Form DV-105 used to include the option to indicate post-hearing visitation requests, in addition to a pre-hearing visitation request. In 2022, the committee recommended removing the

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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	Commenter	Position	Comment	Committee Response
				post-hearing visitation request option as circumstances often change between the issuance of the temporary order and the time of the hearing, including parties reaching an agreement in mediation or the court making a finding of abuse that would trigger the application of Family Code section 3044. The post-hearing visitation request option was also removed to simplify the form to make it easier to complete for self-represented litigants.
			On DV-140, we would also recommend that "in person at a safe location" be changed to "in person" or "in person at a public location only." The same should be done Form FL-311 and Form 341(A).	As stated above, the committee does not recommend this change. The new items in the form are consistent with the current language on form DV-140, item 10, which uses "at a safe location" and includes a link to help parties learn more about "safe locations" for visits.
4.	Family Violence Appellate Project by Arati Vasan, Senior Managing Attorney Oakland, CA Jointly submitted by:	NI	The following comment is submitted by Family Violence Appellate Project (FVAP) and the undersigned 12 domestic violence, legal aid, and family law agencies[1] (statements of interest for each signatory below*)—California Protective Parents Association; California Women's Law Center; Center for Access to QDROs; Community	No response required.

[1]

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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	Commenter	Position	Comment	Committee Response
	California Protective Parents Association; California Women's Law Center; Center for Access to QDROs; Community Legal Aid SoCal; Jenesse Center; Lassen Family Services, Inc.; Law Foundation of Silicon Valley; Legal Aid Association of California; Public Counsel; Queen's Bench Bar Association; Stopping Domestic Violence; and Survivor Justice Center.		Legal Aid SoCal; Jenesse Center, Inc.; Lassen Family Services, Inc.; Law Foundation of Silicon Valley; Legal Aid Association of California; Public Counsel; Queen's Bench Bar Association; Stopping Domestic Violence; and Survivor Justice Center—regarding the Judicial Council's Invitation to Comment SPR25-25. FVAP is a State Bar-funded legal services support center and the only nonprofit organization in California dedicated to representing survivors of domestic violence and other forms of gender-based abuse in civil appeals for free. FVAP is devoted to ensuring people can live in healthy, safe environments, free from abuse. We appreciate the Judicial Council's significant and thoughtful efforts to implement Senate Bill 599 and Assembly Bill 3072 through the creation of new forms, rules and standards and the revisions of current forms as well as other proposed changes to improve existing forms. The proposal clearly reflects a significant investment of time and thought to address these important issues which directly impact the safety and wellbeing of survivors of abuse and families impacted by abuse. We, however, respectfully encourage the committee to enact revisions based on the concerns and recommendations below.	

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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	Commenter	Position	Comment	Committee Response
			Given the sheer volume of forms and proposed changes in this single Invitation to Comment along with the profound impact of many of the proposed changes, the challenge of providing meaningful comment on all the proposed changes in the time available was significant. In the interest of ensuring timely feedback on the proposal, we have put comments in the form of points in a chart format, rather than paragraph/narrative form and have not provided comment on every form/change. We hope the Council understands and that this format is effective and we welcome any questions and follow-up for clarification. [1]We encourage the Council to further consider ways to expand access to and increase the feasibility of receiving comment on these proposals from agencies that directly serve survivors of abuse and unrepresented litigants. Agencies that serve domestic violence survivors and families, particularly those that do not have in-house attorneys, have a significant role in supporting unrepresented litigants in using and submitting forms, attending court proceedings including court ordered mediation, and navigating custody and visitation arrangements. Even for survivors and families who have representation, advocates play a crucial role in providing holistic services and often work with survivors long before and after legal representation ends. These agencies	

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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	Commenter	Position	Comment	Committee Response
			have unique and vital perspectives, and the comment proposal format and process should encourage and facilitate getting these perspectives. We would be happy to discuss further.	
			Forms for mandatory Findings: DV-150, FL-341(F), FL-355:	Responses for each comment related to these forms is provided below.
			DV-150: Court's Reasons for Child Custody and Visitation Orders	Responses provided below.
			Item 1: Add space or options for court to identify how it believes "on the record" in item 1b has been met. Given the widespread problem with access to court reporters or even electronic recording, it should be clear what the court is considered as "on the record" for purposes of checking this box. This should be consistent across forms including this form and the DV-140, FL-341(F), and FL-355 forms.	The committee agrees and recommends adding a space for the court to indicate how its decision was made on the record, as shown in item 14b of DV-140.
			Given that the orders can be different for legal and physical custody, and for visitation, the orders can be based on different findings and reasons, we are concerned about the impact of collapsing them all into one in this form, which is in contrast to the FL-341(F). Under item 1, we suggest separation into custody orders (and cross-reference to DV-140, item 7 if used) and visitation orders (cross reference to DV-140, items 8-15 if used) and perhaps add check boxes.	The committee does not recommend the suggestion to separate the court's reasons for granting custody from visitation. The space provided at item 1b on the proposed DV-150 is sufficient for the court to explain its reasons. The committee does recommend cross-referencing form DV-140.

	Commenter	Position	Comment	Committee Response
			Mandatory findings could be needed for visitation, but not for custody, or for legal custody but not physical custody for example. While the statutory language places this in one sentence, in actual practice, there may significant distinctions between the underlying basis for unsupervised visitation and custody and/or between joint and sole custody which may require different explanations for how they meet the statutory standard. The forms current format would appear to conflate the three and assume the reasoning and findings would or should be the same or encompass all three whether or not applicable.	
			Include the same language as FL-341(F) which states the orders "are specific as to time, day, place and manner of transfer of child." Add a cross reference in item 1 to say "on form DV-140, item 3" to clearly reference where the children are listed on the DV-140.	The committee agrees and recommends these changes to form DV-150. The committee also recommends that form DV-150 be a standalone form and not an attachment. The changes suggested by commenter are now contained at item 4 of the proposed form.
			DV-150: Court's Reasons for Child Custody and Visitation Orders	Responses provided below.
			Item 2 Similar to item 1, item 2 also collapses the custody orders into one; item 2 asks the court to select either "a. The restrained person must **not** have sole or joint (shared) custody of the children." or "b.	As stated above, the committee recommends that form DV-150 be a standalone form and not an attachment. The changes suggested by commenter are now contained at item 4a of the proposed form, which allows the court to indicate the type of

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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			The restrained person is granted sole or joint custody of the children." We suggest updating the language to specify legal and physical custody orders (and cross reference to the DV-140, item 7 if used).	custody at issue for the analysis required under Family Code section 3044. A reference to form DV-140 is provided in item 5b.
			Item 2 should distinguish whether the court is finding Family Code section 3044 rebutted for the purposes of legal custody, physical custody, or both. The analysis for rebuttal for the purposes of legal custody can be distinct from the analysis for physical custody. Courts should be going through the analysis for both types and a court may rightly decline to rebut it for one type of custody. But as the form is currently written, it collapses the analysis and implies that a rebuttal finding for one equates to a finding for the other.	The committee agrees that the form should make clear whether the presumption is being rebutted for legal custody, physical custody, or both, and has added these options at item 5a. If the analysis for rebuttal is different for legal versus physical custody, courts may use the space provided in items 5c to explain their analysis.
			Remove "(shared)" from item 2a since this is an order form to keep it limited to the legal term for custody and/or otherwise make it consistent across forms when it's defined like "sole (full) and joint (shared)."	The committee recommends this change.
			In all items under 2b(2), remove the "as needed" from the "(Explain, as needed):" because the court is required to explain its reasoning regardless of which boxes it checks. For example, regardless of whether it found a drug or alcohol program was completed, not completed,	The committee does not recommend this suggestion as further explanation may not be needed, depending on the court's response to the question. For example, if the court findings that the factor regarding completion of a parenting class does not apply because the court determined that a parenting class was not appropriate,

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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			or not applicable, the court should be obligated to explain its reasoning for that finding based on the requirement for specific findings on each factor under section 3044(f). This is particularly important for factors where the trial court does not believe it applies. Our experience shows some trial courts have erroneously believed that a factor was not applicable based on a misreading or misunderstanding of the statute or the facts. Allowing a checkbox without requiring an explanation takes away an opportunity to prevent such errors or to more effectively address them when they do occur.	checking the box "Does not apply. The court decided a parenting class was not appropriate." would reflect the court's consideration of that factor.
			In item 2b(2)(a), change to "successfully completed" and "a batterer intervention program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code" to match the statute, Family Code section 3044(b)(2)(A). As currently written, it does not include the requirement for successful completion or that the program must meet the definition under the statute which is contrary to the language in the statute.	The committee recommends changing the language to: The restrained person has successfully completed a batterer intervention program that meets the requirements under Penal Code section 1203.097(c).
			In item 2b(2)(b), "the program was appropriate" implies the court is evaluating whether the program itself is appropriate vs. whether it is appropriate to order a program.	The committee agrees and has changed the proposed language to make clear that the court is determining whether ordering a program is appropriate.

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SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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			We recommend changing the language to align with the statute and make clear that the court should be evaluating whether it is appropriate for the restrained person to complete such a program. As laid out in the form, it appears to limit the factor to only considering whether there was a prior court order for such a program and yet that is not the language of the statute. Same with item 2b(2)(c).	
			In item 2b(2)(e), change to "complied with (followed)" to match with item 3b(2)(b)(ii)(B).	The committee recommends this change. See item 5d(5) on proposed form DV-150.
			Item 3	
			On the top of page 4, the title of item 3 "Confidential Location" appears to be smaller than the other titles but does not appear to be necessary for space reasons	The font size has been adjusted.
			For item 3b(2)(b)(ii)(C), this language is unclear. Courts should be proactively doing this background check and should explain if it did not, so "as needed" should be removed. If the court does not have information, it should explain why. If it has information and still finds in-person visits appropriate, it should also explain why. In addition, the language under item 3 on the DV-150 should match with the language on page 5 of FL-341(F) .	The committee has reformatted the form to provide space at the end of the item for the court to include any additional reasons for its findings. The proposed form is consistent with the court's obligations under Family Code section 3100(e) to make its findings in writing or on the record. See item 6c(6) on proposed form DV-150.

SPR25-25

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			Under item 3b(2)(b)(ii)(D), change to "The order has potential for revealing confidential location" to match item 3b(2)(c)(iv) on the FL-341(F). As currently written it is unclear what "potential" is referring to.	This section of the form has been simplified and it should be clear that the language "The potential for revealing a confidential location" is preceded by the opening paragraph in 6c "In determining that in-person visitation is in the best interest of the child, the court has considered the following required factors:"
			Under item 3b(2)(a) change to add "on form DV-140, item 3" to clarify where on the form the children are listed.	The committee recommends this change.
			In line with our suggestion for item 2, we suggest for all items under 3b(2)(b)(ii), remove the "as needed" from the "(Explain, as needed):" because the court is required to explain its reasoning regardless of which boxes it checks including its reasoning for why a factor does not apply.	See response provided above.
			No line for a judge's signature If there is no place for a judge's signature on the DV-150, we suggest that the DV-140 have a judge's signature line and language that specifically states incorporates all attachments and identifies the attachments, say with checkboxes.	The committee does not recommend including a judicial officer signature line on attachment forms. Doing so is unnecessary as the order itself includes the judicial officer's signature. Additionally, having additional places for a judicial officer signature could lead to enforcement issues if unintentionally left blank.
			DV-150 should be a mandatory form Yes, we agree the DV-150 should be a mandatory form, consistent with the fact that most of the forms in the DV series are mandatory and with the	While the committee recognizes the benefits of mandatory forms, the committee concluded that forms DV-150 and FL-351 (proposed as form FL-341(F)) should be optional to provide judicial officers flexibility. The committee noted that the

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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			importance of ensuring consistency in practice and application across courts. The correct language and interpretation of these statutes and required findings directly connects to individual safety. Our experience is that we continue to see inconsistency in interpretation, application and practice across courts. A mandatory form will hopefully reduce the potential for misunderstanding and misapplication of the statutes and increase accountability. *See Jaime G. v. H.L.* (2018) 25 Cal.App.5th 794, 805 ["Mandatory checklists can improve professional decisionmaking for professionals as diverse as surgeons and pilots."]. As can be seen from our comments, this form and the 341(F) should be used to encourage deliberation and serve to guide a measured analysis in a step by step, comprehensive approach. The use of the word "checklist" or having a form should not be a message that "checking a box" is a substitute for such deliberations and the time they take.	evidence presented in cases can vary widely. While the form may work for simpler cases, the format of the form would not work for more complex cases. Because of the set format, judicial officers who require more space would likely use a separate document to record their written findings and attach it to the multipage form, which would not promote consistency and would lead to varying formats. Form DV-150 is recommended as optional to provide a new tool and best practice for judicial officers. The committee also concluded that proposed forms DV-150 and FL-351 (proposed as form FL-341(F)) should be standalone forms rather than attachments to protect the privacy of litigants in these matters as findings can contain sensitive facts or credibility determinations. Because parents may provide custody and visitation orders to law enforcement or children's schools, ensuring that findings are on a separate form would keep sensitive information separate from the order.
			Other issues We suggest reframing the phrasing in this form and FL-341(F) to require the court to actively explain its reasoning rather than the current framing, which states that a court has already done something as a matter of fact. For example, item	Note: Form FL-341(F) is now form FL-351. The committee agrees and recommends using the following language in form FL-351, at item 5c: The court finds that the custody order is in the best interests of the children. In deciding the best

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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			2b(a) currently states "The custody is in the best interest of the children. In deciding the best interests of the children, the court has **not** used the preference for frequent and continuing contact with both parents." We believe the phrasing should be changed, for example to "The court finds that the custody order is in the best interest of the children, and in deciding it's in the best interest, the court is aware that it cannot use the preference for frequent and continuing contact . . ."). Changing the language avoids a pre-set statement or assumption that the court conducted a proper analysis—for example, by not relying on the preference for frequent and continuing contact either directly or indirectly—but still reminds the court of the obligations for its analysis. This re-framing should apply to all items on the form.	interests of the children, the court has **not** used the preference for frequent and continuing contact with both parents." Other items on the proposed form have been reframed to make clear that the court has acted by making a finding or considered a mandatory factor.
			Suggest renaming this form "Court's Mandatory Findings for Child Custody and Visitation Orders" to be consistent with the title of the FL-341(F).	The committee recommends using "Mandatory Findings for Child Custody and Visitation (Parenting Time) Orders" as the title. The committee has also changed the form number to FL-351 to reflect that it is now a standalone form instead of an attachment.
			Clarify on the form where the Family Code section 3044 presumption is triggered and findings are required, whether the court is to make findings	The committee agrees and has included instructions at items 4 and 5 on proposed form DV-150.

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SPR25-25

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			under Family Code 3011 and complete that section.	
			The bottom of page 5 is missing the black box "This is a Court Order."	This has been fixed.
			On the top of page 1, where it states "This form is attached…" Given that this is an attachment to an attachment and there would be a difference if it is a DV-110 where there are allegations but perhaps not yet a finding of abuse vs. a DV-130 which is a finding of abuse, add a line for the court to specify to what form the DV-140 is attached to (e.g., DV-110 or DV-130 or other).	The committee does not recommend this change as form DV-140 would indicate which form it is attached to.
			There are specific references to DV-140 throughout the form, but the form has an option to be attached to a different form. For example, item 1 refers to children who are listed on form DV-140 but above provides an option for a form other than DV-140. This is confusing so should be revised to include reference to the other possible forms or leave space for the other form name to be written in. We do not believe this should be addressed by removing the reference to the DV-140.	Items 4–6 of the proposed form have been revised to allow the court to indicate when the order refers to all children listed on form DV-140 or to specifically indicate the children the order applies to.
			FL-341(F): Mandatory Findings for Child Custody and Visitation Attachment	See responses below to comments regarding form FL-341(F) (now recommended as form FL-351)
			Item 1 Add space or options for court to identify how it believes "on the record" in item 1c(2) has been	After considering the comments, the committee further discussed the purpose of the form, whether

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SPR25-25

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			met. Given the widespread problem self-represented litigants have with access to court reporters or even electronic recording, it should be clear what the court is referring to by "on the record". This should be consistent across forms including this form and the DV-140, DV-150, and FL-355 forms.	attaching the form to an order is necessary or appropriate, whether the findings should be filed separately from the order, and whether a stand-alone form could resolve the committee's concerns while allowing the court to comply with its obligations to state its reasons for granting custody, unsupervised visitation, or in person visitation under Family Code sections 3011, 3044, and 3100. The committee decided that the form should not be an attachment to an order. Instead, the committee decided to recommend reformatting form FL-341(F) as a stand-alone form—*Mandatory Findings for Child Custody and Visitation (Parenting Time) Orders* (form FL-351) for the court to file separately from the order. The most compelling factor in this decision was the presence of detailed facts in the forms that would be best not shared with some who will receive the orders, such as school personnel, who really need only the orders and not the findings. . For example, the court's reasons for making the order would include such things as allegations of a party's history of the illegal use of controlled substances, alcoholism, domestic abuse, along with whether the party is restrained by a protective order, was ordered to counseling, or a batterer's intervention program. It could also include a

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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				judicial officer's opinion about a party's credibility or finding that a party violated a court order. Form FL-351 would reference the hearing information to relate it back to the order made after the hearing involving custody. Other than these changes, the content of the form would be substantially the same as the form that circulated for comment, but with the changes that the committee recommends incorporated after public comment. In responses to this specific comment, the committee recommends that form FL-351 include a note on page 1 to indicate that the form is not required if the court has made its findings on the record. The note will include examples of how the court can state its findings on the record. The committee recommends that the other forms include options for the court to indicate how the findings were made on the record, if applicable.
			Under item 1d(4), change the sub-sections to be labeled by letters ((a), (b), (c)) rather than numbers ((1), (2), (3)) to match the hierarchy of labels under other items.	Similar to the above response, the committee recommends simplifying the format of the form to make the content easier to read and complete. The changes to the form prioritize providing space for the judicial officer to state the reasons in writing for granting the order. The recommendations address the concerns raised by the commenter.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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	Commenter	Position	Comment	Committee Response
			For item 1d(4)(2), change to be "sections 3011(a)(5)(A) and 6323(c)" so that the specific section for each statute is cited.	The committee agrees with the commenter and recommends that the suggestions be included in form FL-351.
			Under item 1a, the parents' names and allegations that have been raised are lumped together, which could be confusing. For example, there could be allegations of substance use raised against one parent and then allegations of a history of abuse raised against the other parent. If both parents' names are added and both boxes are checked, there is no way to know which allegations related to which parent. This could cause confusion and be harmful because it could mistakenly imply there are allegations on both fronts against both parents when that is not accurate. We suggest it be modified to separate out the allegations against the individual parents; for example, it could be revised to look similar to item 5a on the FL-311. In addition, we note that uses the parents' names in the context could actually be clearer given that the form could be used in multiple contexts but other forms such as the FL-355 and FL-305 refer to petitioner/respondent and other party. We suggest review to ensure there is consistency while being mindful of the need as noted to be clear about what is being considered and regarding which parent.	The committee recommends simplifying the form by not duplicating content that is included in the order. To this end, the committee has removed the content under 1a to which the commenter refers. Instead, the proposed form will focus on the reasons the court is making the order for child custody or unsupervised visitation, as required by Family Code section 3011. Same as above response. Proposed form FL-341(F) (now recommended as form FL-351) was revised by the committee to remove provisions that duplicate information in the court's order. The recommended changes would address the concerns raised by the commenter.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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	Commenter	Position	Comment	Committee Response
			Item 1a(1) says "or" at the end after the semicolon. We suggest it be changed to "and/or" or removed since there can be allegations of a history of abuse and of substance use.	The changes that the committee is recommending to the form no longer include the content specified in the comment.
			Item 2 Remove "(shared)" from item 2b(1) since it is an order form so it is limited to the legal term and/or otherwise make it consistent when it's defined like "sole (full) and joint (shared)."	The committee agrees with the commenter and has incorporated the changes into the revisions being recommending to form FL-351.
			Add space or options for court to identify how it believes "on the record" in item 2d(4)(3)(b) has been met. Given the widespread problem self-represented litigants have with access to court reporters or even electronic recording, it should be clear what is considered "the record". This should be consistent across forms including this form and the DV-140, DV-150, and FL-355 forms.	The committee recommends that proposed form FL-351 include a note on page one to indicate that the form is not required if the court has made its findings on the record. The note will include examples of how the court can state its findings on the record. The committee agrees to revise the other proposed forms to include options for the court to indicate how the findings were made on the record, if applicable.
			For all items under 2b(2) refer to the comments above regarding the respective sections on form DV-150—including comments on reframing the language of the mandatory findings so as to be less matter of fact and not to presume or assume correct application, edits to specific factors to align with the statute and/or provide clarity on the meaning, and removing "as needed" from each finding the court is instructed to "(Explain, as	The committee recommends significant changes to proposed forms DV-150 and FL-341(F) (now form FL-351), which include making the content of the forms consistent with each other. In item 2 *(now item 5 in form FL-351)* of each form, the judicial officer will consider specific statutory requirements under Family Code section 3044 and indicate if each one applies to the case. The form will also include blank space for the judicial officer to explain the answer.

	Commenter	Position	Comment	Committee Response
			needed)" so that the court is always required to explain their reasoning.	It is possible that not every subitem in 5 will apply to the party in the case. For this reason, the committee recommends that the forms maintain an entry for "(Explain, as needed)," below the check boxes for "Yes," "No," and in some items, "Does not apply." The judicial officer will use the form to state their reasons in writing regarding the factors under Family Code section 3044 and can use their discretion about how much of an explanation, if any, is needed to comply with the statute.
			Item 3 For all items under 3b(2)(c), refer to the comments above regarding the respective sections on form DV-150— including comments on reframing the language of the mandatory findings to be less matter of fact and not to presume or assume correctness, edits to specific factors to align with the statute and/or provide clarity on the meaning, and removing "as needed" from each time the court is instructed to "(Explain, as needed)" so that the court is always required to explain their reasoning.	Same as above response.
			Should FL-341(F) be an optional form? No, we believe the FL-341(F) should be a mandatory form along with the DV-150, which we	While the committee recognizes the benefits of mandatory forms, the committee concluded that

	Commenter	Position	Comment	Committee Response
			also believe should be mandatory. The statutory language requiring mandatory findings applies regardless of whether or not there is a DVRO. And outside the context of a DVRO request or order, in our experience, we see even more inconsistency in the interpretation and application of these statutes and surrounding practice and procedure. Particularly given that cases may involve multiple counties, it is especially important that orders with consistent language and application of that language are used across counties. As we understand it, the purpose of this form is to address issues with courts across jurisdictions failing to consistently and appropriately apply these statutes across family law proceedings, and especially in proceedings without a DVRO request or order. Issues we regularly encounter in our work. Therefore, making the form mandatory serves that purpose, and further serves the purpose behind these statutes requiring mandatory findings. As explained in case law on Family Code section 3044, "[m]andatory checklists can seem bothersome to experienced professionals but the Legislature's intent was to require family courts to give due weight to the issue of domestic violence. The requirement that courts make specific findings 'in writing or on the record' furthers this	forms DV-150 and FL-351 (proposed as form FL-341(F)) should be optional to provide judicial officers flexibility. The committee noted that the evidence presented in cases can vary widely. While the form may work for simpler cases, the format of the form would not work for more complex cases. Because of the set format, judicial officers who require more space would likely use a separate document to record their written findings and attach it to the multipage form, which would not promote consistency and would lead to varying formats. The new forms are recommended as optional to provide a new tool and best practice for judicial officers. The committee also concluded that proposed forms DV-150 and FL-351 should be standalone forms, to protect the privacy of litigants in these matters as findings can contain sensitive facts or credibility determinations. Because parents may provide custody and visitation orders to law enforcement or children's schools, ensuring that findings are on a separate form would keep sensitive information separate from the order.

	Commenter	Position	Comment	Committee Response
			legislative goal." (*Jaime G. v. H.L.* (2018) 25 Cal.App.5th 794, 806.) This form will hopefully reduce the potential for misunderstanding and misapplication of the statutes and increase accountability. As can be seen from our comments, this form and the DV-150 should be used to encourage deliberation and serve to guide a measured analysis in a step by step, comprehensive approach. The use of the word "checklist" or having a form should not be a message that "checking a box" is a substitute for such deliberations and the time they take. Even though we believe that both forms should be mandatory, we agree that the DV-150 and FL-341(F) should be separate—not joint—forms. We agree with the Council's reasoning that keeping the forms distinct is important because the forms refer to parties in different ways, which is necessary for consistency across the different form series (DV series vs. FL series).	
			Other issues: The bottom of page 1 is missing the all-caps, bolded text that states "This is a Court Order."	The committee appreciates the comment and has made this change to the proposed form.
			Generally, ensure that the language on the FL-341(F) matches the language on the DV-150.	Note: Proposed form FL-341(F) is now proposed as a standalone form and renumbered to FL-351

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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	Commenter	Position	Comment	Committee Response
				The committee appreciates the commenter's suggestion and recommends that the provisions in forms DV-150 and FL-351 are consistent with the other, when appropriate.
			FL-355: Stipulation and Order for Custody and/or Visitation of Children	Responses provided below.
			Page 1 See note above regarding the FL-341(F) *(now form FL-351)* which could be attached to this form. Item 5b(2) uses petitioner and respondent whereas the FL-341(F) uses the parents'/parent's names. We suggest reviewing across forms for consistency.	For consistency between the DV and FL versions of the forms, and to decrease the potential for inconsistencies or inadvertent errors between the court order and form FL-341(F) (now form FL-351), the committee recommends that form FL-351 use the term "parent" rather than the terms "petitioner," "respondent," and "other parent/party."
			Under item 5b on page 1, change to "allegations of a history of abuse" (the word "of" is currently missing).	Form FL-355 has been revised at item 5b to incorporate the change specified in the comment.
			Also for item 5b(1) the allegations that have been raised are lumped together, which could be confusing. For example, there could be allegations of substance use raised against one parent and then allegations of a history of abuse raised against the other parent. If both parents' names are added and both boxes are checked, there is no way to know which allegations related to which parent. This could cause confusion and be harmful because it could mistakenly imply there are allegations on	The committee recommends revising form FL-355 at item 5b(1) so that the allegations are separated into those involving a history of abuse and those involving a history of substance abuse. The committee recommends that the form incorporate the formatting and language used in form FL-311, at item 5a.

SPR25-25

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	Commenter	Position	Comment	Committee Response
			both fronts against both parents when that is not accurate. We suggest it be modified to separate out the allegations against the individual parents; for example, it could be revised to look similar to item 5a on the FL-311.	See above response.
			Page 2 We suggest that the findings on page 2 begin with "The court finds . . ." to match page 1 where it states in bold "The parties signing this stipulation agree that . . ." or "In addition, the parties agree that . . ."	The committee agrees with the commenter and recommends this change to form FL-355.
			Add space or options for court to identify how it believes "on the record" in item 5b has been met. Given the widespread problem self-represented litigants have with access to court reporters or even electronic recording, it should be clear what is meant by "the record". This should be consistent across forms including this form and the DV-140, DV-150, and FL-341(F) forms.	The committee agrees with the suggestion and has revised the form to incorporate check boxes for the judicial officer to specify how the reasons for making the order were recorded, if applicable (for example, in a minute order, by a court report, or a different method).
			Other issues	Responses provided below.
			This form seems to only address stipulations made when there are allegations of abuse under Family Code section 3011 and should clarify if it to be used for stipulations where Family Code section 3044 applies.	The committee agrees and recommends the following notice on page 2: Where past abuse has been alleged, the court must not sign a stipulation in which the parties state that Family Code section 3044 does not apply. When there has been a finding of domestic violence within the last five

	Commenter	Position	Comment	Committee Response
			It is important that this form is optional and we are concerned that as designed the form will have unintended consequences on the rights of parents to address abuse in their cases. Family courts strongly encourage parties to stipulate to custody and visitation agreements, including through court-ordered mediation. Most survivors are unrepresented and can face enormous pressure to agree to custody and visitation arrangements, particularly in advance of full awareness of their rights or trial court's determinations. They are also targeted with frivolous and retaliatory allegations of abuse when they raise allegations of abuse. We are concerned that this form will be used both to legitimize and memorialize retaliatory allegations as well as encourage courts to preemptively make determinations that could be final in order to support agreement.	years, the court must not sign a stipulation in which the parties agree that the presumption has been rebutted. The court must independently determine the best interests of the child in these cases. The committee notes that the form is optional.
			Consider whether the form should be renumbered or differently labeled. Currently, there are two item 1s, two items 2s because there is an item 1 on page 1 for the parties' agreements and then an item 1 on page 2 for the court's findings. This could cause confusion with the duplicate item numbers given that it's a singular form.	Because the form is divided into two distinct sections; one for the parties' stipulation and one for the court's orders, the committee believes that it would not cause confusion to number each section beginning with item 1.
			Changes to child custody and visitation request forms: DV-105, FL-311	Responses are provided below.

SPR25-25

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	Commenter	Position	Comment	Committee Response
			DV-105: Request for Child Custody and Visitation Orders	Responses are provided below.
			Item 5 At 5b, it asks for "What did the judge order?" This may be confusing for someone if there a stipulation or agreement. Suggest modifying to say. "What does the order say?"	The committee does not recommend this change as stipulations signed by a judicial officer are orders of the court.
			Item 7 At 7, for the parenthetical, consider mirroring language from DV-140, item 5, to clarify what is meant by "providers" so e.g. "providers of the above information."	The committee does not recommend this change at this time as the current language clearly and accurately communicates the orders that may be requested and granted under Family Code section 6323.5. The committee will consider revising this item, as suggested by commenter, in a future cycle.
			Item 9 Consider keeping terminology about joint custody consistent by using term "joint" throughout rather than "jointly" here, since above in the box uses "joint" and the FL forms use "joint."	The committee does not recommend this change as the proposed wording is grammatically correct.
			Add virtual visitation as an option at item 12 Under item 12b, change to "in person at a safe location" (the word "a" is currently missing).	The committee agrees and recommends these changes.
			Under item 13b, change to "in person at a safe location" (the word "a" is currently missing).	The committee agrees and recommends this change.
			FL-311: Child Custody and Visitation (Parenting Time) Application Attachment	Responses are provided below.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR25-25

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	Commenter	Position	Comment	Committee Response
			Inserting information in a notice box on page 1 about California's public policies regarding child custody and visitation The sentence under the third bullet point somewhat misconstrues Family Code section 3044 because a history of abuse alone does not necessarily mean the presumption is triggered; rather, there needs to be a finding of abuse from the past five years. Therefore, it's not automatic that a parent with a history of abuse can't have joint or sole custody under Family Code 3044. We suggest modifying the language to state that "A parent who has been found by a court to have committed abuse in the past five years against a child, the other parent, their current spouse, or the person they live with or are dating or engaged to may not have sole or joint custody until they meet the requirements of Family Code section 3044."	In response to the comment, the committee reconsidered the sentence on form FL-311 and recommends replacing it with the following language: "If a parent has been abusive, judges use laws to help protect children when deciding to make orders about child custody and visitation (parenting time). A judge may deny an abusive parent custody or unsupervised visitation with a child." The committee believes that the new sentence better describes Family Code section 3044 in plain language.
			Within the notice box, and throughout the form, the language alternates between use of "best interest of the child" and "best interest of children." We suggest reviewing for consistent use of this language.	The committee agrees with the commenter and recommends reviewing the forms for consistency and considering whether to implement changes to other forms in a future cycle.
			Relocating the request for child custody and visitation (parenting time) for cases involving allegations of a history of abuse or substance	No response required.

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SPR25-25

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			abuse from items 2 and 3 to item 5 and consolidating them into one item. Under items 5b(2) and 5c(2)(B), we suggest revising to state "manner of transfer (exchange) of the child" to match item 7. Relatedly, the language in item 7 is missing the word "day" and thus should be modified to be "time, day, place, and manner of transfer (exchange) of the child" to match the statute and items 5b(2) and 5c(2)(B).	The committee agrees to recommend the changes to the form, as suggested by the commenter. The committee appreciates the comment and agrees to recommend this change to the form.
			For items 1, 4a(4), 4b, 4c, 5b(2), 5c(2)(B), 5c(3), 6b, 7g, 10, 11, 12, and 13, consider adding lines instead of blank spaces for people to write their answers because structured formats are generally more accessible for a wider range of users.	The committee does not recommend the changes to the form that the commenter is requesting. The suggestion to add lines is reserved for plain language forms, such as the forms in the DV series. The form with blank spaces is consistent with the other forms in the FL series.
			Changes to child custody and visitation order forms: DV-140, FL-341, FL-341(A)	Responses are provided below.
			DV-140: Child Custody and Visitation Order	Responses are provided below.
			Add virtual visitation at item 9e For item 9d, add additional space between the two underlines after the "Other" to make it clearer it's asking for the person to be named AND separately for the percentage.	The committee agrees to recommend this change to the form. Space has been added between the two items.

SPR25-25

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	Commenter	Position	Comment	Committee Response
			In item 9e, change to "virtual (not in person)" to match the DV-105 and because "Virtual and not in person" sounds like it is two different descriptors, rather than “not in person” being an alternative definition for or explanation of “virtual.”	The committee agrees and recommends this change.
			Add virtual visitation at item 10d In item 10d, change to "virtual (not in person)" to match the DV-105 and because "Virtual and not in person" sounds like it is two different descriptors, rather than “not in person” being an alternative definition for or explanation of “virtual.”	The committee agrees and recommends this change.
			Add virtual visitation at item 12 In item 12(2), change to "virtual (not in person)" to match the DV-105 and because "Virtual and not in person" sounds like it is two different descriptors, rather than “not in person” being an alternative definition for or explanation of “virtual.”	The committee agrees and recommends this change.
			Under item 12, change the sub-sections to be labeled by letters (a., b., c.) rather than numbers ((1), (2), (3)) to match the hierarchy of labels under other items.	The committee agrees and recommends this change.
			Adding Mandatory Findings, at item 14, for the court to indicate whether these findings were made on the record or in writing on form DV-150 Add space or options for court to identify how it believes “on the record” in item 14c has been met.	

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SPR25-25

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			Given the current widespread problem self-represented litigants have with access to court reporters or even electronic recording, it should be clear. This should be consistent across forms including this form and the DV-150, FL-341(F), and FL-355 forms.	The committee agrees and recommends adding a space on form DV-140 for the court to indicate how its decision was made on the record.
			For item 14a, add in a space and requirement for the trial court to explain why there are "No findings required by law."	The committee does not recommend this change as the court is only required to provide its reasons when findings are required.
			For item 14c, change language to "Judge made the mandatory findings and explained their reasons" as they are distinct	The committee agrees and recommends this change.
			Revising the instruction at item 15 Given that this is a court order rather than a request form that a litigant completes, it is unclear why the instructions in item 15 need to say "If you want to use a separate form . . . "because those instructions seem more directed toward litigants rather than a court. If the idea is to encourage use of the FL-341(C), we suggest including as a checkbox with the option for the court to attach the FL-341(C) form.	The committee agrees and recommends simplifying the instruction while retaining FL-341(C) as an example. The committee does not recommend including a checkbox to indicate if form FL-341(C) has been attached as the primary order form (e.g., form DV-130) would reference any attachments.
			Adding Criminal Protective Order, at item 16, to allow the court to list any relevant criminal protective orders, as required under Family Code section 3100(c)	The committee agrees that children may be protected by a criminal protective order and recommends an instruction that the court list any criminal protective order that protects the person in 1 or any child in 3.

SPR25-25

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	Commenter	Position	Comment	Committee Response
			For item 16, change to "person(s) in 1 and/or 3" because the children may also be included in a criminal protective order.	
			Other issues Item 3 should have a parenthetical similar to item 3 on the DV-105 to make clear it is referring to the children that person in 1 has with the person in 2. This is also helpful since page 4 of the DV-150 refers to all the children listed on form DV-140.	To give the court flexibility in completing item 3, the committee does not recommend this change.
			For item 3, consider including a box that notes which if any children are included as protected parties in the restraining order, particularly since this could be attached to the DV-110.	The committee does not recommend this change as this information will be on the order form (e.g., form DV-110 or DV-130).
			For item 6, consider adding boxes underneath that make clear whether the request for orders were granted in whole or in part or were denied, so that the DV-140 is clear itself as to whether there are any abduction related orders. Additionally, the use of the term "decision" makes it sound as if these are not orders.	The committee does not recommend adding check boxes to this item to indicate whether the order was requested, granted or denied consistent with the formatting of form DV-110, as this form may be used as an attachment for other DV order forms. At this time, the committee does not recommend changing "decision" to "court order" as making this change would also require changes to form DV-145, which is not included in this proposal.
			For item 7, consider adding checkboxes to indicate if different orders are being made for different children	The committee does not recommend this change as the "Other" option could be used to list custody orders that are different for different children.

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SPR25-25

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			Consider changing term to "joint" instead of "jointly" to be consistent with how it is described in the box on page 4 of the DV-105 and in the FL forms	The committee does not recommend this change and notes that the language is consistent with item 9 of form DV-105.
			For item 8, we suggest adding "with children in 3" rather than term children broadly in the title and again in the parenthetical. Also in the parenthetical, telling someone they should simply attend their court hearing if they disagree is simplistic and implies that is all they need to do. It is unclear why there needs to be any statement here in a court order about what a litigant should do if they disagree.	For the heading in item 8, the committee agrees with adding the reference to item 3, where the children are listed. The committee does not recommend changing the instruction in the parenthetical without public comment. The committee will consider this suggestion in a future cycle.
			For item 11, add for "Unsupervised (Unmonitored) Visits with Children" to the title for consistency and clarity since this section is to be used with item 12.	The committee does not recommend this change to the heading for item 11 as it seems harder to understand. The committee does recommend changing the heading to "Supervised Exchanges (Drop-off and Pick-up of Children), to offer a plain language explanation for "exchanges."
			Under item 11, the parenthetical is a bit confusing because item 12 is not just about the schedule, so would suggest removing "to describe visitation schedule."	The committee recommends changing "visitation schedule" to "visitation plan."
			For item 11b(1), change to have the professional provider information before nonprofessional to align with the ordering within the DV-140 as well as in the DV-105.	The committee recommends this change.

SPR25-25

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			If there is no place for a judge's signature on the DV-150, we suggest that the DV-140 have a judge's signature line and language that incorporates all attachments and gives checkboxes or space to list and identify the attachments	The committee does not recommend including a judicial officer signature line on attachment forms. Doing so is unnecessary as the order itself includes the judicial officer's signature. Additionally, having additional places for a judicial officer signature could lead to enforcement issues if unintentionally left blank. All attachments would be listed on the order (e.g., DV-130) and incorporated by reference.
			FL-341: Child Custody and Visitation (Parenting Time) Order Attachment	Responses are provided below.
			Add virtual visitation at item 9e In item 9e, change to "by virtual visitation (not in person)" for clarity and consistency and to match other forms such as DV-105 and DV-140.	The committee agrees with the commenter and recommends this change.
			Other issues If there is no place for a judge's signature on the FL-341(A), we suggest that the FL-341 have a judge's signature line and language that incorporates all attachments and gives checkboxes or space to list and identify the attachments.	The committee does not recommend including a judicial officer's signature line on attachment forms. The signature line is not required because the order includes the judicial officer's signature. Additionally, having additional places for a judicial officer signature could lead to enforcement issues if unintentionally left blank. All attachments are listed on the primary order (e.g., FL-340, FL-180, FL-250, etc.) and incorporated by reference.
			FL-341(A): Supervised Visitation Order	Responses are provided below.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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	Commenter	Position	Comment	Committee Response
			Add virtual visitation at item 6a(2) In item 6a(2), consider removing "(parenting time)" since it is defined right above and so that there aren't two parentheticals, which could cause confusion. This would also improve consistency across the forms, such as with the DV-105 and DV-140.	The committee recommends revising form FL-341(A) to make the content consistent with DV-140 relating to supervised visits. To this end, the form has been expanded to two pages and reformatted. In addition, the form includes additional online resources for the nonprofessional provider. The content of form DV-140 was previously approved by the Judicial Council. Aligning the content of FL-341(A) with form DV-140 will be beneficial to parties in other family law proceedings.
			Removing the line for the date and signature of the judicial officer to reflect that the form is an attachment to an order (and that the order itself will contain the judicial officer's signature). This change would avoid redundancy in the process of making court orders. As to this specific proposed change, the committee seeks specific comment. If there is no place for a judge's signature on the FL-341(A), we suggest that the FL-341 have a judge's signature line and language that incorporates all attachments and gives checkboxes or space to identify and list the attachments.	The committee does not recommend including a judicial officer signature line on attachment forms. The signature line is not required because the order includes the judicial officer's signature. Additionally, having additional places for a judicial officer signature could lead to enforcement issues if unintentionally left blank. All attachments are listed on the primary order (e.g., FL-340, FL-180, FL-250, etc.) and incorporated by reference.
			New INFO forms on child custody and visitation: DV-105-INFO, FL-311-INFO	Responses are provided below.

SPR25-25

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	Commenter	Position	Comment	Committee Response
			DV-105-INFO: Asking for Child Custody and Visitation Orders	
			DV-105-INFO: Asking for Child Custody and Visitation Orders Page 1 On page 1, under "What is child custody?" where it says "And if the judge finds that there has been domestic violence in your case, a special law on child custody will apply:"—which presumably is referring to Family Code section 3044 considering changing to "may apply" and/or "recent domestic violence" to account for the fact that a finding of domestic violence does not automatically mean Family Code section 3044 will apply, unless the finding is within the past five years. Additionally, consider whether it would be helpful to identify the law as Family Code section 3044.	The committee recommends changing the language to "…special laws on child custody may apply" as a number of laws could apply in domestic violence cases, including Family Code sections 3011 and 3100, in additional to Family Code section 3044.
			On page 1, under "Unsupervised visits," consider removing the line "This may be a good option if the visiting parent is not a risk to the children." This line could be construed as legal advice and additionally, the phrasing implies a focus only on a parent directly harming children, when even if there's no concern of direct harm to the children, unsupervised visitation could still be harmful or not appropriate due to the dynamics of domestic violence.	The committee recommends changing the sentence to "This may be a good option if there are no safety concerns." to account for more situations, as raised by commenter. The committee does not agree that providing such information is legal advice.

SPR25-25

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	Commenter	Position	Comment	Committee Response
			Page 2 Consider if it is possible to move the "Virtual visits" section from page 2 to be on page 1 with the sections defining unsupervised visitation and supervised visitation.	The committee does not recommend this change due to space constraints.
			On page 2, under "Where can I find free legal help?" consider adding a line defining who the "self-help center staff" are before stating that they cannot act as your lawyer.	The committee does not recommend this change as the description of self-help center staff recommended for form DV-105-INFO is used on other INFO forms.
			FL-311-INFO: What are Visitation or Parenting Time Orders?	Responses are provided below.
			Page 1 On page 1, under item 4, consider changing the phrase "physically or emotionally harmful" to "safe" instead to be consistent with the DV-105-INFO.	The committee agrees to incorporate the change into the other revisions it is recommending to the form.
			On page 1, under "What are virtual visits?" change to be "FaceTime" instead of "Facetime."	The committee agrees to incorporate the change into the other revisions it is recommending to the form.
			On page 1, under "Nonprofessional provider" consider removing 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" to be consistent with the DV-105-INFO. This phrase also might be confusing for a self-represented litigant because the non-professional	The committee agrees to recommend revising the section for Nonprofessional provider so that it provides: A nonprofessional provider is usually a friend or family member who is not paid and does not have special training, but must still make safety the top priority, follow the judge's orders, and be able to end a visit, if needed, to protect the child.

SPR25-25

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	Commenter	Position	Comment	Committee Response
			provider is not the only option for ensuring the child is not alone with the other parent	
			On page 1, under the heading "What about orders for child exchanges?" it states: "You can ask for orders that would not require you to meet the other parent, like having the other parent pick up from school or daycare." The words "your child" should be added after "pick up."	The committee agrees to incorporate the change into the other revisions it is recommending to the form.
			Page 2 On the top of page 2, consider changing to "details about when visits should happen" instead of "will happen."	The committee agrees to incorporate the change suggested by the commenter into the other revisions it is recommending to the form.
			On page 2, the bullet points are not aligned with the text of "Read *Asking for* . . ." and "For more information . . ."	The bullet points have been aligned in the form, as suggested by the commenter.
			On page 2, under "Where can I find free legal help?" the phrase "or community-based nonprofit" is listed here but not on form DV-105-INFO—consider removing the phrase for consistency and accuracy.	The committee does not agree to remove the phrase "community-based nonprofit" from the form. The language is not legally inaccurate, and the information does not need to be identical to the DV form. The language on form DV-150 provides that free legal aid may be available in your community, which is in line with, although not identical to, the language on form FL-311-INFO.
			Other issues This form generally is another example of alternating between referring to "children" and	Generally, the committee favors using terms consistently throughout a form. However, in some contexts it may be better to refer to "child" instead of "children."

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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	Commenter	Position	Comment	Committee Response
			"child," so we suggest reviewing the form for consistent use of this language.	
			Implementing SB 599 in a rule of court and a standard of judicial administration *California Rules of Court, rule 5.252: Guidelines for developing parenting plans and issuing court orders involving virtual visitation* Under section (a)(2), change to "section 3100(f)" instead of referring to subdivision (e) to correctly reference where the definition is in the statute.	The committee has made this change to the proposed rule.
			Changes to implement AB 3072: forms DV-120-INFO, FL-300-INFO, FL-305 *DV-120-INFO: How Can I Respond to a Request for Domestic Violence Restraining Order?* On page 3, under "What if I have access to firearms or ammunition?" consider changing to "parenting time (visitation)" to align with how it is defined on other forms, such as the DV-105-INFO.	The committee agrees and recommends referring to "visitation (parenting time)," consistent with other DV forms.
			FL-305: Temporary Emergency (Ex Parte) Orders For item 3a(3), consider changing the language "in violation of a court order, probation, or parole condition" to be more specific and to match the language under Family Code section 3064(b)(2)(B), which is "in violation of state or	The committee recommends revising the form as suggested by the commenter.

	Commenter	Position	Comment	Committee Response
			federal law, a restraining order, a protective order, or an injunction, or a condition of probation or parole."	
			Other forms that require changes: DV-300-INFO, DV-700-INFO, FL-324(NP), FL-324(P)	Responses are provided below.
			DV-700-INFO: How Do I Ask the Court to Renew My Restraining Order? Page 2 Item 5 has language that we believe is confusing. Under the first point, while it is true that a judge can renew the restraining order based only on the request it does not mean that the protected party would not have to prove the standard and would not be asked questions or to present evidence. As written in conjunction with the second point, the language seems to suggest that the protected person must prove the standard only when the restrained person appears at the hearing.	The committee does not recommend substantive changes to this INFO form without public comment. The committee will consider addressing the commenter's concern in a future cycle.
			Under the second point, we believe additional clarification is needed to accurately describe the standard for renewal. We understand and appreciate the effort to make it plain language, but we are concerned that the current language may imply additional or different proof than necessary. A protected party must generally prove they are afraid or have a fear or concern that any abuse could happen in the future if there is no longer a	Same response as above.

	Commenter	Position	Comment	Committee Response
			restraining order and that their fear is reasonable for someone in their same circumstances. It does not need to be current fear or current abuse or ongoing abuse. Thus the language about "enough risk" is confusing as it implies some risk is acceptable as is the use of the word "further" which could imply a continuum. Neither are necessary and we would suggest at a minimum eliminating both and consider revising along the lines of the language we have used above.	
			In addition, while the language that the protected party does not need to prove they have been abused since the order has been in effect is helpful, given that violations strongly support renewal, we believe it is important to include language that giving the court information about any abuse that has happened since the restraining order has been in effect is important.	Same response as above.
			Page 3 Under "Request for Accommodations" the citation should be "Civ. Code, § 54.8"	Formatting of the citation has been corrected.
5.	GIFFORDS Law Center to Prevent Gun Violence by Ethan Murray, State and Local Policy Attorney Washington, D.C.	AM	On behalf of GIFFORDS, the gun violence prevention organization founded by former Congresswoman Gabby Giffords and the sponsor of SB 599, SB 899, and AB 2096, I respectfully submit this public comment. GIFFORDS appreciates the hard work, expertise,	No response required.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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	Commenter	Position	Comment	Committee Response
			and attention to detail evident in these proposals and commends the Judicial Council and the California Judiciary for their efforts to implement these laws judiciously. SPR 25-25 (SB 599): This bill stemmed from a horrific mass shooting where three children and a visitation monitor were killed. One of the most essential parts of the bill resides in Family Code section 3100 (d)(2): If a court finds that a parent is residing in a confidential shelter due to domestic violence or fear of domestic violence from the other parent, the court shall order in-person visitation with the other parent only if the court finds that in person visitation is in the best interest of the child, taking into account all of the following: (A) The other parent's access to firearms and ammunition, including, but not limited to, whether the other parent is prohibited from having firearms and ammunition. (B) If a parent is the subject of an emergency protective order, protective order, or other restraining order, whether that parent has violated that order, and the nature of any violation. (C) Information obtained pursuant to Section 6306, the requirements of this	

	Commenter	Position	Comment	Committee Response
			section, and the information obtained pursuant to Section 3011. (D) The potential for disclosure of the confidential location. "Virtual visitation" is offered as an alternative to both in-person and no visitation, whether supervised or not, when safety and the other concerns in FC 3100(d) are at issue. Note that there is no reference to *illegal* access to firearms or ammunition. Access to firearms and ammunition in conjunction with a situation where a parent is living in a shelter because of domestic violence or fear of domestic violence is enough under this statute to require that in-person visitation be ordered only if it is in the best interest of the child. Virtual visitation may therefore be considered in many high-risk cases.	
			We support the rule of court providing guidelines for virtual visitation and agree with its adoption if modified to include a reference to the requirements in FC 3100(d)(2). As proposed, the rule uses the phrase "should consider" and doesn't reference firearms, ammunition, or living in a shelter. To avoid confusion and possible contradictions between the rule and statute, we propose modifying Rule 5.252(b)(1) as follows: (b) Guidelines	The committee appreciates the comment. After discussion, the committee has reorganized the content of the guidelines to separate those that incorporate references to Family Code provisions that are required considerations. These guidelines are identified as those that the court must consider when making an order for virtual visitation. The committee created and organized a list of other evidence that it believes the court should consider before making an order for virtual visits. The items listed do not appear as mandatory in the

	Commenter	Position	Comment	Committee Response
			In determining whether virtual visitation is in the best interest of the child, judicial officers and parties developing parenting plans ~~should~~ shall consider: (1) Potential ~~s~~Safety concerns, especially in cases involving domestic violence and abuse, parties living in shelters, or having access to firearms and ammunition under Family Code section 3100(d)(2), and whether virtual visitation may increase or decrease risk.	rule because they are not required by the Family Code. The committee believes it is important that the other considerations not be listed as mandatory to refrain from imposing an additional duty on the courts that is not authorized by the Legislature. The committee agrees to list the parties' access to firearms or ammunition under Family Code section 3100(d)(2) as its own item that the court must consider. In addition, the committee agrees to include the the reference to Family Code section 3100(d)(1) ("parties living in shelters") in (1), as an example of "Potential safety concerns..."
			We submit the following comments on proposed changes to Judicial Forms: DV-105 #10 Do you want the person in 2 to have visits (parenting time) with the children? Currently, #10 does not indicate that virtual visitation is an option. This may cause an individual confusion when, on the following pages, virtual visitation is an option under "location" and the "schedule of visitation" table. Moreover, a person filling this out page-by-page	The committee agrees and recommends adding "Yes, but only virtual visits" to item 10.

	Commenter	Position	Comment	Committee Response
			with legitimate safety concerns might want the person in (2) to have visitation, but not know virtual visitation alone is an option. We recommend adding a third "Yes, but virtual visitation only" option as opposed to the binary yes/no that is currently proposed.	
			DV-105-INFO, page 2 of Additional Information "What if the other parent has access to firearms and ammunition?" We sincerely appreciate the inclusion of this information. Although we understand the intent, we disagree with limiting the reference to "illegal access" when there are other circumstances where access to firearms and ammunition must be considered, namely under Family Code section 3100(d)(2). We recommend changing the final sentence to: "The court will consider whether a parent has continued to illegally own or have firearms or ammunition when making custody and visitation orders. When a party is living in a confidential domestic violence shelter, the court will consider if a parent has access to firearms and ammunition when making custody and visitation orders and may issue an order for no visits or only virtual visits."	The committee agrees that information regarding Family Code section 3100 should be included on the proposed INFO form. The committee recommends using the following language: "If you have a child, having illegal access to firearms or ammunition may impact your visitation (parenting time) and whether you have custody of your child. If the other parent is living in a confidential shelter, the court must consider your access to firearms or ammunition, in deciding whether you should have in-person visits with your child."
			DV-120-INFO	Responses are provided below.

SPR25-25

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	Commenter	Position	Comment	Committee Response
			"What can a restraining order do?" [...] Not have any firearms (guns), firearm parts, ammunition, or body armor. This includes homemade or untraceable guns, like "ghost guns" This reads like being prohibited from firearms is a possibility rather than a certainty that has few exceptions.	To address commenter's concern, the committee recommends changing the language to: In a restraining order, a judge can order you to:… Not have any firearms (guns), firearm parts, ammunition, or body armor. This includes homemade or untraceable guns, like "ghost guns."
			"What if I don't obey the order?" Given the statutory framework around firearms prohibitions and violations, we suggest adding language noting that the court may deny in-person visits, order no visits, or order virtual visitation.	The committee agrees that it would be helpful to include information about the possible impact violations can have on parenting time. The committee recommends adding this information in the section "What if I have children with the person asking for a restraining order?"
			"What if I have access to firearms or ammunition?" We suggest adding another sentence that references FC 3100(d)(2), such as, "If the other parent is living in a domestic violence shelter, the court will also consider whether you have access to firearms and ammunition in deciding whether in person parenting time is in the child's best interest."	The committee agrees and recommends the following language to reflect the new requirements under Family Code section 3100(e): "If the other parent is living in a confidential shelter, the court must consider your access to firearms or ammunition, in deciding whether you should have in-person visits with your child."
			DV-150 #3 b.(2)(b)(ii), we suggest adding a box to indicate whether the person is exempt from the prohibition under FC 6389.	The committee does not recommend this change and notes that this information may be provided at the end of the item.

SPR25-25

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	Commenter	Position	Comment	Committee Response
			We agree that the DV-150 form should be mandatory.	While the committee recognizes the benefits of mandatory forms, the committee concluded that forms DV-150 and FL-351 (proposed as form FL-341(F)) should be optional to provide judicial officers flexibility. The committee noted that the evidence presented in cases can vary widely. While the form may work for simpler cases, the format of the form would not work for more complex cases. Because of the set format, judicial officers who require more space would likely use a separate document to record their written findings and attach it to the multipage form, which would not promote consistency and would lead to varying formats. Form DV-150 is recommended as optional to provide a new tool and best practice for judicial officers. The committee also concluded that forms DV-150 and FL-351 (proposed as form FL-341(F)) should be standalone forms rather than attachments to protect the privacy of litigants in these matters as findings can contain sensitive facts or credibility determinations. Because parents may provide custody and visitation orders to law enforcement or children's schools, ensuring that findings are on a separate form would keep sensitive information separate from the order.
			FL-311	In response to the comment, the committee reconsidered the sentence on form FL-311 and

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SPR25-25

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	Commenter	Position	Comment	Committee Response
			In the box, the third point seems to combine FC 3011 and FC 3044, but FC 3044 is limited to the last 5 years, and FC 3011 is broader ("history"). See FC 3011(a)(5). We suggest "A parent with a history of abuse against a child, the other parent, their current spouse, or the person they live with or are dating or engaged to may be denied unsupervised or in-person parenting time and/or sole or joint custody under certain circumstances."	recommends replacing it with the following language: "If a parent has been abusive, judges use laws to help protect children when deciding to make orders about child custody and visitation (parenting time). A judge may deny an abusive parent custody or unsupervised visitation with a child." The committee determined that the new sentence better describes Family Code section 3044 in plain language.
6.	Devin Hindin	NI	Overall Purpose of the Proposal The proposal appears to effectively address its stated purpose by aiming to streamline processes in both domestic violence and family law matters. Clear, standardized forms can enhance clarity and accessibility for users, ensuring that individuals navigating the legal system have the necessary tools to present their cases effectively.	The committee appreciates the commenter's feedback about the proposal.
			Adoption of Attachment Form DV-150 Recommendation: Mandatory Form Justification: - Consistency: Making DV-150 a mandatory form would ensure uniformity across domestic violence restraining order matters, reducing confusion for both petitioners and judicial officers. – Accessibility: A standardized form can help individuals who may not have legal representation	While the committee recognizes the benefits of mandatory forms, the committee concluded that forms DV-150 and FL-351 (proposed as form FL-341(F)) should be optional to provide judicial officers flexibility. The committee noted that the evidence presented in cases can vary widely. While the form may work for simpler cases, the format of the form would not work for more complex cases. Because of the set format, judicial officers who require more space would likely use a separate document to record their written findings

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

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	Commenter	Position	Comment	Committee Response
			to better understand what information is required and how to present it. Legal Clarity: It would enhance the legal framework surrounding domestic violence cases, ensuring that all relevant information is consistently collected.	and attach it to the multipage form, which would not promote consistency and would lead to varying formats. The new forms are recommended as optional to provide a new tool and best practice for judicial officers. The committee also concluded that forms DV-150 and FL-351 should be standalone forms, to protect the privacy of litigants in these matters as findings can contain sensitive facts or credibility determinations. Because parents may provide custody and visitation orders to law enforcement or children's schools, ensuring that findings are on a separate form would keep sensitive information separate from the order.
			Adoption of Attachment Form FL-341(F) Recommendation: Mandatory Form Justification: - Standardization: Adopting FL-341(F) as a mandatory form would promote consistency in family law proceedings, ensuring that all parties provide the necessary information for the court to make informed decisions. Reduction of Errors: A mandatory form could minimize errors and omissions that might arise from using varied formats, ultimately leading to more efficient case processing.	See above response.

SPR25-25

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			Revision of Form FL-341(A) Recommendation: Keep Date and Signature Line - Justification: Law enforcement often ask for orders signed by the judge, so this verification adds proof for outside parties to establish if it is a true signed order. Attachment Nature: Since FL-341(A) is an attachment to an order, removing the date and signature line for the judicial officer will streamline its with its intended use Unintended Consequences: - Potential Confusion: There may be concerns about the clarity of authority if a signature line is absent. Stakeholders might question the validity of the attachment without a judicial endorsement. - Operational Impact: Courts may need to implement additional training for staff to ensure they understand the implications of this change and how to process attachments without a signature. Overall, these recommendations aim to enhance the efficiency, clarity, and accessibility of the legal processes involved in domestic violence and family law matters. Implementing these changes can lead to a more effective judicial system that better serves the needs of individuals seeking justice.	The committee appreciates the commenter's feedback. After further consideration, the committee recommends removing the judicial officer's signature line on form FL-341(A). The judicial officer's signature should only appear on the order to which the form is attached. In this instance, form FL-341(A) is a required attachment to form FL-341, and form FL-341 may be attached to orders made on forms FL-340, FL-180, FL-250, FL-355, or some other order. Removing the judicial officer's signature from form FL-341(A) makes the form consistent with other attachment to order forms, which do not contain signature lines.

SPR25-25

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7.	Orange County Bar Association by Mei Tsang, President	A	The proposed forms appropriately address the stated purpose.	The committee appreciates the commenter's feedback about the proposal.
			Proposed new form DV-150 should be an optional form.	The committee agrees with the commenter and recommends that the form be approved as optional to provide a new tool and best practice for judicial officers. The committee also concluded that forms DV-150 and FL-351 (proposed as form FL-341(F)) should be standalone forms rather than attachments to protect the privacy of litigants in these matters as findings can contain sensitive facts or credibility determinations. Because parents may provide custody and visitation orders to law enforcement or children's schools, ensuring that findings are on a separate form would keep sensitive information separate from the order.
			Proposed new form FL-341(F) should be an optional form.	See above response. Note that proposed form FL-341(F) is now proposed as a standalone form and renumbered to FL-351.
			Proposed revisions to form FL-341(A) should remove the signature line since it is an attachment to the order/judgment and the signature placement is immaterial to enforceability.	The committee agrees with the commenter and recommends removing the date and signature line from the form. Having additional places for a judicial officer signature could lead to enforcement issues if unintentionally left blank.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
8.	Rebekah Pasciuti	AM	Everything in the court's proceedings should be reflected in the court's record, and through the court's filings that claim findings against one parent. Otherwise, hidden agendas are affecting the rights of one parent over the other parent, and the courts are supposed to conduct proceedings fairly and unbiased. Commenting from personal experience as a self-represented parent, having suffered through the systematic bias of favoritism.	The committee appreciates the commenter's feedback.
			I agree with additional forms being required by the judicial officers to attach to their orders. I just do not agree with falsified findings, without evidence having been presented, in a court of "law."	The committee appreciates the commenter's feedback about the forms.
			All judicial decisions should be reflected on the court's record according to legitimate findings if there are any and written in the orders to reflect an honest court order made against one party, despite their designation as "other party." The court must provide findings through court proceedings that reflect their "findings" that should all be reflected in the forms to be attached in court orders. Otherwise, there are hidden agendas affecting one parent's rights over the other parent's, which means that the child or children's rights are also being affected. Which is not what California claims to be their mission. As commenting from personal experience in the California Judicial Court System.	The committee appreciates the commenter's feedback.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
9.	Superior Court of Los Angeles County by Stepanie Kuo	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, "Family Law and Protective Orders: Implementation of SB 599 and AB 3072," the Court agrees with the proposal and appropriately addresses the stated purpose.	The committee appreciates the commenter's feedback about the proposal.
			The proposal will not provide cost savings. Three months from Judicial Council approval should be sufficient for implementation.	The committee appreciates the commenter's feedback on this issue.
			To implement, the Court will need to train its judicial officers and staff on the new procedures. It would also need to create new event codes in its case management system.	The committee appreciates the commenter's feedback on this issue.
			Three months from Judicial Council approval should be sufficient for implementation.	The committee appreciates the commenter's feedback on this issue.
			There should not be a substantial impact on courts of different sizes.	The committee appreciates the commenter's feedback on this issue.
10.	Superior Court of Orange County, Family Law and Juvenile Divisions by Katie Tobias, Operations Analyst	NI	*Does the proposal appropriately address the stated purpose?* Yes, the proposal appropriately addresses the stated purpose.	The committee appreciates the commenter's feedback about the proposal.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			Should the proposed attachment form, DV-150, be adopted as a mandatory form for use in domestic violence restraining order matters, or should it be an optional form? Adopting DV-150 as a mandatory form may be in the interest of all parties as it is specific to the Court's reasons for child custody and visitation orders. Majority of DV series forms are mandatory.	While the committee recognizes the benefits of mandatory forms, the committee concluded that forms DV-150 and FL-351 (proposed as form FL-341(F)) should be optional to provide judicial officers flexibility. The committee noted that the evidence presented in cases can vary widely. While the form may work for simpler cases, the format of the form would not work for more complex cases. Because of the set format, judicial officers who require more space would likely use a separate document to record their written findings and attach it to the multipage form, which would not promote consistency and would lead to varying formats. The new forms are recommended as optional to provide a new tool and best practice for judicial officers. The committee also concluded that forms DV-150 and FL-351 should be standalone forms rather than attachments to protect the privacy of litigants in these matters as findings can contain sensitive facts or credibility determinations. Because parents may provide custody and visitation orders to law enforcement or children's schools, ensuring that findings are on a separate form would keep sensitive information separate from the order.
			Should proposed attachment form FL-341(F) be adopted as a mandatory form for use in domestic	See above response. Note that proposed form FL-341(F) is now proposed as a standalone form and renumbered to FL-351.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			violence restraining order matters, or should it be an optional form? The proposed attachment form should be an optional form.	
			Should form FL-341(A) be revised to remove the date and signature line for the judicial officer because the form is an attachment to an order? Would there be any unintended consequences of removing this content? (Please explain your answer.) It is not necessary for the form to have a judicial officer's signature as it is an attachment. The FL-341, which the FL-341(A) is attached to, also does not include a judicial officer signature line.	The committee appreciates the commenter's feedback. After further consideration, the committee has decided to recommend removing the judicial officer's signature line on form FL-341(A) as having additional places for a judicial officer signature could lead to enforcement issues if unintentionally left blank. The judicial officer's signature should only appear on the order to which the form is attached. In this instance, form FL-341(A) is a required attachment to form FL-341, and form FL-341 may be attached to orders made on forms FL-340, FL-180, FL-250, FL-355, or some other order. Removing the judicial officer's signature from form FL-341(A) makes the form consistent with other attachment to order forms, which do not contain signature lines.
			Would the proposal provide any cost savings? If so, please quantify. No, the proposal does not appear to provide any cost savings.	The committee appreciates the commenter's feedback on this issue.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee 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 would require revising procedures and providing communication to judicial officer and court staff.	The committee appreciates the commenter's feedback on this issue.
			Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes, two months would provide sufficient time for implementation in Orange County.	The committee appreciates the commenter's feedback on this issue.
			How well would this proposal work in courts of different sizes? Our court is a larger court, and this would work for Orange County.	The committee appreciates the commenter's feedback on this issue.
11.	Superior Court of San Diego County by Michael Roddy, Executive Officer	AM	Q: Does the proposal appropriately address the stated purpose? A: Yes.	The committee appreciates the commenter's feedback about the proposal.
			Q: Should the proposed attachment form, DV-150, be adopted as a mandatory form for use in	While the committee recognizes the benefits of mandatory forms, the committee concluded that

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			domestic violence restraining order matters, or should it be an optional form? A: Mandatory. The forms prompt judicial officers to include statutorily required findings. If the forms are not mandatory, the required findings are more likely to be inadvertently excluded from court orders.	forms DV-150 and FL-351 (proposed as form FL-341(F)) should be optional to provide judicial officers flexibility. The committee noted that the evidence presented in cases can vary widely. While the form may work for simpler cases, the format of the form would not work for more complex cases. Because of the set format, judicial officers who require more space would likely use a separate document to record their written findings and attach it to the multipage form, which would not promote consistency and would lead to varying formats. The new forms are recommended as optional to provide a new tool and best practice for judicial officers. The committee also concluded that forms DV-150 and FL-351 should be standalone forms rather than attachments to protect the privacy of litigants in these matters as findings can contain sensitive facts or credibility determinations. Because parents may provide custody and visitation orders to law enforcement or children's schools, ensuring that findings are on a separate form would keep sensitive information separate from the order.
			Q: Should proposed attachment FL-341(F) be adopted as a mandatory form for use in family law matters, or should it be an optional form? A: Mandatory. The forms prompt judicial officers to include statutorily required findings. If the	See above response. Note that proposed form FL-341(F) is now proposed as a standalone form and renumbered to FL-351.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			forms are not mandatory, the required findings are more likely to be inadvertently excluded from court orders.	
			Q: Should form FL-341(A) be revised to remove the date and signature line for the judicial officer because the form is an attachment to an order? Would there be any unintended consequences of removing this content? (Please explain your answer.) A: Yes, the signature line should be removed. Removing the judicial officer signature makes the form consistent with other attachment to order forms, which do not contain signature lines. The judicial officer's signature should only appear in one place (on the order which FL-341(A) is being attached to). The form is formatted such that it cannot be filed unless attached to an order.	The committee appreciates the commenter's feedback. After further consideration, the committee has decided to recommend removing the judicial officer's signature line on form FL-341(A) as having additional places for a judicial officer signature could lead to enforcement issues if unintentionally left blank. The judicial officer's signature should only appear on the order to which the form is attached. In this instance, form FL-341(A) is a required attachment to form FL-341, and form FL-341 may be attached to orders made on forms FL-340, FL-180, FL-250, FL-355, or some other order. Removing the judicial officer's signature from form FL-341(A) makes the form consistent with other attachment to order forms, which do not contain signature lines.
			Q: Would the proposal provide any cost savings? If so, please quantify. A: No.	The committee appreciates the commenter's feedback on this issue.
			Q: What would the implementation requirements be for courts—for example, training staff (please	The committee appreciates the commenter's feedback on this issue.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			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: Updating internal procedures and local packets, training staff, and notifying judicial officers.	
			Q: Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? A: Yes, provided the final versions of the forms are provided at that time.	The committee appreciates the commenter's feedback on this issue.
			Q: How well would this proposal work in courts of different sizes? A: It appears the proposal would work for courts of all sizes.	The committee appreciates the commenter's feedback on this issue.
			General comments:	Responses provided below.
			DV-105-INFO: Propose that "I have a disability. How can I get help?" section be renamed to "What if I have a disability and need accommodation?" to match DV-300-INFO and DV-700-INFO.	The committee notes that this section is worded differently across the DV INFO forms. The committee prefers "I have a disability. How can I get help?" as it reflects language that people are more likely use. Going forward, the committee will recommend consistent language for this section across INFO forms.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			DV-120-INFO: Propose that "What if I have a disability and need accommodation?" be added before "Request for Accommodations" to match DV-700-INFO.	The committee agrees and recommends adding information about requesting an accommodation on form DV-120-INFO. As noted above, the committee recommends the following language: I have a disability. How can I get help?
			DV-140: Item 10.d.: Propose including the same language listed in item 12(2) following "Virtual and not in person" (i.e. *For more information on virtual…")* to 10.d.	The committee recommends adding a reference to "virtual visits" under 10d.
			Item 16: Since the DV-140 can be attached to a DV-310, should the italicized note also reference the DV-310?	The committee does not recommend this change as the instruction (italicized note) at this item refers to language regarding the priority of enforcement which is not contained on form DV-310.
			DV-300-INFO: Propose that the Request for Accommodations section (included on the DV-105-INFO, DV-120-INFO, and DV-700-INFO) be added after the "What if I have a disability and need accommodation?" section.	The committee agrees and recommends adding the section on "Request for Accommodations" to form DV-300-INFO.
			DV-700-INFO: The citation to Civil Code section 54.8 in the Request for Accommodations section should be changed to "Civ. Code, § 54.8."	This change has been made.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			FL-300-INFO : Propose adding the *"For more information on virtual visits, go to…"* language include on the other forms in the "What are virtual visits?" section.	The committee believes that this comment refers to form FL-311-INFO, as there is no content on form FL-300-INFO about virtual visitation. The committee agrees with the suggestion and has incorporated into the revisions it is recommending to the form.
			FL-341(A): Propose changing "Visits" in Item 6 and 6a to "Visitation."	The committee has revised the form to align with the content of form DV-140. The issue raised by the commenter is addressed in the proposed revisions to the form.
			FL-341(F) Propose that the code sections listed in 3.b.(2)(c)(iii) be listed in numerical order.	As noted above, proposed form FL-341(F) is now proposed as a standalone form and renumbered to FL-351.The committee agrees to list code sections 3011 and 6306 in numerical order on proposed form FL-351 at items 6(c)(3) and (4). The committee also recommends listing each code section as a separate factor on the proposed form.
12.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) Joint Rules Subcommittee ("JRS")	A	Does the proposal appropriately address the stated purpose? Yes.	The committee appreciates the commenter's feedback on this issue.
			Should the proposed attachment form, DV-150, be adopted as a mandatory form for use in DVRO matters, or should it be an optional form?	While the committee recognizes the benefits of mandatory forms, the committee concluded that forms DV-150 and FL-351 (proposed as form FL-341(F)) should be optional to provide judicial officers flexibility. The committee noted that the evidence presented in cases can vary widely. While the form may work for simpler cases, the

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			Yes, form DV-150 should be adopted as a mandatory form. In addition to assuring the parties that all required findings been made, adopting DV-150 as a mandatory form would ensure consistency across the state and facilitate an accurate understanding for law enforcement enforcing those orders.	format of the form would not work for more complex cases. Because of the set format, judicial officers who require more space would likely use a separate document to record their written findings and attach it to the multipage form, which would not promote consistency and would lead to varying formats. The new forms are recommended as optional to provide a new tool and best practice for judicial officers. The committee also concluded that forms DV-150 and FL-351 should be standalone forms rather than attachments to protect the privacy of litigants in these matters as findings can contain sensitive facts or credibility determinations. Because parents may provide custody and visitation orders to law enforcement or children's schools, ensuring that findings are on a separate form would keep sensitive information separate from the order.
			Should proposed attachment form FL-341(F) be adopted as a mandatory form for use in family law matters, or should it be an optional form. Form FL-341(F) should be adopted as mandatory form. Similar to DV-150, although it could be helpful to allow the flexibility of optional use, making the form mandatory would ensure required findings are documented on the record and	See above response. Note that proposed form FL-341(F) is now proposed as a standalone form and renumbered to FL-351.

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			facilitate a better understanding from the parties as to the reasoning for the court's ruling. A better understanding of the court process can improve public trust and confidence in the family law court system, as well as the perception of an individual's access to justice.	
			Should form FL-341(A) be revised to remove the date and signature line for the judicial officer because the form is an attachment to an order? Would there be any unintended consequences of removing this content? Form FL-341(A) should be revised to remove the date and signature line for consistency and increase efficiency in clerical processing of the order. This writer is unaware of any unintended consequences that would result in removing this content.	The committee agrees and does not recommend including a judicial officer signature line on attachment forms. Doing so is unnecessary as the order itself includes the judicial officer's signature. As noted by another commenter, having additional places for a judicial officer signature could lead to enforcement issues if unintentionally left blank.
			Would the proposal provide cost savings? Yes. Many of the proposed changes are more consistent with the formatting of other family law forms which will assist court staff in a more expedient review of forms prior to filing. Additionally, parties often struggle with providing necessary information for visitation schedules and	The committee appreciates the commenter's feedback on this issue.

<table>
<tr><th></th><th>Commenter</th><th>Position</th><th>Comment</th><th>Committee Response</th></tr>
<tr><td></td><td></td><td></td><td>supervised visitation providers; the forms appear to provide a more user-friendly format to circumvent these challenges.

Parties that are better able to complete forms will require less assistance form the self-help center. The forms being accurate and complete will result in a reduction of delays in the processing of forms or orders being made.</td><td></td></tr>
<tr><td></td><td></td><td></td><td>What would the implementation requirements be for courts – for example, training staff (position + expected hours of training), revising processes and procedures, changing docket codes in case management systems, or modifying case management systems?

Training:
<table>
<tr><th>Position</th><th>Hours of Training</th></tr>
<tr><td>Supervisor</td><td>1</td></tr>
<tr><td>Senior Clerk</td><td>1</td></tr>
<tr><td>Self-Help Attorney</td><td>1</td></tr>
<tr><td>Clerk – Self Help
(4 hrs ea x 4 clerks)</td><td>4</td></tr>
<tr><td>Clerk – Processing
(4 hrs ea x 4 clerks)</td><td>4</td></tr>
</table></td><td>The committee appreciates the commenter’s feedback on this issue.</td></tr>
</table>

SPR25-25

Family Law and Protective Orders: Implementation of SB 599 and AB 3072 (Adopt Cal. Rules of Court, rule 5.252; amend Cal. Stds. Jud. Admin., std. 5.20; adopt form DV-150; revise forms DV-105, DV-120-INFO, DV-140, DV-300-INFO, DV-700-INFO, FL-300-INFO, FL-305, FL-311, FL-324(NP), FL-324(P), FL-341, FL-341(A), FL-355; approve forms DV-105-INFO, FL-311-INFO, and FL-351)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			Total Hours Est: **11** Self-Help: Form packet copies and copier configurations. Essential Forms update. Additional forms will add to the time clerks spend preparing the DV orders for court. Processes & Procedures Clerk Edition Configurations	
			Would two months from JC approval of this proposal until its effective date provide sufficient time for implementation? Yes, operational impact is minimal, and no changes will be needed to electronic filing configurations. The timeline of two months is fair and reasonable.	The committee appreciates the commenter's feedback on this issue.
			How well would this proposal work in courts of different sizes? In this writer's opinion the proposal would work well in courts of all sizes, resulting in consistency and fluency of form preparation and processing.	The committee appreciates the commenter's feedback on this issue.

ATTACHMENT A

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)

This chart includes only the comments related to implementation of SB 599. Those comments are verbatim unless indicated by an asterisk (*). All comments received on SPR24-25, including those unrelated to implementation of SB 599, are attached to the Judicial Council report entitled *Protective Orders: Implementation of Body Armor Restrictions Under Assembly Bill 92*, available at *https://jcc.legistar.com/View.ashx?M=F&ID=13261944&GUID=F6EF8BFC-C1D4-44F5-9149-344CDDAF4C73*.

	Commenter	Position	Comment	Committee Response
1.	Community Legal Aid SoCal by Pablo Schlueter-Corey, Supervising Attorney Family Law	AM	Agree that proposed order appropriately addresses the stated purpose so as not to delay starting monitored visitation by allowing monitor to provide availability.	The committee agrees that the recommended change should help prevent delays for a parent attempting to access professionally supervised visits.
			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.	The committee notes that the proposed change to remove the option of providing a detailed schedule for professionally supervised visits would increase flexibility to monitors and parents. The committee recognizes that certain situations may warrant the court issuing additional orders to account for provider unavailability.
			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.	In light of comments received, the committee recommends new form DV-150, which could be used by the court to capture written findings that are mandated by law. The form includes all findings required under Family Code sections 3011, 3044 and 3100
			[The committee has omitted the portions of this comment that do not relate to implementation of SB 599.]	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

ATTACHMENT A

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)

This chart includes only the comments related to implementation of SB 599. Those comments are verbatim unless indicated by an asterisk (*). All comments received on SPR24-25, including those unrelated to implementation of SB 599, are attached to the Judicial Council report entitled *Protective Orders: Implementation of Body Armor Restrictions Under Assembly Bill 92*, available at *https://jcc.legistar.com/View.ashx?M=F&ID=13261944&GUID=F6EF8BFC-C1D4-44F5-9149-344CDDAF4C73*.

	Commenter	Position	Comment	Committee Response
2.	Family Violence Appellate Project by Jodi Lewis, Senior Managing Attorney	NI	*DV-105, Request for Child Custody and Visitation Orders* 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).	In light of comments received, the committee agrees and recommends adding the option to ask for only virtual visits at item 10 on form DV-105.
			DV-105-INFO, What Are Child Custody and Visitation Orders	The committee agrees and recommends removing the sentence from the proposed INFO form.

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
			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.	
			DV-140, Child Custody and Visitation Order 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.	In light of comments received, the committee recirculated the proposal to implement SB 599 in the spring of 2025 to include specific options for virtual visitation. The committee agrees with the comment and recommends adding virtual visitation as options on form DV-140 (see items 9e, 10d, 12b and 13).
			[The committee has omitted the portions of this comment that do not relate to implementation of SB 599.]	
3.	GIFFORDS Law Center to Prevent Gun Violence by Julia Weber, Esq., MSW	AM	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.	The committee agreed with the suggestion to include virtual visits as a listed option in item 15 of form DV-100. The committee's recommendation was approved by the council, effective January 1, 2025.
			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	The committee agrees and recommends including virtual visitation as an option in items 10, 12 and 13 on form DV-105.

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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
			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?"	
			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.	The committee agrees and recommends these changes.
			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.	In light of this comment, the committee recommends stating that the internet may be required.

ATTACHMENT A

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
			DV-140, both #9 and #10 should include a box for the option of having these visits be virtual visits, per DV-105-INFO. 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.	The committee agrees and recommends including virtual visits as an option for professional and nonprofessional supervised visits, and listing professional supervised visits listed before nonprofessional supervised visits.
			#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.	The committee recommends amending Standard 5.20 to require professional and nonprofessional providers to consider safety and other issues before commencing virtual visits and require professional providers to have written policies and procedures in place before commencing virtual visitation services.
			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	In light of comments received, the committee recommends new form DV-150, which could be used by the court to capture written findings that are mandated by law. The form includes all

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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
			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 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)."	findings required under Family Code sections 3011, 3044 and 3100.
			[The committee has omitted the portions of this comment that do not relate to implementation of SB 599.]	
4.	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?	Thank you for your response. The committee agrees that providers and parties would benefit from the proposed revisions to form DV-140, which include adding an option to name an alternate provider for professional supervised

ATTACHMENT A

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.	visitation, in the event that the chosen provider is unavailable.
			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.	In light of comments received, the committee recommends new form DV-150, which could be used by the court to capture written findings that are mandated by law. The form includes all findings required under Family Code sections 3011, 3044 and 3100.
5.	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 committee agrees and recommends not including "ask court for transcript" in the proposed revisions to form DV-140.
			The Court also agrees that item 9(b)(2)(A)(2) on the DV-140 form should remain as a non-mandatory requirement.	The committee agrees that the court is not required to provide the parties a list of providers (as shown in item 9b(2) of proposed form DV-140).

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ATTACHMENT A

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
			[The committee has omitted the portions of this comment that do not relate to implementation of SB 599.]	
6.	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.	The committee agrees that providers and parties would benefit from the proposed revisions to form DV-140, which include adding an option to name an alternate provider for professional supervised visitation, in the event that the chosen provider is unavailable.
			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.	In light of comments received, the committee recommends new form DV-150 which could be used by the court to capture written findings that are mandated by law. The form includes all findings required under Family Code sections 3011, 3044 and 3100.
			[The committee has omitted the portions of this comment that do not relate to implementation of SB 599.]	

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ATTACHMENT A

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
7.	Superior Court of San Diego by Mike Roddy, Executive Officer	A	Does the proposal appropriately address the state 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. Yes. It appears that the proposed changes are sufficient.	Thank you for your response. The committee agrees that providers and parties would benefit from the proposed revisions to form DV-140, which include adding an option to name an alternate provider for professional supervised visitation, in the event that the chosen provider is unavailable.
			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.	In light of comments received, the committee proposes new form DV-150 which could be used by the court to capture written findings that are mandated by law. The proposed form includes all findings required under Family Code sections 3011, 3044 and 3100.
			[The committee has omitted the portions of this comment that do not relate to implementation of SB 599.]	

SPR24-26

Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599 (Amend Cal. Stds. Jud. Admin., std. 5.20; approve form FL-311-INFO; revise forms FL-311, FL-341, and FL-355)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	Community Legal Aid SoCal, by Pablo Schlueter-Corey, Supervising Attorney Family Law Norwalk	A	No specific comment.	No response required.
2.	The Executive Committee of the Family Law Section of the California Lawyers Association (FLEXCOM) Sacramento	A	FLEXCOM agrees with this proposal.	No response required.
3.	Family Violence Appellate Project by Arati Vasan, Senior Managing Attorney San Francisco		*FL-311, Child Custody and Visitation (Parenting Time) Application Attachment* 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 the forms.	The committee decided to defer the SPR24 proposal relating to SB 599 to spring 2025 and combine it with a proposal for changes to DV- forms specific to virtual visitation. The forms in the new proposal incorporate virtual visitation.
			Self-represented litigants in particular may not understand they can request virtual visits – or know where to make the request on forms – if the expectation is that this request and order is made under the "Other" section on the various forms.	Same as above response.
			Additionally, unlike some forms such as the DV-100, the FL-311 form has black spaces instead of lines for people to write their answers to various questions. It is suggested that lines are added as structured formats are generally more accessible for a wider range of users.	Judicial Council FL-forms are known as "standard forms," which use spaces instead of lines to write answers. DV- forms are a different type of Judicial Council form. They are "plain language forms," which use lines for parties to write their answers. It is not within the purview of the committee to

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SPR24-26

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	Commenter	Position	Comment	Committee Response
				change the formatting of form FL-311 to plain language formatting.
			On page 1, 1b(4): though the language "specific as to time, place, and manner of transfer of the child" tracks the statute it may be helpful to use more plain language such as when (time), where (place), and how (manner) the child will be exchanged from you to the other parent/party. Also, it would be helpful to include lines in the blank area for someone to write their reasons should they opt to check the "below" box.	The committee appreciates the comment but prefers that the standard form continue to use the language of the statute, as this is not a plain language form.
			On page 2, the 2. before e. is confusing. Perhaps add the word continued.	The revision conforms form FL-311 to Style Guide used for all Judicial Council forms when the content of an item continues to the next page of a form. "Continued" is not used for these forms. Therefore, the committee does not recommend revising the form as the commenter suggests.
			On page 3, the 3.a before (3) is confusing. Perhaps add the word continued.	Same as above response.
			For 3b(4): though the language "specific as to time, place, and manner of transfer of the child" tracks the statute it may be helpful to use more plain language such as when (time), where (place), and how (manner) the child will be exchanged from you to the other parent/party. Also, it would be helpful to include lines in the blank area for someone to write their reasons should they opt to check the "below" box.	The committee appreciates the comment but prefers that the standard form continue to use the language of the statute, as this is not a plain language form.

SPR24-26

Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599 (Amend Cal. Stds. Jud. Admin., std. 5.20; approve form FL-311-INFO; revise forms FL-311, FL-341, and FL-355)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			FL-311-INFO, What are Visitation or Parenting Time Orders? On page 1, it states that there are four types of visits. However, there could also be an order for only virtual visitations. It is suggested that the information sheet state that there are Five Types of Orders and that there is a bullet point for virtual visits as another type of order. The information explaining what virtual visits are, whether they are a good option, and that someone could be ordered to only virtual visits or might be ordered to both virtual visits and another form of visitation would be provided under the bullet point for virtual visits.	Under the Family Code, virtual visitation is a method of implementing visitation. It is defined in the form and can be used in the four types of visits that are listed in the form. It is not a fifth type of visitation order. Therefore, the committee does not recommend incorporating the suggestion into the form.
			On page 1, under the bullet point supervised visitation, suggest changing sentence slightly to state "The neutral third person can be professional or nonprofessional" to align with how the explanations for professional and non-professional provider are listed below.	The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for approval.
			Also, 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 a self-represented litigant because the child would not be alone if a third party was present	The committee agrees with this suggestion and recommends that the description for nonprofessional provider be revised as follows: A nonprofessional provider is usually a friend or family member who does not have special training and is not paid, but must still make safety the top priority; follow the judge's orders; and be able to end a visit, if needed, to protect the child.

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SPR24-26

Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599 (Amend Cal. Stds. Jud. Admin., std. 5.20; approve form FL-311-INFO; revise forms FL-311, FL-341, and FL-355)

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	Commenter	Position	Comment	Committee Response
				The above language incorporates content about nonprofessional providers of supervised visitation found on the California Courts Self-Help Guide at: https://selfhelp.courts.ca.gov/guide-supervised-visitation/nonprofessional-provider.
			On page 1, under the heading "What about orders for child exchanges?" it states: "You can ask for orders that would not require you to meet the other parent, like having the other parent pick up from school or daycare." The words "your child" should be added after pick up.	The committee agrees with this suggestion and has incorporated it, with minor alterations, into the amendments that it is recommending for the Spring 2025 rules cycle.
			It might also be helpful to add a "Plan for Your Child's Virtual Visits" for the Petitioner. This could include helpful information including making sure apps and internet are working, that child is in an area that does not identify the petitioner's location if it is confidential and there are safety concerns; remove items that might distract child from the participating in the visit.	The committee appreciates the suggestions and recommends adding a link to the form to direct persons to a web page on the Self-Help Guide to the California Courts for the type of information included in the comment.
			FL-341, Child Custody and Visitation (Parenting Time) Order Attachment 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 the forms.	The committee decided to defer the SPR24 proposal relating to SB 599 to spring 2025 and combine it with a proposal for changes to DV-forms specific to virtual visitation. Form FL-341 is one of the forms that includes content about virtual visitation.

SPR24-26

Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599 (Amend Cal. Stds. Jud. Admin., std. 5.20; approve form FL-311-INFO; revise forms FL-311, FL-341, and FL-355)

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			Additionally, unlike some forms such as the DV-100, the FL-341 form has black spaces instead of lines for people to write their answers to various questions. Suggested that lines are added as structured formats are generally more accessible for a wider range of users. (See e.g., page 1, 7c(2) and page 3, 9b(2).)	Judicial Council FL-forms are known as "standard forms," which use spaces instead of lines to write answers. DV- forms are a different type of Judicial Council form. They are "plain language forms," which use lines for parties to write their answers. It is not within the purview of the committee to change the formatting of form FL-341 to plain language formatting.
4.	Orange County Bar Association by Christina Zabat-Fran, President Newport Beach	AM	The proposal does not appropriately address the stated purpose. The revised forms include most information that is supposed to include but the "virtual visits" is only in the 311-INFO form. The other forms do not help define the parameters for an order for virtual visitation.	The committee decided to defer the SPR24 proposal relating to SB 599 to spring 2025 and combine it with a proposal for changes to DV-forms specific to virtual visitation. The forms in the new proposal incorporate virtual visitation.
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 SPR24-26, "Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599" 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 decided to defer the SPR24 proposal relating to SB 599 to spring 2025 and combine it with a proposal for changes to DV-forms specific to virtual visitation. The forms in the new proposal incorporate virtual visitation into various forms. The committee appreciates the comment and notes that the recommended revisions to the forms will take effect two years after the enactment of the

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SPR24-26

Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599 (Amend Cal. Stds. Jud. Admin., std. 5.20; approve form FL-311-INFO; revise forms FL-311, FL-341, and FL-355)

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	Commenter	Position	Comment	Committee Response
				amendments to Family Code sections 3011, 3100, and 3200. Judicial Council staff and court professionals have been educating and training court staff about SB 599 over several months, so that courts would be aware of the changes that they might need to make to effectuate the legislation before the Judicial Council forms become effective on January 1, 2026. Given the amount of time that has passed between the passage of SB 599 and the anticipated effective date of the standard and forms, the committee does not recommend a delayed implementation of the standard and forms changes under SB 599.
6.	Superior Court of Orange County by Katie Tobias, Operations Analyst	NI	On the FL-311 form, the checkboxes on Item 1. b. (4) on Page 1 and Item 3. b. (4) Page 3 do not match. **Page 1:** Item 1. b. (4) Below: Attachment 1b. Other (specify): **Page 3:** Item 3. b. (4) below: in Attachment 3b. other (specify):	The committee decided to defer the SPR24 proposal relating to SB 599 to spring 2025 and combine it with a proposal for changes to DV-forms specific to virtual visitation. The recommended revisions to form FL-311 address the concerns raised by the commenter. Item 1.b.(4) is now item 5b(2) in the form recommended to take on January 1, 2026. Item 3.b.(4) is now item 5.c.(2) in the form recommended to take effect on January 1, 2026.

SPR24-26

Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599 (Amend Cal. Stds. Jud. Admin., std. 5.20; approve form FL-311-INFO; revise forms FL-311, FL-341, and FL-355)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			In addition, the language within the parentheses for both items is confusing and not consistent. Recommend modifying the language to Items 1 and 3 on pages 1 and 3 (respectively) as follows: **<u>Page 1 Item 1:</u>** Even though there are allegations of a history of abuse or substance abuse, I believe it is in the best interest of the child(ren) for the court to make the child custody order proposed in Item 1a for the following reasons: (The orders that you request must also be specific as to time, day, place, and manner of transfer of the child, as Family Code sections 3011 and 6323(c) require.) **<u>Page 3 Item 3:</u>** Even though there are allegations of a history of abuse or substance abuse, I believe it is in the best interest of the child(ren) for the court to make an	Item 1 relating to child custody is now item 5(b) in the form recommended to take effect on January 1, 2026. 1. The new language is now as follows: Even though there are allegations, I ask that the court make the child custody orders in item 4. *(Write the reasons why you think it would be in the best interests of the child that the party or parties be granted child custody, even though there are allegations against them of a history of abuse or substance abuse. The order that you request about child custody or visitation must also be specific as to time, day, place, and manner of* transfer *(exchange) of the child, as Family Code sections 3011(a)(5)(A) and 6323(c) require.)* The attachment is updated to Attachment 5b(2). Item 3 relating to unsupervised visitation is now item 5c(2)(B) in the form recommended to take effect on January 1, 2026. The new language is

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR24-26

Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599 (Amend Cal. Stds. Jud. Admin., std. 5.20; approve form FL-311-INFO; revise forms FL-311, FL-341, and FL-355)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			unsupervised visitation order for the following reasons: (The orders that you request must also be specific as to time, day, place, and manner of transfer of the child, as Family Code sections 3011 and 6323(c) require.)	consistent with item 5b(2) and the attachment is shown as Attachment 5c(2)(B).
7.	Superior Court of Riverside County By Sarah Hodgson Chief Deputy of Legal Services / General Counsel	A	Would the proposal provide cost savings? If so, please quantify. The cost savings would be minimal. The cost savings would be as to staff time spent on explaining the types of parenting time to the public.	The committee appreciates the comment.
			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)? Regarding implementation, a comprehensive approach will include training staff (including public service, courtroom, call center, CCRC and judicial officers), revising procedures and training guides. Case management minute codes will be required to be updated to align with the new language implemented.	The committee appreciates the comment.

SPR24-26

Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599 (Amend Cal. Stds. Jud. Admin., std. 5.20; approve form FL-311-INFO; revise forms FL-311, FL-341, and FL-355)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? A timeline of three months for implementation seems sufficient and realistic.	The committee appreciates the comment.
			How well would this proposal work in court of different sizes? The proposal would be beneficial for both large and small courts, as it addresses the needs of litigants while also streamlining processes for court personnel.	The committee appreciates the comment.
8.	Superior Court of San Diego County by Mike Roddy, Executive Officer		Would the proposal provide cost savings? If so, please quantify. No, the proposal does not appear to provide any cost savings.	The committee appreciates the comment.
			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	The committee appreciates the comment.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR24-26

Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599 (Amend Cal. Stds. Jud. Admin., std. 5.20; approve form FL-311-INFO; revise forms FL-311, FL-341, and FL-355)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			(approximately 2-4 hours), and updating the case management system.	
			Does the proposal appropriately address the state purpose? Yes.	The committee appreciates the comment.
			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 to include revised forms and training business office and courtroom staff.	The committee appreciates the comment.
			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	The committee appreciates the comment.

SPR24-26

Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599 (Amend Cal. Stds. Jud. Admin., std. 5.20; approve form FL-311-INFO; revise forms FL-311, FL-341, and FL-355)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			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.	The committee appreciates the comment.
9.	Michael M. Ward Redding	AM	I agree to the proposed changes, there has to be modification there has to be a clause in it that specifically addresses Parental Alienation when it comes to parenting time, or calculations in guideline child support, if the custodial parent deliberately, and intentionally alienates the child from the parent, such as changing their phone numbers so that the non custodial parent cannot call their child, or blocking the non custodial parent on social media so that the non custodial parent cannot reach out to the child on social media, or even custodial parents who maliciously informs the court to redact their addresses making it confidential so the other parent cannot have them served with custody modifications in the mail, or by service this creates a very serious problem for non custodial parents, making their kids the victims, along with the non custodial parent. This is an act performed by the custodial parent as a means of deceiving the court into believing the non-custodial parent does not make any attempt to visit the child, thus requesting the courts to reward more money in child support	The committee recommends that the standard and the forms be revised to the extent necessary to implement Senate Bill 599. SB 599 does not address parental alienation and is, thus, beyond the scope of the proposal.

SPR24-26

Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599 (Amend Cal. Stds. Jud. Admin., std. 5.20; approve form FL-311-INFO; revise forms FL-311, FL-341, and FL-355)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			which the court does without the non-custodial parents knowledge or against their demands. This Bill should address these issues when it comes to parenting time, and calculations, etc.	

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: September 11, 2025

Rules Committee action requested [Choose from drop-down menu below]:
Recommend JC approval (has circulated for comment)

Title of proposal: Protective Orders: Changes to Domestic Violence and Juvenile Forms to Implement Assembly Bill 2759

Proposed rules, forms, or standards (include amend/revise/adopt/approve)*:*
Adopt forms DV-850 and JV-276; revise forms CLETS-001, DV-120, DV-120-INFO, DV-130, JV-247, JV-255, JV-259, and JV-265

Committee or other entity submitting the proposal:
Family and Juvenile Law Advisory Committee

Staff contact (name, phone and email)*: Frances Ho; 415-865-7662; frances.ho@jud.ca.gov; Kerry Doyle; 415-865-8791; 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 22, 2024; amended November 26, 2024
Project description from annual agenda: Item 1: AB 2759 (Petrie-Norris) Domestic violence protective orders: possession of a firearm (Stats. of 2024, Ch. 535) Revises the exemption in existing law pertaining to the issuance of a protective order or restraining order and the relinquishment of a firearm to clarify and expand the standard considered by the court in making determinations as to sworn peace officers carrying a firearm either on or off duty, as a condition of employment.

Item 10: The committee will consider revision to form CLETS-001, to include the date of birth for protected persons, as suggested by a stakeholder, to ensure entry of protected person information into the federal restraining order database. The committee will also seek public comment on recent changes to the form to allow the protected person to list any body armor that the proposed restrained person might have or own.

Out of Cycle/Early Implementation: *If requesting July 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)* 7.17.25
  ☒ approved by Office Director (or Designee) (*name*) Anna Maves
  on (date) 7.17.25

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

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 25-162
For business meeting on October 24, 2025

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Title
Protective Orders: Changes to Domestic Violence and Juvenile Forms to Implement Assembly Bill 2759

Rules, Forms, Standards, or Statutes Affected
Adopt forms DV-850 and JV-276; revise forms CLETS-001, DV-120, DV-120-INFO, DV-130, JV-247, JV-255, JV-259, and JV-265

Recommended by
Family and Juvenile Law Advisory Committee
Hon. Tari L. Cody, Cochair
Hon. Stephanie E. Hulsey, Cochair

Report Type
Action required

Effective Date
January 1, 2026

Date of Report
August 20, 2025

Contact
Frances Ho, 415-865-7662
frances.ho@jud.ca.gov

Kerry Doyle, 415-865-8791
kerry.doyle@jud.ca.gov

Executive Summary

Assembly Bill 2759 (Petrie-Norris; Stats. 2024, ch. 535), effective January 1, 2025, created new requirements for granting a firearm exemption to a restraining order that includes a firearm or ammunition prohibition. The Family and Juvenile Law Advisory Committee recommends adopting two new firearm exemption order forms and revising several domestic violence and juvenile restraining order forms to reflect the new requirements. The committee also recommends revisions to form CLETS-001 to include an instruction for petitioners of retail theft protective orders and to make necessary updates.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2026:

1. Adopt two new firearm exemption order forms, *Permission to Have Firearm or Ammunition for Work* (forms DV-850 and JV-276);

2. Revise *Confidential Information for Law Enforcement* (form CLETS-001) to include an instruction for retail theft protective orders; and

3. Revise seven restraining order forms:

   - *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);
   - *Response to Request for Juvenile Restraining Order* (form JV-247);
   - *Juvenile Restraining Order After Hearing* (form JV-255);
   - *Response to Request for Juvenile Restraining Order Against a Child* (form JV-259); and
   - *Juvenile Restraining Order Against a Child—Order After Hearing* (form JV-265).

The proposed new and revised forms are attached at pages 8–60.

Relevant Previous Council Action

The Judicial Council provides forms and instructions for use in domestic violence (DV) and juvenile (JV) 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 DV and JV restraining order forms were last revised in January 2025 to implement a new law that prevents restrained persons from owning, possessing, or buying body armor. A technical change was also made to form DV-130, effective April 28, 2025.

Analysis/Rationale

This proposal is needed to implement the new provisions in Family Code section 6389(h) created by AB 2759, and to make changes to form CLETS-001. For any restraining order issued in California that includes a firearm or ammunition prohibition (except gun violence restraining orders), the court may grant the restrained person an exemption (permission) to have a specific firearm or ammunition for work if the court makes certain findings. AB 2759 changed a number of requirements related to the exemption.

New firearm exemption forms (forms DV-850 and JV-276)

For each of the DV and JV form sets, the committee recommends adopting a new form, *Permission to Have Firearm or Ammunition for Work* (forms DV-850 and JV-276), to help

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ensure that these orders, when granted, are clear and legally accurate. This form will be completed by the court if an exemption is granted and attached to an order form.[1]

Response forms (forms DV-120, DV-120-INFO, JV-247, and JV-259)

For the forms used to respond to a request for a restraining order (forms DV-120, JV-247, and JV-259), the committee recommends including questions under the existing item titled "Firearms (Guns), Firearm Parts, and Ammunition" to ascertain whether the restrained person is a sworn peace officer and whether they are prohibited from having firearms or ammunition by any other law or order.[2] Additionally, the committee recommends adding a note describing some of the requirements of Family Code section 6389(h) and referring the restrained person to the self-help webpage on the California Courts website and section 6389(h) for more information on exemption requirements.[3]

For form DV-120-INFO, the committee recommends adding information about the availability of the exemption and referring to the self-help webpage on the California Courts website and the applicable law for more information.[4]

Order after hearing forms (forms DV-130, JV-255, and JV-265)

The forms for issuing a restraining order after a hearing (forms DV-130, JV-255, and JV-265) currently contain an item related to the firearm exemption. The committee recommends revising this item to reference the new firearm exemption order form, form DV-850. The reference appears as follows in item 8f on form DV-130, item 7f on form JV-255, and item 7f on form JV-265.:

f. ☐ Permission to have firearm or ammunition for work: The judge has made the necessary findings to grant an exception under Family Code section 6389(h). The orders are included on form DV-850, *Permission to Have Firearm or Ammunition for Work.*

Other revisions to forms JV-255, JV-265, and DV-130

Effective January 1, 2025, the council approved a new notice form for juvenile restraining order hearings, *Notice of Court Hearing* (form JV-249). When this form was approved, the service

[1] Equivalent forms for criminal protective orders and other civil restraining orders are also being proposed. See Judicial Council of Cal., Advisory Com. Rep., *Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899* (pending) and Judicial Council of Cal., Advisory Com. Rep., *Criminal Law: Implementation of Recent Legislation Regarding Criminal Protective Orders* (pending).

[2] See item 26c on form DV-120, item 13c on form JV-247, and item 9c on form JV-259.

[3] The webpage will be created and published by January 1, 2026.

[4] The recommended revisions to implement AB 2759 are highlighted in yellow. In a separate proposal, the committee is recommending revisions to form DV-120-INFO to add information (highlighted in grey) to implement Assembly Bill 3072. See Judicial Council of Cal., Advisory Com. Rep., *Family Law and Protective Orders: Implementation of Senate Bill 599 and Assembly Bill 3072* (pending).

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items on the juvenile restraining order after hearing forms (forms JV-255 and JV-265) were not revised to reflect service of this new form.[5] The committee therefore recommends revising the service items to (1) include a reference to this new notice form, (2) remove the reference to the request form (form JV-245), and (3) clarify that proof of service of the temporary restraining order (form JV-250) needs to be provided only if that form is issued. The committee further recommends revising the service item to require personal service of the order after hearing if a temporary restraining order was not issued.[6] These revisions mirror the current service item on the domestic violence restraining order after hearing form.[7] On form DV-130, at item 32c, the committee recommends replacing the reference to form FL-300 with a reference to form DV-300. As of January 1, 2025, requests to modify orders made after a hearing in a domestic violence restraining order matter must be made on form DV-300. The format of citations was also updated on forms JV-255, JV-265 and DV-130.

Confidential Information for Law Enforcement (form CLETS-001)

The committee recommends the following changes to form CLETS-001:

- Clarify in the instruction box at the top of page 1 that the primary protected person's information goes in items 2 and 3. This instruction is intended for juvenile court attorneys or others who may be completing the form on behalf of the primary protected person.
- Before item 3, instruct petitioners of retail theft restraining orders to skip items 3 and 4.[8]
- Add an instruction to item 3 advising that the date of birth of any protected person is necessary for entry into a federal law enforcement database and that failure to provide the information could result in the restraining order being more difficult to enforce outside of California.

Policy implications

In addition to implementing legislative changes, this proposal promotes Goal III, "Modernization of Management and Administration," of *The Strategic Plan for California's Judicial Branch* by ensuring that orders granting permission to carry a specific firearm or ammunition for work are easy to understand and consistent with statutory requirements. Additionally, the proposal helps implement Goal I, "Access, Fairness, Diversity, and Inclusion," by making the forms easier to complete for self-represented litigants.

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[5] See item 19b on form JV-255 and item 16b on form JV-265.

[6] See item 19b(2) on form JV-255 and item 16b(2) on form JV-265.

[7] See item 32b on form DV-130.

[8] Assembly Bill 3209 (Stats. 2024, ch. 169) established a new type of restraining order to address retail theft (crime). A proposal to implement AB 3209 was approved by the Judicial Council at its meeting on April 25, 2025, and the new forms became effective July 1, 2025. See Judicial Council of Cal., Advisory Com. Rep., *Protective Orders: New Civil Retail Crime Restraining Order* (Mar. 28, 2025), *https://jcc.legistar.com/View.ashx?M=F&ID=14013772&GUID=B1427CEB-AB8C-4763-AC8D-DC461B7502C4*.

Comments

This proposal circulated for comment from April 15 through May 23, 2025 as part of the council's regular spring cycle. The proposal received nine comments: Four were from superior courts; two were from bar associations; one was from the California Department of Justice; one was from the Family Violence Appellate Project;[9] and one was from the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee. Three agreed with the proposal; four agreed, if modified; two did not indicate a position; and none disagreed with the proposal.

The substantive comments and the committees' responses are summarized below. A chart with the full text of the comments received and the committee's responses is attached at pages 61–92.

Forms DV-850 and JV-276

In general, commenters supported the changes to implement AB 2759. Some comments suggested that the new exemption forms state that the exemption does not apply to body armor or include the option of granting an exemption for body armor. Because AB 2759 only deals with permission to use a specific firearm or ammunition for work, the committee does not recommend including information or orders regarding body armor. The committee notes that the relinquishment and exemption processes for body armor are different than for firearms and ammunition. For example, under Penal Code section 31360(c), an exception to allow possession and use of body armor may be granted by the chief of police or sheriff of the jurisdiction in which the restrained person wants to possess and use the body armor. As such, the restraining order forms list body armor prohibitions as a separate informational item and do not combine them with the prohibition orders related to firearms and ammunition.[10]

One commenter suggested revisions to the temporary restraining order forms (e.g., DV-110) and the new exemption forms to make clear that the exemption may be granted as part of a temporary restraining order. The committee declined to recommend this suggestion, as the committee concluded that granting an exemption in a temporary restraining order is rare. Additionally, including a checkbox for the exemption on the temporary restraining order may lead to the impression that the exemption can be granted without a hearing, as many temporary restraining orders are granted based solely on the pleadings. If a court does grant the exemption in a temporary restraining order that is issued or modified after a hearing, the court could make note of this on the temporary restraining order and attach form DV-850.

One commenter noted that while the court is required to find that a sworn peace officer's "personal safety depends on the officer's ability to carry a firearm or ammunition outside of scheduled work hours" the statute allows the court to limit permission to carry a firearm or ammunition to on duty only. The committee determined that the proposed forms are consistent

[9] This comment was from a group of 13 agencies.

[10] As an example, see items 8 and 12 on form DV-130.

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with AB 2759 and that the commenter's concern regarding the statutory language would need to be addressed by the Legislature.

Forms DV-120, JV-247, and JV-259

One commenter suggested requiring additional questions for a respondent seeking permission to have a firearm or ammunition for work. The committee declined to recommend this suggestion, as the questions proposed on the form are intended to provide the court with some but not all the information needed to grant an exemption. The court would need to conduct a hearing to gather additional information before its ruling on a request for an exemption under Family Code section 6389(h).

Form CLETS-001

In the version of CLETS-001 circulated in the invitation to comment, the committee proposed adding fields for the restrained person's gender, race, age, and date of birth in the proposal as circulated for comment. This proposal was made in response to suggestions from personnel who enter restraining orders into law enforcement databases that including this information could help reduce data entry errors resulting from having to enter information from both CLETS-001 and the restraining order form. In considering the comments received, the committee does not recommend including these additional fields as they duplicate information already contained in the restraining order itself. The committee concluded that errors could result from the court user having to duplicate information across forms, as raised by a commenter. On balance, the committee supports making the form easier to complete for court users, especially for these case types in which the court user is asking the court for a protective order.

In light of comments received, the committee also recommends noting at item 3 that a restraining order may be more difficult to enforce outside of California if the protected person's date of birth is not provided. While the committee proposed a similar instruction in item 4 (for additional protected people) in the invitation to comment, the committee does not recommend including the advisement in item 4 as the California Department of Justice is not currently sending information of additional protected people to the federal database.

Alternatives considered

Because AB 2759 made significant changes to the requirements for granting a firearm exemption, the committee determined that taking no action would be inappropriate. The committee considered not proposing the adoption of the new attachment form but rejected this approach due to the complexity of granting a firearm exemption for work.

Fiscal and Operational Impacts

The committee anticipates that this proposal will require courts to train court staff and judicial officers on the newly approved and revised forms. Courts will also incur costs to incorporate the revised forms into paper and electronic processes. These impacts are a necessary effect of the legislative action. While some courts indicated that more time will be needed for

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implementation, the committee does not recommend delaying implementation because the recommended revisions reflect changes in the law that have already taken effect.

Attachments and Links

1. Forms CLETS-001, DV-120, DV-120-INFO, DV-130, DV-850, JV-247, JV-255, JV-259, JV-265, and JV-276, at pages 8–60
2. Chart of comments, at pages 61–92
3. Link A: Assem. Bill 2759, *https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB2759*

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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. For juvenile orders, list the primary protected person's information in ② and ③.
- If the judge grants the restraining order, information you give on this form will be entered into a California 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:

Date received by court: _____

Information that has a star (*) next to it is required. All other information is helpful.

① Person You Want a Restraining Order Against

***Name**: _____

Other names used: _____

Marks, scars, or tattoos: _____

Driver's license *(number and state):* _____ SSN: _____

Vehicle type: _____ Model: _____ Year: _____ Plate number: _____

Telephone: _____

Name of employer and address: _____

Does the person speak English?

☐ Yes
☐ No *(list language):* _____
☐ I don't know

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.)*

_____

_____

_____

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

Case Number:

2 *Your Name: _____

(Skip 3 and 4 if you are asking for a gun violence (form GV-100) or retail crime (form RT-100) restraining order.)

3 Your Information

***Gender**: ☐ M ☐ F ☐ X (nonbinary) Race: _____

***Age**: _____

Date of Birth *(month, day, year)*: _____

(If the judge grants your restraining order, your information will be entered into California's law enforcement database. If you give your date of birth, it will also be entered into the federal law enforcement database. If your information is not in the federal law enforcement database, your restraining order may be more difficult to enforce outside of California.)

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 4" at the top, and attach it to this form.

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

DV-120 Response to Request for Domestic Violence Restraining Order

Clerk stamps date here when form is filed.

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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. There is no cost to file this form with the court. You will need a copy of the form (DV-100, *Request for Domestic Violence Restraining Order)* that was filled out by the person who asked for a restraining order against you.
Do not use this form 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 children listed in form DV-105, *Request for Child Custody and Visitation Orders*

b. ☐ I am the parent of the children listed in form DV-105 and *(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 selfhelp.courts.ca.gov/child-support .)*

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.

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: _____

_____

This is not a Court Order.

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 item 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 or ammunition for work. *(Complete (1)–(3) below):*

(1) Are you a sworn peace officer?

☐ No

☐ Yes

(2) Are there any orders or state or federal laws that prohibit you from having firearms or ammunition?

☐ No

☐ Yes *(explain):* _____

☐ I don't know *(explain):* _____

(3) *(Explain what your job is and why you need a firearm or ammunition):* _____

_____

_____

Note: You **must** follow any orders to turn in, sell, or store prohibited items until the judge decides whether to grant you an exception. Before an exception can be granted, you will be required to show the judge that (1) carrying a firearm or ammunition is required for your work and (2) your employer is unable to reassign you to another position where carrying a firearm or ammunition is not necessary. There are other things you will need to prove. For more information on what you need to show the judge to qualify for this exception, go to selfhelp.courts.ca.gov/respond-to-DV-restraining-order/obey-firearms-orders/exception, or see Family Code section 6389(h).

This is not a Court Order.

27 No Body Armor *(see item 30 on form DV-100)*

If you were served with form DV-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 under Penal Code section 31360(c). *(Attach a copy of the letter granting permission, if you have one.)*

28 Cannot Look for Protected People *(see item 31 on form DV-100)*

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: _____

_____

29 ☐ 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 "DV-120, Additional Reasons I Do Not Agree with the Request" at the top.

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 DV-120 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 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 can a restraining order do?

In a restraining order, a judge can order 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 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 Pen. Code, § 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 Your 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.

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.

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 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 that may be able to help you.

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 "Conflicting Orders—Priorities for Enforcement" listed on the last page 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 selfhelp.courts.ca.gov/find.

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. If the judge has granted a restraining order against you, any violation of the order may impact your time with your children.

What if I have access to firearms or ammunition?

If a restraining order is granted against you, and you do not follow the judge's order to turn in your firearms and ammunition, you have violated the restraining order and can be charged with a crime, fined, or go to jail. If you have a child, having illegal access to firearms or ammunition may impact your visitation (parenting time) and whether you have custody of your child. If the other parent is staying in a confidential shelter, the court must consider your access to firearms or ammunition when deciding whether you should have in-person visits with your child.

What if I need to have a firearm or ammunition for my job?

If the judge grants a restraining order against you, you cannot have firearms or ammunition. The judge may give you permission to have a firearm or ammunition for work. Before permission can be granted, you will be required to show the judge that (1) carrying a firearm or ammunition is required for your work, and (2) your employer is unable to reassign you to another position where carrying a firearm or ammunition is not necessary. There are other things you will have to prove. For more information, go to selfhelp.courts.ca.gov/respond-to-DV-restraining-order/obey-firearms-orders/exception, or see Family Code section 6389(h).

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.

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.

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, *How to Ask for a Domestic Violence Restraining Order*. You can also ask the court clerk about free or low-cost legal help.

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 thehotline.org or call 1-800-799-7233.

Information about the court process is also available online

selfhelp.courts.ca.gov/respond-to-DV-restraining-order

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.

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 courts.ca.gov/forms.htm for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

DV-130 Restraining Order After Hearing (Order of Protection)

☐ **Original Order** ☐ _____ **Amended Order**

Clerk stamps date here when form is filed.

DRAFT
Not approved by the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number when form is filed.

Case Number:

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.)

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,† ends 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 6a.
- 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, 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 Pen. Code, § 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. ☐ Permission to have firearm or ammunition for work: The judge has made the necessary findings to grant an exception under Family Code section 6389(h). The orders are included on form DV-850, *Permission to Have Firearm or Ammunition for Work.*

9 ☐ 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)_____	_____	☐ *(date):* _____
(2)_____	_____	☐ *(date):* _____
(3)_____	_____	☐ *(date):* _____
(4)_____	_____	☐ *(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)			☐ *(date):*
(2)			☐ *(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 Pen. Code, § 16288). You must relinquish any body armor you have in your possession. *(If you need body armor for your employment, livelihood, or safety, you may ask the chief of police or sheriff in the jurisdiction where you want to possess or use the body armor, for an exception under Penal Code section 31360. The court does not have the power to grant an exception for body armor.)*

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 repeated 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).
- ☐ Home of person in (1).
- ☐ Job or workplace of person in (1).
- ☐ Vehicle of person in (1).
- ☐ School of person in (1).
- ☐ Persons in (3).
- ☐ Children's school or child care.
- ☐ 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 *(or other way to ID animal)*	Type of animal	Breed *(if known)*	Color

This is a Court Order.

21 ☐ Control of Property

Only the person in (1) can use, control, and possess the following property:

_____

_____

_____

_____

_____

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 DV-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.

Case Number:

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 must 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 page 9.

This order ends on the expiration date in (4) on page 1.

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. (Fam. Code, § 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. (Fam. Code, § 6383; Pen. Code, § 836(c)(2).) An officer can obtain information about the contents of the order in the California Restraining and Protective Order System (CARPOS). (Fam. Code, § 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. (Pen. Code, §§ 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. (Pen. Code, § 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 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 also 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 includes an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2), 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code section 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 also 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 also 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-850 Permission to Have Firearm or Ammunition for Work

Case Number:

This form is attached to *(check one):* ☐ Form DV-130 ☐ Other: _____

1 Court Findings

The court finds that the restrained person *(name):* _____

a. Is required to carry a specific firearm or ammunition during scheduled work hours as a condition of their continued employment.

b. Cannot be reassigned by their employer to another position where having a firearm or ammunition is not needed.

c. Is not otherwise prohibited from having firearms or ammunition under state or federal law.

d. Does not pose an additional threat of harm to any protected person or the public by having access to a specific firearm or ammunition.

e. ☐ Is a sworn peace officer and:

(1) The court ordered and reviewed a completed psychological evaluation of the restrained person by a licensed mental health professional with domestic violence expertise; and

(2) The personal safety of the restrained person depends on their ability to carry a specific firearm or ammunition outside of scheduled work hours.

f. ☐ Is not a sworn peace officer and *(check (1) or (2)):*

(1) ☐ The court did not order the restrained person to complete a psychological evaluation.

(2) ☐ The court ordered and reviewed a completed psychological evaluation of the restrained person by a licensed mental health professional with domestic violence expertise.

g. ☐ Other

_____

_____

_____

_____

This is a Court Order.

2 Court Order

a. The restrained person is *(check one):*

(1) ☐ Not a sworn peace officer and may have the items listed in 2b only during scheduled work hours.

(2) ☐ A sworn peace officer and *(check one):*

(A) ☐ May have the items listed in 2b while on duty.

(B) ☐ May have the items listed in 2b while on or off duty.

b. This restraining order does not require the restrained person to relinquish the specific firearm or ammunition listed below:

☐ Firearm *(make):* _____ *(model):* _____ *(serial no.):* _____

☐ Ammunition *(description):* _____

Warning: The court orders listed above in 2 only apply to this restraining order. If you are prohibited from having firearms or ammunition by another order or law, you may be in violation of state or federal law.

This is a Court Order.

JV-247 Response to Request for Juvenile Restraining Order

Clerk stamps date here when form is filed.

DRAFT
Not approved by the Judicial Council

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.

Fill in court name and street address:

Superior Court of California, County of

1 Name of Person Asking for Protection:

(See form JV-245, item 1a):

_____

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: _____

Fill in child's name

Child's name:

Fill in case number:

Case Number:

! 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: _____

_____

This is not a Court Order.

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: _____

_____

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: _____

_____

This is not a Court Order.

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 or ammunition for work. *(Complete (1)–(3) below):*

   (1) Are you a sworn peace officer?
   ☐ No
   ☐ Yes

   (2) Are there any orders or state or federal laws that prohibit you from having firearms or ammunition?
   ☐ No
   ☐ Yes *(explain):* _____
   ☐ I don't know *(explain):* _____

   (3) *(Explain what your job is and why you need a firearm or ammunition):* _____
   _____
   _____
   _____

   Note: You **must** follow any orders to turn in, sell, or store prohibited items until the judge decides whether to grant you an exception. Before an exception can be granted, you will be required to show the judge that (1) carrying a firearm or ammunition is required for your work and (2) your employer is unable to reassign you to another position where carrying a firearm or ammunition is not necessary. There are other things you will need to prove. For more information on what you need to show the judge to qualify for this exception see Family Code section 6389(h).

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.)*

This is not a Court Order.

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.

JV-255 Juvenile Restraining Order After Hearing

☐ **Original Order** ☐ _____ **Amended Order**

Clerk stamps date here when form is filed.

DRAFT
Not approved by the Judicial Council

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

***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.)

(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 (1)	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,† ends 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 Pen. Code, § 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. ☐ Permission to have firearm or ammunition for work: The judge has made the necessary findings to grant an exception under Family Code section 6389(h). The orders are included on form JV-276, *Permission to Have Firearm or Ammunition for Work.*

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)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

b. **Ammunition**

	Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)				☐ *(date):*
(2)				☐ *(date):*
(3)				☐ *(date):*
(4)				☐ *(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 7b) 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 Pen. Code, § 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 to not 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).
- ☐ Home of person in (1).
- ☐ Job or workplace of person in (1).
- ☐ Vehicle of person in (1).
- ☐ School of person in (1).
- ☐ Persons in (3).
- ☐ Children's school or childcare.
- ☐ 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:

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-249 and form JV-250 (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 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, or form JV-250 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):* _____

(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 must be enforced as if it were an order of that jurisdiction.**

This is a Court Order.

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 5a 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 5a 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 JV-268 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. (Pen. Code, § 836(c)(1); Fam. Code, § 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. (Fam. Code, § 6383; Pen. Code, § 836(c)(2).) An officer can obtain information about the contents of the order in the California Restraining and Protective Order System (CARPOS). (Fam. Code, § 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. (Pen. Code, § 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.

Case Number:

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 also 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. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Pen. Code, §§ 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 also 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 also 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.

JV-259 Response to Request for Juvenile Restraining Order Against a Child

Clerk stamps date here when form is filed.

DRAFT
Not approved by the Judicial Council

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. There is no cost to file this form with the court. 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.

Fill in court name and street address:

Superior Court of California, County of

(1) Name of Person Asking for Protection:

(See form JV-258, 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 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.

(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:

(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:

(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:

(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:

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 5 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 or ammunition for work. *(Complete (1)–(3) below):*

   (1) Are you a sworn peace officer?
   ☐ No
   ☐ Yes

   (2) Are there any orders or state or federal laws that prohibit you from having firearms or ammunition?
   ☐ No
   ☐ Yes *(explain):* _____
   ☐ I don't know *(explain):* _____

   (3) *(Explain what your job is and why you need a firearm or ammunition):* _____
   _____
   _____

Note:You **must** follow any orders to turn in, sell, or store prohibited items until the judge decides whether to grant you an exception. Before an exception can be granted, you will be required to show the judge that (1) carrying a firearm or ammunition is required for your work and (2) your employer is unable to reassign you to another position where carrying a firearm or ammunition is not necessary. There are other things you will need to prove. For more information on what you need to show the judge to qualify for this exception see Family Code section 6389(h).

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.)*

This is not a Court Order.

(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:

_____

_____

(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):*

_____

_____

_____

_____

_____

_____

_____

_____

_____

☐ 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

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*

This is not a Court Order.

JV-265 Juvenile Restraining Order Against a Child—Order After Hearing

Clerk stamps date here when form is filed.

DRAFT
Not approved by the Judicial Council

☐ **Original Order** ☐ _____ **Amended Order**

(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 (1)	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,† ends 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.

Case Number:

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 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 Pen. Code, § 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. ☐ Permission to have firearm or ammunition for work: The judge has made the necessary findings to grant an exception under Family Code section 6389(h). The orders are included on form JV-276, *Permission to Have Firearm or Ammunition for Work.*

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)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

b. **Ammunition**

	Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)				☐ *(date):*
(2)				☐ *(date):*
(3)				☐ *(date):*
(4)				☐ *(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.

(11) No Body Armor

You cannot own, possess, or buy body armor (defined in Pen. Code, § 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 to not 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.

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-249 and form JV-260 (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 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, or form JV-260 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):* _____

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.

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.**

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 JV-268 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. (Pen. Code, § 836(c)(1); Fam. Code, § 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. (Fam. Code, § 6383; Pen. Code, § 836(c)(2).) An officer can obtain information about the contents of the order in the California Restraining and Protective Order System (CARPOS). (Fam. Code, § 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. (Pen. Code, §§ 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 Pen. Code, § 136.2; 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 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. (Fam. Code, §§ 6383(h)(2), 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.

(The clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Juvenile Restraining Order Against a Child–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.

JV-276 Permission to Have Firearm or Ammunition for Work

Case Number:

This form is attached to *(check one):* ☐ Form JV-255 ☐ Form JV-265 ☐ Other: _____

1 Court Findings

The court finds that the restrained person *(name):* _____

a. Is required to carry a specific firearm or ammunition during scheduled work hours as a condition of their continued employment.

b. Cannot be reassigned by their employer to another position where having a firearm or ammunition is not needed.

c. Is not otherwise prohibited from having firearms or ammunition under state or federal law.

d. Does not pose an additional threat of harm to any protected person or the public by having access to a specific firearm or ammunition.

e. ☐ Is a sworn peace officer and:

(1) The court ordered and reviewed a completed psychological evaluation of the restrained person by a licensed mental health professional with domestic violence expertise; and

(2) The personal safety of the restrained person depends on their ability to carry a specific firearm or ammunition outside of scheduled work hours.

f. ☐ Is not a sworn peace officer and *(check (1) or (2)):*

(1) ☐ The court did not order the restrained person to complete a psychological evaluation.

(2) ☐ The court ordered and reviewed a completed psychological evaluation of the restrained person by a licensed mental health professional with domestic violence expertise.

g. ☐ Other

_____

_____

_____

_____

This is a Court Order.

(2) Court Order

a. The restrained person is *(check one):*

(1) ☐ Not a sworn peace officer and may have the items listed in 2b only during scheduled work hours.

(2) ☐ A sworn peace officer and *(check one):*

(A) ☐ May have the items listed in 2b while on duty.

(B) ☐ May have the items listed in 2b while on or off duty.

b. This restraining order does not require the restrained person to relinquish the specific firearm or ammunition listed below:

☐ Firearm *(make):* _____ *(model):* _____ *(serial no.):* _____

☐ Ammunition *(description):* _____

Warning: The court orders listed above in (2) only apply to this restraining order. If you are prohibited from having firearms or ammunition by another order or law, you may be in violation of state or federal law.

SPR 25-26
Protective Orders: Changes to Domestic Violence and Juvenile Forms to Implement AB 2759 (Adopt forms DV-850 and JV-276; revise forms CLETS-001, DV-120, DV-120-INFO, DV-130, JV-247, JV-255, JV-259, and JV 265)
All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	California Lawyers Association, Family Law Section Executive Committee by Shanon Quinley, Legislation Chair Saul Bercovitch, Associate Executive Director, Governmental Affairs	A	FLEXCOM agrees with this proposal.	The committee appreciates the response and notes the commenter's agreement with the proposal.
2.	Family Violence Appellate Project (FVAP) by Jennafer Dorfman Wagner, Director of Programs Shuray Ghorishi, Senior Managing Attorney Jointly submitted by: California Protective Parents Association; California Women's Law Center; Center for Access to QDROs; Community Legal Aid SoCal; Harriett Buhai Center for Family Law; Jenesse Center, Inc.; Lassen Family Services, Inc.; Legal Aid Association of California; Public Counsel; Queen's Bench Bar Association; Stopping Domestic Violence; and Survivor Justice Center	NI	The following comment is submitted by Family Violence Appellate Project (FVAP) and the undersigned 12 domestic violence, legal aid, and family law agencies (statements of interest for each signatory are below*)-California Protective Parents Association; California Women's Law Center; Center for Access to QDROs; Community Legal Aid SoCal; Harriett Buhai Center for Family Law; Jenesse Center, Inc.; Lassen Family Services, Inc.; Legal Aid Association of California; Public Counsel; Queen's Bench Bar Association; Stopping Domestic Violence; Survivor Justice Center-regarding the Judicial Council's Invitation to Comment SPR25-26. FVAP is a State Bar-funded legal services support center and the only nonprofit organization in California dedicated to representing survivors of domestic violence and other forms of gender-based abuse in civil appeals for free. FVAP is devoted to ensuring survivors can live in healthy, safe environments, free from abuse. We appreciate the Judicial Council's efforts to implement Assembly Bill 2759 through the creation/adoption of new forms and revisions of current forms, and we support the creation of these forms overall. In	Thank you for your response. Please see the committee's responses below regarding the commenter's specific suggestions.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

DRAFT

	Commenter	Position	Comment	Committee Response
			addition, we offer the following suggestions for improving the forms' readability and usability.	
			NEW FORMS DV-850 AND JV-276 We believe that their structured layout, particularly the clear delineation of mandatory threshold findings in items 1.a through 1.d, makes the forms easier to follow than the statutory language.	The committee appreciates the feedback and concluded that the forms clearly communicate the findings required under Family Code section 6389(h).
			We offer two points of comment for the Council's consideration: While the form correctly tracks the statute's requirements, we encourage the Judicial Council to consider including prompts or space for the court to briefly explain the basis for its findings. For instance, if the court finds that the officer's personal safety justifies the exception, it would be helpful for the court to specify what facts support that conclusion. Similarly, if a psychological evaluation was reviewed, the form could ask whether the evaluation addressed domestic violence-specific risk factors. These additions would support more meaningful and reviewable findings. To illustrate: (e) The restrained person is a sworn peace officer who needs a firearm or ammunition and: (1) The court reviewed a psychological evaluation conducted by a licensed mental health professional with domestic violence expertise, and finds that [space for explanation]; and	The committee determined that a court's reasons for any of the required findings may be provided in "Other" in item 1g and does not recommend including space under specific findings, as suggested by the commenter.

DRAFT

	Commenter	Position	Comment	Committee Response
			(2) The court finds that the personal safety of the restrained person depends on their ability to carry a specific firearm or ammunition outside of scheduled work hours, because [space for explanation].	
			2. Clarification on On-Duty vs. Off-Duty Firearm Need Under Family Code section 6389(h)(1)(A), the statute allows a court to "allow the peace officer to continue to carry a specified firearm, ammunition, or firearm and ammunition, either on duty or off duty" if certain findings are made. (Italics added.) This language appears to contemplate scenarios in which a peace officer may need to retain access to a firearm while on duty but not necessarily off duty-an important distinction. We understand that the current structure of the proposed forms may be based on the statute's specific language, particularly the requirement under Family Code section 6389(h)(1)(A)(i) that the court make an express finding that the peace officer's "personal safety depends on the officer's ability to carry a firearm or ammunition outside of scheduled work hours." However, there may be cases where a peace officer requires access to a firearm solely while on duty and could otherwise store that firearm securely at their place of employment. And the statute's use of "either on duty or off duty" means the Legislature contemplated scenarios where the restrained party would be able to	The committee is not recommending revisions in response to this suggestion because it determined that legislative clarification is needed to address the issue raised by the commenter. Judicial Council staff will bring this issue to the attention of the Judicial Council's Governmental Affairs office, which represents and advocates for the judicial branch on legislative matters.

DRAFT

	Commenter	Position	Comment	Committee Response
			possess a certain firearm while on duty but not off duty. To address this potential gap, we respectfully suggest that the Judicial Council consider the following options: 1) Add a Separate Finding Option: Include an additional item in the forms (e.g., item (h)) for situations where the court finds that the peace officer requires access to a firearm or ammunition only while on duty. This item could allow the court to indicate that the officer does not require possession of the weapon outside scheduled work hours, and could securely store the firearm/ammunition at their workplace. 2) Modify form language: (e) The restrained person is a sworn peace officer who needs a firearm or ammunition on duty only, and: (1) The court reviewed a psychological evaluation conducted by a licensed mental health professional with domestic violence expertise; and (2) The court finds the officer's personal safety while on duty requires access to the specified firearm or ammunition, but that such access is not required off duty. (f) The restrained person is a sworn peace officer who needs a firearm or ammunition both on and off duty, and: (1) The court reviewed a psychological evaluation conducted by a licensed mental health professional with domestic violence expertise; and (2) The court finds that the officer's personal safety depends on their ability to carry	

DRAFT

	Commenter	Position	Comment	Committee Response
			the specified firearm or ammunition outside of scheduled work hours. 3) Legislative Clarification: If the Judicial Council believes that the statute, as currently written, does not adequately address a situation where a peace officer may just need their firearm/ammunition "on duty" (and not off duty) we encourage the Council to consider referring this issue for future legislative clarification.	
			EXISTING FORMS DV-120 AND JV-247 In alignment with Family Code section 6389(h)(1)(A)'s language that provides for a peace officer to have access to a firearm and/or ammunition only while at work in some circumstances, item 26 of the DV-120 Form and item 13 of the JV-247 Form should provide for an additional question for the restrained party to explain why they believe their personal safety depends on their ability to carry the specified firearm or ammunition outside of scheduled work hours, if that is their request. Including such a question would also enable petitioners to come to their restraining order hearing prepared to respond to the restrained party's stated need to carry a firearm and/or ammunition outside of work hours. Proposed language for this question on both forms is: (4) If you are a sworn peace officer, and believe your personal safety depends on your ability to carry a firearm and/or ammunition to and from	The committee does not recommend including additional questions on form DV-120. The questions at item 26 are intended to provide some, but not all, information needed to grant an exemption. A court hearing would be needed for the respondent to provide additional information.

DRAFT

	Commenter	Position	Comment	Committee Response
			work, explain why here (do not complete this section if you are not a sworn peace officer):	
			FORM CLETS-001 The committee proposes adding, at item 3, an instruction that the date of birth of any protected person is necessary for entry into a federal law enforcement database. FVAP agrees it is important to notify people of the consequences of entering, or failing to enter, birth dates on the form. And, as the proposal already provides, that information should also be provided under item 4, which is a list of additional people protected by a restraining order. However, as currently written the instruction is not clear about what those consequences are if someone does or doesn't include a birthdate. There are three such consequences we can see: 1) If no birthdate is provided, the protected people's information will still be placed into California's CARPOS database for restraining order enforcement within California 2) Entering the petitioner's birthdate will result in the restraining order being entered into a federal database for arguably easier enforcement outside of California. If the birth date is not provided, the restraining order won't be entered into the federal database, potentially lessening the ability for restraining order enforcement outside California. 3) Any protected person whose birthdate is listed will have their personal information entered into the federal database, sharing their personal information with the federal government.	The committee agrees that the instruction should more clearly state the consequences of not including the protected person's date of birth. Accordingly, the committee recommends revising the language in item 3 as follows: "If the judge grants your restraining order, your information will be entered into California's law enforcement database. If you give your date of birth, it will also be entered into the federal law enforcement database. If your information is not in the federal law enforcement database, your restraining order may be more difficult to enforce outside of California." In light of comments received by the State of California Department of Justice (DOJ), the committee does not recommend including this instruction at item 4, as the DOJ is not currently sending the date of birth for additional protected people to the federal database. The committee will consider revisiting this suggestion when the DOJ starts sending this information to the federal database.

DRAFT

	Commenter	Position	Comment	Committee Response
			Whether, and which, birthdate(s) to provide is a complex and highly personal question for each protected survivor. Providing accurate information is therefore incredibly important, and FVAP applauds the Judicial Council staff and working groups for identifying this gap in the forms. Still, to fully effectuate the purposes of this addition we suggest making the language more informative, to cover each of the three consequences noted above. Potential language would be: Under item 3: If the judge grants your restraining order, your information will be entered into California's law enforcement database. If you give your date of birth, it will also be entered into the federal law enforcement database. If your information is not in the federal law enforcement database, your restraining order can still be enforced outside of California, but it may be more difficult to enforce.	
			Under item 4: Providing a date of birth for the people listed below will result in their information being entered into a federal law enforcement database if the judge grants your restraining order. If you do not list a birthdate, their information will only be entered into California's law enforcement database. In addition, the Judicial Council may want to consider creating a new information form CLETS-100-INFO. Such a form could more fully discuss the results of completing or failing to complete the fields in the CLETS-100 form. It could also	In light of comments received by the State of California Department of Justice (DOJ), the committee does not recommend including an instruction regarding the date of birth in item 4, as the DOJ is not currently sending the date of birth for additional protected people to the federal database. The committee will consider revisiting this suggestion when the DOJ starts sending this information to the federal database. The committee will consider the suggestion to create an information form for the CLETS-001 in a future cycle.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

DRAFT

	Commenter	Position	Comment	Committee Response
			provide additional information to help inform petitioner's choices, such as whether and how information would be shared with tribal nations inside and outside California.	
			*The following 12 signatories agree with FVAP's comments, and their statements of interest are below: California Protective Parents Association (CPPA) strives to protect children from incest and family violence through research, education and advocacy. CPPA seeks to improve and reform family court to ensure that children are not placed at risk because of unsafe custody and visitation decisions. The California Women's Law Center (CWLC) is a statewide, nonprofit law and policy center dedicated to advancing the civil rights of women and girls. CWLC's mission is to create a more just and equitable society by breaking down barriers and advancing the potential of women and girls through impact litigation, policy advocacy, and education. Since its inception in 1989, CWLC has placed a particular emphasis on eradicating all forms of discrimination and violence against women. CWLC provides legal assistance to survivors of abuse, advocates for survivors on important legislative issues, and offers training and legal support for attorneys, legal service providers, and counselors regarding the legal protections of survivors of domestic violence. CWLC has garnered first-hand knowledge of the	No response required.

DRAFT

	Commenter	Position	Comment	Committee Response
			legal standards applicable to Domestic Violence Prevention Act cases, as well as the Violence Against Women Act and the Fair Housing Act, and utilizes this expertise to provide comprehensive relief to survivors. The Center for Access to QDROs is a nonprofit legal services support center working to combat financial abuse in domestic violence cases by increasing access to retirement assets during and after divorce. We provide legal aid organizations, self-help centers, and low-income individuals with tools to uncover hidden retirement accounts and generate high-quality QDROs. Through technology, training, research, and policy initiatives, we support survivors in securing their share of marital property and rebuilding financial independence. The mission of Community Legal Aid SoCal is to provide civil legal services to low-income individuals and to promote equal access to the justice system through advocacy, legal counseling, innovative self-help services, in-depth legal representation, economic development and community education. Founded in 1982 by the Black Women Lawyers Association of Los Angeles and the Women Lawyers Association of Los Angeles, the Buhai Center is a nonprofit family law firm dedicated to ensuring access to justice for low-income residents	

DRAFT

	Commenter	Position	Comment	Committee Response
			of Los Angeles County. It provides free legal consultations, case management, and pro bono representation to those facing barriers to self-representation in family law matters. Since its inception, the Buhai Center has served as a cornerstone of family law and domestic violence assistance in the County. In addition to its legal services, the Buhai Center is also a key resource in family law education, with a long history of developing a community of family law legal aid advocates through its dynamic volunteer training and educational initiatives. Jenesse Center is the oldest domestic violence intervention program in South Los Angeles. Through our emergency shelter, transitional residence program, and drop-in center, we provide culturally sensitive services to transition families from crisis to self sufficiency through a range of programming including education, counseling, housing assistance, and advocacy through a courthouse-based clinic, LAPD DART partnership, and in-house legal team. Lassen Family Services, Inc. is a domestic violence/ sexual assault crisis agency committed to ending abuse in our community through Prevention, Healing, Advocacy, Safety, Education, compassionate intervention, and effective partnerships with local community and social service agencies that will support and empower the participant's journey to success.	

DRAFT

	Commenter	Position	Comment	Committee Response
			LAAC serves as the unified voice for the over 100 nonprofits that provide free civil legal services to low-income people and communities throughout California. Legal aid programs support vulnerable Californians navigating life-altering civil legal issues, from domestic violence to housing to consumer debt. We advocate on behalf, and with, our members for better laws and policies, including at the Judicial Council. Public Counsel is a nonprofit public interest law firm dedicated to advancing civil rights and racial and economic justice, as well as to amplifying the power of our clients through comprehensive legal advocacy. Founded on and strengthened by a pro bona legal service model, our staff and volunteers seek justice through direct legal services, promote healthy and resilient communities through education and outreach, and support community-led efforts to transform unjust systems through litigation and policy advocacy in and beyond Los Angeles. Public Counsel works closely with survivors of violence and families involved in domestic violence, family, probate, and dependency court proceedings through our Children's Rights Project and the Audrey lrmas Gender Justice Project. Queen's Bench Bar Association, formed in 1921, is a non-profit voluntary membership organization made up of attorneys, judges and law students that seeks to foster professional and social	

DRAFT

	Commenter	Position	Comment	Committee Response
			relationships among women lawyers and to promote equality and opportunity for all women through education, programs, and community outreach. Queen's Bench seeks to advance the interests of women in law and society, and plays an integral part in furthering the progress of women in the legal profession throughout the Bay Area and beyond. With the overall goal of promoting non-abusive behavior in today's world, Stopping Domestic Violence is a California-based domestic violence victim service organization that provides free, no-cost, wide-ranging services (including shelter, transportation, health care, education, food, clothing, advice, support, guidance, technology, and communication) to all affected by domestic violence. The mission of Survivor Justice Center (formerly known as Los Angeles Center for Law and Justice) is to secure justice for survivors of domestic violence, sexual assault and human trafficking and empower them to create their own future. Located in East Los Angeles, Survivor Justice Center is a 33-person non-profit law firm serving survivors throughout Los Angeles County. Survivor Justice Center's primary practice areas are family law and immigration. However, Survivor Justice Center strives to provide clients with holistic legal services and has both a robust criminal justice advocacy and appellate practice. Through our integrated legal/social worker service model, Survivor Justice Center Community Care	

DRAFT

	Commenter	Position	Comment	Committee Response
			Advocates provide supportive services such as education, safety planning, accompaniment, and linkages to other service providers as part of the legal team. Survivor Justice Center is committed to a trauma informed and culturally-responsive workplace and service provision.	
3.	Hon. Steven Ipson, Judge Superior Court of California, County of Los Angeles	AM	**Position on Proposal** Agree with proposed changes if modified	Thank you for your response.
			Comments I do not think the gender, age, race, and dob should be included on the CLETS-001 since that information is already on the restraining order, e.g. DV-130. Copying the information to another form increases the risk of error and is time consuming. Data entry personnel can see that information on the restraining order.	In light of comments received, the committee agrees that the gender, age, race, and date of birth of the proposed restrained person should not be included on form CLETS-001, as that information is provided on the order form and data entry personnel already have to enter information from the order form. Additionally, the committee agrees that requiring a court user to enter the same information on multiple forms increases the risk of errors.
4.	Orange County Bar Association by Mei Tsang	A	The proposal is needed to implement the new provisions in Family Code section 6389(h) created by AB 2759, which changed requirements related to the exemption to firearm prohibition in restraining orders when work-related, and to make changes to form CLETS-001.	No response required.
			The proposal appropriately addresses the stated purpose.	Thank you for your response.
			Please note: form DV-120 and DV-120 info have to be conformed with the proposed revisions under SPR25-25.	The committee has ensured that all proposed revisions to forms DV-120 and DV-120-INFO in this proposal are also reflected in SPR25-25,

DRAFT

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	Commenter	Position	Comment	Committee Response
				Family Law and Protective Orders: Implementation of Senate Bill 599 and Assembly Bill 3072.
5.	State of California, Department of Justice by Brittany Phillips, Investigative Database Services Section Manager	AM	Comments: 1. The CLETS-001 form has the proposed change in section 4-Other People You Want Protected to add the following verbiage "If the judge grants the restraining order, the information of any people listed below will be entered into a federal law enforcement database if you provide their date of birth." While this is true for the primary protected person (listed in section 3), the California Restraining and Protective Order System (CARPOS) currently is not programmed to forward any additional protected persons to the National Crime Information Center (NCIC), regardless of the presence of a date of birth. Due to ongoing legislation and the constant updates required in CARPOS, the enhancement of CARPOS to add this programmatic feature has been delayed to the fourth quarter of 2026 (pending additional legislation items). CA DOJ Recommendations: 1. CA DOJ recommends that the verbiage is removed from the CLETS-001 form to ensure protected persons are not provided with incorrect information regarding the presence of specific data in NCIC.	Based on this comment, the committee is not recommending including this instruction on item 4 of form CLETS-001. The committee will consider adding an instruction after the California Department of Justice has begun forwarding the information in item 4 to the federal database.

DRAFT

	Commenter	Position	Comment	Committee Response
6.	Superior Court of California, County of Los Angeles by Stephanie Kuo	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, "Protective Orders: Changes to Domestic Violence and Juvenile Forms to Implement AB 2759," the Court agrees with the proposal and its ability to appropriately address its stated purpose.	The committee appreciates the response and notes the commenter's agreement with the proposal.
			Although the Court does not see any cost savings from the proposal, it anticipates minimal implementation requirements, which include but are not limited to: Training for staff Updating policies and procedures Updating macros, event codes, and forms in the case management system	The committee appreciates the information.
			Lastly, the Court agrees that three to six 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.	If approved by the Judicial Council, courts will have two months following approval to implement this proposal. As AB 2759 went into effect on January 1, 2025, the committee believes it is more important to have the forms available starting January 1, 2026, than to provide additional time for courts to implement this proposal.
7.	Superior Court of California, County of Orange, Family and Juvenile Law Divisions by Katie Tobias, Operations Analyst	NI	Can the same Permission to Have Firearm for Work selection box in item #8(f) of the Restraining Order After Hearing (ROAH)(form DV-130) be added to the Temporary Restraining Orders (TRO)(form DV-110) form as well?	The committee does not recommend including an exemption checkbox on form DV-110, as the committee has found that the situation described by the commenter is rare. Additionally, including a checkbox for the exemption on the temporary

DRAFT

	Commenter	Position	Comment	Committee Response
			There are certain Judicial Officer exceptions, including but not limited to, a finding of good cause, a continuance request by either party, or a pending criminal matter, etc. that with a time waiver by the responding party/restrained party, the Court can extend the TRO past the statutory 21-25 expiration dates. If this is addition is approved, then the new DV-850 will need a revision, in the first line of the proposed order, to include a selection box for the attachment of it to the DV-110 TRO order.	restraining order may lead to the impression that the exemption can be granted without a hearing, as many temporary restraining orders are granted based solely on the pleadings. If a court does grant the exemption in a temporary restraining order that is issued or modified after a hearing, the court could note that on the order and attach form DV-850. For the same reasons listed above, the committee does not recommend including a checkbox at the top of form DV-850 to indicates the form may be attached to form DV-110. The court may use the "Other" checkbox to indicate that form DV-850 is attached to form DV-110.
			Can a new selection box be entered on page 2, of the proposed DV-850, in item 2(b), giving the judicial officer an option to indicate (check) that the sworn peace officer may possess other weapons provided by their department?	The committee does not recommend including other weapons on form DV-850, as other weapons are not covered under AB 2759 or Family Code section 6389(h).
			Can a new selection box be entered on page 2, of the proposed DV-850, in item 2(b) stating that the relinquishment requirement does not include: body armor in possession of the sworn peace officer?	The committee does not recommend including information on body armor on form DV-850, which only relates to orders regarding firearms and ammunition. The committee notes that orders regarding body armor are included in a separate item on the order forms (see forms DV-110 and DV-130) because relinquishment requirements for body armor are different than the relinquishment requirements for firearms and ammunition, including who has the power to grant an exception. Under Penal Code section 31360(c), an

DRAFT

	Commenter	Position	Comment	Committee Response
				exception to allow possession and use of body armor may be granted by the chief of police or sheriff of the jurisdiction in which the restrained person wants to possess and use the body armor.
			Does the proposal appropriately address the stated purpose? Yes, the proposal appropriately addresses the stated purpose.	The committee appreciates the information.
			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 providing communication to judicial officers and court staff, revising current procedures, and conducting court staff training (approximately 2 hours).	The committee appreciates the information.
			Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes, two months would provide sufficient time for implementation in Orange County.	The committee appreciates the information.
			How well would this proposal work in courts of different sizes? Our court is a large court, and this could work for Orange County.	The committee appreciates the information.

DRAFT

	Commenter	Position	Comment	Committee Response
8.	Superior Court of California, County of San Diego	AM	Q: Does the proposal appropriately address the stated purpose? A: Yes.	Thank you for your response.
			Q: Would the proposal provide cost savings? If so, please quantify. A: No.	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? A: Updating internal procedures adding filings to case management system, training staff, and notifying judicial officers.	The committee appreciates the information.
			Q: Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation ? A: Yes, provided the final versions of the forms are provided at that time.	Judicial Council staff strives to ensure final PDF versions of the forms are provided to courts as soon as possible after the forms are approved by the Judicial Council.
			Q: How well would this proposal work in courts of different sizes? A: It appears the proposal would work for courts of all sizes.	The committee appreciates the information.
			General Comments	
			CLETS-001 Item 1 – Query: Should the checkbox for "Nonbinary" match the "X (nonbinary)" in item 3?	In light of other comments received, the committee does not recommend including the restrained person's gender on this form, as this

DRAFT

	Commenter	Position	Comment	Committee Response
				information is already on the order form. Therefore, this issue is moot.
			DV-120 Item 2: Query – Add blank line for lawyer's telephone or email address?	This addition is unnecessary, as item 2 includes instructions to provide the lawyer's address and contact information, if the respondent is represented by a lawyer.
			Item 13: Insert "item 3 on" – "*(see item 15 on form DV-100 and item 3 on DV-105"* OR Items 13a and 13b: Insert "item 3 on" – a. I am **not** the parent of the child or children listed in item 3 on form DV-105 … . b. I am the parent of the child or children listed in item 3 on form DV-105 … .	The committee believes that "in form" is correct. The committee believes that item 13a and 13b should reference the parties' children in a consistent way and recommends using "children" rather than "child" or "child or children."
			Item 21c – Insert period and close parenthesis after link – "… at selfhelp.courts.ca.gov/child-support.)"	The committee recommends this correction.
			DV-120-INFO Page 2, Part 4: Change "the" to "Your" – "… read form DV-520-INFO, *Get Ready for ~~the~~ Your Restraining Order Court Hearing*."	The committee recommends this correction.
			Page 2, Part 4: Change "For" to "for" – "Read form DV-115-INFO, *How to Ask ~~F~~for a New Hearing Date, ….*"	The committee recommends this correction.
			Page 3, What if I have more than one…: Change "Priority of Enforcement" to "Priorities for Enforcement" and change "back" to "last page" -- "… they will need to follow the rules of	The committee recommends revising this section to read: "If the police are called to enforce the order, they will need to follow the rules of enforcement (see "Conflicting Orders—Priorities

DRAFT

	Commenter	Position	Comment	Committee Response
			enforcement (see "Priority~~ies of~~ for Enforcement" listed on the ~~back~~ last page of form DV-110, DV-130, and CR-160)." N.B. On DV-110 and DV-130, it is "Priorities for Enforcement." On CR-160, it is "Priority of Enforcement."	for Enforcement" listed on the last page of form DV-110, DV-130, and CR-160)."
			Page 3, What if I have access…: Change "child" and/or "children" to match within the sentence, e.g., "If you have a child, … whether you have custody of your child~~ren~~" or "If you have children, … whether you have custody with your children" or "If you have a child or children, … whether you have custody with your child or children."	The committee recommends using "child" in this section.
			DV-130 Item 4: Query - If the asterisk after "the orders noted below" is meant to refer to the orders listed after the first bullet point below, shouldn't the first bullet point be replaced by an asterisk? (See, e.g., form JV-255, item 4.) If not, then what does the asterisk refer to? This restraining order, except the orders noted below,* ends on: . . . *Custody, visitation, child support, and spousal support orders remain in effect after the restraining order ends. …	The committee recommends replacing the first bullet point with an asterisk.
			Item 10: Suggested edit – "Restrained Person Has Not ~~Complied With~~ Surrender~~ing~~ed Prohibited Items"	This suggestion is beyond the scope of the current proposal and would benefit from public comment.

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	Commenter	Position	Comment	Committee Response
				The committee will consider this suggestion in a future cycle.
			Item 13: Suggested edit – "~~Cannot~~ Must Not Look for Protected People"	This suggestion is beyond the scope of the current proposal. The committee will consider this suggestion in a future cycle.
			Item 14, 1st bullet point: Suggest edits – "… annoy by phone or other ~~electronic~~ means (including repeated~~ly~~ contact), …" (See, e.g., JV-255, item 13.)	The committee recommends changing "repeatedly contact" to "repeated contact" but does not recommend striking "electronic" as such a change is beyond the scope of the current proposal.
			Page 10, Start Date and End Date, 2nd bullet point: Change "on this page" to "on page 9" – "The date next to the judge's signature on ~~this~~ page 9."	The committee agrees and recommends this change.
			Page 10, Start Date and End Date, last sentence: Suggested edits – "This order ends on the expiration date in 4. If no date is listed, ~~they end~~ it ends three years from the hearing date in 6a on page 2."	The committee recommends changing the sentence to "This order ends on the expiration date in [number 4 circled] on page 1" consistent with other civil restraining order forms (e.g., CH-130).
			Page 10, Duties of Officer: Suggested edits below. Note: Elsewhere on this form, "you" refers to the person completing the form, i.e., the person requesting the RO, so it can be confusing when "you" is used to refer to the officer serving the order. Also, "restrained person" appears on this form (e.g., on the same page under Notice/Proof of Service) and other RO forms *without* the initial cap. "Ask if the restrained person ~~is in possession of~~ possesses any of the prohibited items listed in 8b,	These suggestions are beyond the scope of the current proposal. The committee will consider these suggestions in a future cycle.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

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	Commenter	Position	Comment	Committee Response
			or has ~~custody or control of~~ any prohibited items that they have not already turned in." "Order the restrained person to immediately surrender to ~~you~~ law enforcement all prohibited items." "Issue a receipt to the restrained person for all prohibited items that have been surrendered." ""~~You may use f~~Form DV-200 may be used for this purpose.	
			Page 10, Notice/Proof of Service, 2nd bullet point: Suggested edit – "The restrained person attended the hearing (see 32a) or was informed of the order by an officer. …"	The committee recommends keeping the reference to item 32 rather than item 32a.
			DV-850 Page 1, left footer: Insert space between "§" and " 6389."	The committee agrees and recommends this change.
			JV-247 Item 2: Query – Add blank line for lawyer's telephone or email address?	For item 2, this addition is not needed as the item includes instructions to provide the lawyer's address and contact information, if the respondent is represented by lawyer.
			Item 5: Change "item 2" to "item 2e" – "In item 2e of form JV-245, …"	The committee recommends the reference to item 2 remain as is.
			Item 15: Change "Cannot" to "Must Not" – "~~Cannot~~ Must Not Look for Protected People"	This suggestion is beyond the scope of the current proposals. The committee will consider this suggestion for a future cycle.
			JV-255 Item 4, 1st bullet point beneath box: Query – Should "item 6a" be changed to "item 5a"?	The committee agrees and recommends this change.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

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	Commenter	Position	Comment	Committee Response
			E.g., "… ends three years after the date of the hearing in item ~~6~~5a." Item 9: Suggested edit - "Restrained Person Has Not ~~Complied With~~ Surrender~~inged~~ Prohibited Items" Item 9: Query – Should 9b be changed to "Notify Law Enforcement" and 9c be added as "Notify Prosecutor"? (See, e.g., form DV-130, item 10.) Item 10: Query – Should "law enforcement and" be added to the end of the second sentence? (See, e.g., form DV-130, item 11.) – "… a judge may find that you have violated the restraining order and notify law enforcement and a prosecuting attorney of the violation." Item 12, heading: Suggested edit – "~~Cannot~~ Must Not Look for Protected People and Others" Item 13, 1st par.: Suggested edit – "… annoy by phone or other ~~electronic~~ means (including repeated contact), … " Page 7, Duties of Officer: In first bullet point, change "6" to "8" ("prohibited items listed in 8").	This suggestion is beyond the scope of the current proposal. The committee will consider this suggestion in a future cycle. Family Code section 6306(f) does not apply to juvenile court restraining orders issued under section 213.5. Therefore, the requirement that the court notify law enforcement about noncompliance with a firearms prohibition does not apply and was not included in the juvenile forms. See response above. This suggestion is beyond the scope of the current proposal. The committee will consider this suggestion in a future cycle. The committee does not recommend striking "electronic" as such a change is beyond the scope of the current proposal. These suggestions are beyond the scope of the current proposal. The committee will consider these suggestions in a future cycle.

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Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	Commenter	Position	Comment	Committee Response
			Also, suggested edits below. Note: Elsewhere on this form, "you" refers to the person completing the form, i.e., the person requesting the RO, so it can be confusing when "you" is used to refer to the officer serving the order. Also, "restrained person" appears on this form (e.g., on the same page under Notice/Proof of Service) and other RO forms *without* the initial cap. "Ask if the restrained person ~~is in possession of~~ possesses any of the prohibited items listed in ~~6~~8, or has ~~custody or control of~~ any prohibited items that they have not already turned in." "Order the restrained person to immediately surrender to ~~you~~ law enforcement all prohibited items." "Issue a receipt to the restrained person for all prohibited items that have been surrendered." "~~You may use f~~Form JV-268 may be used for this purpose.	
			JV-259 Page 1, instructions box: Suggest inserting the last sentence before the previous sentence so that the reference to "this form" does not relate back to the JV-258 which is mentioned in the previous sentence. (See, e.g., instructions box on page 1 of form DV-120.)	The committee agrees and recommends this change.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

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	Commenter	Position	Comment	Committee Response
			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. 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. Item 2: Query – Add blank line for lawyer's telephone or email address? Item 9: Change "orders in 6" to "orders in 5" – "If you were served with form JV-260, … you must follow the orders in 5 on form JV-260." Item 10: Change "Cannot Look" to "Must Not Look." The same change is suggested for item 12 on JV-258.	For item 2, this addition is unnecessary, as the item includes instructions to provide the lawyer's address and contact information, if the respondent is represented by a lawyer. The committee agrees and recommends this change. This suggestion is beyond the scope of the current proposal. The committee will consider this suggestion in a future cycle.
			JV-265 Item 3: Change "is" to "if" – "Check here ~~is~~ if you need to list more people."	The committee agrees and recommends this change.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

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	Commenter	Position	Comment	Committee Response
			Item 4: Change "end" to "ends" – "This restraining order, except …, ends on:"	The committee agrees and recommends this change.
			Item 7e: Delete space between link for form DV-800/JV-270 and the comma following it.	The committee agrees and recommends this change.
			Item 9: Suggested edit – "Restrained Person Has Not ~~Complied With~~ Surrender~~ing~~ed Prohibited Items"	This suggestion is beyond the scope of the current proposal. The committee will consider this suggestion in a future cycle.
			Item 9: Query – Should 9b be changed to "Notify Law Enforcement" and 9c be added as "Notify Prosecutor"? (See, e.g., form DV-130, item 10.)	Family Code section 6306(f) does not apply to juvenile court restraining orders issued under section 213.5. Therefore, the requirement that the court notify law enforcement about noncompliance with a firearms prohibition does not apply and was not included in the juvenile forms.
			Item 12: Change "Cannot Look" to "Must Not Look."	This suggestion is beyond the scope of the current proposal. The committee will consider this suggestion in a future cycle.
			Page 6, Duties of Officer: Suggested edits below. Note: Elsewhere on this form, "you" refers to the person completing the form, i.e., the person requesting the RO, so it can be confusing when "you" is used to refer to the officer serving the order. Also, "restrained person" appears on this	These suggestions are beyond the scope of the current proposal. The committee will consider these suggestions in a future cycle.

DRAFT

	Commenter	Position	Comment	Committee Response
			form (e.g., on the same page under Notice/Proof of Service) and other RO forms *without* the initial cap. "Ask if the restrained person ~~is in possession of~~ possesses any of the prohibited items listed in 7, or has ~~custody or control~~ of any prohibited items that they have not already turned in." "Order the restrained person to immediately surrender to ~~you~~ law enforcement all prohibited items." "Issue a receipt to the restrained person for all prohibited items that have been surrendered." "~~You may use f~~Form JV-268 may be used for this purpose. Page 7, Conflicting Orders: Add "also" – "… must also be enforced." (See, e.g., JV-255, p. 8.) "Provisions of another order that do not conflict with the EPO must also be enforced." "All provisions in the civil court order that do not conflict with the CPO must also be enforced."	

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	Commenter	Position	Comment	Committee Response
			"Provisions that do not conflict with the most recent civil restraining order must also be enforced."	
9.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) Joint Rules Subcommittee (JRS)	AM	The JRS notes that the proposal is required to conform to a change of law.	No response required.
			The JRS also notes the following impact to court operations: Results in additional training, which requires the commitment of staff time and court resources. Courts will need to train clerks (both courtroom clerks and processing clerks) on the changes to the forms. The clerks will need to ensure the correct information is entered in case management systems. If forms are filed at the window and not in the courtroom, the clerks will need to ensure the parties file the correct forms. Judges will need to be trained on the new forms. Judges will need to identify whether someone used the new form or an old form. Judges will need to confirm their orders are on the correct form. The additional training time required for court staff and judges is not likely to be significant. Impact on local or statewide justice partners. There will be an impact on justice partners because the district attorney offices, probation and sheriffs will need to understand the new forms and the specific details of the exceptions that may be granted. The additional training required for justice partners to understand the new forms and any court ordered exceptions is not likely to be significant.	The committee appreciates the information.

DRAFT

	Commenter	Position	Comment	Committee Response
			DV-120, sec. 26.c.2 "Are there any orders or laws (consider modifying to "any orders or any state or federal laws") that prohibit you…" (Also applies to JV-247 and JV-259)	The committee agrees and recommends that item 26 on form DV-120 read, "Are there any orders *or state or federal* laws that prohibit you from having firearms or ammunition?"
			DV-120, sec. 26 "Note that you will be…There are other things (consider modifying "things" to "requirements") you will need to prove. (Also applies to JV-247 and JV-259.)	The committee does not recommend this suggestion because "things" is more clear and concise language than "requirements."
			DV-120 sec. 27.c. allows for a request for a body armor exception. DV-130 sec. 12 does not allow the court to grant an exception. It appears inconsistent.	The committee notes that this type of exception is not made by the court. At item 27c of form DV-120, the respondent may indicate whether they were granted, or plan to request, an exception from local law enforcement to possess and use body armor. Under Penal Code section 31360(c), a person prohibited from possessing body armor may request an exception through the chief of police or sheriff in the jurisdiction that the person seeks to possess and use the body armor.
			DV-850 does not provide an exception for body armor. A police officer, private security or armored car driver, etc. may need body armor for work. It appears inconsistent with DV-120 sec. 27.c.	The committee does not recommend including information on body armor on form DV-850, as exceptions for body armor are not granted by the court. The committee notes that orders regarding body armor are included in a separate item on the order forms (see forms DV-110 and DV-130) because the relinquishment requirements for body armor are different than the relinquishment requirements for firearms and ammunition. Similarly, including information on body armor on form DV-850 may cause confusion by giving the impression that the requirements for exemption are the same.

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Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	Commenter	Position	Comment	Committee Response
			DV-850, sec. 1.e.(1) does not state whether the court made the findings as required by Fam. Code 6389(h)(1)(A)(i)/(ii)	The required finding under Family Code section 6389(h)(1)(A)(i) that "The peace officer's personal safety depends on the ability to carry that specific firearm, ammunition, or firearm and ammunition outside of scheduled work hours." is at item 1e(2) on form DV-850. The required finding under Family Code section 6389(h)(1)(A)(ii) that "The peace officer does not pose an additional threat of harm to a protected party or the public by having access to that specific firearm, ammunition, or firearm and ammunition, including whether the peace officer might use the firearm for a purpose other than as permitted under this paragraph." is at item 1d on form DV-850.
			DV-850, sec. 1.f.(2) does not state whether the court made the findings as required by Fam. Code 6389(h)(2)	All findings required for non-sworn peace officers are contained in item 1a–d. For non-sworn peace officers, the court has the option of ordering a psychological evaluation. In item 1f the court can indicate whether a psychological evaluation has been ordered, and if ordered, whether the court has reviewed a completed evaluation. In granting an exemption, the court must identify a specific firearm or ammunition for which the exemption applies. These orders would be listed in item 2.
			JV-247 sec. 14.c. allows for a body armor exception. JV-255 sec. 11, does not allow for a body armor exception and appears inconsistent.	See response above regarding form DV-120 and DV-130.

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	Commenter	Position	Comment	Committee Response
			JV-255 on page 1, does not provide lined space at the top for the amended order unlike orders such as DV-130 that has lined space for the amended order at the top of page 1.	The committee agrees and recommends including lined space for the amended order at the top of page 1 of form JV-255.
			JV-259 sec. 10.c. allows for a body armor exception. JV-265 sec. 11 does not allow for an exception for body armor. This appears inconsistent.	See response above regarding form DV-120 and DV-130.
			JV-259, just above section 14, which is the signature line, there is no statement that information is submitted under penalty of perjury.	The committee agrees with this comment and recommends including a statement that the information on the form is submitted under penalty of perjury.
			JV-276, there is no spot to allow for an exception for body armor.	See response above regarding form DV-120 and DV-130.
			Request for Specific Comments Does the proposal appropriately address the stated purpose? Yes.	Thank you for your comments.
			Would the proposal provide cost savings? No, the proposal is unlikely to increase costs, but it will not provide savings.	No response required.
			What are the implementation requirements? Please see comments above re: #5. There will be training requirements that are unlikely to be significant.	The committee appreciates the information.
			Would two months be sufficient time for implementation?	The committee appreciates the information.

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Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	Commenter	Position	Comment	Committee Response
			Generally, yes, but large courts may need more than two months to train all staff and judicial officers.	
			How will this work in courts of different sizes? In a large court there will be more judges and staff to train and that may take longer than two months.	The committee appreciates the information provided. While the committee understands the workload associated for implementing new forms required by newly enacted legislation, particularly for large courts, the committee does not recommend delayed implementation given the safety issues associated with this new law, which went into effect on January 1, 2025.

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RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: September 11, 2025

Rules Committee action requested [Choose from drop-down menu below]:
Recommend JC approval (has circulated for comment)

Title of proposal: Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899

Proposed rules, forms, or standards (include amend/revise/adopt/approve)*:*
Adopt forms CH-820, CH-830, CH-840, CH 850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV 830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH 200 INFO, CH-800, CH-800-INFO, EA 100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA 716, EA-800, EA-800-INFO, GV-030, GV-100-INFO, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV 120, WV-120-INFO, WV-130, WV 200, WV-200-INFO, WV-800, and WV-800-INFO

Committee or other entity submitting the proposal:
Civil and Small Claims Advisory Committee

Staff contact (name, phone and email)*: Maddie Joyner, 916-643-8068, maddie.joyner@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*): 10/22/2024
Project description from annual agenda: Project Summary: Develop rule and form recommendations as appropriate. SB 899 requires courts to inquire whether a person subject to a civil restraining order has complied with the firearm relinquishment requirement and order the clerk to notify law enforcement if a receipt is not filed within 48 hours of receiving the restraining order. Similar legislation for domestic violence restraining orders was enacted a few years ago SB 320 (Stats. 2021, ch. 685). The Family and Juvenile Law Advisory Committee adopted forms to implement the legislation. Similar forms are needed for the other protective types.

Out of Cycle/Early Implementation: *If requesting July 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.)
Changes are needed to civil harassment, elder or dependent adult abuse, gun violence, postsecondary school violence, and workplace violence restraining orders to implement Senate Bill 899 (Stats. 2024, ch. 554). However, one civil harassment restraining order form and all the postsecondary school violence restraining order forms are included in separate proposals because they are impacted by legislation other than SB 899. The civil harassment restraining order petition (form CH-100) is included in a proposal entitled Protective Orders: Civil Harassment Forms to Implement Senate Bill 554. The postsecondary school violence restraining order forms are included in a proposal entitled Protective Orders: Postsecondary School Violence Forms to Implement Assembly Bill 2096.

This report contains one form, form GV-100-INFO, that did not circulate for comment. The committee recommends the form be revised without circulation pursuant to Rule 10.22(d)(2) because the form is included in the proposal for the narrow purpose of correcting a misstatement of existing law and the revision is 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)* 7/18/2025
  ☒ approved by Office Director (or Designee) (*name*) Michael Giden
  on (date) 8/15/2025

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

REPORT TO THE JUDICIAL COUNCIL

Item No.: 15-138
For business meeting on October 24, 2025

Title
Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899

Rules, Forms, Standards, or Statutes Affected
Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-100-INFO, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800-INFO

Recommended by
Civil and Small Claims Advisory Committee
Hon. Donald J. Proietti, Chair

Report Type
Action Required

Effective Date
January 1, 2026

Date of Report
August 20, 2025

Contact
Maddie Joyner, 916-643-8068
maddie.joyner@jud.ca.gov

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Executive Summary

The Civil and Small Claims Advisory Committee recommends adopting 15 protective order forms and revising 37 protective order forms to implement significant changes to the law and to make other clarifying corrections. Changes are needed to civil harassment, elder or dependent adult abuse, gun violence, postsecondary school violence, and workplace violence restraining orders to implement Senate Bill 899 (Stats. 2024, ch. 554). The committee's recommendations to

implement SB 899 are made in this report and in the reports entitled *Protective Orders: Civil Harassment Forms to Implement Senate Bill 554* and *Protective Orders: Postsecondary School Violence Forms to Implement Assembly Bill 2096*.

Recommendation

To implement SB 899, make clarifying corrections, and make the forms more user-friendly, the Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2026:

1. Adopt the following forms:

   - *Prohibited Items Finding and Orders* (form CH-820);
   - *Noncompliance With Firearms, Firearm Parts, and Ammunition Order* (form CH-830);
   - *Notice of Compliance Hearing for Firearms, Firearm Parts, and Ammunition* (form CH-840);
   - *Permission to Have Firearm or Ammunition for Work* (form CH-850);
   - *Prohibited Items Finding and Orders* (form EA-820);
   - *Noncompliance With Firearms, Firearm Parts, and Ammunition Order* (form EA-830);
   - *Notice of Compliance Hearing for Firearms, Firearm Parts, and Ammunition* (form EA-840);
   - *Permission to Have Firearm or Ammunition for Work* (form EA-850);
   - *Prohibited Items Finding and Orders* (form GV-820);
   - *Noncompliance With Firearms, Firearm Parts, Ammunition, and Magazines Order* (form GV-830);
   - *Notice of Compliance Hearing for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-840);
   - *Prohibited Items Finding and Orders* (form WV-820);
   - *Noncompliance With Firearms, Firearm Parts, and Ammunition Order* (form WV-830);
   - *Notice of Compliance Hearing for Firearms, Firearm Parts, and Ammunition* (form WV-840); and
   - *Permission to Have Firearm or Ammunition for Work* (form WV-850).

2. Revise the following forms:

   - *Notice of Court Hearing* (form CH-109);
   - *Temporary Restraining Order* (form CH-110);
   - *Order on Request to Continue Hearing* (form CH-116);
   - *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);
   - *Civil Harassment Restraining Order After Hearing* (form CH-130);
   - *Proof of Personal Service* (form CH-200);
   - *What Is "Proof of Personal Service"?* (form CH-200-INFO);

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- *Receipt for Firearms, Firearm Parts, and Ammunition* (form CH-800);
- *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?* (form CH-800-INFO);
- *Request for Elder or Dependent Adult Abuse Restraining Orders* (form EA-100);
- *Notice of Court Hearing* (form EA-109);
- *Temporary Restraining Order* (form EA-110);
- *Order on Request to Continue Hearing* (form EA-116);
- *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);
- *Elder or Dependent Adult Abuse Restraining Order After Hearing* (form EA-130);
- *What Is "Proof of Personal Service"?* (form EA-200-INFO);
- *Order to Reschedule Hearing to Renew Restraining Order* (form EA-716);
- *Receipt for Firearms, Firearm Parts, and Ammunition* (form EA-800);
- *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?* (form EA-800-INFO);
- *Gun Violence Restraining Order After Hearing on EPO-002* (form GV-030);
- *Can a Gun Violence Restraining Order Help Me?* (form GV-100-INFO);
- *Temporary Gun Violence Restraining Order* (form GV-110);
- *Order on Request to Continue Hearing* (form GV-116);
- *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130);
- *Petition for Workplace Violence Restraining Orders* (form WV-100);
- *Notice of Court Hearing* (form WV-109);
- *Temporary Restraining Order* (form WV-110);
- *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);
- *What Is "Proof of Personal Service"?* (form WV-200-INFO);
- *Receipt for Firearms, Firearm Parts, and Ammunition* (form WV-800); and
- *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?* (form WV-800-INFO).

The proposed new and revised forms are included at pages 17–195.

Relevant Previous Council Action

Under the Code of Civil Procedure, Penal Code, and Welfare and Institutions Code, the Judicial Council must provide forms for use in civil harassment, elder and dependent adult abuse, gun violence, postsecondary school violence, and workplace violence protective order matters. The

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forms have been revised when changes to the law required revisions and in response to suggestions from the public, judicial officers, and court professionals.

Additionally, in 2022, Senate Bill 320 (Stats. 2021, ch. 685) expanded the court's role in ensuring firearms relinquishment compliance in domestic violence and juvenile restraining order matters. To implement SB 320, the Family and Juvenile Law Advisory Committee recommended, and the council approved, a number of changes to domestic violence and juvenile restraining order forms as well as the adoption of several new forms (forms DV-820, DV-830, DV-840/FL-840, JV-272, and JV-274), effective January 1, 2023. SB 899's procedures and requirements are similar, but not identical, to those in SB 320.[1] Where possible, the forms included in this proposal are modeled after the forms revised and adopted pursuant to SB 320 because consistency in protective orders across case type is beneficial to courts, litigants, and law enforcement.

Analysis/Rationale

The Civil and Small Claims Advisory Committee recommends adopting 15 protective order forms and revising 37 protective order forms to implement SB 899 (see Link A) and to improve the forms, make clarifying corrections, and make the forms more user-friendly. One civil harassment restraining order form and all the postsecondary school violence restraining order forms are included in separate reports because they are impacted by other legislation in addition to SB 899. The civil harassment restraining order petition (form CH-100) is included in a report entitled *Protective Orders: Civil Harassment Forms to Implement Senate Bill 554*. The postsecondary school violence restraining order forms are included in a report entitled *Protective Orders: Postsecondary School Violence Forms to Implement Assembly Bill 2096*.

Additionally, related form revisions are also being recommended in the Family and Juvenile Law Advisory Committee's report entitled *Protective Orders: Changes to Domestic Violence and Juvenile Forms to Implement AB 2759* and the Criminal Law Advisory Committee's report entitled *Criminal Law: Implementation of Recent Legislation Regarding Criminal Protective Orders*. All three proposals benefitted from feedback received from the Joint Protective Orders Working Group.

Court finding, review hearing, and notice to law enforcement and prosecuting agency

Effective January 1, 2026, SB 899 provides additional requirements for courts to comply with when they receive information that a restrained person has firearms.[2] If such information is presented, the court must determine whether the restrained person has a firearm and is in

[1] Judicial Council of Cal., Advisory Com. Rep., *Domestic Violence; Rule and Form Changes to Implement New Laws* (Sept. 2, 2022), *jcc.legistar.com/View.ashx?M=F&ID=11229751&GUID=A9339929-3ABD-4F35-BE6D-672A0C40FAD0*.

[2] Code Civ. Proc., § 527.11; Pen. Code, § 18120.5. The requirements discussed in this subsection apply to civil harassment, elder or dependent adult abuse, postsecondary school violence, and workplace violence restraining orders, as well as gun violence restraining orders.

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violation of the firearm relinquishment order.[3] The court has the option of setting a review hearing to determine whether a violation of the order has taken place.[4] Moreover, SB 899 requires the prosecuting attorney to be notified of violations and, if the respondent does not file a receipt within 48 hours after receiving the order, requires appropriate law enforcement officials to be notified of the issuance and contents of a protective order.[5]

To implement SB 320, which contains similar requirements for domestic violence and juvenile restraining orders, the council adopted three new forms: forms DV-820, DV-830, and DV-840. The committee recommends adopting similar forms to implement SB 899. The *Prohibited Items Finding and Orders* forms (forms CH-820, EA-820, GV-820, SV-820, and WV-820) serve as an attachment to any order form in a restraining order action.[6] These forms contain items facilitating court findings, setting a review hearing, and providing notice to law enforcement and the prosecuting agency. The *Noncompliance With Firearms, Firearm Parts, and Ammunition Order* forms (forms CH-830, EA-830, SV-830, and WV-830) and *Noncompliance With Firearms, Firearm Parts, Ammunition, and Magazines Order* (form GV-830) are notice forms that would be completed by the court to alert law enforcement or the prosecuting agency of the court's orders regarding noncompliance and serve as a coversheet for the restraining order that has been violated. The *Notice of Compliance Hearing for Firearms, Firearm Parts, and Ammunition* forms (forms CH-840, EA-840, SV-840, and WV-840) and *Notice of Compliance Hearing for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-840) would be used when the issue of noncompliance arises after a long-term restraining order has been issued and the court elects to set the matter for a review hearing. In addition to adopting new forms, the committee recommends incorporating some or all of the items on forms CH-820, EA-820, GV-820, SV-820, and WV-820 into *Gun Violence Restraining Order After Hearing on EPO-002* (form GV-030), the temporary restraining order (forms CH-110, EA-110, GV-110, SV-110, and WV-110), and the order after hearing (forms CH-130, EA-130, GV-130, SV-130, and WV-130).[7]

The invitation to comment erroneously addressed form GV-030 alongside temporary restraining orders. However, form GV-030 is more like an order after hearing on whether a long-term

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[3] Code Civ. Proc., § 527.11(a); Pen. Code, § 18120.5(a).

[4] Code Civ. Proc., § 527.11(c); Pen. Code, § 18120.5(c).

[5] Code Civ. Proc., § 527.9(b); Pen. Code, § 18120(b).

[6] These forms contain a checkbox to attach them to the *Order on Request to Continue Hearing* (forms CH-116, EA-116, GV-116, SV-116, and WV-116).

[7] At the temporary restraining order stage, the court may have sufficient information to make a finding regarding firearms or ammunition and may elect to set a review hearing. At the hearing on whether a long-term restraining order should issue, the court would likely have more information, including whether the restrained person has complied with a temporary order, if one was granted. Because more information will be available to the court at the time of granting the restraining order after hearing, the committee recommends incorporating all the findings and orders listed on forms CH-820, EA-820, GV-820, SV-820, and WV-820 into forms CH-130, EA-130, GV-130, SV-130, and WV-130. The proposed revisions to the order after hearing forms would additionally include an item facilitating service of the order on the respondent for purposes of the compliance hearing.

restraining order should issue in that the court would likely have information regarding whether the restrained person has complied with the *Gun Violence Emergency Protective Order* (form EPO-002). Therefore, the committee recommends revising form GV-030 to include the same items that circulated for comment on forms CH-130, EA-130, GV-130, SV-130, and WV-130, including both of the following:

(1) An item entitled "Restrained Person Has Not Complied With Surrendering Prohibited Items" that facilitates notice to law enforcement and the prosecutor; and

(2) An item to facilitate service for purposes of the compliance review hearing.

While these exact items did not go out for comment on form GV-030, they circulated on numerous other forms, including on forms CH-130, EA-130, SV-130, and WV-130. These items were already included on an attachment, form GV-840, but including these items on form GV-030 itself will align with the approach taken on the other protective order types mentioned above. Moreover, the relevant statutory language governing these issues across civil harassment, elder or dependent adult abuse, postsecondary school violence, and workplace violence restraining orders and gun violence restraining orders is identical.[8]

Relinquishment of ammunition

SB 899 requires a person subject to a temporary restraining order or injunction related to a civil harassment, elder or dependent adult abuse, postsecondary school violence, or workplace violence restraining order to relinquish ammunition. SB 899 also requires a person who is required to relinquish any ammunition to file a receipt showing that the ammunition was surrendered or sold.[9] Prior to SB 899, the relinquishment and receipt requirements applied to firearms but did not apply to ammunition.[10]

The committee recommends revising numerous civil harassment, elder or dependent adult abuse, postsecondary school violence, and workplace violence restraining order forms to reflect SB 899's requirement that restrained persons relinquish ammunition. The committee recommends, among other things, retitling forms CH-800, EA-800, SV-800, and WV-800 to *Receipt for Firearms, Firearm Parts, and Ammunition* and forms CH-800-INFO, EA-800-INFO, SV-800-INFO to WV-800-INFO to *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?*, as the current titles of these forms do not reflect ammunition. The

[8] Regarding the item entitled "Restrained Person Has Not Complied with Surrendering Prohibited Items," which facilitates notice to law enforcement and the prosecutor, compare Code of Civil Procedure section 527.9(b) with Penal Code section 18120(b)(6). Regarding the item facilitating notice for purposes of the compliance review hearing, compare Code of Civil Procedure section 527.11(a) and Penal Code section 18120.5(a).

[9] Code Civ. Proc., § 527.9(b).

[10] However, for gun violence restraining orders, the law already required ammunition to be relinquished. (See Pen. Code, § 18120.)

DRAFT

committee further recommends adding the word "ammunition" to various forms in this proposal, where necessary, to reflect that ammunition must be relinquished.

SB 899 requires a person subject to a civil harassment, elder or dependent adult abuse, postsecondary school violence, or workplace violence restraining order to relinquish ammunition in addition to firearms.[11] With respect to the restraining order types mentioned above, SB 899's compliance review hearing provisions mention only firearms[12] and not ammunition. A person subject to a gun violence restraining order is required to relinquish firearms and ammunition.[13] However, for gun violence restraining orders, SB 899's compliance review provisions mention only firearms and not ammunition.[14]

As a result, the types of items and devices required to be relinquished are not coextensive with the types of items and devices subject to SB 899's provisions regarding court findings and review hearings. There is nothing in statutory law precluding the court from making findings regarding additional devices and items or from holding a hearing regarding additional devices and items. Indeed, although not reflected in the statutory language itself, the Legislative Counsel's Digest and the final Assembly and Senate floor analyses for SB 899 all describe these compliance review hearing provisions as though they apply to ammunition.[15] The committee determined that making specific findings and holding compliance hearings regarding all of the devices and items subject to relinquishment promotes important public safety objectives.[16] The

[11] Moreover, the definition of "firearm" for purposes of Code of Civil Procedure section 527.9 also includes "firearm parts." (See Code Civ. Proc., § 527.9 (mentioning the relinquishment of firearms and ammunition); Pen. Code, § 16520(b)(25) (defining "firearm" for purposes of section 527.9 to include "firearm parts").)

[12] Note that because new Code of Civil Procedure section 527.11 was not added to the existing definition of "firearm" at Penal Code section 16520(b), a "firearm" would not include "firearm parts" for purposes of section 527.11.

[13] For gun violence restraining orders, the law required firearms, firearm parts, ammunition, and magazines to be relinquished prior to SB 899. (See Pen. Code, §§ 16520(b)(10) (defining "firearm" for purposes of Penal Code sections 18100 to 18500, inclusive, to include firearm parts), 18100 (defining "ammunition" to include magazines for purposes of Penal Code sections 18100 to 18123, inclusive), and 18120 (mentioning the relinquishment of firearms and ammunition).)

[14] Pen. Code, §§ 16520(b)(10) (defining "firearm" for purposes of Penal Code sections 18100 to 18500, inclusive, to include firearm parts), 18100 (defining "ammunition" to include magazines for purposes of Penal Code sections 18100 to 18123, inclusive), 18120.5 (mentioning firearms and not ammunition, and therefore not mentioning magazines, either).

[15] For example, the Legislative Counsel's Digest prepared for SB 899 mentions both firearms and ammunition: "Commencing January 1, 2026, this bill would also require the court, at a noticed hearing related to these orders, to consider information presented that the restrained person has possession or control of a firearm or ammunition. The bill would authorize the court, upon making this finding, to set a review hearing, as specified, to determine whether the person has possession or control of a firearm or ammunition in violation of the above provisions." (Legis. Counsel's Dig., Sen. Bill 899 (2023–2024 Reg. Sess.)) The final Assembly and Senate floor analyses for SB 899 reflect a similar understanding. (Assem. Com. Rules, Analysis of Sen. Bill 899 (2023–2024 Reg. Sess.) as amended Aug. 22, 2024, p. 3; Sen. Com. on Rules, Analysis of Sen. Bill 899 (2023–2024 Reg. Sess.) as amended Aug. 22, 2024, p. 6.)

[16] Apart from the committee's determination, efforts are currently underway at the Legislature to clean up this and other inconsistencies through Assembly Bill 824 (2025-2026 Reg. Sess.).

DRAFT

committee therefore recommends that the court findings and review hearings cover the same devices and items that are subject to relinquishment.

Free service by peace officers

SB 899 added section 527.12 to the Code of Civil Procedure. That provision requires peace officers, upon the request of a petitioner, to serve a temporary restraining order, order after hearing, or protective order issued pursuant to the laws relating to civil harassment, elder or dependent adult abuse, postsecondary school violence, or workplace violence upon a respondent for free.[17] Separately, section 527.12 contains language regarding priorities for enforcement where more than one restraining order has been issued.[18]

The committee recommends adding information regarding service by peace officers to *What Is "Proof of Personal Service"?* (forms CH-200-INFO, EA-200-INFO, SV-200-INFO, and WV-200-INFO), which are information sheets that explain the mechanics of personal service, including an explanation of who can provide service of process. Moreover, given the broad definition of who constitutes a peace officer under SB 899,[19] the committee suggests that development of a self-help website would be a better way to achieve this purpose.[20]

Work exemption

SB 899 makes various changes regarding when the court may grant a person subject to a civil harassment, elder or dependent adult abuse, postsecondary school violence, or workplace violence restraining order permission to have a particular firearm or ammunition for work.[21] The work exemption is likely to be requested in a relatively small number of all orders, and the requirements of Code of Civil Procedure section 527.9(f) regarding the work exemption are numerous. Therefore, the committee recommends directing respondents to both (1) a self-help website and (2) the relevant code section to obtain additional information regarding what respondents need to show the judicial officer to qualify for the work exemption.

The committee recommends revising the response forms (forms CH-120, EA-120, SV-120, and WV-120) to replace the existing work exemption language with a new set of questions that conform to SB 899's requirements. The committee also recommends adding information

DRAFT

[17] Code of Civil Procedure section 527.12 does not apply to gun violence restraining orders.

[18] Code Civ. Proc., § 527.12(d)(2).

[19] The definition of "peace officer" for these purposes is broad. It encompasses not only a sheriff or marshal, but anyone meeting the requirements of Penal Code section 830, including certain harbor police and employees of the Department of Fish and Game. See Penal Code sections 830.1(a) and 830.2(e).

[20] Additionally, across the existing temporary restraining order forms (forms CH-110, EA-110, SV-110, and WV-110) and the order after hearing forms (forms CH-130, EA-130, SV-130, and WV-130), an item entitled, "Conflicting Orders—Priorities for Enforcement" cross-references Family Code section 6383(h)(2), which is nearly identical to the new Code of Civil Procedure section 527.12(d)(2). Therefore, the committee recommends revising the "Conflicting Orders—Priorities for Enforcement" item for the temporary restraining order (forms CH-110, EA-110, SV-110, and WV-110) and order after hearing (forms CH-130, EA-130, SV-130, and WV-130) to cite to new Code of Civil Procedure section 527.12(d)(2) alongside the existing references to Family Code section 6383(h)(2).

[21] Code Civ. Proc., § 527.9(f).

regarding these requirements to the related information sheets (forms CH-120-INFO, EA-120-INFO, SV-120-INFO, and WV-120-INFO). The committee further recommends revising the exemption language on the order after hearing forms (forms CH-130, EA-130, SV-130, and WV-130).

Finally, the committee recommends adopting new forms entitled *Permission to Have Firearm or Ammunition for Work* (forms CH-850, EA-850, SV-850, and WV-850) that (1) list the findings required for the court to grant the respondent permission to have a firearm or ammunition for work, (2) contain the orders permitting possession of the specific firearm or ammunition, and (3) warn the respondent that they may nevertheless be in violation of state or federal law if they are prohibited from having a firearm or ammunition by another order or law.

Additional form revisions

In addition to the recommended form revisions to implement SB 899, the committee recommends revisions to improve several forms. These revisions include, among other things, revising the statutory citations in the footers of the first page of these forms to more closely align with the citation format in the *California Style Manual*.[22] The revisions also include updating various URLs, replacing gendered language with gender-neutral language, and decapitalizing various words, including "order," throughout the forms.

The committee also recommends revising the free service item on the order to reschedule a hearing to renew an elder or dependent adult abuse restraining order (form EA-716) to correct a misstatement of law.[23] Moreover, although not expressly required by statute, the committee recommends revising several forms to prompt petitioners to describe the number, item, and type of prohibited items that the respondent has to help the court identify these items at an early juncture. Family Code section 6389(c)(3) requires the forms for protective orders adopted by the Judicial Council to "require the petitioner to describe the number, types, and locations of any firearms or ammunition presently known by the petitioner to be possessed or controlled by the respondent." For gun violence restraining orders, Penal Code section 18107 also contains a similar requirement. Although the statutory language governing civil harassment, elder or dependent adult abuse, postsecondary school violence, and workplace violence restraining orders does not contain this requirement, no statute exists that would prohibit courts from soliciting this information from petitioners. Therefore, the committee recommends asking the petitioner to describe the number, type, and location of these items, when known, on the petition (forms CH-100, EA-100, SV-100, and WV-100).

DRAFT

[22] The committee also recommends revising form WV-100-INFO under the heading "What forms must be used to get the order?" to delete the first clause, which does not describe the list that follows.

[23] When reviewing the existing items regarding free service, it came to the committee's attention that form EA-716 ties entitlement to free service to the underlying action alleged (unlawful violence, a credible threat of violence, or stalking), which is inconsistent with statute. Therefore, the committee recommends revising the free service item on form EA-716 to reflect that the sheriff or marshal will serve this order for free, with no qualifiers. This change to form EA-716 consistent with existing law.

Policy implications

The revised forms in this proposal largely implement new law enacted by the Legislature. Additionally, the revised forms are designed to promote consistency with the protective order forms under the purview of the Family and Juvenile Law Advisory Committee and the Criminal Law Advisory Committee because consistency in protective orders across case type is beneficial to courts, litigants, and law enforcement. Finally, the recommended revisions include a number of clarifying corrections and make the forms more user-friendly. These recommendations help implement Goal I, "Access, Fairness, and Diversity," of the Judicial Council's strategic plan by helping to make forms easier to complete and understand for self-represented litigants.

Comments

This proposal was circulated for public comment from April 14 through May 23, 2025. Nine commenters responded to the proposal. Two commenters agreed with the proposal, two agreed if modified, and five did not indicate a position; no commenters disagreed with the proposal. Commenters were the Superior Courts of Los Angeles, Orange, San Bernardino, and San Diego Counties; the California Department of Justice; the Orange County Bar Association; GIFFORDS; the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee (Joint Rules Subcommittee); and one individual.[24]

The substantive comments are summarized below. The committee thanks commenters for taking the time to respond to this proposal. The full text of the comments and the committee's responses are provided in the attached chart of comments at pages 196–257.

Service of process by peace officers

In the invitation to comment, the committee proposed the following form revisions to address SB 899's requirements regarding service of process by a peace officer:

- On the petition (forms CH-100, SV-100, and WV-100), the committee proposed adding an additional checkbox to the existing free service item that states, "if the court issues an order, [the petitioner] ask[s] that a peace officer serve it for free."[25] These new checkboxes involving free service by peace officers existed alongside the existing checkboxes allowing petitioners to request free service by a sheriff or marshal depending on the underlying actions alleged.[26]

[24] GIFFORDS submitted two separate comments, and the committee includes and has responded to both in the attached comment chart.

[25] Form EA-100 did not have a checkbox for the service item, as Welfare and Institutions Code section 15657.03(s) provides that "a petitioner shall not be required to pay a fee for law enforcement to serve an order issued" and Government Code section 6103.2(b)(4) facilitates reimbursement for all elder or dependent adult abuse restraining orders, and not simply a subset of all orders, as is the case for civil harassment, postsecondary school violence, and workplace violence restraining orders.

[26] Code Civ. Proc., §§ 527.6(z) (civil harassment), 527.8(y) (workplace violence), 527.85(x) (postsecondary school violence); Welf. & Inst. Code, § 15657.03(s) (elder or dependent adult abuse).

DRAFT

- On the temporary restraining order (forms CH-110, EA-110, SV-110, and WV-110) and order after hearing (forms CH-130, EA-130, SV-130, and WV-130), the committee proposed adding language to the existing free service item stating that a peace officer may also serve the order for free.

- On the information sheets that discuss service of process (forms CH-200-INFO, EA-200-INFO, SV-200-INFO, and WV-200-INFO), the committee proposed adding information regarding free service by a peace officer. Moreover, given the broad definition of who qualifies as a peace officer under SB 899 and the limited space on these information sheets, the committee suggests that development of a self-help website could be helpful.

GIFFORDS suggested removing the checkbox from the service items on the petition forms. In a similar vein, a comment from the Joint Rules Subcommittee suggested combining the free service items on the temporary restraining order forms to instead state "the sheriff, marshal, or a peace officer will serve this order without charge because …" The committee does not recommend incorporating these suggestions, as the existing checkboxes on item 13 of form CH-100, item 15 of form SV-100, and item 15 or form WV-100 are intended to indicate whether the type of service provided is subject to reimbursement under Government Code section 6103.2(b)(4). For these reasons, the checkboxes cannot entirely be eliminated and the categories of service providers (sheriff or marshal, or other peace officer) cannot be collapsed. For civil harassment, school violence, and workplace violence restraining orders, the existing sheriff or marshal category, which is subject to reimbursement pursuant to Government Code section 6103.2(b)(4), must remain separate from the new peace officer category, which is not subject to such reimbursement.

However, to minimize further confusion between these different categories of service, the committee now recommends communicating the information regarding service of process under SB 899 on forms CH-200-INFO, EA-200-INFO, SV-200-INFO, and WV-200-INFO instead of on the petition, temporary restraining order, and order after hearing forms because the information sheets explain the mechanics of personal service, including an explanation of who can provide service of process.

Additionally, the committee recommends removing the information that circulated on forms EA-200-INFO, SV-200-INFO, and WV-200-INFO regarding peace officers sending proof of service to the California Law Enforcement Telecommunications System (CLETS). Not all peace officers, as broadly defined pursuant to Code of Civil Procedure section 527.12, will be CLETS users. Therefore, the committee now recommends that forms EA-200-INFO, SV-200-INFO, and WV-200-INFO read, "If the sheriff or another peace officer serves the papers, they will send proof of service to the court for you. The sheriff will also send proof of service to CLETS for you."

GIFFORDS also commented that adding language regarding free service by a peace officer to the petitions may have an unintended steering effect where petitioners would be more likely to

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select the new service by a peace officer option, which has simpler language than the more complex, existing statutory language governing service by a sheriff or marshal. This concern is addressed through the approach recommended by the committee for the petition forms.

Separately, the Joint Rules Subcommittee suggested revising these information sheets, which separate information regarding service by the sheriff or marshal from service by a peace officer, to list the sheriff and marshal alongside peace officers, as it may not be clear to litigants why these methods of service are listed separately. However, the committee recommends keeping the language on these information sheets as is, as the need to keep these methods of service separate originates from differences in statutory law.[27]

Body armor

Although SB 899 did not address body armor, a number of comments from the Joint Rules Subcommittee emphasized persisting challenges regarding ensuring compliance with the body armor prohibition. The committee notes that while Code of Civil Procedure 527.9 and Penal Code section 18120 outline a procedure for the relinquishment of firearms and ammunition, including who those items can be relinquished to, Penal Code section 31360, which discusses body armor, does not similarly outline a procedure for the relinquishment of body armor.

The Joint Rules Subcommittee also suggested including a FAQ on *How Can I Respond to a Request for Civil Harassment Restraining Orders?* (form CH-120-INFO) about the sheriff or chief of police being able to grant a body armor exemption pursuant to Penal Code section 31360(c). The committee notes that while form DV-120-INFO already contains information regarding asking for a body armor exemption from the sheriff or chief of police, no similar guidance exists on forms CH-120-INFO, EA-120-INFO, SV-120-INFO, and WV-120-INFO. Therefore, to promote consistency across these various protective order types, the committee recommends adding language that is similar to that seen on form DV-120-INFO to these other information sheets under the heading "What if I need to have body armor?"

Finally, the Joint Rules Subcommittee suggested revising form CH-130 to indicate whether the sheriff has granted an exemption to the body armor prohibition. The committee does not recommend implementing this suggestion at this time because it would benefit from public comment on the issue of whether courts will have the information needed to complete an item regarding the body armor exemption, which is granted by the sheriff or chief of police rather than the court.

Requests for specific comment

The committee requested specific comments regarding whether it was necessary to adopt *Notice of Compliance Hearing for Firearms, Firearm Parts, and Ammunition* (forms CH-840, EA-840, SV-840, and WV-840) and *Notice of Compliance Hearing for Firearms, Firearm Parts,*

[27] Compare Code Civ. Proc., §§ 527.6(z) (civil harassment), 527.8(y) (workplace violence), and 527.85(x) (postsecondary school violence); Government Code section 6103.2(b)(4); and Welfare and Institutions Code section 15657.03(s) (elder or dependent adult abuse) with Code Civ. Proc., § 527.12.

DRAFT

Ammunition, and Magazines (form GV-840). These forms would be used when the issue of noncompliance arises after a long-term restraining order has been issued and the court elects to set the matter for a review hearing, similar to form DV-840. The committee was unsure whether these forms were needed because the likelihood of noncompliance arising after a long-term restraining order has issued is less clear for civil harassment, elder or dependent adult abuse, gun violence, postsecondary school violence, and workplace violence restraining orders than it is for domestic violence restraining orders.

Three commenters, the Superior Courts of San Bernardino and San Diego Counties and the Orange County Bar Association, either expressed their support for the adoption of these forms or found no reason why the forms should not be adopted. One commenter, the Superior Court of Orange County, recommended that the forms be adopted for optional use rather than mandatory use. The committee recommends adopting these forms and recommends that they be adopted for mandatory use because that is consistent with form DV-840, and the committee strives to maintain consistency across protective order types when possible.

The committee also sought specific comments regarding forms CH-850, EA-850, SV-850, and WV-850, which went out for comment with a standalone textbox reading: "Warning: The court orders listed above in (2) only apply to this restraining order. If you are prohibited from having a firearm or ammunition by another order or law, you may still be in violation of state or federal law." The committee inquired whether this information should continue to exist as a standalone warning or should instead comprise part of the order itself. The majority of commenters expressed support for continuing to include this information as a standalone warning, and the committee recommends that approach.

Comments specific to gun violence restraining orders

The committee expresses its gratitude to the California Department of Justice for providing detailed feedback regarding the gun violence restraining order forms. As noted in the attached chart of comments, many of those comments raised issues beyond the scope of the current proposal; however, the committee recommends addressing these issues in the future as time and resources permit.

Among other comments, the department recommended revisions to *Can a Gun Violence Restraining Order Help Me?* (form GV-100-INFO) to correct a misstatement of law. That form contains language reading, "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." However, as noted by the department, the "in the near future" language is *only* relevant to the court's determination about whether to issue a temporary gun violence restraining order; form GV-100-INFO is calibrated to provide relevant information to all gun violence restraining order petitioners, not just temporary restraining order

DRAFT

petitioners.[28] Although form GV-100-INFO was not included in the invitation to comment, the committee now recommends revising form GV-100-INFO to delete "in the near future" and correct this misstatement of law.[29]

Additionally, the department recommended deleting item 5(b) from form GV-030, item 4(b) from form GV-110, and item 5(b) from form GV-130, which are findings indicating that the restrained person owns or possesses prohibited items, because they are duplicative of the newly proposed items entitled "Restrained Person Has Prohibited Items" on forms GV-030, GV-110, GV-130. The committee agrees with the department and recommends deleting item 4(b) from form GV-110, item 5(b) from form GV-130, and item 5(b) from form GV-030.

The jurat on form WV-100

A member of the Rules Committee recommended revising the jurat on form WV-100. Currently, the workplace violence restraining order petitions require the petitioner to declare that the information on the form and on all attachments is true and correct. However, the statute governing this order type authorizes certain persons to seek an order on the behalf of another,[30] and therefore, the petitioner may not have firsthand knowledge of the facts underlying the petition.

After surveying the language used in this regard on other council forms,[31] the committee now recommends the following revision to the jurat of form WV-100:

> 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, <u>except as to those matters stated on information and belief, and as to those matters, I am informed and believe them to be true.</u>[32]

Other comments

After the invitation-to-comment process concluded, the Family and Juvenile Law Advisory Committee notified this committee that they recommended adding additional text to form DV-120 to clarify that, when a respondent requests an exception to carry a firearm for work, they must nevertheless follow any orders to relinquish the prohibited items until the judge decides

DRAFT

[28] Compare Pen. Code, § 18150(b) (with "in the near future" language) with § 18175(b) (without the "in the near future" language).

[29] Please note that recommended revisions to are highlighted to the extent possible in the attached forms. However, deletions do not show in highlighting.

[30] See Code Civ. Proc., § 527.8(a).

[31] For example, *Petition to Establish Fact, Time, and Place of Birth* (form BMD-001).

[32] Outside of the public comment process, the committee received feedback from an Orange County Superior Court judge who noted difficulty with the varying sequencing (use of numbers and letters) across the personal conduct and stay-away orders of forms WV-100, WV-110, and WV-130, as well as the personal conduct items of forms CH-100, CH-110, and CH-130. After discussing how this sequencing arises from different content across and within these forms, the committee does not recommend such changes at this time.

whether to grant an exception. The committee recommends adding similar language to forms CH-120, EA-120, SV-120, and WV-120, as it seems important to emphasize to respondents that a request for an exemption *does not* mean that the person does not need to follow the order.

The Superior Court of Orange County recommended adopting forms CH-820, EA-820, GV-820, SV-820, and WV-820 for optional use. The committee recommends declining this suggestion to be consistent with form DV-820. The committee notes that even if a form is adopted for mandatory use, that does not require the form to be used in all instances.

The proposal that went out for comment used item 9 of form DV-100 as a general model to solicit a description of any prohibited items, as well as their amount and location. The California Department of Justice instead recommends using the language and format of item 5 of form GV-100 as a model to solicit a description of the type, amount, and location of any prohibited items. The committee does not recommend implementing this suggestion because item 9 of form DV-100 uses more concise language and easily understood formatting than item 5 of form GV-100.[33]

However, the committee now recommends deleting the question reading "does the respondent (or person in 2) own or possess any firearms (guns), firearm parts, or ammunition?" from item 10 of form CH-100, item 15 of form EA-100, item 11 of form SV-100, and item 11 of form WV-100. This question is duplicative of the question posed in the heading of each of these items, which uses the more concise verb "has" rather than "possesses or controls" or "controls or possesses." The committee recommends posing this question using the simpler verb "has" in the body of the item and restoring the heading of the item to "Firearms (Guns), Firearm Parts, and Ammunition" to prevent a duplicative question.

Alternatives considered

The committee did not consider the alternative of taking no action because form revisions are needed to comply with SB 899, and the committee concluded that the current proposal best satisfies the statutory mandate. To the extent the recommended revisions were not required by the terms of SB 899, the committee considered taking no action but ultimately determined the revisions were warranted in light of the benefits the revisions would provide to the courts and court users.

In addition to the suggestions made by commenters, the committee considered not revising any forms to add language regarding service of process by a peace officer given the likelihood of confusing court users, especially considering the existing language on the forms regarding service of process by the sheriff or marshal. However, after receiving public comment and for the reasons explained above, the committee recommends including this information on the applicable information sheets.

[33] Form GV-100 is not included in this report, and it was also not included in the invitation to comment.

DRAFT

Fiscal and Operational Impacts

The committee anticipates that this proposal will require courts to train court staff and judicial officers on the newly approved and revised forms. Courts will also incur costs to incorporate the revised forms into paper or electronic processes. The committee further anticipates potential operational impacts related to court findings and review hearings for other prohibited items like ammunition. These impacts are a necessary result of the new law.

Attachments and Links

1. Forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, CH-820, CH-830, CH-840, CH-850, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, EA-820, EA-830, EA-840, EA-850, GV-030, GV-100-INFO, GV-110, GV-116, GV-130, GV-820, GV-830, GV-840, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, WV-800-INFO, WV-820, WV-830, WV-840, and WV-850, at pages 17–195
2. Chart of comments, at pages 196–257
3. Link A: Sen. Bill 899 (Stats. 2024, ch. 544), *https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB899*

DRAFT

CH-109 Notice of Court Hearing

Clerk stamps date here when form is filed.

DRAFT

2025-07-21

Not approved by the Judicial Council

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.)*

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 ❶ :

- The court cannot make the restraining orders after the court hearing unless the person in ❷ has been personally given (served) a copy of your request and any temporary orders. To show that the person in ❷ 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 ❷ 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 ❷:

- 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 ❶.
- 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), firearm parts, and ammunition 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 courts.ca.gov/rules-forms/find-your-court-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

CH-110 Temporary Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

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 temporary orders indicated below:

Full Name	Gender	Age	Household Member?	Relation to Protected Person
			☐ Yes ☐ No	
			☐ Yes ☐ No	
			☐ Yes ☐ No	
			☐ Yes ☐ 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.

The court will complete the rest of this form.

(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 granted 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 be sent 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 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 5a(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. However, you may have your papers served by mail on the person in (1).

(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) ☐ The person in (1)
(2) ☐ Each person in (3)
(3) ☐ The home of the person in (1)
(4) ☐ The job or workplace of the person in (1)
(5) ☐ The school of the person in (1)
(6) ☐ The school of the children of the person in (1)
(7) ☐ The place of child care of the children of the person in (1)
(8) ☐ The vehicle of the person in (1)
(9) ☐ Other *(specify):*

b. This stay-away order does not prevent you from going to or from your home or place of employment.

(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 (7) b on the next page.

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), firearm parts, and ammunition 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), firearm parts, and ammunition have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, and Ammunition* (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 ☐ **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)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

b. **Ammunition**

	Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)				☐ *(date):*
(2)				☐ *(date):*
(3)				☐ *(date):*
(4)				☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "CH-110, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

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.

This is a Court Order.

10 ☐ Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance

In addition to the hearing listed on form CH-109, you must attend the court hearing listed below 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 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:

_____
_____
_____

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 them, or reside in their 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

☐ **Not Requested** ☐ **Denied Until the Hearing** ☐ **Granted as Follows** *(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.

This is a Court Order.

13 c. ☐ By the close of business on the date that this order is made, the person in (1) or their 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 **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.

15 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 (7)b 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), firearm parts, and ammunition that you have or control as stated in (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 (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 CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?,* to learn how to respond to this order.

This is a Court 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 courts.ca.gov/rules-forms/find-your-court-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 (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).)

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; Fam. Code, §§ 6383(h)(2), 6405(b)); Code Civ. Proc., § 527.12(d)(2)):

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 also be enforced.

2. *No-Contact Order:* If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. (5)a(2) is an example of a no-contact order.

3. *Criminal Protective Order (CPO):* If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2), 6405(b); Code Civ. Proc., § 527.12(d)(2).) 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 also 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 also 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.

CH-116 Order on Request to Continue Hearing

Clerk stamps date here when form is filed.

DRAFT

2025-07-21

Not approved by the Judicial Council

Complete (1) and (2) only.

(1) **Protected Party:** _____

(2) **Restrained Party:** _____

The court will complete the rest of this form

Fill in court name and street address:

Superior Court of California, County of

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 CH-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.

Hearing 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** because:

(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 (3) b.)

(2) ☐ The court changes the TRO previously granted and signs a new TRO (form CH-110).

Warning and Notice to the Restrained Party:
If (4) b is checked, a civil harassment restraining order has been issued against you. You must follow the orders until they expire.

c. ☐ Other *(specify)*: _____

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 restrained party.
   (2) ☐ Other: _____

b. ☐ This is the first time that the restrained party 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 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 this order and a copy of all documents listed on form CH-109, item 6, 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) ☐ The court gives you permission to serve the restrained party as listed on the attached form CH-117.

(5) ☐ Other: _____

b. ☐ **Restrained party**

(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.

Case Number:

7 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.

8 ☐ Other Orders

_____

_____

_____

_____

9 Number of pages attached to this order, if any: _____

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 courts.ca.gov/rules-forms/find-your-court-forms for *Disability Accommodation Request* (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-TCH)* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

CH-120 Response to Request for Civil Harassment Restraining Orders

Clerk stamps date here when form is filed.

DRAFT

2025-08-07

Not approved by the Judicial Council

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 their lawyer by mail with a copy of this form and any attached pages. *(Use form CH-250, Proof of Service by Mail.)*

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

Full name of person seeking protection *(see form CH-100, item 1)*:

(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 → 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 (12) on page 4.)*
c. ☐ I agree to the following orders *(Specify below or in (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 (12) on page 4.)*
c. ☐ I agree to the following orders *(specify below or in (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), firearm parts, and ammunition 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, Firearm Parts, and Ammunition* (form CH-800) for the receipt.

a. ☐ I do not own or control any firearms (guns), firearm parts, or ammunition.

b. ☐ I have turned in my firearms (guns), firearm parts, and ammunition to law enforcement or sold them to or stored them with a licensed gun dealer. A copy of the receipt

(1) ☐ is attached.

(2) ☐ has already been filed with the court.

c. ☐ I ask for an exception to carry a firearm or ammunition for work. *(Complete items (1)–(3) below):*

(1) Are you a sworn peace officer?

☐ No

☐ Yes

(2) Are there any orders or state or federal laws that prohibit you from having firearms or ammunition?

☐ No

☐ I don't know *(explain):*

_____

_____

_____

☐ Yes *(explain):*

_____

_____

_____

(3) *(Explain what your job is and why you need a firearm or ammunition):*

_____

_____

_____

(Note: You **must** follow any orders to turn in, sell, or store prohibited items until the judge decides whether to grant you an exception. Before an exception can be granted, you will be required to show the judge that (1) carrying a firearm or ammunition is required for your work, and (2) your employer is unable to reassign you to another position where carrying a firearm or ammunition is not necessary. There are other things you will need to prove. For more information on what you need to show the judge to qualify for this exception, go to selfhelp.courts.ca.gov/respond-to-CH-restraining-order/obey-firearms-orders/exception or see Code of Civil Procedure section 527.9(f).)

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 12 on page 4.)*

c. ☐ I agree to the following orders *(specify below or in 12 on page 4):*

9 ☐ Other Orders

a. ☐ I agree to the orders requested.

b. ☐ I do not agree to the orders requested. *(Specify why you disagree in 12 on page 4.)*

c. ☐ I agree to the following orders *(specify below or in 12 on page 4):*

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.

12 ☐ Reasons I Do Not Agree to the Orders Requested

Explain your answers to each order 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 12—Reasons I Disagree" as a title. You may use form MC-025,* Attachment.

Case Number:

13 ☐ No Fee for Filing

a. ☐ I request that I not be required to pay the filing fee because the person in (1) claims in form CH-100, item 13, to be entitled to free filing.

b. ☐ I request that I not be required to pay the filing fee because I am eligible for a fee waiver. *(Form FW-001, Request to Waive Court Fees, must be filed separately.)*

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:

Item	Amount	Item	Amount
	$		$
	$		$
	$		$

☐ *Check here if there are more items. Put the items and amounts on an 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 their 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.

Who can ask for a civil harassment restraining order?

A person who is worried about safety because they have been or are 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 courts.ca.gov/rules-forms/find-your-court-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.

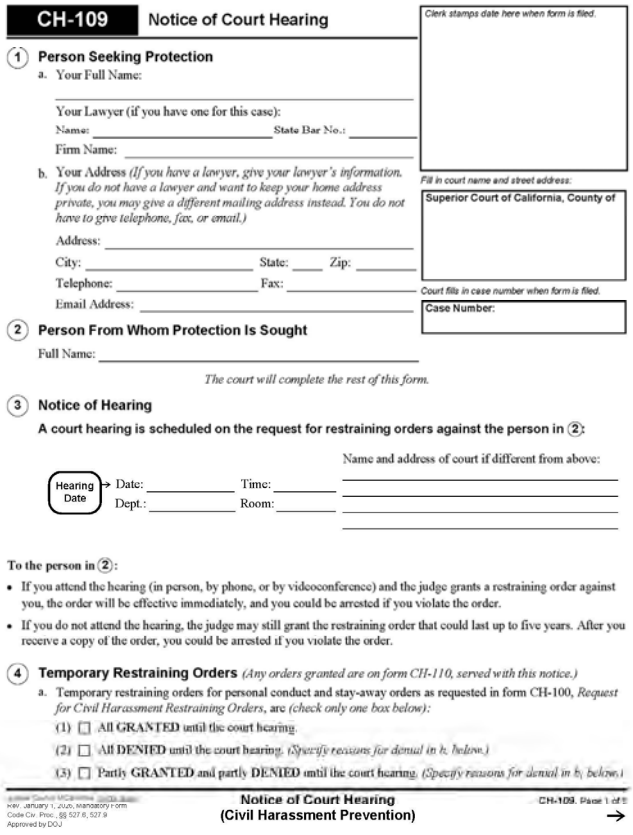
Do I have to serve the other person with a copy of my response?

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:

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 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.*)

Notice of Court Hearing
(Civil Harassment Prevention)
CH-109, Page 1 of 2

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 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.

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.

Information about the process is also available online.

See selfhelp.courts.ca.gov/CH-restraining-order.

For help in your area, contact:

[Local information may be inserted.]

What if I have a firearm (gun), firearm part, or ammunition?

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), firearm parts, or ammunition, you must sell it to or store it with a licensed gun dealer, or turn it in to a law enforcement agency.

What if I need to have a firearm or ammunition for my job?

If the judge grants a restraining order against you, you cannot have firearms or ammunition. The judge may give you permission to have a firearm or ammunition for work. Before permission can be granted, you will be required to show the judge that (1) carrying a firearm or ammunition is required for your work, and (2) your employer is unable to reassign you to another position where carrying a firearm or ammunition is not necessary. There are other things that you will have to prove. For more information, go to selfhelp.courts.ca.gov/respond-to-CH-restraining-order/obey-firearms-orders/exception, or see Code of Civil Procedure section 527.9(f).

What if I need to have body armor?

If you need to have and use body armor for your work, livelihood, or safety, you may ask for an exception with the chief of police or sheriff in the county where you will have and use the body armor (see Penal Code section 31360(c)).

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.*

CH-130 Civil Harassment Restraining Order After Hearing

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

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?
_____	_____	_____	☐ Yes ☐ No	_____
_____	_____	_____	☐ Yes ☐ No	_____
_____	_____	_____	☐ Yes ☐ No	_____
_____	_____	_____	☐ Yes ☐ 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.

(2) ☐ Each person in 3.

(3) ☐ The home of the person in 1.

(4) ☐ The job or workplace of the person in 1.

(5) ☐ The school of the person in 1.

(6) ☐ The school of the children of the person in 1.

(7) ☐ The place of child care of the children of the person in 1.

(8) ☐ The vehicle of the person in 1.

(9) ☐ 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 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), firearm parts, and ammunition 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), firearm parts, and ammunition have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, and Ammunition* (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. ☐ Permission to have firearm or ammunition for work: The judge has made the necessary findings to grant an exception under Code of Civil Procedure section 527.9(f). The orders are included on form CH-850, *Permission to Have Firearm or Ammunition for Work.*

9 ☐ 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)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

b. **Ammunition**

	Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)				☐ *(date):*
(2)				☐ *(date):*
(3)				☐ *(date):*
(4)				☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "CH-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 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 ☐ Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance

You must attend the court hearing listed below 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 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:
_____
_____
_____

13 ☐ Lawyer's Fees and Costs

The person in ___ must pay to the person in ___ the following amounts for

☐ lawyer's fees ☐ costs:

Item	Amount	Item	Amount
_____	$ _____	_____	$ _____
_____	$ _____	_____	$ _____

☐ Additional items and amounts are attached at the end of this order on Attachment 13.

This is a Court Order.

14 ☐ 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 them, or reside in their 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.

15 ☐ Other Orders *(specify):*

☐ Additional orders are attached at the end of this order on Attachment 15.

To the Person in (1):

16 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 their 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 16.

This is a Court Order.

17 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.

(3) ☐ The court has scheduled a firearms, firearms parts, 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 last known address of the person in 2 by *(date):* _____

18 ☐ 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.

19 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 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 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), firearm parts, and ammunition 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). 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 17), 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 had 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.

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 17) 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; Fam. Code, §§ 6383(h)(2), 6405(b); Code Civ. Proc., § 527.12(d)(2)):

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 also be enforced.
2. *No-Contact Order:* If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. 7 a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO):* If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2), 6405(b); Code Civ. Proc., § 527.12(d)(2).) 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 also 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 also 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

CH-200 Proof of Personal Service

Clerk stamps date here when form is filed.

DRAFT

2025-04-04

Not approved by the Judicial Council

1 Person Seeking Protection

Name: _____

2 Person From Whom Protection Is Sought

Name: _____

3 Notice to Server



The server must:

- Be 18 years of age or older.
- Not be listed in items 1 or 3 of form CH-100.
- 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 or mail it to the person in 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:

PROOF OF PERSONAL SERVICE

4 I gave the person in 2 a copy of the forms checked below:

a. ☐ CH-109, *Notice of Court Hearing*
b. ☐ CH-110, *Temporary Restraining Order*
c. ☐ CH-100, *Request for Civil Harassment Restraining Orders*
d. ☐ CH-120, *Response to Request for Civil Harassment Restraining Orders* (blank form)
e. ☐ CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?*
f. ☐ CH-130, *Civil Harassment Restraining Order After Hearing*
g. ☐ CH-250, *Proof of Service by Mail* (blank form)
h. ☐ CH-800, *Receipt for Firearms, Firearm Parts, and Ammunition* (blank form)
i. ☐ Other *(specify):* _____

5 I personally gave copies of the documents checked above to the person in 2:

a. On *(date):* _____ b. At *(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: _____

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*

CH-200-INFO What Is "Proof of Personal Service"?

What is "service"?

Service is the act of giving your court papers to the other party in your case. There are different ways to serve the other party: in person, by mail, and others.

Why do my court papers need to be served?

Before a judge can grant a civil harassment restraining order (which can last up to five years), the person you want a restraining order against must know about your request and have a chance to go to court to explain their side.

Also, if a restraining order is in place, the police cannot arrest the restrained person for violating the restraining order until the restrained person is served with the order.

What is "personal service"?

Personal service is when someone, known as a server, personally delivers your court papers to the other party.

In most cases, these forms must be served on the other party by personal service:

- Form CH-109;
- Form CH-100;
- Form CH-110;
- Form CH-120 (leave this form blank);
- Form CH-120-INFO; and
- Form CH-250 (leave this form blank).

Who can serve my court papers?

Any adult who is not protected by the restraining order can serve your court papers. **You cannot serve your own court papers.**

Some situations may be dangerous. Think about people's safety when deciding who you want to serve your papers.

A sheriff or marshal will serve your court papers for free if:

- The court granted you a fee waiver; or
- The restraining order is based on stalking, violence, or a credible threat of violence.

Another peace officer may also serve the orders for free. See selfhelp.courts.ca.gov/CH-restraining-order/sheriff-serves-request for additional information regarding free service by a sheriff, marshal, or other peace officer.

A registered process server is a business you pay to deliver papers. To hire a process server, look for "process server" on the internet or in the yellow pages.

How do I have my court papers served?

○ Step 1: Choose a server

The person who gives your court papers to the other party is called a server. Your server must be at least 18 years old. They must not be protected by the restraining order or involved in your case. This means that you cannot serve your own court papers.

○ Step 2: Have your server give your court papers to the other party

Give your server these instructions:

1. Before you serve the forms, note which forms you have, including the name of the form and the form number. See form CH-200 for a list of forms.
2. Find the person you need to serve. Make sure you are serving the right person by asking the person's name.
3. Give the person the papers. If the person refuses to take the papers, put them on the ground or somewhere next to the person. The person doesn't have to touch or sign for the papers. It is okay if they tear them up.
4. Fill out form CH-200 completely and sign.
5. File form CH-200 with the court or give form CH-200 to the person who is asking for the restraining order so they can file it.

○ Step 3: File proof with the court

The court needs proof that service happened and that it was done correctly. If your server was successful, have your server fully complete and sign form CH-200. **The person you want restrained does not sign anything.**

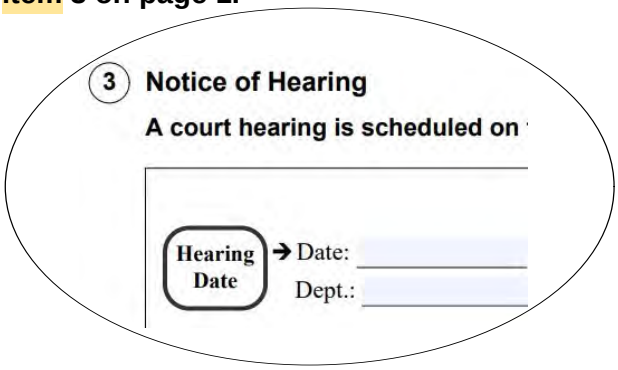
File form CH-200 with the court in your case as soon as possible. This information will automatically go into a restraining order database that police have access to.

If the sheriff or marshal served your court papers, they may use another form for proof besides form CH-200. Make sure a copy is filed with the court and that you get a copy.

When is the deadline to serve my court papers?

It depends. To know the exact date, you need to look at two items on form CH-109. Follow these steps:

◯ **Step 1: Look at the court date listed under item 3 on page 1.**



◯ **Step 2: Look at the court date listed under item 6 on page 2.**



◯ **Step 3: Look at a calendar**

Subtract the number of days in item 6 from the court date. That's the deadline to have your court papers served. It's okay to serve your court papers before the deadline.

If nothing is written in item 6, you must have your court papers served at least five days before your court date.

What happens if I can't get my court papers served before the court date?

You will need to ask the court to reschedule (continue) your court date. Fill out and file form CH-115 and form CH-116. These forms ask the judge for a new court date and to make any temporary orders last until the end of the new court date.

If the judge gives you a new court date, the person you want restrained will have to be served with form CH-115, form CH-116, **and** the original papers you filed. You should keep a copy of form CH-115, form CH-116, and a copy of your original paperwork. That way, the police will know your orders are still in effect.

For more information on asking for a new court date, read form CH-115-INFO.

What if the other party is avoiding (evading) service or cannot be located?

If you've tried many times to serve the restrained person, and you can show the judge that the restrained person is avoiding (evading) service or cannot be located, you may ask the court to allow you to serve another way. If you want to make this request, at your first court date tell the judge details about your attempts to have the restrained person served. The judge may require a written statement for this.

Read form CH-205-INFO, *What If the Person I Want Protection from Is Avoiding (Evading) Service or Cannot Be Located?,* for more information.

CH-800 Receipt for Firearms, Firearm Parts, and Ammunition

Clerk stamps date here when form is filed.

DRAFT

2025-07-21

Not approved by the Judicial Council

1 Petitioner

Name: _____

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. 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:

3 To the Restrained Person:

If a judge has ordered you to turn in, sell, or store your firearms (guns), ammunition, and 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)—use this form to prove to the judge that you have obeyed their orders. Take this form to a law enforcement officer or a licensed gun dealer to complete 4 or 5. For more information on how to properly turn in your items, read form CH-800-INFO, *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?*

4 To Law Enforcement

(Complete the section below. Keep a copy and give the original to the person in 2.)

Name of Law Enforcement Agency: _____

Name of Law Enforcement Agent: _____

Address: _____

Telephone: _____ Email Address: _____

Items Surrendered

a. Firearms, firearm parts, and ammunition transferred on:

Date: _____ Time: _____ ☐ a.m. ☐ p.m.

b. List of items *(List all the items surrendered by the person in 2. You may attach a separate form from your agency (e.g., a property report), use 6, or both. Check below if you have attached a separate form):*

☐ Separate form is attached. *(If it does not include all surrendered items, list additional items in 6.)*

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

▶ *Signature of law enforcement agent:* _____

Case Number:

5 To Licensed Gun Dealer

(Complete the section below. Keep a copy and give the original to the person in 2.)

Name of Licensed Gun Dealer: _____

License number: _____

Address: _____

Telephone: _____ Email Address: _____

Items Stored or Sold

a. Firearms, firearm parts, and ammunition transferred on:
Date: _____ Time: _____ ☐ a.m. ☐ p.m.

b. List of items *(List all the items surrendered by the person in 2. You may attach a separate form (e.g., Department of Justice's* Report of Firearms Acquisition*) or you may use 6. Check below if you have attached a separate form):*

☐ Separate form is attached. *(If it does not include all surrendered items, list additional items in 6.)*

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

▶ *Signature of licensed gun dealer:* _____

6 ☐ List of Items Surrendered

Firearms and firearm parts

	Make	Model	Serial number, if there is one	Sold	Stored	To be destroyed
(1)				☐	☐	☐
(2)				☐	☐	☐
(3)				☐	☐	☐
(4)				☐	☐	☐
(5)				☐	☐	☐
(6)				☐	☐	☐

Ammunition

	Brand	Type	Amount	Sold	Stored	To be destroyed
(1)				☐	☐	☐
(2)				☐	☐	☐
(3)				☐	☐	☐
(4)				☐	☐	☐
(5)				☐	☐	☐
(6)				☐	☐	☐

☐ *Check here if there is not enough space above for your answer. Use a separate sheet of paper to list other items. Write "CH-800, item 6" at the top, and attach it to this form.*

Case Number:

7 To the Restrained Person:

Besides the items listed on page 2 or in an attached form, do you have or own any other firearms (guns), firearm parts, or ammunition?

☐ No

☐ Yes *(If yes, check one of the boxes below):*

a. ☐ I filed a *Receipt for Firearms, Firearm Parts, and Ammunition* (form CH-800) or other proof for those items with the court on *(date):* _____

b. ☐ I am filing the proof for those firearms (guns), firearm parts, or ammunition along with this proof.

c. ☐ I have not yet filed the proof for the other firearms (guns), firearm parts, or ammunition.
(Explain why not):

_____
_____
_____
_____
_____
_____

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*

Your Next Steps

- After the form is complete, make two additional copies. Take the copies and original to the court clerk to file.
- Keep a copy for yourself.

Note that failure to file a receipt with the court is a violation of the court's order.

CH-800-INFO

How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?

What items do I need to turn in, sell, or store?

You must turn in, sell, or store all of the following prohibited items that you have or control:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- 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), which may also be called ghost guns; and
- Ammunition.

How do I properly turn in, sell, or store the prohibited items?

You must take them to:

- Law enforcement, who will accept all prohibited items and may store them or destroy them;

OR

- A licensed gun dealer, who can buy or store firearms. If you have firearm parts, call ahead for more information.

When do I have to turn in, sell, or store the prohibited items?

Immediately, if law enforcement asks you for the items. Otherwise, within 24 hours.

Who can I turn in, sell, or store the prohibited items with?

Only law enforcement or a licensed gun dealer. You cannot give your prohibited items to a family member, friend, or anyone else.

Where can I sell the prohibited items?

At a licensed gun dealer in your area. You can search the internet for "Gun Dealers" or "Firearms Dealers" to find one. Make sure the dealer is licensed.

Do I have to pay a fee to store prohibited items?

You may have to pay a fee. Contact your local law enforcement agency or a licensed gun dealer about fees and whether they have space to store your items.

How do I turn in the prohibited items to law enforcement?

Call your local law enforcement agency to ask about their procedures. Unload your firearms and take a copy of the court order with you.
Do not bring firearms to court.

If I turn in the prohibited items to law enforcement, how long will they keep them?

It depends. There are procedures for getting your firearms back after the restraining order has expired. Ask the law enforcement agency for more information.

After I turn in the prohibited items to law enforcement, can I change my mind?

Yes. You are allowed to sell firearms to a licensed gun dealer. To do so, the gun dealer must present a bill of sale to your local law enforcement agency. The law enforcement agency will give the licensed gun dealer the items that you are selling.

Do I have to prove that I have turned in, sold, or stored the prohibited items?

Yes. Within 48 hours you must file a receipt with the court showing that you have surrendered the prohibited items to a law enforcement agency or sold them to or stored them with a licensed gun dealer. You may use *Receipt for Firearms, Firearm Parts, and Ammunition* (form CH-800) for this purpose.

Additional Questions?

Contact an attorney for legal advice. Call your local law enforcement agency, for example, your city police or county sheriff, for their procedures.

Information about prohibited items and how to obey these orders is also available online.

See selfhelp.courts.ca.gov/respond-to-CH-restraining-order/obey-firearms-orders.

For help in your area, contact:

[Local information may be inserted.]

CH-820 Prohibited Items Finding and Orders

Case Number:

This form is attached to *(check one):* ☐ Form CH-110 ☐ Form CH-116 ☐ Other: _____

1 Restrained Person Has Prohibited Items

The court finds that the restrained person has prohibited items as follows:

a. ☐ Listed on form CH-110, *Temporary Restraining Order*

b. ☐ Listed below:

Firearms (guns) or firearm parts

Description *(include serial number, if known)*	Location, if known	Proof of compliance received by the court
(1)		☐ *(date):*
(2)		☐ *(date):*
(3)		☐ *(date):*
(4)		☐ *(date):*

Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "CH-820, 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 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 the front of this order:

_____

_____

_____

This is a Court Order.

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 Law Enforcement
The court will immediately notify the following law enforcement agency of this violation *(name of agency):*
_____

c. Notify Prosecutor
The court will immediately notify the following prosecuting agency of this violation *(prosecuting agency):* _____

This is a Court Order.

CH-830 Noncompliance With Firearms, Firearm Parts, and Ammunition Order

CONFIDENTIAL

Clerk stamps date here when form is filed.

DRAFT

2025-08-18

Not approved by the Judicial Council

This notice is provided to the agency or agencies listed below, as required by the Code of Civil Procedure.

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 Protected Person

Name: _____

2 Restrained Person

Name: _____

3 Restrained Person Has Not Complied with Surrendering Firearms (Guns), Firearm Parts, and Ammunition

The court has found that the person listed in 2 has firearms (guns), firearm parts, or ammunition in violation of a restraining order. The restraining order granted by the court is attached to this form.

(Check all that apply):

a. ☐ Notice to Law Enforcement Agency *(name of agency or agencies):*

_____

(Notice is provided pursuant to Code of Civil Procedure section 527.9(b).)

b. ☐ Notice to Prosecuting Agency *(name of agency):* _____

(Notice is provided pursuant to Code of Civil Procedure section 527.9(b).)

4 Number of pages attached to this form, if any: _____

Judicial Officer's Signature

Date: _____ _____

Judicial Officer

Case Number:

—Clerk's Certificate—

I certify that I am not a party to this case and that a true copy of *Noncompliance With Firearms, Firearm Parts, and Ammunition Order* (form CH-830) was sent to the agency or agencies listed on page 1:

a. ☐ **Law enforcement agency listed in ③ a**

(1) ☐ by fax, email, or other electronic means ☐ by personal delivery

(2) *(Phone number, email address, or address):*

_____

_____

(3) Date of transmission or delivery: _____

b. ☐ **Prosecuting agency listed in ③ b**

(1) ☐ by fax, email, or other electronic means ☐ by personal delivery

(2) *(Phone number, email address, or address):*

_____

_____

(3) Date of transmission or delivery: _____

[seal]

Date: _____

Clerk, by _____, Deputy

CH-840 Notice of Compliance Hearing for Firearms, Firearm Parts, and Ammunition

Clerk stamps date here when form is filed.

DRAFT

2025-08-18

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 Protected Person

(name): _____

2 Restrained Person

(name): _____

3 Notice of Compliance Hearing

To the person in 2:

The court has issued a civil harassment restraining order against you. You must attend the court hearing on the date and time listed below. At the hearing, you must prove that you have properly turned in, sold, or stored any firearms (guns), firearm parts, or ammunition that you have or own, as required in the restraining order and listed below in 4.

Date: _____ Dept.: _____

Time: _____ Room: _____

Name and address of court, if different from the one listed above:

_____

_____

_____

4 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 CH-800, *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.

This is a Court Order.

Case Number:

5 ☐ Restrained Person Has Prohibited Items

The court has found 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) _____	_____	☐ *(date):* _____
(2) _____	_____	☐ *(date):* _____
(3) _____	_____	☐ *(date):* _____
(4) _____	_____	☐ *(date):* _____

b. **Ammunition**

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	☐ *(date):* _____
(2) _____	_____	_____	☐ *(date):* _____
(3) _____	_____	_____	☐ *(date):* _____
(4) _____	_____	_____	☐ *(date):* _____

☐ Check here to list additional items. List them on a separate piece of paper, write "CH-840, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

6 ☐ Restrained Person Has Not Complied With Surrendering Prohibited Items

a. The court finds that you have 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 5.

b. Notify Law Enforcement
The court will immediately notify the following law enforcement agency of this violation *(name of agency):* .

c. Notify Prosecutor
The court will immediately notify the following prosecuting agency of this violation *(prosecuting agency):* _____.

7 ☐ Service

The person in 2 does not have notice of these orders. The person in 1 must have the person in 2 served by:

a. ☐ Personal service by *(date):* _____

b. ☐ Mail, at the person in 2's last known address by, *(date):* _____

Judicial Officer's Signature

Date: _____ _____
Judicial Officer

This is a Court Order.

CH-850 Permission to Have Firearm or Ammunition for Work

Case Number:

This form is attached to *(check one):* ☐ Form CH-130 ☐ Other: _____

1 Court Findings

The court finds that the restrained person *(name):* _____

a. Is required to carry a specific firearm or ammunition during scheduled work hours as a condition of their continued employment.

b. Cannot be reassigned by their employer to another position where having a firearm or ammunition is not needed.

c. Is not otherwise prohibited from having firearms or ammunition under state or federal law.

d. Does not pose an additional threat of harm to any protected person or the public by having access to a specific firearm or ammunition.

e. ☐ Is a sworn peace officer and:

(1) The court ordered and reviewed a completed psychological evaluation of the restrained person by a licensed mental health professional with domestic violence expertise; and

(2) The personal safety of the restrained person depends on their ability to carry a specific firearm or ammunition outside of scheduled work hours.

f. ☐ Is not a sworn peace officer and *(check (1) or (2)):*

(1) ☐ The court did not order the restrained person to complete a psychological evaluation.

(2) ☐ The court ordered and reviewed a completed psychological evaluation of the restrained person by a licensed mental health professional with domestic violence expertise.

g. ☐ Other

_____
_____
_____
_____

This is a Court Order.

2 Court Order

a. The restrained person is *(check one):*

(1) ☐ Not a sworn peace officer and may have the items listed in 2b only during scheduled work hours.

(2) ☐ A sworn peace officer and *(check one):*

(a) ☐ May have the items listed in 2b while on duty.

(b) ☐ May have the items listed in 2b while on or off duty.

b. This restraining order does not require the restrained person to relinquish the specific firearm or ammunition listed below:

☐ Firearm *(make):* _____ *(model):* _____ *(serial no.):* _____

☐ Ammunition *(description):* _____

Warning: The court orders listed above in 2 only apply to this restraining order. If you are prohibited from having a firearm or ammunition by another order or law, you may still be in violation of state or federal law.

This is a Court Order.

EA-100 Request for Elder or Dependent Adult Abuse Restraining Orders

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

Not approved by the Judicial Council

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.

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 their ability to carry out normal activities or protect their rights. *(Briefly describe limitations on an 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):*

Full Name	Gender	Age	Relation to person in 1?	Lives with person in 1?
				☐ Yes ☐ No
				☐ Yes ☐ No
				☐ Yes ☐ No
				☐ Yes ☐ 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 an attached sheet of paper or form MC-025 and write "Attachment 6b—Why Others Need Protection" for a title.*

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 an attached sheet of paper or form MC-025 and write "Attachment 7—Relationship of Parties" for a title.*

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 an 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 an 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 an 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 ☐ No

If yes, did they give the person in 1 or the person in 2 an Emergency Protective Order? ☐ Yes ☐ No

If 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 an 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 an 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) ☐ Elder or Dependent Adult Abuse			
(2) ☐ Civil Harassment			
(3) ☐ Domestic Violence			
(4) ☐ Divorce, Nullity, Legal Separation			
(5) ☐ Paternity, Parentage, Child Custody			
(6) ☐ Eviction			
(7) ☐ Guardianship			
(8) ☐ Workplace Violence			
(9) ☐ Small Claims			
(10) ☐ Criminal			
(11) ☐ Other *(specify):* _____			

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 an attached sheet of paper or form MC-025 and write "Attachment 11c—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.

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 they still be able to get to their 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 an attached sheet of paper or form MC-025 and write "Attachment 12b—Stay-Away Orders" for a title.*

_____

_____

_____

_____

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 an 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

ⓘ 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 (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 (2) attend clinical counseling or anger management courses.

☐ *Check here if there is not enough space for your answer. Put your complete answer on an 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) have 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).)

a. ☐ I don't know
b. ☐ No
c. ☐ Yes *(If you have information, complete the section below.)*

	Describe Firearms (Guns), Firearm Parts, or Ammunition	Number or Amount	Location, if known
(1)			
(2)			
(3)			
(4)			
(5)			
(6)			

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), firearm parts, and ammunition within the respondent's 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.

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 an attached sheet of paper or form MC-025 and write "Attachment 16—Temporary Restraining Order" for a title.*

This is not a Court Order.

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 an 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.*

	Money Owed To	For	Amount
(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 an 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:

Item	Amount	Item	Amount
	$		$
	$		$
	$		$

☐ *Check here if there are more items. Put the items and amounts on an 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.)

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 an attached sheet of paper or form MC-025 and write "Attachment 20a—Possession of Animals" for a title.*

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 an attached sheet of paper or form MC-025 and write "Attachment 22—Additional Orders Requested" for a title.*

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-109 Notice of Court Hearing

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

Not approved by the Judicial Council

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: _____

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 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 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 4 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?*

Case Number:

To the Person in ❷ :

- 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 ❶ .
- 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), firearm parts, and ammunition 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 courts.ca.gov/rules-forms/find-your-court-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

EA-110 Temporary Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

Not approved by the Judicial Council

Person in (1) must complete (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: _____

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
			☐ 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 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).

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

(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 person in 1

(6) ☐ Other *(specify):*

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):*

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), firearm parts, and ammunition 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), firearm parts, and ammunition have been turned in, sold, or stored. (You may use form EA-800, *Receipt for Firearms, Firearm Parts, and Ammunition*, for the receipt.)

d. ☐ The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

9 ☐ 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)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

b. **Ammunition**

	Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)				☐ *(date):*
(2)				☐ *(date):*
(3)				☐ *(date):*
(4)				☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "EA-110, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

10 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.

This is a Court Order.

11 ☐ Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance

In addition to the hearing listed on form EA-109, you must attend the court hearing listed below 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 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:

_____
_____
_____

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

☐ **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 them, or reside in their 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.

14 Other Orders

☐ **Not Requested** ☐ **Denied Until the Hearing** ☐ **Granted as Follows** *(specify):*

_____
_____
_____
_____
_____

☐ Additional orders are attached at the end of this order on Attachment 14.

This is a Court Order.

To the Person in 1 :

15 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)*

☐ Additional law enforcement agencies are listed at the end of this order on Attachment 15.

16 No Fee to Serve (Notify) Restrained Person

If the sheriff or marshal serves this order, the sheriff or marshal will do so for free.

17 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

If the court grants the orders in 8, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in 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), firearm parts, and ammunition that you have or control as stated in 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 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 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 courts.ca.gov/rules-forms/find-your-court-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.

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 (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.

This is a Court Order.

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; Fam. Code, §§ 6383(h)(2), 6405(b); Code Civ. Proc., § 527.12(d)(2)):

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 also be enforced.
2. *No-Contact Order:* If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. ⑤a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO):* If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2), 6405(b); Code Civ. Proc., § 527.12(d)(2).) 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 also 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 also 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.

EA-116 Order on Request to Continue Hearing

Clerk stamps date here when form is filed.

DRAFT

2025-08-26

Not approved by the Judicial Council

Complete (1) and (2) only.

(1) **Protected Party:** _____

(2) **Restrained Party:** _____

The court will complete the rest of this form

Fill in court name and street address:

Superior Court of California, County of

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 EA-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** because:

(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 (3)b.)

(2) ☐ The court changes the TRO previously granted and signs a new TRO (form EA-110).

Warning and Notice to the Restrained Party:
If (4)b is checked, an elder or dependent abuse restraining order has been issued against you. You must follow the orders until they expire.

c. ☐ Other *(specify)*: _____

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 restrained party.
   (2) ☐ Other: _____

b. ☐ This is the first time that the restrained party 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**	b. ☐ **Restrained party**	c. ☐ **Court**
(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.	(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.	(1) ☐ Further notice is not required.
(2) ☐ You must have the restrained party personally served with a copy of this order and a copy of all documents listed on form EA-109, item 5, by *(date)*: _____	(2) ☐ You must have the protected party personally served with a copy of this order 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) ☐ You must have the protected party served with a copy of this order. This can be done by mail. You must serve by *(date)*: _____	(3) ☐ Other: _____
(4) ☐ Other: _____	(4) ☐ Other: _____	

This is a Court Order.

Case Number:

7 No Fee to Serve

The sheriff or marshal will serve this order for **free**.
Bring a copy of all the papers that need to be served to the sheriff or marshal.

8 ☐ Other Orders

_____

_____

_____

_____

9 Number of pages attached to this order, if any: _____

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 courts.ca.gov/rules-forms/find-your-court-forms 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-TEA or TEF) (form EA-116) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

EA-120

Response to Request for Elder or Dependent Adult Abuse Restraining Orders

Clerk stamps date here when form is filed.

DRAFT

2025-08-07

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.)*

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

Name: _____

☐ Name of person asking for the protection, if different *(This is the person named in item 3 of the request (form EA-100).)*

_____

(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 (15) on page 5.)*

c. ☐ I agree to the following orders *(specify below or in (15) on page 5):*

_____

_____

(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 (15) on page 5.)*

c. ☐ I agree to the following orders *(specify below or in (15) on page 5):*

_____

_____

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 15 on page 5.)*

c. ☐ I agree to the following orders *(specify below or in 15 on page 5):*

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

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 15 on page 5.)*

c. ☐ I agree to the following orders *(specify below or in 15 on page 5):*

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), firearm parts, and ammunition 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, Firearm Parts, and Ammunition*, for the receipt.

a. ☐ I do not own or control any firearms (guns), firearm parts, or ammunition.

b. ☐ I have turned in my firearms (guns), firearm parts, and ammunition to law enforcement or sold them to or stored them with a licensed gun dealer. A copy of the receipt

(1) ☐ is attached.

(2) ☐ has already been filed with the court.

c. ☐ I ask for an exception to carry a firearm or ammunition for work. *(Complete items (1)–(3) below):*

(1) Are you a sworn peace officer?

☐ No

☐ Yes

8 c. (2) Are there any orders or state or federal laws that prohibit you from having firearms or ammunition?

☐ No

☐ I don't know *(explain):*

_____

_____

_____

☐ Yes *(explain):*

_____

_____

_____

(3) *(Explain what your job is and why you need a firearm or ammunition):*

_____

_____

_____

(Note: You **must** follow any orders to turn in, sell, or store prohibited items until the judge decides whether to grant you an exception. Before an exception can be granted, you will be required to show the judge that (1) carrying a firearm or ammunition is required for your work, and (2) your employer is unable to reassign you to another position where carrying a firearm or ammunition is not necessary. There are other things you will need to prove. For more information on what you need to show the judge to qualify for this exception, go to selfhelp.courts.ca.gov/respond-to-EA-restraining-order/obey-firearms-orders/exception or see Code of Civil Procedure section 527.9(f).)

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* 15 *on page 5.)*

c. ☐ I agree to the following findings *(specify below or in* 15 *on page 5):*

_____

_____

Case Number:

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 15 on page 5.)*

c. ☐ I agree to the following orders *(specify below or in 15 on page 5):*

12 ☐ Other Orders

a. ☐ I agree to the orders requested.

b. ☐ I do not agree to the orders requested. *(Specify why you disagree in 15 on page 5.)*

c. ☐ I agree to the following orders *(specify below or in 15 on page 5):*

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.

Case Number:

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.

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:

Item	Amount	Item	Amount
	$		$
	$		$
	$		$

☐ *Check here if there are more items. Put the items and amounts on an 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 their 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.

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 courts.ca.gov/rules-forms/find-your-court-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.

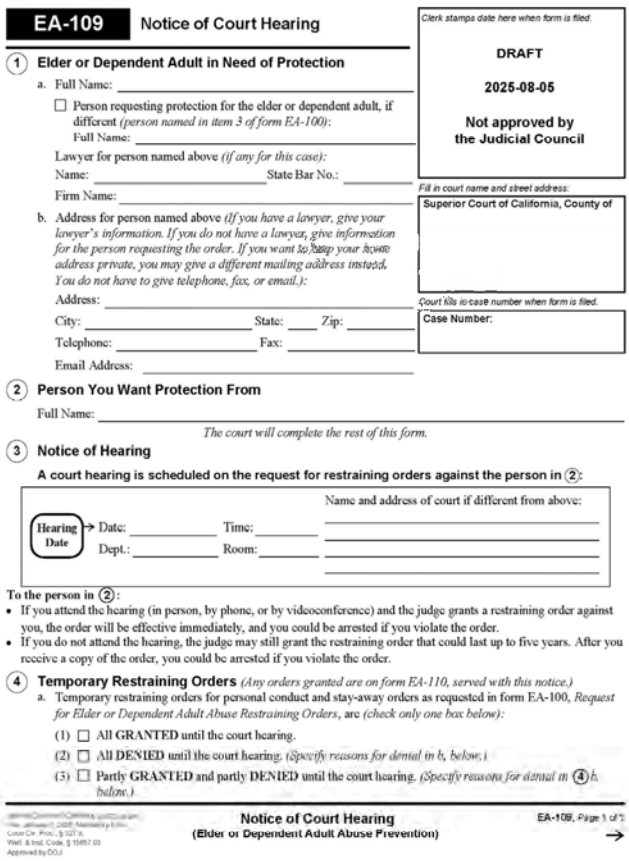
What if I have a disability?

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, read form MC-410-INFO, *How to Request a Disability Accommodation for Court.*

EA-120-INFO How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?

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.
DRAFT
2025-08-05
Not approved by the Judicial Council

(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:

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 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 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 (4) b. below.*)

Notice of Court Hearing
(Elder or Dependent Adult Abuse Prevention)
EA-109, Page 1 of 2

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 the person 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 firearm (gun), firearm part, or ammunition?

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), firearm parts, or ammunition, you must sell it to or store it with a licensed gun dealer or turn it in to a law enforcement agency.

What if I need to have a firearm or ammunition for my job?

If the judge grants a restraining order against you, you cannot have firearms or ammunition. The judge may give you permission to have a firearm or ammunition for work. Before permission can be granted, you will be required to show the judge that (1) carrying a firearm or ammunition is required for your work, and (2) your employer is unable to reassign you to another position where carrying a firearm or ammunition is not necessary. There are other things that you will have to prove. For more information, go to selfhelp.courts.ca.gov/respond-to-EA-restraining-order/obey-firearms-orders/exception, or see Code of Civil Procedure section 527.9(f).

What if I need to have body armor?

If you need to have and use body armor for your work, livelihood, or safety, you may ask for an exception with the chief of police or sheriff in the county where you will have and use the body armor (see Penal Code section 31360(c)).

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.

Information about the process is also available online.

See selfhelp.courts.ca.gov/EA-restraining-order.

For help in your area, contact:

[Local information may be inserted.]

EA-130 Elder or Dependent Adult Abuse Restraining Order After Hearing

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

Not approved by the Judicial Council

Person in (1) must complete (1), (2), and (3) only.

(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: _____

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 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.

Case Number:

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:

- 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), firearm parts, and ammunition 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), firearm parts, and ammunition have been turned in, sold, or stored. (You may use form EA-800, *Receipt for Firearms, Firearm Parts, and Ammunition* 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. ☐ Permission to have firearm or ammunition for work: The judge has made the necessary findings to grant an exception under Code of Civil Procedure section 527.9(f). The orders are included on form EA-850, *Permission to Have Firearm or Ammunition for Work.*

11 ☐ 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)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

b. **Ammunition**

	Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)				☐ *(date):*
(2)				☐ *(date):*
(3)				☐ *(date):*
(4)				☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "EA-130, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

12 ☐ 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 **11**.

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):* _____

13 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.

This is a Court Order.

Case Number:

14 ☐ Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance

You must attend the court hearing listed below to prove that you have properly turned in, sold, or stored all prohibited items (described in 10 b) you still have or own, including any items listed in 11. 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.

Name and address of court, if different than court address listed on page 1:

Date: _____ Dept.: _____

Time: _____ Room: _____

15 Financial Abuse

This case ☐ does **not** ☐ does involve **solely financial abuse** unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

16 ☐ 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 them, or reside in their 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.

17 ☐ 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.

Money Owed To:	For:	Amount:
		$
		$
		$

☐ Additional debts are attached at the end of this order on Attachment 17.

18 ☐ Lawyer's Fees and Costs

You must pay to the person in 1 the following amounts for ☐ lawyer's fees ☐ costs:

Item	Amount	Item	Amount
	$		$
	$		$

☐ Additional amounts are attached at the end of this order on Attachment 18.

This is a Court Order.

Case Number:

19 ☐ **Other Orders** *(specify):*

_____

_____

_____

_____

_____

☐ Additional orders are attached at the end of this order on Attachment 19.

To the Person in 1 :

20 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 Agency	Address *(City, State, Zip)*

☐ Additional law enforcement agencies are listed at the end of this order on Attachment 20.

21 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.

(3) ☐ The court has scheduled a firearms, firearms parts, 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 last known address of the person in 2 by *(date):* _____

This is a Court Order.

22 **No Fee to Serve (Notify) Restrained Person**
If the sheriff or marshal serves this order, they will do so for free.

23 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

If the court grants the orders in 10 on page 3 (unless 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 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), firearm parts, or ammunition 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 21), 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 6. 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 21) 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.

This is a Court Order.

Case Number:

Instructions for Law Enforcement

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; Fam. Code §§ 6383(h)(2), 6405(b); Code Civ. Proc., § 527.12(d)(2)):

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 also be enforced.
2. *No-Contact Order:* If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. (7)a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO):* If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2), 6405(b); Code Civ. Proc., § 527.12(d)(2).) 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 also 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 also 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

EA-200-INFO What Is "Proof of Personal Service"?

What is "Service"?

Service is the act of giving your legal papers to the other party. There are many kinds of service—in person, by mail, and others. This form is about personal or "in-person" service. The following types of restraining order forms must be served "in person": *Request for Elder or Dependent Adult Abuse Restraining Orders* (form EA-100), *Notice of Court Hearing* (form EA-109), *Temporary Restraining Order* (form EA-110), *Request for Elder or Dependent Adult Restraining Order Allowing Contact* (form EA-300), and *Notice of Court Hearing to Allow Contact* (form EA-309). That means that someone must personally serve (give) a copy of the forms to the person to be restrained. These forms cannot be served by mail.

Service lets the other person know:

- What orders you are asking for
- The hearing date
- How to respond

Why do I have to get the orders served?

- The police cannot arrest anyone for violating an order unless that person knows about the order.
- The judge cannot make the orders permanent unless the restrained person was served.



Don't serve it by mail!

Who can serve?

Ask someone you know, a process server, or a law enforcement agency to personally serve (give) a copy of the forms to the person to be restrained. You **cannot** send the forms to that person by mail. The server must:

- Be 18 years of age or older
- Not be you or anyone whom you are asking to be protected by the orders.

The sheriff or marshal may be authorized to serve the court's orders **for free.** Another peace officer may also serve the orders for free. See selfhelp.courts.ca.gov/EA-restraining-order/sheriff-serves-request for additional information regarding free service by a sheriff, marshal, or other peace officer.

A "registered process server" is a business you pay to deliver court forms. Look for "Process Serving" in the Yellow Pages or on the internet. (If a law enforcement agency or the process server uses a different proof of service form, make sure it lists the forms served.)

How to serve

Ask the server to:

- Walk up to the person to be served.
- Make sure it is the right person. Ask the person's name.
- Give the person copies of all papers checked on form EA-200, *Proof of Personal Service*.
- Fill out and sign the *Proof of Personal Service* form.
- Give the signed *Proof of Personal Service* to you.

What if the person won't take the papers or tears them up?

- If the person won't take the papers, just leave them near the person.
- It doesn't matter if the person tears them up. Service is still complete.

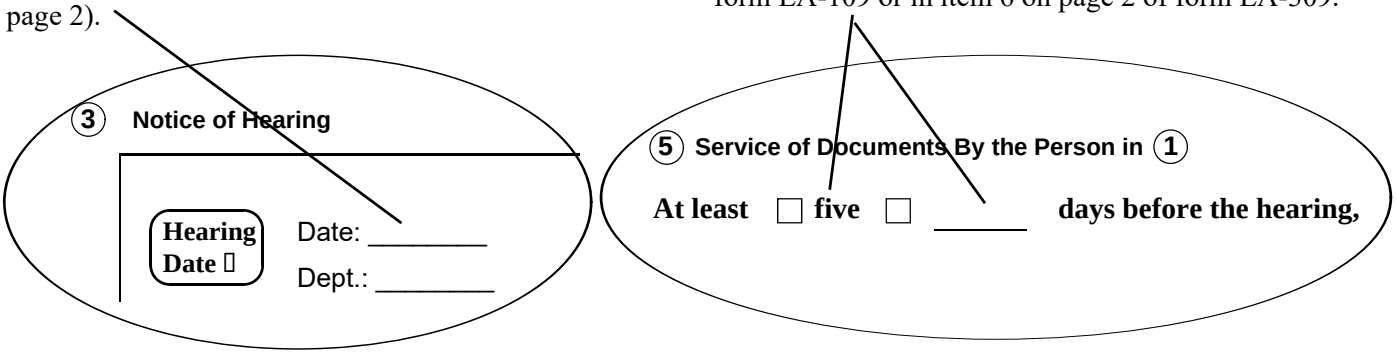
EA-200-INFO What Is "Proof of Personal Service"?

When do the orders have to be served?

It depends. To know the exact date, you have to look at two things on form EA-109, *Notice of Court Hearing* or form EA-309, *Notice of Court Hearing to Allow Contact* :

First, look at the hearing date on form EA-109 (item 3 on page 1) or form EA-309 (item 5 on page 2).

Next, look at the number of days in item 5 on page 2 of form EA-109 or in item 6 on page 2 of form EA-309.



Look at a calendar. Subtract the number of days in item 5 on form EA-109 or the number of days in item 6 on form EA-309 from the hearing date. That is the final date to have the orders served. It is always okay to serve earlier than that date. If nothing is checked or written in item 5 on form EA-109 or item 6 on form EA-309, you must serve the orders at least five days before the hearing.

Who signs the *Proof of Personal Service*?

Only the person who serves the forms can sign form EA-200, *Proof of Personal Service*. You do not sign it; the restrained person does not need to sign it.

What do I do with the completed *Proof of Personal Service*?

If someone other than the sheriff serves the papers, you should:

- Make several copies.
- File the original with the court before your hearing.
- Bring a copy of the completed *Proof of Personal Service* to your hearing.
- Ask the clerk to enter the *Proof of Personal Service* (unless for form EA-300) into the California Law Enforcement Telecommunications System (CLETS), a special computer system that lets police all over the state find out about the orders protecting you.
- If the clerk tells you that the court cannot enter it into the computer, take a copy of the *Temporary Restraining Order* (form EA-110) and *Proof of Personal Service* (form EA-200) to your local police. They will put the information into the state computer system. That way, police all over the state will know that your restraining order has been served.
- Always keep an extra copy of the restraining orders with you for your safety.
- **Note: Restraining orders to allow contact (which use the EA-300 form series) are not entered into CLETS.**

If the sheriff or another peace officer serves the papers, they will send proof of service to the court for you. The sheriff will also send proof of service to CLETS for you.

What happens if I can't get the orders served before the hearing date?

Before your hearing, fill out and file form EA-115, *Request to Continue Court Hearing* (or form EA-315, if you are trying to serve forms EA-300 or EA-309). This form asks the court for a new hearing date and makes your orders last until then. Ask the clerk for the form. After the court has reissued the orders, attach a copy of form EA-116, *Order on Request to Continue Hearing,* (or form EA-316) to a copy of your original orders. Ask the clerk to enter form EA-116 into CLETS, or the clerk may ask you or your attorney to deliver a copy to the police. That way, the police will know your orders are still in effect.

EA-716 Order to Reschedule Hearing to Renew Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-07-22

Not approved by the Judicial Council

(Complete ① and ② only. The court will complete the rest of this form.)

① **Protected Party:** _____

② **Restrained Party:** _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

③ Next Court Date

a. ☐ **Denied:** The request to reschedule the court date is denied.

Your court date is: _____

(1) The *Elder or Dependent Adult Abuse Restraining Order After Hearing* (EA-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:

_____

_____

_____

Warning and Notice to the Restrained Party:
You must obey the restraining order while it is in effect.

This is a Court Order.

Case Number:

4 Reason Court Date Is Rescheduled

a. ☐ The protected party 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. ☐ **Protected party**

(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 EA-710, item 4, 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 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.

6 No Fee to Serve

The sheriff or marshal will serve this order for **free**.
Bring a copy of all the papers that need to be served to the sheriff or marshal.

7 ☐ Other Orders

_____

_____

_____

_____

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 courts.ca.gov/rules-forms/find-your-court-forms 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 EA-716) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

EA-800 Receipt for Firearms, Firearm Parts, and Ammunition

Clerk stamps date here when form is filed.

DRAFT

2025-07-22

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 Protected Person

Name: _____

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. 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 To the Restrained Person:

If a judge has ordered you to turn in, sell, or store your firearms (guns), ammunition, and 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)—use this form to prove to the judge that you have obeyed their orders. Take this form to a law enforcement officer or a licensed gun dealer to complete 4 or 5. For more information on how to properly turn in your items, read form EA-800-INFO, *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?*

4 To Law Enforcement

(Complete the section below. Keep a copy and give the original to the person in 2.)

Name of Law Enforcement Agency: _____

Name of Law Enforcement Agent: _____

Address: _____

Telephone: _____ Email Address: _____

Items Surrendered

a. Firearms, firearm parts, and ammunition transferred on:
Date: _____ Time: _____ ☐ a.m. ☐ p.m.

b. List of items *(List all the items surrendered by the person in 2. You may attach a separate form from your agency (e.g., a property report), use 6, or both. Check below if you have attached a separate form):*

☐ Separate form is attached. *(If it does not include all surrendered items, list additional items in 6.)*

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

▶ *Signature of law enforcement agent:* _____

Case Number:

5 To Licensed Gun Dealer

(Complete the section below. Keep a copy and give the original to the person in 2.)

Name of Licensed Gun Dealer: _____

License number: _____

Address: _____

Telephone: _____ Email Address: _____

Items Stored or Sold

a. Firearms, firearm parts, and ammunition transferred on:
Date: _____ Time: _____ ☐ a.m. ☐ p.m.

b. List of items *(List all the items surrendered by the person in 2. You may attach a separate form (e.g., Department of Justice's* Report of Firearms Acquisition*) or you may use 6. Check below if you have attached a separate form):*

☐ Separate form is attached. *(If it does not include all surrendered items, list additional items in 6.)*

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

▶ *Signature of licensed gun dealer* _____

6 ☐ List of Items Surrendered

Firearms and firearm parts

	Make	Model	Serial number, if there is one	Sold	Stored	To be destroyed
(1)				☐	☐	☐
(2)				☐	☐	☐
(3)				☐	☐	☐
(4)				☐	☐	☐
(5)				☐	☐	☐
(6)				☐	☐	☐

Ammunition

	Brand	Type	Amount	Sold	Stored	To be destroyed
(1)				☐	☐	☐
(2)				☐	☐	☐
(3)				☐	☐	☐
(4)				☐	☐	☐
(5)				☐	☐	☐
(6)				☐	☐	☐

☐ *Check here if there is not enough space above for your answer. Use a separate sheet of paper to list other items. Write "EA-800, item 6" at the top, and attach it to this form.*

Case Number:

7 To the Restrained Person:

Besides the items listed on page 2 or in an attached form, do you have or own any other firearms (guns), firearm parts, or ammunition?

☐ No

☐ Yes *(If yes, check one of the boxes below):*

a. ☐ I filed a *Receipt for Firearms, Firearm Parts, and Ammunition* (form EA-800) or other proof for those items with the court on *(date):* _____

b. ☐ I am filing the proof for those firearms (guns), firearm parts, or ammunition along with this proof.

c. ☐ I have not yet filed the proof for the other firearms (guns), firearm parts, or ammunition. *(Explain why not):*

_____

_____

_____

_____

_____

_____

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*

Your Next Steps

- After the form is complete, make two additional copies. Take the copies and original to the court clerk to file.
- Keep a copy for yourself.

Note that failure to file a receipt with the court is a violation of the court's order.

EA-800-INFO How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?

What items do I need to turn in, sell, or store?

You must turn in, sell, or store all of the following prohibited items that you have or control:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- 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), which may also be called ghost guns; and
- Ammunition.

How do I properly turn in, sell, or store the prohibited items?

You must take them to:

- Law enforcement, who will accept all prohibited items and may store them or destroy them;

OR

- A licensed gun dealer, who can buy or store firearms. If you have firearm parts, call ahead for more information.

When do I have to turn in, sell, or store the prohibited items?

Immediately, if law enforcement asks you for the items. Otherwise, within 24 hours.

Who can I turn in, sell, or store the prohibited items with?

Only law enforcement or a licensed gun dealer. You cannot give your prohibited items to a family member, friend, or anyone else.

Where can I sell the prohibited items?

At a licensed gun dealer in your area. You can search the internet for "Gun Dealers" or "Firearms Dealers" to find one. Make sure the dealer is licensed.

Do I have to pay a fee to store prohibited items?

You may have to pay a fee. Contact your local law enforcement agency or a licensed gun dealer about fees and whether they have space to store your items.

How do I turn in the prohibited items to law enforcement?

Call your local law enforcement agency to ask about their procedures. Unload your firearms and take a copy of the court order with you.
Do not bring firearms to court.

If I turn in the prohibited items to law enforcement, how long will they keep them?

It depends. There are procedures for getting your firearms back after the restraining order has expired. Ask the law enforcement agency for more information.

After I turn in the prohibited items to law enforcement, can I change my mind?

Yes. You are allowed to sell firearms to a licensed gun dealer. To do so, the gun dealer must present a bill of sale to your local law enforcement agency. The law enforcement agency will give the licensed gun dealer the items that you are selling.

Do I have to prove that I have turned in, sold, or stored the prohibited items?

Yes. Within 48 hours you must file a receipt with the court showing that you have surrendered the prohibited items to a law enforcement agency or sold them to or stored them with a licensed gun dealer. You may use *Receipt for Firearms, Firearm Parts, and Ammunition* (form EA-800) for this purpose.

Additional Questions?

Contact an attorney for legal advice. Call your local law enforcement agency, for example, your city police or county sheriff for their procedures.

Information about prohibited items and how to obey these orders is also available online.

See selfhelp.courts.ca.gov/respond-to-EA-restraining-order/obey-firearms-orders.

For help in your area, contact:

[Local information may be inserted.]

EA-820 Prohibited Items Finding and Orders

Case Number:

This form is attached to *(check one):* ☐ Form EA-110 ☐ Form EA-116 ☐ Other: _____

1 Restrained Person Has Prohibited Items

The court finds that the restrained person has prohibited items as follows:

a. ☐ Listed on form EA-110, *Temporary Restraining Order*

b. ☐ Listed below:

Firearms and/or firearm parts

	Description *(include serial number, if known)*	Location, if known	Proof of compliance received by the court
(1)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

Ammunition

	Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)				☐ *(date):*
(2)				☐ *(date):*
(3)				☐ *(date):*
(4)				☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "EA-820, 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 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 the front of this order:

_____

This is a Court Order.

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 Law Enforcement

The court will immediately notify the following law enforcement agency of this violation *(name of agency):*

_____

c. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation *(prosecuting agency):* _____.

This is a Court Order.

EA-830 Noncompliance With Firearms, Firearm Parts, and Ammunition Order

CONFIDENTIAL

Clerk stamps date here when form is filed.

This notice is provided to the agency or agencies listed below, as required by the Code of Civil Procedure.

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 Protected Person

Name: _____

2 Restrained Person

Name: _____

3 Restrained Person Has Not Complied with Surrendering Firearms (Guns), Firearm Parts, and Ammunition

The court has found that the person listed in 2 has firearms (guns), firearm parts, or ammunition in violation of a restraining order. The restraining order granted by the court is attached to this form.

(Check all that apply):

a. ☐ Notice to Law Enforcement Agency *(name of agency or agencies):*

_____

(Notice is provided pursuant to Code of Civil Procedure section 527.9(b).)

b. ☐ Notice to Prosecuting Agency *(name of agency):* _____

(Notice is provided pursuant to Code of Civil Procedure section 527.9(b).)

4 Number of pages attached to this form, if any: _____

Judicial Officer's Signature

Date: _____

_____

Judicial Officer

Case Number:

—Clerk's Certificate—

I certify that I am not a party to this case and that a true copy of *Noncompliance With Firearms, Firearm Parts, and Ammunition Order* (form EA-830) was sent to the agency or agencies listed on page 1:

a. ☐ **Law enforcement agency listed in ③ a**

(1) ☐ by fax, email, or other electronic means ☐ by personal delivery

(2) *(Phone number, email address, or address):*

_____

_____

(3) Date of transmission or delivery: _____

b. ☐ **Prosecuting agency listed in ③ b**

(1) ☐ by fax, email, or other electronic means ☐ by personal delivery

(2) *(Phone number, email address, or address):*

_____

_____

(3) Date of transmission or delivery: _____

Clerk's Certificate

[seal]

Date: _____

Clerk, by _____, Deputy

EA-840

Notice of Compliance Hearing for Firearms, Firearm Parts, and Ammunition

Clerk stamps date here when form is filed.

DRAFT

2025-08-18

Not approved by the Judicial Council

1 Protected Person

(name): _____

2 Restrained Person

(name): _____

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 Notice of Compliance Hearing

To the person in 2:

The court has issued an elder or dependent adult abuse restraining order against you. You must attend the court hearing on the date and time listed below. At the hearing, you must prove that you have properly turned in, sold, or stored any firearms (guns), firearm parts, or ammunition that you have or own, as required in the restraining order and listed below in 4.



Date: _____ Dept.: _____

Time: _____ Room: _____

Name and address of court, if different from the one listed above:

_____

_____

_____

4 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 EA-800, *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.

This is a Court Order.

Case Number:

5 ☐ Restrained Person Has Prohibited Items

The court has found 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)		☐ *(date):*
(2)		☐ *(date):*
(3)		☐ *(date):*
(4)		☐ *(date):*

b. **Ammunition**

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "EA-840, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

6 ☐ Restrained Person Has Not Complied With Surrendering Prohibited Items

a. The court finds that you have 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 5.

b. Notify Law Enforcement
The court will immediately notify the following law enforcement agency of this violation *(name of agency):*
.

c. Notify Prosecutor
The court will immediately notify the following prosecuting agency of this violation *(prosecuting agency):* _____.

7 ☐ Service

The person in 2 does not have notice of these orders. The person in 1 must have the person in 2 served by:

a. ☐ Personal service by *(date):* _____

b. ☐ Mail, at the person in 2's last known address, by *(date):* _____

Judicial Officer's Signature

Date: _____ _____
Judicial Officer

This is a Court Order.

EA-850 Permission to Have Firearm or Ammunition for Work

Case Number:

This form is attached to *(check one):* ☐ Form EA-130 ☐ Other: _____

1 Court Findings

The court finds that the restrained person *(name):* _____

a. Is required to carry a specific firearm or ammunition during scheduled work hours as a condition of their continued employment.

b. Cannot be reassigned by their employer to another position where having a firearm or ammunition is not needed.

c. Is not otherwise prohibited from having firearms or ammunition under state or federal law.

d. Does not pose an additional threat of harm to any protected person or the public by having access to a specific firearm or ammunition.

e. ☐ Is a sworn peace officer and:

(1) The court ordered and reviewed a completed psychological evaluation of the restrained person by a licensed mental health professional with domestic violence expertise; and

(2) The personal safety of the restrained person depends on their ability to carry a specific firearm or ammunition outside of scheduled work hours.

f. ☐ Is not a sworn peace officer and *(check (1) or (2)):*

(1) ☐ The court did not order the restrained person to complete a psychological evaluation.

(2) ☐ The court ordered and reviewed a completed psychological evaluation of the restrained person by a licensed mental health professional with domestic violence expertise.

g. ☐ Other

_____

_____

_____

_____

This is a Court Order.

(2) Court Order

a. The restrained person is *(check one):*

(1) ☐ Not a sworn peace officer and may have the items listed in (2)b only during scheduled work hours.

(2) ☐ A sworn peace officer and *(check one):*

(a) ☐ May have the items listed in (2)b while on duty.

(b) ☐ May have the items listed in (2)b while on or off duty.

b. This restraining order does not require the restrained person to relinquish the specific firearm or ammunition listed below:

☐ Firearm *(make):* _____ *(model):* _____ *(serial no.):* _____

☐ Ammunition *(description):* _____

Warning: The court orders listed above in (2) only apply to this restraining order. If you are prohibited from having a firearm or ammunition by another order or law, you may still be in violation of state or federal law.

This is a Court Order.

GV-030 Gun Violence Restraining Order After Hearing on EPO-002

The court will complete this form.

Clerk stamps date here when form is filed.

DRAFT

2025-08-07

Not approved by the Judicial Council

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:

_____

_____

Fill in court name and street address:

Superior Court of California, County of

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: _____

Court fills in case number when form is filed.

Case Number:

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 themself 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 facts as stated in the *Gun Violence Emergency Protective Order* (form EPO-002) and supporting evidence 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.

☐ 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 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 ☐ Restrained Person Has Prohibited Items

The court has found that you have the following prohibited items:

a. **Firearms, firearm parts, and/or magazines**

Description *(include serial number, if known)*	Location, if known	Proof of compliance received by the court
(1) _____	_____	☐ *(date):* _____
(2) _____	_____	☐ *(date):* _____
(3) _____	_____	☐ *(date):* _____
(4) _____	_____	☐ *(date):* _____

b. **Ammunition**

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	☐ *(date):* _____
(2) _____	_____	_____	☐ *(date):* _____
(3) _____	_____	_____	☐ *(date):* _____
(4) _____	_____	_____	☐ *(date):* _____

☐ Check here to list additional items. List them on a separate piece of paper, write "GV-030, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

8 ☐ 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 7.

b. **Notify Law Enforcement**
The court will immediately notify the following law enforcement agency of this violation *(law enforcement agency or agencies):* _____

This is a Court Order.

8 c. **Notify Prosecutor**

The court will immediately notify the following prosecuting agency of this violation *(prosecuting agency):*

_____

9 ☐ **Court Hearing to Review Firearms (Guns), Firearm Parts, Ammunition, and Magazine Compliance**

In addition to the hearing listed on form GV-009, you must attend the court hearing listed below to prove that you have properly turned in, sold, or stored all prohibited items (described in **6** b) you still have or own, including any items listed in **7**. 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:

_____
_____
_____

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.

11 **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.

c. ☐ The Restrained Person was not present in court at the time the order was issued, and the court has scheduled a firearms (guns), firearm parts, ammunition, and magazine compliance hearing. The Restrained Person must be served with a copy of this order by:

☐ Personal service by *(date):* _____

☐ Mail at the Restrained Person's last known address by *(date):* _____

12 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 ⑥ b, 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 ⑥ b, 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 ⑥ b, 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
- 11a 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.

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.

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 supervisorial 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.

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 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 of causing personal injury to themself or another person by having in their 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.

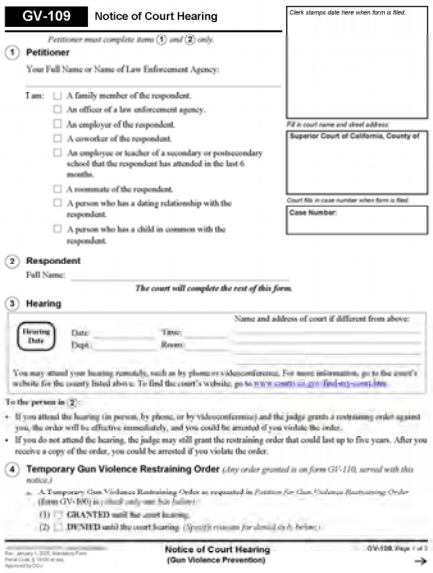
Then you will need to present facts to show that the person to be restrained is dangerous to themself or others. This could be information about any threat of violence that the person to be restrained has made, any violent incident in which the person has been involved, or any crime of violence the person 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.

GV-100-INFO Can a Gun Violence Restraining Order Help Me?

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.

Clerk stamps date here when form is filed.

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

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 2

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: courts.ca.gov/find-my-court.

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.

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.

For help in your area, contact:

[Local information may be inserted.]

GV-110 Temporary Gun Violence Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

Not approved by the Judicial Council

Petitioner must complete (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: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

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: ☐ 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 the end of the hearing scheduled for the date and time below:

Date: _____ Time: _____ ☐ a.m. ☐ p.m.

This is a Court Order.

4 Findings

☐ 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 themself 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 the 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 facts as stated in the Petition and supporting evidence, which are incorporated here by reference, and for the reasons set forth below, establish sufficient grounds for the issuance of this order.

☐ See the attached *Attachment* (form MC-025).

5 No Fee to Serve (Notify) Restrained Person

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 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 ☐ Restrained Person Has Prohibited Items

The court finds that you have the following prohibited items:

a. **Firearms, firearm parts, and/or magazines**

Description *(include serial number, if known)*	Location, if known	Proof of compliance received by the court
(1)		☐ *(date):*
(2)		☐ *(date):*
(3)		☐ *(date):*
(4)		☐ *(date):*

b. **Ammunition**

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "GV-110, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

This is a Court Order.

8 ☐ Court Hearing to Review Firearms (Guns), Firearm Parts, Ammunition, and Magazine Compliance

In addition to the hearing listed on form GV-109, you must attend the court hearing listed below to prove that you have properly turned in, sold, or stored all prohibited items (described in 6 b) you still have or own, including any items listed in 7. 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:

_____
_____
_____

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 Number of pages attached to this order, if any: _____

Date: _____

_____
Judicial Officer

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.

This is a Court Order.

Warnings and Notices to the Respondent

(Continued)

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 ⑥ b, 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 courts.ca.gov/rules-forms/find-your-court-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.

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 ⑥ b, 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.

This is a Court Order.

Instructions for Law Enforcement

(Continued)

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 (6) b, 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

GV-116 Order on Request to Continue Hearing

Clerk stamps date here when form is filed.

DRAFT

2025-07-22

Not approved by the Judicial Council

Complete (1) and (2) only.

(1) **Petitioner:** _____

(2) **Respondent:** _____

The court will complete the rest of this form

Fill in court name and street address:

Superior Court of California, County of

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 Gun Violence Restraining Order* (form GV-110) or *Gun Violence Emergency Protective Order* (form EPO-002) 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.

Hearing Date → Date: _____ Time: _____
Dept.: _____ Room: _____

Name and address of court, if different from above:

_____

_____

_____

(4) Temporary Gun Violence Restraining Order or Gun Violence Emergency Protective Order

a. ☐ **There is no *Temporary Gun Violence Restraining Order* (TRO) in this case** because:

(1) ☐ A TRO was not previously granted by the court.

(2) ☐ The court terminates (cancels) the previously granted TRO because:

_____

_____

b. ☐ **A *Temporary Gun Violence Restraining Order* (form GV-110) is still in full force and effect** because:

The court extends the order 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 (3) b.)

c. ☐ **A *Gun Violence Emergency Protective Order* (form EPO-002) is still in full force and effect.**

The court extends the order 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 (3) b.)

d. ☐ Other *(specify)*: _____

Warning and Notice to the Restrained Party:
If (4) b or c is checked, a gun violence restraining order has been issued against you. You must follow the orders until they expire.

This is a Court Order.

Case Number:

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 restrained party.

(2) ☐ Other _____

_____

_____

b. ☐ 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/Requesting Agency**

(1) ☐ You do not have to serve the respondent/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 this order and a copy of all documents listed on form GV-109, item 5, by *(date)*: _____

(3) ☐ You must serve the respondent/restrained party with a copy of this order. This can be done by mail. You must serve by *(date)*: _____

(4) ☐ Other _____

_____

_____

_____

_____

b. ☐ **Respondent/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 serve the petitioner 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.

Case Number:

7 No Fee to Serve

The sheriff or marshal will serve this order for **free**.
Bring a copy of all the papers that need to be served to the sheriff or marshal.

8 Remote Appearances

You may attend your hearing listed in 3 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 courts.ca.gov/find-my-court.

9 ☐ Other Orders

_____
_____
_____
_____

10 Number of pages attached to this order, if any: _____

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 courts.ca.gov/rules-forms/find-your-court-forms for *Disability Accommodation Request* (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 (EPO-002 or Temporary Restraining Order) (CLETS-EGV or CLETS-TGV)* (form GV-116) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

GV-130 Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

Not approved by the Judicial Council

Petitioner must complete (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.

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. 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: _____

(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 the 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 themself 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 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 facts as stated in the Petition and supporting evidence, which are incorporated here by reference, and for the reasons set forth below, establish sufficient grounds for the issuance of this order.

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

☐ See the attached *Attachment* (form MC-025).

This is a Court Order.

5 d. ☐ The respondent filed *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125). The court finds that the respondent agreed not to have in the 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)* _____.

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 ☐ Restrained Person Has Prohibited Items

The court finds that you have the following prohibited items:

a. **Firearms, firearm parts, and/or magazines**

Description *(include serial number, if known)*	Location, if known	Proof of compliance received by the court
(1) _____	_____	☐ *(date):* _____
(2) _____	_____	☐ *(date):* _____
(3) _____	_____	☐ *(date):* _____
(4) _____	_____	☐ *(date):* _____

This is a Court Order.

8 b. **Ammunition**

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "GV-130, 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 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):*
_____

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.

11 ☐ **Court Hearing to Review Firearms (Guns), Firearm Parts, Ammunition, and Magazine Compliance**

You must attend the court hearing listed below 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 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:
_____
_____
_____

This is a Court Order.

12 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.

d. ☐ The respondent was not present in court at the time the order was issued, and the court has scheduled a firearms (guns), firearm parts, ammunition, and magazine compliance hearing. The petitioner must have a copy of this order served on the respondent by:

- ☐ Personal service by *(date):* _____
- ☐ Mail at the respondent's last known address by *(date):* _____

13 Number of pages attached to this order, if any: _____

Date: _____ _____

Judicial Officer

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 7 b, 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.

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 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 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).

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.
- 12a or 12c 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.

This is a Court Order.

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's Certificate
[seal]

(Clerk will fill out this part.)

—Clerk's Certificate—

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.

GV-820 Prohibited Items Finding and Orders

Case Number:

This form is attached to *(check one):* ☐ Form GV-110 ☐ Form GV-116 ☐ Other: _____

1 Restrained Person Has Prohibited Items

The court finds that the restrained person has prohibited items as follows:

a. ☐ Listed on form GV-110, *Temporary Restraining Order*

b. ☐ Listed below:

Firearms (guns), firearm parts, or magazines

	Description *(include serial number, if known)*	Location, if known	Proof of compliance received by the court
(1)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

Ammunition

	Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)				☐ *(date):*
(2)				☐ *(date):*
(3)				☐ *(date):*
(4)				☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "GV-820, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

2 ☐ Court Hearing to Review Firearms (Guns), Firearm Parts, Ammunition, and Magazine 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 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 the front of this order:

_____

_____

_____

This is a Court Order.

Case Number:

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 Law Enforcement
The court will immediately notify the following law enforcement agency of this violation *(name of agency):*
_____

c. Notify Prosecutor
The court will immediately notify the following prosecuting agency of this violation:
(prosecuting agency): _____

This is a Court Order.

GV-830 Noncompliance With Firearms, Firearm Parts, Ammunition, and Magazines Order

CONFIDENTIAL

Clerk stamps date here when form is filed.

This notice is provided to the agency or agencies listed below, as required by the Penal Code.

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/Requesting Agency

Name: _____

2 Restrained Person

Name: _____

3 Restrained Person Has Not Complied with Surrendering Firearms (Guns), Firearm Parts, Ammunition, and Magazines

The court has found that the person listed in 2 has firearms (guns), firearm parts, ammunition, or magazines in violation of a restraining order. The restraining order granted by the court is attached to this form.

(Check all that apply):

a. ☐ Notice to Law Enforcement Agency *(name of agency or agencies):*

_____

(Notice is provided pursuant to Penal Code section 18120(b)(6).)

b. ☐ Notice to Law Enforcement Agency *(name of agency):* _____

(Notice is provided pursuant to Penal Code section 18120(b)(6).)

4 Number of pages attached to this form, if any: _____

Judicial Officer's Signature

Date: _____

_____

Judicial Officer

Case Number:

—Clerk's Certificate—

I certify that I am not a party to this case and that a true copy of *Noncompliance With Firearms, Firearm Parts, Ammunition, and Magazines Order* (form GV-830) was sent to the agency or agencies listed on page 1:

a. ☐ **Law enforcement agency listed in ③ a**

(1) ☐ by fax, email, or other electronic means ☐ by personal delivery

(2) *(Phone number, email address, or address):*

_____

_____

(3) Date of transmission or delivery: _____

b. ☐ **Prosecuting agency listed in ③ b**

(1) ☐ by fax, email, or other electronic means ☐ by personal delivery

(2) *(Phone number, email address, or address):*

_____

_____

(3) Date of transmission or delivery: _____

Clerk's Certificate

[Seal]

Date: _____

Clerk, by _____, Deputy

GV-840

Notice of Compliance Hearing for Firearms, Firearm Parts, Ammunition, and Magazines

Clerk stamps date here when form is filed.

DRAFT

2025-08-18

Not approved by the Judicial Council

1 Petitioner/Requesting Agency

(name): _____

2 Restrained Person

(name): _____

Fill in court name and street address:

Superior Court of California, County of

3 Notice of Compliance Hearing

To the person in 2 :

The court has issued a gun violence restraining order against you. You must attend the court hearing on the date and time listed below. At the hearing, you must prove that you have properly turned in, sold, or stored any firearms (guns), firearm parts, ammunition, or magazines that you have or own, as required in the restraining order and listed below in 4.

Court fills in case number when form is filed.

Case Number:

Date: _____ Dept.: _____

Time: _____ Room: _____

Name and address of court, if different from the one listed above:

_____

_____

_____

4 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.

Case Number:

(5) ☐ Restrained Person Has Prohibited Items

The court has found that you have the following prohibited items:

a. **Firearms, firearm parts, and/or magazines**

Description *(include serial number, if known)*	Location, if known	Proof of compliance received by the court
(1)		☐ *(date):*
(2)		☐ *(date):*
(3)		☐ *(date):*
(4)		☐ *(date):*

b. **Ammunition**

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "GV-840, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

(6) ☐ Restrained Person Has Not Complied With Surrendering Prohibited Items

a. The court finds that you have 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 (5).

b. Notify Law Enforcement
The court will immediately notify the following law enforcement agency of this violation *(name of agency):*

c. Notify Prosecutor
The court will immediately notify the following prosecuting agency of this violation *(prosecuting agency):* _____

(7) ☐ Service

The person in (2) does not have notice of these orders. The person in (1) must have the person in (2) served by:

a. ☐ Personal service by *(date):* _____

b. ☐ Mail, at the person in (2)'s last known address, by *(date):* _____

Judicial Officer's Signature

Date: _____ _____

Judicial Officer

This is a Court Order.

WV-100 Petition for Workplace Violence Restraining Orders

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

Not approved by the Judicial Council

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.

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 ☐ An employer
☐ A collective bargaining representative
Specify union: _____

and is filing this suit on behalf of the employee identified in 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 Name	Gender	Age	Household 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.

5 Relationship of Employee and Respondent

a. How does the employee know the respondent? *(Describe):* ☐ Response is stated in Attachment 5a.

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.

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:*

Kind of Case	Filed in *(County/State)*	Year Filed	Case Number *(if known)*
(1) ☐ Workplace Violence			
(2) ☐ Civil Harassment			
(3) ☐ Domestic Violence			
(4) ☐ Divorce, Nullity, Legal Separation			
(5) ☐ Paternity, Parentage, Child Support			
(6) ☐ Eviction			
(7) ☐ Guardianship			
(8) ☐ Small Claims			
(9) ☐ Postsecondary School Violence			
(10) ☐ Criminal			
(11) ☐ Other *(specify):*			

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.

Case Number:

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 their safety or the safety of their 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.

d. Was the employee harmed or injured? ☐ Yes ☐ No *(If yes, describe harm or injuries):*

☐ Response is stated in Attachment 8d.

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.

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.

_____
_____
_____
_____

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) ☐ The employee.
(2) ☐ The other persons listed in 4.
(3) ☐ The employee's workplace.
(4) ☐ The employee's home.
(5) ☐ The employee's school.
(6) ☐ The school of the employee's children.
(7) ☐ The place of child care of the employee's children.
(8) ☐ The employee's vehicle.
(9) ☐ Other *(specify):*

_____
_____
_____
_____

This is not a Court Order.

10 b. If the court orders the respondent to stay away from all the places listed above, will they still be able to get to their home, school, or job? ☐ Yes ☐ No *(If no, explain):*

☐ Response is stated on Attachment 10b.

11 Firearms (Guns), Firearm Parts, and Ammunition

Does the respondent have 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).)

a. ☐ I don't know

b. ☐ No

c. ☐ Yes *(If you have information, complete the section below.)*

	Describe Firearms (Guns), Firearm Parts, or Ammunition	Number or Amount	Location, if known
(1)			
(2)			
(3)			
(4)			
(5)			
(6)			

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), firearm parts, and ammunition 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 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 them?

☐ Yes ☐ No *(If you answered no, explain why below):*

☐ Reasons are stated in Attachment 12.

This is not a Court Order.

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.

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 orders 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.

18 Number of pages attached to this form, if any: _____

This is not a Court Order.

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, except as to those matters stated on information and belief, and as to those matters, I am informed and believe them to be true.

Date: _____

_____ ▶ _____

Name of petitioner *Signature*

_____

Title

WV-109 Notice of Court Hearing

Clerk stamps date here when form is filed.

DRAFT

2025-07-22

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 three years. After you receive a copy of the order, you could be arrested if you violate the order.

Case Number:

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

Case Number:

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), firearm parts, and ammunition 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 courts.ca.gov/rules-forms/find-your-court-forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 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

WV-110 Temporary Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-07-22

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. Your 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

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.

Case Number:

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).

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

(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

(3) ☐ 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.

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), firearm parts, and ammunition 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), firearm parts, and ammunition have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, and Ammunition* (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 ☐ 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)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

b. **Ammunition**

	Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)				☐ *(date):*
(2)				☐ *(date):*
(3)				☐ *(date):*
(4)				☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "WV-110, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

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.

This is a Court Order.

10 ☐ Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance

In addition to the hearing listed on form WV-109, you must attend the court hearing listed below 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 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:

_____
_____
_____

11 Other Orders

☐ **Not Requested** ☐ **Denied Until the Hearing** ☐ **Granted as Follows** *(specify):*

_____
_____
_____

☐ Additional orders are attached at the end of this order on Attachment 11.

To the Petitioner:

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 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 12.

This is a Court Order.

13 **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.

14 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 7 b 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), firearm parts, and ammunition that you have or control as stated in 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 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 courts.ca.gov/rules-forms/find-your-court-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 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; Fam. Code, §§ 6383(h)(2), 6405(b); Code Civ. Proc., § 527.12(d)(2)):

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 also be enforced.
2. *No-Contact Order:* If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. ⑤a(4) is an example of a no-contact order.
3. *Criminal Protective Order (CPO):* If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2), 6405(b); Code Civ. Proc., § 527.12(d)(2).) 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 also 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 also 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.

WV-116 Order on Request to Continue Hearing

Clerk stamps date here when form is filed.

DRAFT

2025-07-22

Not approved by the Judicial Council

Complete (1) and (2) only.

(1) **Petitioner (Employer or Collective Bargaining Representative)**

_____

(2) **Respondent:** _____

The court will complete the rest of this form

Fill in court name and street address:

Superior Court of California, County of

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 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.

Hearing 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 (3) b.)

(2) ☐ The court changes the TRO previously granted and signs a new TRO (form WV-110).

Warning and Notice to the respondent:
If (4) b is checked, a temporary restraining order has been issued against you. You must follow the orders until they expire.

c. ☐ Other *(specify)*: _____

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**

(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: _____

b. ☐ **Respondent**

(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: _____

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.

Case Number:

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

_____

_____

_____

_____

9 Number of pages attached to this order, if any: _____

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 courts.ca.gov/rules-forms/find-your-court-forms 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.

WV-120 Response to Petition for Workplace Violence Restraining Orders

Clerk stamps date here when form is filed.

DRAFT

2025-08-07

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 12 on page 4.)*

c. ☐ I agree to the following orders *(specify below or in 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 12 on page 4.)*

c. ☐ I agree to the following orders *(specify below or in 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 firearms 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 WV-110.) You must sell or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns), firearm parts, and ammunition 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 form WV-800, *Receipt for Firearms, Firearm Parts, and Ammunition*, for the receipt.

a. ☐ I do not own or control any firearms (guns), firearm parts, or ammunition.

b. ☐ I have turned in my firearms (guns), firearm parts, and ammunition to law enforcement or sold them to or stored them with a licensed gun dealer. A copy of the receipt

(1) ☐ is attached.

(2) ☐ has already been filed with the court.

c. ☐ I ask for an exception to carry a firearm or ammunition for work. *(Complete items (1)–(3) below):*

(1) Are you a sworn peace officer?

☐ No

☐ Yes

(2) Are there any orders or state or federal laws that prohibit you from having firearms or ammunition?

☐ No

☐ I don't know *(explain):*

_____

_____

_____

☐ Yes *(explain):*

_____

_____

_____

(3) *(Explain what your job is and why you need a firearm or ammunition):*

_____

_____

_____

(Note: You **must** follow any orders to turn in, sell, or store prohibited items until the judge decides whether to grant you an exception. Before an exception can be granted, you will be required to show the judge that (1) carrying a firearm or ammunition is required for your work, and (2) your employer is unable to reassign you to another position where carrying a firearm or ammunition is not necessary. There are other things you will need to prove. For more information on what you need to show the judge to qualify for this exception, go to selfhelp.courts.ca.gov/respond-to-WV-restraining-order/obey-firearms-orders/exception or see Code of Civil Procedure section 527.9(f).)

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 12 on page 4.)*

c. ☐ I agree to the following orders *(specify below or in 12 on page 4):*

10 ☐ Denial

I did not do anything described in item 8 of form WV-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.

12 ☐ Reasons I Do Not Agree to the Orders Requested

Explain your answers to each order 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 12—Reasons I Disagree" as a title. You may use form MC-025,* Attachment.

Case Number:

13 ☐ No Fee for Filing

a. ☐ I ask the court to waive the filing fee because the petitioner claims in form WV-100, item 14, to be entitled to free filing.

b. ☐ I request that I not be required to pay the filing fee because I am eligible for a fee waiver. *(Form FW-001, Request to Waive Court Fees, must be filed separately.)*

14 ☐ Costs

a. ☐ I ask the court to order the petitioner to pay my court costs. The amounts requested are:

Item	Amount	Item	Amount
_____	$ _____	_____	$ _____
_____	$ _____	_____	$ _____
_____	$ _____	_____	$ _____

☐ *Check here if there are more items. Put the items and amounts on the attached sheet of paper and write "Attachment 14—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 their 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 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.

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 courts.ca.gov/rules-forms/find-your-court-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.

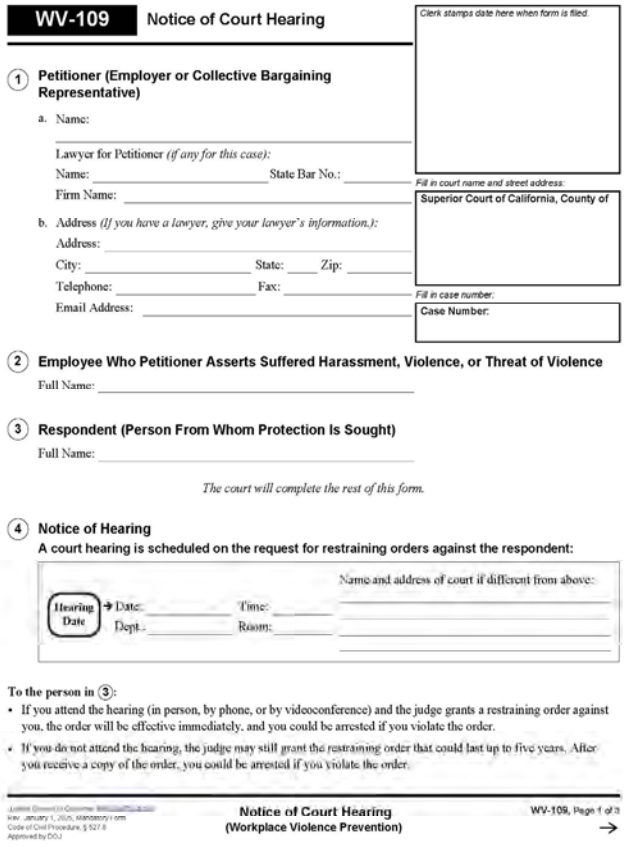
Do I have to serve the other person with a copy of my response?

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:

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.

Notice of Court Hearing
(Workplace Violence Prevention)
WV-109, Page 1 of 3

WV-120-INFO How Can I Respond to a Petition for Workplace Violence Restraining Orders?

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.

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.

Information about the process is also available online.

See selfhelp.courts.ca.gov/WV-restraining-order.

For help in your area, contact:

[Local information may be inserted.]

What if I have a firearm (gun), firearm part, or ammunition?

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), firearm parts, or ammunition, you must sell it to or store it with a licensed gun dealer, or turn it in to a law enforcement agency.

What if I need to have a firearm or ammunition for my job?

If the judge grants a restraining order against you, you cannot have firearms or ammunition. The judge may give you permission to have a firearm or ammunition for work. Before permission can be granted, you will be required to show the judge that (1) carrying a firearm or ammunition is required for your work, and (2) your employer is unable to reassign you to another position where carrying a firearm or ammunition is not necessary. There are other things that you will have to prove. For more information, go to selfhelp.courts.ca.gov/respond-to-WV-restraining-order/obey-firearms-orders/exception, or see Code of Civil Procedure section 527.9(f).

What if I need to have body armor?

If you need to have and use body armor for your work, livelihood, or safety, you may ask for an exception with the chief of police or sheriff and use the body armor (see Penal Code section 31360(c)).

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.*

WV-130 Workplace Violence Restraining Order After Hearing

Clerk stamps date here when form is filed.

DRAFT

2025-07-23

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. Your 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

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

(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

(3) ☐ Other *(specify):*

_____

_____

_____

_____

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), firearm parts, and ammunition 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), firearm parts, and ammunition have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, and Ammunition* (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. ☐ Permission to have firearm or ammunition for work: The judge has made the necessary findings to grant an exception under Code of Civil Procedure section 527.9(f). The orders are included on form WV-850, *Permission to Have Firearm or Ammunition for Work.*

9 ☐ 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)	_____	_____	☐ *(date):* _____
(2)	_____	_____	☐ *(date):* _____
(3)	_____	_____	☐ *(date):* _____
(4)	_____	_____	☐ *(date):* _____

This is a Court Order.

9 b. **Ammunition**

	Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)				☐ *(date):*
(2)				☐ *(date):*
(3)				☐ *(date):*
(4)				☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "WV-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 **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 ☐ **Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

You must attend the court hearing listed below 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 below, a judge may find that you have violated the restraining order and notify law enforcement and a prosecuting attorney of the violation.

Name and address of court, if different than court address listed on page 1:

Date: _____ Dept.: _____
Time: _____ Room: _____

This is a Court Order.

13 ☐ Costs

You must pay the following amounts for costs to the petitioner:

Item	Amount	Item	Amount
	$		$
	$		$
	$		$

☐ Additional amounts are attached at the end of this order on Attachment 13.

14 ☐ Other Orders *(specify):*

☐ Additional orders are attached at the end of this order on Attachment 14.

To the Person in 1:

15 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 15.

16 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.

This is a Court Order.

16 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.

(3) ☐ The court has scheduled a firearms, firearms parts, and ammunition compliance hearing. The petitioner must have a copy of this order served on the respondent by:

(a) ☐ Personal service by *(date):* _____

(b) ☐ Mail at respondent's last known address by *(date):* _____

17 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.

18 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 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 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), firearm parts, and ammunition 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 16), 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 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 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; Fam. Code, §§ 6383(h)(2), 6405(b); Code Civ. Proc., § 527.12(d)(2)):

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 also be enforced.
2. *No-Contact Order:* If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. 6 a(4) is an example of a no-contact order.
3. *Criminal Protective Order (CPO):* If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2), 6405(b); Code Civ. Proc.§, 527.12(d)(2).) 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 also 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 also be enforced.

This is a Court Order.

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.

WV-200 Proof of Personal Service

Clerk stamps date here when form is filed.

DRAFT

2025-04-07

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.
- 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, Firearm Parts, and Ammunition* (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*

WV-200-INFO What Is "Proof of Personal Service"?

What is "Service"?

Service is the act of giving legal papers to the other party. There are many kinds of service—in person, by mail, and others. This form is about personal or "in-person" service. The *Petition for Workplace Violence Restraining Orders* (form WV-100), the *Notice of Court Hearing* (form WV-109), and the *Temporary Restraining Order* (form WV-110) must be served in person. That means that someone must personally "serve" (give) a copy of the forms to the person to be restrained. These forms cannot be served by mail.

Service lets the other person know:

- What orders you are asking for
- The hearing date
- How to respond

Why do I have to get the orders served?

- The police cannot arrest anyone for violating an order unless that person knows about the order.
- The judge cannot make the orders permanent unless the restrained person was served.



Don't serve it by mail!

Who can serve?

Ask someone you know, a process server, or a law enforcement agency to personally serve (give) a copy of the forms to the person to be restrained. You **cannot** send the forms to that person by mail.

The server must:

- Be 18 years of age or older
- Not be you or anyone whom you are asking to be protected by the orders

The sheriff or marshal may be authorized to serve the court's orders for free if the orders are based on claims of stalking, unlawful violence, or a credible threat of violence. Another peace officer may also serve the orders for free. See selfhelp.courts.ca.gov/WV-restraining-order/sheriff-serves-request for additional information regarding free service by a sheriff, marshal, or other peace officer.

A registered process server is a business you pay to deliver court forms. Look for "Process Serving" in the Yellow Pages or on the internet. (If a law enforcement agency or the process server uses a different proof-of-service form, make sure it lists the forms served.)

How to serve

Ask the server to:

- Walk up to the person to be served.
- Make sure it is the right person. Ask the person's name.
- Give the person copies of all papers checked on form WV-200, *Proof of Personal Service*.
- Fill out and sign the *Proof of Personal Service*.
- Give the signed *Proof of Personal Service* to you.

What if the person won't take the papers or tears them up?

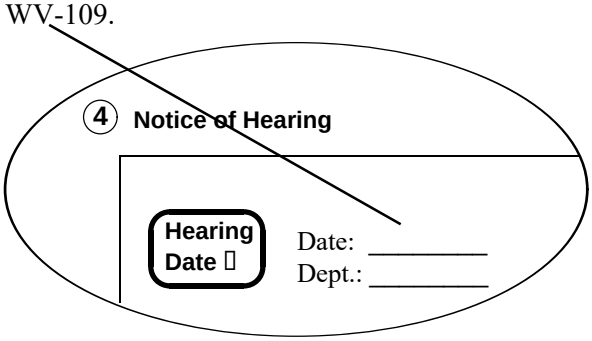
- If the person will not take the papers, just leave them near the person.
- It does not matter if the person tears them up. Service is still complete.

WV-200-INFO What Is "Proof of Personal Service"?

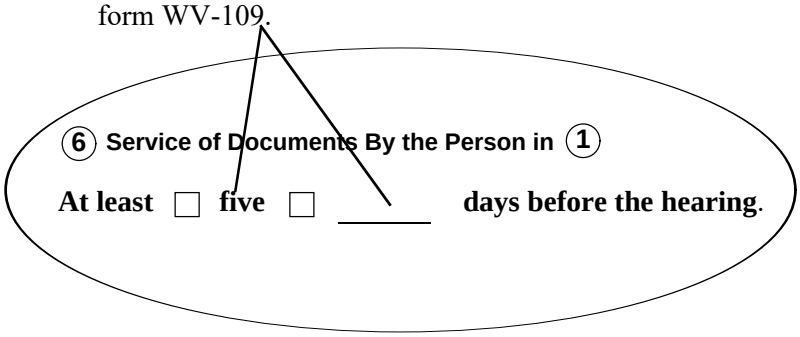
When do the orders have to be served?

It depends. To know the exact date, you have to look at two things on form WV-109, *Notice of Court Hearing.*

First, look at the hearing date on page 1 of form WV-109.



Next, look at the number of days in item 6 on page 2 of form WV-109.



Look at a calendar. Subtract the number of days in item 6 from the hearing date. That is the final date to have the orders served. It is always okay to serve earlier than that date.

If nothing is checked or written in item 6, you must serve the orders at least five days before the hearing.

Who signs the *Proof of Personal Service*?

Only the person who serves the forms can sign form WV-200, *Proof of Personal Service*. You do not sign it; the restrained person does not need to sign it.

What do I do with the completed *Proof of Personal Service*?

If someone other than the sheriff serves the papers, you should:

- Make several copies.
- File the original with the court before your hearing.
- Ask the clerk to enter it into the California Law Enforcement Telecommunications System (CLETS), a special computer system that lets police all over the state find out about the orders protecting you.
- If the clerk tells you that the court cannot enter it into the computer, take a copy of the *Temporary Restraining Order* (form WV-110) and *Proof of Personal Service* (form WV-200) to your local police. They will put the information into the state computer system. That way, police all over the state will know that your restraining order has been served.
- Bring a copy of the completed *Proof of Personal Service* to your hearing.
- Always keep an extra copy of the restraining orders with you for your safety.

If the sheriff or another peace officer serves the papers, they will send proof of service to the court for you. The sheriff will also send proof of service to CLETS for you.

What happens if I can't get the orders served before the hearing date?

Before your hearing, fill out and file form WV-115, *Request to Continue Court Hearing*. This form asks the court for a new hearing date and makes your orders last until then. Ask the clerk for the form. After the court has reissued the orders, attach a copy of form WV-116, *Order on Request to Continue Hearing* to a copy of your original orders. Ask the clerk to enter form WV-116 into CLETS or the clerk may ask you or you attorney to deliver a copy to the police. That way, the police will know your orders are still in effect.

WV-800 Receipt for Firearms, Firearm Parts, and Ammunition

Clerk stamps date here when form is filed.

DRAFT

2025-07-23

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 Petitioner (Employer)

Name: _____

2 Employee in Need of Protection

Full Name: _____

3 Respondent (Person From Whom Protection Is Sought)

Your Name: _____

Your Lawyer *(if you have one for this case):*

Name: _____ State Bar No.: _____

Firm Name: _____

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: _____

4 To the Respondent:

If a judge has ordered you to turn in, sell, or store your firearms (guns), ammunition, and 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)—use this form to prove to the judge that you have obeyed their orders. Take this form to a law enforcement officer or a licensed gun dealer to complete 5 or 6. For more information on how to properly turn in your items, read form WV-800-INFO, *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?*

5 To Law Enforcement

(Complete the section below. Keep a copy and give the original to the person in 3.)

Name of Law Enforcement Agency: _____

Name of Law Enforcement Agent: _____

Address: _____

Telephone: _____ Email Address: _____

Items Surrendered

a. Firearms, firearm parts, and ammunition transferred on:

Date: _____ Time: _____ ☐ a.m. ☐ p.m.

b. List of items *(List all the items surrendered by the person in 3. You may attach a separate form from your agency (e.g., a property report), use 7, or both. Check below if you have attached a separate form):*

☐ Separate form is attached. *(If it does not include all surrendered items, list additional items in 7.)*

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

▶ *Signature of law enforcement agent:* _____

Case Number:

6 To Licensed Gun Dealer

(Complete the section below. Keep a copy and give the original to the person in 3.)

Name of Licensed Gun Dealer: _____

License number: _____

Address: _____

Telephone: _____ Email Address: _____

Items Stored or Sold

a. Firearms, firearm parts, and ammunition transferred on:
Date: _____ Time: _____ ☐ a.m. ☐ p.m.

b. List of items *(List all the items surrendered by the person in 3. You may attach a separate form (e.g., Department of Justice's* Report of Firearms Acquisition*) or you may use 7. Check below if you have attached a separate form):*

☐ Separate form is attached. *(If it does not include all surrendered items, list additional items in 7.)*

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

▶ *Signature of licensed gun dealer:* _____

7 ☐ List of Items Surrendered

Firearms and firearm parts

	Make	Model	Serial number, if there is one	Sold	Stored	To be destroyed
(1)				☐	☐	☐
(2)				☐	☐	☐
(3)				☐	☐	☐
(4)				☐	☐	☐
(5)				☐	☐	☐
(6)				☐	☐	☐

Ammunition

	Brand	Type	Amount	Sold	Stored	To be destroyed
(1)				☐	☐	☐
(2)				☐	☐	☐
(3)				☐	☐	☐
(4)				☐	☐	☐
(5)				☐	☐	☐
(6)				☐	☐	☐

☐ *Check here if there is not enough space above for your answer. Use a separate sheet of paper to list other items. Write "WV-800, item 7" at the top, and attach it to this form.*

Case Number:

8 To the Restrained Person:

Besides the items listed on page 2 or in an attached form, do you have or own any other firearms (guns), firearm parts, or ammunition?

☐ No

☐ Yes *(If yes, check one of the boxes below):*

a. ☐ I filed a *Receipt for Firearms, Firearm Parts, and Ammunition* (form WV-800) or other proof for those items with the court on *(date):* _____

b. ☐ I am filing the proof for those firearms (guns), firearm parts, or ammunition along with this proof.

c. ☐ I have not yet filed the proof for the other firearms (guns), firearm parts, or ammunition.

(Explain why not):

_____

_____

_____

_____

_____

_____

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*

Your Next Steps

- After the form is complete, make two additional copies. Take the copies and original to the court clerk to file.
- Keep a copy for yourself.

Note that failure to file a receipt with the court is a violation of the court's order.

WV-800-INFO How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?

What items do I need to turn in, sell, or store?

You must turn in, sell, or store all of the following prohibited items that you have or control:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- 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), which may also be called ghost guns; and
- Ammunition.

How do I properly turn in, sell, or store the prohibited items?

You must take them to:

- Law enforcement, who will accept all prohibited items and may store them or destroy them;

OR

- A licensed gun dealer, who can buy or store firearms. If you have firearm parts call ahead for more information.

When do I have to turn in, sell, or store the prohibited items?

Immediately, if law enforcement asks you for the items. Otherwise, within 24 hours.

Who can I turn in, sell, or store the prohibited items with?

Only law enforcement or a licensed gun dealer. You cannot give your prohibited items to a family member, friend, or anyone else.

Where can I sell the prohibited items?

At a licensed gun dealer in your area. You can search the internet for "Gun Dealers" or "Firearms Dealers" to find one. Make sure the dealer is licensed.

Do I have to pay a fee to store prohibited items?

You may have to pay a fee. Contact your local law enforcement agency or a licensed gun dealer about fees and whether they have space to store your items.

How do I turn in the prohibited items to law enforcement?

Call your local law enforcement agency to ask about their procedures. Unload your firearms and take a copy of the court order with you.
Do not bring firearms to court.

If I turn in the prohibited items to law enforcement, how long will they keep them?

It depends. There are procedures for getting your firearms back after the restraining order has expired. Ask the law enforcement agency for more information.

After I turn in the prohibited items to law enforcement, can I change my mind?

Yes. You are allowed to sell firearms to a licensed gun dealer. To do so, the gun dealer must present a bill of sale to your local law enforcement agency. The law enforcement agency will give the licensed gun dealer the items that you are selling.

Do I have to prove that I have turned in, sold, or stored the prohibited items?

Yes. Within 48 hours you must file a receipt with the court showing that you have surrendered the prohibited items to a law enforcement agency or sold them to or stored them with a licensed gun dealer. You may use *Receipt for Firearms, Firearm Parts, and Ammunition* (form WV-800) for this purpose.

Additional Questions?

Contact an attorney for legal advice. Call your local law enforcement agency, for example, your city police or county sheriff for their procedures.

Information about prohibited items and how to obey these orders is also available online.

See selfhelp.courts.ca.gov/respond-to-WV-restraining-order/obey-firearms-orders.

For help in your area, contact:

[Local information may be inserted.]

WV-820 Prohibited Items Finding and Orders

Case Number:

This form is attached to *(check one):* ☐ Form WV-110 ☐ Form WV-116 ☐ Other: _____

1 Restrained Person Has Prohibited Items

The court finds that the restrained person has prohibited items as follows:

a. ☐ Listed on form WV-110, *Temporary Restraining Order*

b. ☐ Listed below:

Firearms (guns) or firearm parts

Description *(include serial number, if known)*	Location, if known	Proof of compliance received by the court
(1)		☐ *(date):*
(2)		☐ *(date):*
(3)		☐ *(date):*
(4)		☐ *(date):*

Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "WV-820, 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 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 the front of this order

_____

_____

_____

This is a Court Order.

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 Law Enforcement
The court will immediately notify the following law enforcement agency of this violation *(name of agency):*
_____

c. Notify Prosecutor
The court will immediately notify the following prosecuting agency of this violation *(prosecuting agency):*
_____

This is a Court Order.

WV-830

Noncompliance With Firearms, Firearm Parts, and Ammunition Order

CONFIDENTIAL

Clerk stamps date here when form is filed.

This notice is provided to the agency or agencies listed below, as required by the Code of Civil Procedure.

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 Restrained Person

Name: _____

3 Restrained Person Has Not Complied with Surrendering Firearms (Guns), Firearm Parts, and Ammunition

The court has found that the person listed in 2 has firearms (guns), firearm parts, or ammunition in violation of a restraining order. The restraining order granted by the court is attached to this form.

(Check all that apply):

a. ☐ Notice to Law Enforcement Agency *(name of agency or agencies):*

_____

(Notice is provided pursuant to Code of Civil Procedure section 527.9(b).)

b. ☐ Notice to Prosecuting Agency *(name of agency):* _____

(Notice is provided pursuant to Code of Civil Procedure section 527.9(b).)

4 Number of pages attached to this form, if any: _____

Judicial Officer's Signature

Date: _____ _____

Judicial Officer

Case Number:

—Clerk's Certificate—

I certify that I am not a party to this case and that a true copy of *Noncompliance With Firearms, Firearm Parts, and Ammunition Order* (form WV-830) was sent to the agency or agencies listed on page 1:

a. ☐ **Law enforcement agency listed in ③ a**

(1) ☐ by fax, email, or other electronic means ☐ by personal delivery

(2) *(Phone number, email address, or address):*

_____

_____

(3) Date of transmission or delivery: _____

b. ☐ **Prosecuting agency listed in ③ b**

(1) ☐ by fax, email, or other electronic means ☐ by personal delivery

(2) *(Phone number, email address, or address):*

_____

_____

(3) Date of transmission or delivery: _____

[seal]

Date: _____

Clerk, by _____, Deputy

WV-840

Notice of Compliance Hearing for Firearms, Firearm Parts, and Ammunition

Clerk stamps date here when form is filed.

DRAFT

2025-08-18

Not approved by the Judicial Council

1 Petitioner (Employer or Collective Bargaining Representative)

(name): _____

2 Restrained Person

(name): _____

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 Notice of Compliance Hearing

To the person in 2:

The court has issued a workplace violence restraining order against you. You must attend the court hearing on the date and time listed below. At the hearing, you must prove that you have properly turned in, sold, or stored any firearms (guns), firearm parts, or ammunition that you have or own, as required in the restraining order and listed below in 4.

Date: _____ Dept.: _____

Time: _____ Room: _____

Name and address of court, if different from the one listed above:

_____

_____

_____

4 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 WV-800, *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.

This is a Court Order.

Case Number:

(5) ☐ Restrained Person Has Prohibited Items

The court has found 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)		☐ *(date):*
(2)		☐ *(date):*
(3)		☐ *(date):*
(4)		☐ *(date):*

b. **Ammunition**

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "WV-840, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

(6) ☐ Restrained Person Has Not Complied With Surrendering Prohibited Items

a. The court finds that you have 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 (5).

b. Notify Law Enforcement
The court will immediately notify the following law enforcement agency of this violation *(name of agency):*
.

c. Notify Prosecutor
The court will immediately notify the following prosecuting agency of this violation *(prosecuting agency):* _____.

(7) ☐ Service

The person in (2) does not have notice of these orders. The person in (1) must have the person in (2) served by:

a. ☐ Personal service by *(date):* _____

b. ☐ Mail, at the person in (2)'s last known address, by *(date):* _____

Judicial Officer's Signature

Date: _____ _____
Judicial Officer

This is a Court Order.

WV-850 Permission to Have Firearm or Ammunition for Work

Case Number:

This form is attached to *(check one):* ☐ Form WV-130 ☐ Other: _____

1 Court Findings

The court finds that the restrained person *(name):* _____

a. Is required to carry a specific firearm or ammunition during scheduled work hours as a condition of their continued employment.

b. Cannot be reassigned by their employer to another position where having a firearm or ammunition is not needed.

c. Is not otherwise prohibited from having firearms or ammunition under state or federal law.

d. Does not pose an additional threat of harm to any protected person or the public by having access to a specific firearm or ammunition.

e. ☐ Is a sworn peace officer and:

(1) The court ordered and reviewed a completed psychological evaluation of the restrained person by a licensed mental health professional with domestic violence expertise; and

(2) The personal safety of the restrained person depends on their ability to carry a specific firearm or ammunition outside of scheduled work hours.

f. ☐ Is not a sworn peace officer and *(check (1) or (2)):*

(1) ☐ The court did not order the restrained person to complete a psychological evaluation.

(2) ☐ The court ordered and reviewed a completed psychological evaluation of the restrained person by a licensed mental health professional with domestic violence expertise.

g. ☐ Other

_____
_____
_____
_____

This is a Court Order.

(2) Court Order

a. The restrained person is *(check one):*

(1) ☐ Not a sworn peace officer and may have the items listed in (2)b only during scheduled work hours.

(2) ☐ A sworn peace officer and *(check one):*

(a) ☐ May have the items listed in (2)b while on duty.

(b) ☐ May have the items listed in (2)b while on or off duty.

b. This restraining order does not require the restrained person to relinquish the specific firearm or ammunition listed below:

☐ Firearm *(make):* _____ *(model):* _____ *(serial no.):* _____

☐ Ammunition *(description):* _____

Warning: The court orders listed above in (2) only apply to this restraining order. If you are prohibited from having a firearm or ammunition by another order or law, you may still be in violation of state or federal law.

This is a Court Order.

SPR25-27

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	California Department of Justice by Ari Freilich, Director of the Office of Gun Violence Prevention	NI	**The California DOJ's Public Comment in Response to the Judicial Council of California's Invitation to Comment for SPR 25-27 (Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899)** The California Department of Justice (Department) respectfully submits this public comment regarding proposed changes to protective order petition forms to implement Senate Bill 899. This comment also proposes additional updates to multiple Gun Violence Restraining Order (GVRO) forms (including the GV-100, GV-100-INFO, GV-110, GV-130, and GV-030) to correct certain technical errors on GVRO forms, address specific points of stakeholder confusion, promote consistency, and ensure GVRO forms reflect newly enacted amendments made by SB 899, AB 2917, and AB 2621.	No response required.
			Comment # 1: Implementation of SB 899 *Short summary: Currently, the DV-100 and GV-100 petition forms solicit information from DVRO and GVRO petitioners about firearms and related prohibited items in the respondent's possession or control, but the DV-100 and GV-100 forms use different language in these relevant sections. (Compare Item #9 on the DV-*	The response to the suggestion summarized here is provided below in line with the more detailed suggestion.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

DRAFT

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			100 and Item #5 on the GV-100). To implement SB 899, the committee proposes incorporating the language that appears on the DV-100 in other protective order petition forms. The Department recommends that the committee instead update all relevant protective order petition forms, including the DV-100, to consistently match the language and format used on the GV-100, Item #5.	
			SB 899 was supported by the Attorney General and was motivated in part by recommendations made by the Department's Office of Gun Violence Prevention and Bureau of Firearms about the need to promote more proactive and consistent firearm relinquishment compliance across all protective order types. To ensure relinquishment compliance in accordance with SB 899, courts must receive credible information about whether the respondent possesses or controls firearms or related items, and if so, about whether the respondent timely complied with the court order and state law by relinquishing all of those items and submitting proof of relinquishment to the court. Researchers have found that in many cases, information presented by the petitioner is key to the court's determination that a respondent possesses or controls firearms and related items.	The committee appreciates the information provided.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

DRAFT

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			[FN 1 See, for example, Garen Wintemute, *et al.*, "Identifying armed respondents to domestic violence restraining orders and recovering their firearms: process evaluation of an initiative in California," *American Journal of Public Health* (Feb. 2014), https://pmc.ncbi.nlm.nih.gov/articles/PMC3935681/ (study evaluating firearm relinquishment efforts in two California counties found that about half of DVRO respondents identified by law enforcement investigators as possessing or controlling firearms were linked to firearms in AFS; the petitioner declaration, interviews with petitioners, and other court documents identified a significant number of respondents as possessing or controlling firearms that were not identified in AFS).] A check of the Automated Firearms System (AFS) database maintained by DOJ would inform the court about *some* legally acquired firearms. But in many cases, petitioners have other information indicating that a respondent has firearms and related items that are not recorded in AFS, especially because AFS generally does not: • Include records of illegally acquired firearms, such as ghost guns; • Include records for most rifles or shotguns legally acquired prior to 2014;	

DRAFT

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			• Identify circumstances where a respondent has effective possession or control over firearms that were purchased by someone else. In these circumstances, petitioners may have credible information indicating that the respondent possesses or controls firearms and related prohibited items that are not otherwise recorded in AFS. The Judicial Council's Invitation to Comment for SPR 25-27 noted that legislation previously required the Council to update the DV-100 and GV-100 petition forms to consistently solicit information from petitioners about firearms and related prohibited items in the respondent's possession or control, and that pursuant to SB 899, the committee is now proposing similar updates to other protective order petition forms.	
			The Department strongly supports the committee's proposal to more proactively and consistently solicit information from petitioners about firearms and related items known or believed to be in the respondent's possession or control, and to use more consistent language across all protective order types.	The committee appreciates the response.
			For the reasons outlined below, however, the Department believes that the language used to	The committee is not recommending revisions in response to this suggestion because item 9 of form

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	Commenter	Position	Comment	Committee Response
			solicit this information on the GV-100 (Item #5) is likely clearer for petitioners and more likely to solicit credible information about a respondent's possession or control of prohibited items than the language used on the DV-100 (Item #9).	DV-100 uses more concise and easily understood language, and is less likely to confuse petitioners, than item 5 of form GV-100.
			The DV-100, Item# 9, asks the petitioner: "**Does person in (2) have firearms (guns), firearm parts, or ammunition?"** and provides three check boxes for a response: I don't know. No Yes (*If you have information, complete the section below [describing type, number or amount, and location, if known]*) The analogous language used in the GV-100, Item #5, is more nuanced. It states, "**Description of Respondent's Firearms (Guns), Firearm Parts, Ammunition, or Magazines"** and provides two check boxes for a response to indicate either: a. "I am informed, and on that basis believe, that the respondent currently possesses or controls the following firearms, firearm parts, ammunition, or magazines." *[If the petitioner checks this box, the petitioner is prompted to provide more specific information about*	Please see previous response.

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	Commenter	Position	Comment	Committee Response
			the type of firearm, etc., "how many or what amount?", and "location, if known."] b. "I am informed and on that basis believe, that the 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." By leaving both boxes blank, a petitioner would indicate that they do not have information indicating that the respondent possesses or controls firearms or related items.	
			The GV-100's language prompts petitioners to inform the court if they have information and reason to believe that the respondent possesses or controls firearms and related items, even if they do not have specific information about the number, type, or location. Many petitioners may have credible information indicating that the respondent is armed without having more specific info about the number, type, or location of firearms or other prohibited items; the language in the GV-100 solicits that information in a manner that could prompt the court to take additional steps to inquire about those items with the petitioner or respondent. The language in the DV-100 may instead cause some	The committee is not recommending revisions in response to this suggestion because on item 10 of form CH-100, item 15 of form EA-100, item 11 of form SV-100, and item 11 of form WV-100, the "Yes" checkbox contains a parenthetical explaining that *if* the petitioner has information regarding prohibited items, the petitioner should complete the section that follows regarding the number, type, and location of any prohibited items. Therefore, it seems sufficiently clear that a petitioner may select the "Yes" option even if they do not have further information to provide. To the extent that the commenter offers suggestions to form DV-100, the committee does

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			petitioners to err on the side of checking "I don't know," if they don't have specific information about the number, type, and location of these items but do have a credible, informed belief that the respondent is armed.	not make any recommendations because revisions to that form are beyond the scope of this proposal.
			The GV-100 also asks whether the petitioner has information indicating that the respondent "*possesses or controls*" firearms and related items. In comparison, the DV-100 asks only about whether the respondent "*own[s] or possess[es]*" these items. The Department believes the language in the GV-100 is likely more useful and consistent with existing law and SB 899, which requires courts to order a restrained person to relinquish any firearms or ammunition in their immediate possession or control or subject to their immediate possession or control. [FN 2 See the following statutes, as amended by SB 899: Family Code §§ 6389, subds. (b), (c), (g); 3044, subd. (b)(2)(G); Code of Civil Procedure §§527.9, subds. (b), (e); 527.11, subd. (a).] If, for example, a petitioner knows that an abusive respondent has effective control over firearms formally purchased and owned by the respondent's family or household member, the language in the GV-100 would likely solicit that information more effectively than the language in the DV-100.	The committee notes that item 9 of form DV-100 uses the verb "has," not "owns or possesses." In light of this suggestion, the committee recommends deleting the question reading "does the respondent (or person in 2) own or possess any firearms (guns), firearm parts, or ammunition?" from item 10 of form CH-100, item 15 of form EA-100, item 11 of form SV-100, and item 11 of form WV-100. This question is duplicative of the question posed in the heading of each of these items, which uses the more concise verb "has" rather than "possesses or controls" or "owns or possesses." The committee recommends posing this question using the simpler verb "has" in the body of the item, and restoring the heading of the item to "Firearms (Guns), Firearm Parts, and Ammunition" to prevent a duplicative question. Moreover, deleting the "own or possess" language would align the phrasing of item 10 of form CH-100, item 15 of form EA-100, item 11 of form SV-100, and item 11 of form WV-100 with the

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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				existing phrasing seen on item 9 of form DV-100, and the committee strives to maintain consistency across protective order types when possible.
			Finally, the formatting in the GV-100, Item #5 provides clearer spacing and instructions for the petitioner than the formatting in the DV-100 Item #9. (For example, the GV-100 says "How many or what amount?" instead of "Number or Amount".)	The committee is not recommending revisions in response to this suggestion because item 9 of form DV-100 uses more concise language and easily understood formatting than item 5 of form GV-100. For example, on item 5 of form GV-100, one option reads, "I am informed, and on that basis believe, that the respondent currently possesses or controls the following firearms, firearm parts, or magazines *(describe the number, types, and locations of any of those items that you believe that the respondent currently possesses or controls)*." By contrast, item 9 of form DV-100 asks, "Does the person in 2 have firearms (guns), firearm parts, or ammunition?" and then gives the answer option of "Yes *(If you have information, complete the section below)*."
			For these reasons, the Department wishes to submit this comment in strong support of incorporating an Item on the CH-100, EA-100, SV-100, and WV-100 to solicit information from petitioners about respondents' firearms and related prohibited items, but recommends that the committee consider updating these forms, as well as the DV-100, to match the	Please see responses above.

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			language and format used on the GV-100, Item #5, instead of the DV-100, Item #9.	
			In these relevant sections, across all petition forms for firearm-prohibiting court protective orders, the Department also recommends that the committee consider • Adding a third check box option for petitioners to indicate that they do *not* have information or reason to believe that the respondent currently possesses or controls firearms or related prohibited items. (To indicate this on the current GV-100, the petitioner would simply leave both check box options in Item #5 blank). • Adding a prompt and space for a petitioner who *does* indicate that they have information that the respondent possesses or controls firearms or related items to provide information supporting or explaining how and why the petitioner has such knowledge or belief, either directly on the 100-series form or in an attachment. This could prompt petitioners to provide more detailed information and context to substantiate the petitioner's belief and inform the court's finding that the respondent possesses or controls prohibited items	The committee is not recommending revisions in response to the suggestion regarding a third checkbox option because the language across forms CH-100, EA-100, SV-100, and WV-100, which mirrors item 9 of form DV-100, already contains a "No" option. Revisions to forms DV-100 and GV-100 are beyond the scope of this proposal. The committee is not recommending revisions in response to this suggestion for the petitions included in this proposal because that this information could be elicited at a hearing. Revisions to forms DV-100 and GV-100 are beyond the scope of this proposal.

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			and subsequent efforts to verify relinquishment compliance.	
			Comment #2: Updating Gun Violence Restraining Order (GVRO) Forms. As described below, the Department respectfully recommends that the committee incorporate updates to multiple GVRO forms (including the GV-100, GV-100-INFO, GV-110, GV-130, and GV-030) to correct technical errors, promote consistency with other protective order forms, and reflect recent changes to GVRO statutes enacted pursuant to SB 899, AB 2917, and AB 2621. The Department's Office of Gun Violence Prevention has provided subject matter expertise and trainings on the GVRO process, has provided technical assistance to grantees focused on GVRO implementation, and has published reports and related materials on the GVRO and other firearm-prohibiting protective orders. The Department's Office of Gun Violence Prevention is also developing a forthcoming implementation guide for law enforcement agencies to assist them in incorporating mandated updates to GVRO standards and procedures, pursuant to AB 2621. Data reported to DOJ indicates that utilization of the GVRO process is increasing significantly, but remains highly uneven across the state.	The committee appreciates the information provided. Individual responses to the suggestions made are included below.

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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			About 98% of GVROs are obtained by law enforcement petitioners and in most jurisdictions, the vast majority of GVROs are issued as very short-term emergency or temporary orders only, typically expiring within 21 days. In a variety of contexts, stakeholders have reported significant confusion about the fact that courts may issue a GVRO to proactively block future firearm and ammunition acquisition in cases where the petitioner does not know or believe that the respondent is already armed. The GVRO is designed to play a critical gap-filling role for public safety by suspending a named individual's legal access to firearms and ammunition if they are a significant danger and may otherwise have the legal ability to keep, possess, *or acquire* deadly weapons. More specifically, state law authorizes the court to issue a GVRO if the court finds that the respondent is a "danger of causing personal injury to himself, herself, or another by having in his or her custody or control, owning, *purchasing*, possessing, or *receiving* a firearm or ammunition," and finds the GVRO is necessary under the circumstances. [FN 3	

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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			See Pen. Code, §§ 18125, 18150, 18175.] This phrasing has led to understandable confusion but authorizes the court to issue a GVRO based upon a determination that a respondent would be a significant danger of causing personal injury to self or others by, among other things, "purchasing . . . or receiving" a firearm or ammunition—by having the legal ability to pass background checks and acquire firearms or ammunition they may not yet own or possess. The GVRO is a mechanism to prevent that future access and acquisition. For example, if an individual has made recurring statements indicating a desire to commit a school shooting but a would-be petitioner does not otherwise know if the individual already owns firearms or has access to firearms in their home, a GVRO could still be a critical and important safety intervention. The petitioner is not required to provide any evidence that the respondent already has firearms or has attempted to acquire them, and the court is not required to make any such finding either. [FN 4 See id.; Pen. Code § 18155, subd. (b)(2)(G).] In many cases, petitioners may have significant evidence of dangerousness and simply not know whether the respondent has any weapons yet.	

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			But due to stakeholder confusion, eligible petitioners often fail to move forward with a GVRO petition at all in these dangerous circumstances. Additionally, this confusion may contribute to the large attrition rate between the number of emergency or temporary GVROs and the smaller number of longer-term final GVROs issued after a hearing/consent. When petitioners successfully obtain a temporary or emergency GVRO that causes a respondent to relinquish all known firearms and other prohibited items, petitioners too often fail to return to court to replace the very short-term emergency or temporary GVRO with a much longer-term order after hearing designed to prevent firearm and ammunition access and acquisition for up to five years. Stakeholder confusion about the GVRO process may cause petitioners to conclude—falsely—that they need not or cannot obtain a longer-term GVRO once a respondent has already relinquished their firearms through the 21-day emergency or temporary order. In other words, this could create scenarios in which a respondent relinquishes their firearms pursuant to a short-term emergency or temporary GVRO, and then once that GVRO expires, the person goes on to regain access to their firearms or purchase other firearms	

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			because the petitioner wrongly assumed that the relinquishment barred seeking a longer-term GVRO. Existing GVRO court forms contribute to, and perhaps reflect, this confusion. But in 2024, through AB 2917, the Legislature added language to Penal Code section 18155 to help address this confusion and state explicitly: "While evidence of recent acquisitions is a factor the court may consider, the court may still issue a gun violence restraining order to temporarily prevent legal access to firearms even if the respondent does not own firearms, ammunition, or other deadly weapons at the time that the court is considering issuing a gun violence restraining order." [FN 5 Pen. Code § 18155, subd. (b)(2)(G).] As a result, the Department respectfully and strongly recommends updating relevant GVRO forms as soon as possible to address this confusion and reflect recent clarifying amendments to state law. The recommendations outlined below include: • Three recommendations on the GV-100 (labeled as comments 2A – 2C below).	

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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			• Four recommendations on the GV-100-INFO (comments 2D – 2G). • Two recommendations on the GV-110 (2H and 2I). • Two recommendations on the GV-130 (2J and 2K). Three recommendations on the GV-030 (2L–2N).	
			<u>Recommendations on the GV-100:</u> **<u>Comment 2A</u>, concerning GV-100 Item #6 (the respondent poses a danger "by having a firearm"):** The GV-100, Item #6, asks the petitioner to explain why the GVRO is needed by urging the petitioner to explain "how the respondent poses a danger to themselves or others *by having* a firearm." (Emphasis added). That phrasing implies that the petitioner must present evidence that the respondent is already armed; at the very least, it misses an opportunity to address stakeholder confusion and meaningfully inform petitioners. The Department recommends that the committee consider amending the quoted language in Item #6 with language that prompts the petitioner to explain instead: ". . . how the respondent poses a danger to themselves or others by having a	This issue is beyond the scope of the current proposal. The committee will consider this issue as time and resources permit.

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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			firearm *or ammunition* <u>*or having the ability to access, purchase, or acquire a firearm or ammunition.*</u>"	
			<u>**Comment 2B**</u>**, concerning GV-100 Item #6 (list of example reasons for why a GVRO is needed):** In determining whether there are sufficient grounds to issue a GVRO, the court may consider any evidence presented indicating that the respondent is "an increased risk for violence" against themselves or others. [FN 6 Cal. Penal Code §§ 18155, 18175.] Penal Code sections 18155 and 18175 specify that courts evaluating GVRO petitions *must* consider certain types of evidence as indicating increased risk for violence. These statutes also provide a non-exhaustive list providing examples of other types of evidence that courts *may* consider as evidence of an increased risk for violence. The language in this non-exhaustive list was substantively amended by AB 2917 in 2024. The GV-100, Item # 6, provides a helpful list of bullet points identifying *some* of the examples included in the relevant statutes' non-exhaustive list. But most of the language in this bullet-points list has not been updated since the GVRO forms were originally adopted, so the list does not reflect recent statutory amendments to Penal	This issue is beyond the scope of the current proposal. The committee will consider this issue as time and resources permit.

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SPR25-27

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			Code section 18155 or other implementation lessons learned in recent years about areas of stakeholder confusion. Accordingly, the Department recommends that the committee take the opportunity to ensure the bullet-points information provided in Item #6 addresses confusion and more accurately reflects more of the breadth of examples provided by section 18155 under current law. More specifically, we recommend that the committee update the bullet points in Item #6 to do all of the following: i. Clarify that references to "threats or acts of violence by the respondent" include threats directed against "*another individual, group, or location*." o This would incorporate new language from AB 2917's amendments to Section 18155 and further clarify that broader, generalized threats to commit violence against a group of people or at a certain location are relevant factors, even if those threats are not specific or directed enough to qualify as "criminal threats" under the Penal Code. ii. Add a bullet point to clearly list "*Acts or threats of attempted suicide or self-harm*."	

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			o GVROs may be issued to prevent suicide when a respondent is a significant danger of injuring themselves with firearms. While Item #6 refers to "acts or threats of violence or physical force," lay petitioners may often not interpret "violence" as encompassing threats or acts of suicide and self-injury. iii. Replace the bullet point that states, "Recent criminal offenses by the respondent that involve illegal drugs or alcohol," with the broader language from Section 18155 that states: "*Evidence of ongoing abuse of controlled substances or alcohol*." o Section 18155 specifically identifies ongoing abuse of controlled substances or alcohol as a relevant factor, which would in many cases encompass criminal offenses related to substance or alcohol abuse *as well as* other non-criminal conduct that may indicate that the respondent has a significantly diminished capacity to safely and lawfully use and possess firearms. Soliciting information about abuse instead of crimes would likely also encourage some petitioners to more freely share certain information about a	

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			friend or loved one's harmful conduct without concern to whether that conduct was a crime. iv. Replace the bullet point that states, "The respondent being convicted of illegally possessing a firearm (gun)," with broader and more frequently relevant language, such as: *"The respondent has engaged in harmful or threatening conduct such as stalking, cruelty to animals, domestic abuse, abuse of a child or elder or dependent adult, or harmful hate-motivated conduct."* o As amended by AB 2917, Penal Code section 18155 notes that convictions of any of the firearm-prohibiting misdemeanor offenses listed in Penal Code section 29805 shall be considered by the court (which includes, among many other things, domestic battery, sexual battery, assault, stalking, abuse of a child or elder or dependent adult, and hate crimes). As amended by AB 2917, section 18155 also specifically states that courts may consider evidence of stalking, cruelty to animals, and hate motivated-threats or destruction of property. Evidence that an individual has engaged in this sort of abusive or	

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	Commenter	Position	Comment	Committee Response
			threatening conduct is more commonly relevant to a determination of dangerousness than evidence that the respondent has previously been convicted of illegal firearm possession—especially because a person who was convicted of illegal firearm possession in the past is in many cases likely to still be legally prohibited from possessing firearms, such that a GVRO would not be necessary to suspend their legal access to firearms. v. In the bullet point that states, "Recent acquisition of firearms (guns, ammunition, [etc.])", add "acquisition *or attempted acquisition*," to reflect amendments made by AB 2917 to section 18155, subd. (b)(2)(G). vi. Boldface "**Any other evidence**" in the last bullet point that states the petitioner should provide (and the court may consider) "**Any other evidence** of an increased risk for violence by the respondent." This is a critical bullet point informing the petitioner that the petitioner should provide	

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			and the court may consider **any** evidence of increased risk for violence. Boldfacing some or all of this final bullet point could help ensure petitioners are clearly informed that they should provide any other evidence of dangerousness and are not limited to presenting evidence specifically described in the other bullet points in Item #6.	
			<u>Comment 2C</u>, concerning the GV-100, Item #11 (Temporary Gun Violence Restraining Order request): When submitting a GV-100 petition, the petitioner may check the box on Item #11 to request a Temporary GVRO to last until the court hearing. The standard for issuing a Temporary GVRO is very similar to the standard for issuing a GVRO After Hearing/Consent except that the Temporary GVRO requires a finding that the respondent is a significant danger *in the near future*. [FN 7 Compare Penal Code section 18150, subd. (b) (with "in the near future" language) with section 18175, subd. (b) (without the "in the near future" language).] However, Item #11 does not inform the petitioner about that fact. It provides space for the petitioner to provide an explanation for why they are requesting a Temporary GVRO but does not otherwise prompt the petitioner to explain why they	This issue is beyond the scope of the current proposal. The committee will consider this issue as time and resources permit.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

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	Commenter	Position	Comment	Committee Response
			believe the respondent is a significant danger in the near future. As a result, the Department recommends adding additional language to the GV-100, Item #11, to state: "I request that a temporary gun violence restraining order be issued against the respondent to last until the hearing *because the respondent is a significant danger of causing personal injury* ***in the near future.***"	
			Four Recommendations on the GV-100-INFO form: The Department has identified four recommendations to address technical errors or potential sources of confusion on the GV-100-INFO form section labeled "What do I have to prove to get the order?":	Please see responses below.
			Comment 2D, concerning GV-100-INFO ("in the near future" error) **First**, this section states, "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." However, as described	In light of this comment the committee recommends including form GV-100-INFO in this proposal to delete "in the near future" to correct this misstatement of existing law.

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			above, the "in the near future" language is *only* relevant to the court's determination about whether to issue a Temporary GVRO prior to the court hearing. [FN 8 Id.] There is no "near future" or other imminence-of-danger requirement for issuing a longer-term GVRO after hearing/consent. As a result, this "in the near future" language should be deleted from this section of the GV-100-INFO.	
			Comment 2E, concerning GV-100-INFO (lay friendly description of standard) **Second**, to promote clarity and address stakeholder confusion, the Department recommends replacing some of the language quoted above with more lay-friendly language, to state: "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 *firearms or ammunition or having the ability to access, purchase, or acquire firearms or ammunition* ~~in his or her custody or control, owning, purchasing, possessing, or receiving any of the prohibited items listed on page 1.~~"	This issue is beyond the scope of the current proposal. The committee will consider this issue as time and resources permit.

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Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			Comment 2F, concerning GV-100-INFO (addressing confusion about whether petitioner must allege respondent is already armed): **Third**, this section currently instructs the petitioner, "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." This language reinforces stakeholder confusion about whether the GVRO is available in cases where the respondent is not known to own firearms. To address this confusion and also acknowledge that, consistent with statute, the petitioner should provide information about any firearms the respondent may own, *possess, or control*, the Department recommends that the quoted sentences be amended as follows. "You will need to give the judge specific information. *The judge can issue a gun violence restraining order whether or not the person to be restrained currently has any firearms or ammunition. But you* ~~You~~ should tell the judge everything that you know about ~~the~~ *any* firearms, firearm parts,	This issue is beyond the scope of the current proposal. The committee will consider this issue as time and resources permit.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			ammunition, body armor, or magazines that the person to be restrained currently owns, *possesses, or controls,* including how many the person ~~owns~~ *has*, the types, and where they are kept, *if you know."*	
			Comment 2G, concerning GV-100-INFO (addressing error and confusion in example grounds for obtaining a GVRO): **Fourth,** this section provides some narrative examples of the types of facts a petitioner should include to show that the respondent is dangerous to self or others. It currently states, in relevant part for this comment: "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 . . . It could also be evidence of . . . the recent acquisition of a firearm or body armor. Or it could be evidence that a person to be restrained has been identified by a mental health provider as someone prohibited from purchasing, possessing or controlling any firearms." AB 2917 amended Penal Code section 18155, subd. (b)(2)(G) to specifically add "acquisition	The committee appreciates the information provided. This issue is beyond the scope of the current proposal. The committee will consider this issue as time and resources permit.

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			or attempted acquisition" to the list of factors courts may consider, and the Department recommends updating the quoted section above to add "*or attempted acquisition*." But the final sentence quoted above is of greater concern. This final sentence is one of the few examples provided on the GV-100-INFO to guide the prospective petitioner about when a GVRO may be appropriate, so it is of particular importance. However, this final sentence inaccurately suggests that a mental health professional's determination that the respondent is already prohibited from possessing firearms is critical evidence in favor of a GVRO—a process that has the sole remedy of prohibiting legal firearm access. It would be difficult for the court to determine that a GVRO is necessary under the circumstances, as required, if the court is presented with the exact type of evidence described in this sentence showing that the respondent is already prohibited. This language is therefore confusing for stakeholders and inconsistent with GVRO statutes, which in Penal Code section 18155 provide an extensive list of other types of evidence that courts shall or may consider as grounds for issuing a GVRO.	

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			To address this error and address potential sources of stakeholder confusion, the Department respectfully recommends striking the sentence referring to a mental health provider's identification that the respondent is prohibited from possessing firearms, and replacing this deleted sentence with alternative narrative examples, informed by section 18155, that differ from the focus on violence and threats of violence already described in this section of the GV-100-INFO. The replacement text could instead emphasize the importance of the GVRO in other types of cases involving harmful or abusive conduct or involving a respondent whose mental condition or abuse of substances has significantly diminished their capacity for safe and responsible firearm use, such as: "This could be information about any threat of violence that the person to be restrained has made . . . It could also be evidence of . . . the recent acquisition *or attempted acquisition* of a firearm or body armor. Or it could be evidence that a person to be restrained has ~~been identified by a mental health provider as someone prohibited from purchasing, possessing or controlling any firearms~~ *engaged in harmful or abusive conduct*	This issue is beyond the scope of the current proposal. The committee will consider this issue as time and resources permit.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			like stalking, cruelty to animals, domestic abuse, abuse of children or elder or dependent adults, or hate-motivated conduct. Or it could be evidence that due to a condition such as severe dementia or ongoing alcohol or substance abuse, the person to be restrained has a significantly diminished capacity to safely possess firearms."	
			Two Recommendations on the GV-110, Item #4: In incorporating updates to the forms for protective orders pursuant to SB 899, the committee is proposing adding a new section titled, "Restrained Person Has Prohibited Items" to the -110 and -130 series court order forms and to the GV-030 order form. This "Restrained Person Has Prohibited Items" section already exists on the DV-110 (Item #6) and the DV-130 (Item #9), but does not yet exist on the GVRO orders or other protective order forms. These new sections prompt the court to make a clear finding about whether the restrained person has firearms or other prohibited items. Separating this finding into its own clearly delineated section will help provide a clear alert to law enforcement and other stakeholders that	The committee appreciates the information provided.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			the respondent is armed. This will help service providers support the protected party's safety planning and help inform law enforcement officers serving the order that they may be encountering an armed individual and should take steps to effectuate firearm relinquishment at the time of service, in accordance with the requirements of SB 899.	
			For these reasons, the Department supports adding this new "Restrained Person Has Prohibited Items," as proposed by the committee across all protective order types.	The committee appreciates the response.
			However, the Department recommends deleting somewhat confusing and duplicative check boxes on the GV-110, GV-130, and GV-030, as described below.	Please see responses below.
			<u>Comment 2H</u>, concerning GV-110 Item #4 (deleting confusing and duplicative finding in 4(b)) On the GV-110, Item #4(a) states "The court finds that there is a substantial likelihood that both of the following are true" and then provides paragraphs 4(a)(1) and 4(a)(2), which state the legal standard for issuing the GVRO. Item 4(a) has no check box. Under it, there are two check boxes for 4(b) and 4(c). Item 4(b) provides a box to check if the court "has received credible information that the respondent owns or possesses one or more	The committee appreciates the information provided.

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Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

	Commenter	Position	Comment	Committee Response
			firearms, firearm parts, ammunition, or magazines." Under it, Item 4(c) provides a check box and space for narrative explanation to indicate that the court finds sufficient grounds for issuance of the GVRO.	
			This numbering and spacing may reinforce false assumptions that checking 4(b) (a finding that the court received credible information that the respondent owns or possesses firearms) is a requirement for issuance of the GVRO, particularly because 4(b) is placed between 4(a) and 4(c), which both clearly and specifically refer to findings that the court has found sufficient grounds for issuance of the GVRO. Item 4(b) is also likely duplicative and unnecessary if the committee adopts its proposed revisions to the GV-110 to add a new Item #7 ("Restrained Person Has Prohibited Items"). Accordingly, the Department recommends deleting 4(b) and adding the separate "Restrained Person Has Prohibited Items" section as the committee has proposed.	The committee agrees that this item is duplicative and recommends deleting item 4.b from form GV-110.
			<u>Comment 2I</u>, concerning GV-110 Item #4 (clarifying confusing and inconsistent language in 4(c)))	The committee appreciates the information provided.

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SPR25-27

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			On the GV-110, Item #4(c) provides a check box for the court to indicate that "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 is rather confusing language. It appears to invite the court to use the space provided to summarize any grounds for issuing the order that are not otherwise stated in the Petition and supporting documents (which might include, for example, oral testimony). If so, that could be stated more clearly. This language is also somewhat inconsistent with the analogous check box language used on the GV-130 (Item 5(c)) and the GV-030 (t(c)).	The committee notes that there are variances between the language seen on item 5.c of form GV-030, item 4.c of form GV-110, and item 5.c of form GV-130. The committee recommends modifying item 4.c of form GV-110 to more closely align with the phrasing of item 5.c of form GV-030, as follows: The facts as stated in the Petition and supporting ~~documents~~ *evidence*, which are incorporated here by reference, *and for the reasons set forth below,* establish sufficient grounds for the issuance of this Order. ~~And for the reasons stated below.~~
			• The GV-130, Item 5(c) states: "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." • The GV-030, Item 5(c) states: "The facts as stated in the *Gun Violence Emergency Protective Order* (form	The committee appreciates the information provided.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

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	Commenter	Position	Comment	Committee Response
			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." The Department recommends that the committee update these analogous but differently worded Items on the GV-110, GV-130, and GV-030 to use more consistent language and to also clarify that the court may check this box if, among other things, "supporting documents, *testimony, or other evidence*" provided to the court establish sufficient grounds for issuance of the order. **Two Recommendations on the GV-130, Item #5:** **Comment 2J, concerning GV-130 Item #5 (deleting confusing and duplicative finding in 5(b))** The GV-130, Item #5(b) is identical to GV-110, Item #4(b). For the reasons described above, the language and formatting in 5(b) is somewhat confusing, and it is also duplicative of the new Item #8 ("Restrained Person Has Prohibited Items") that the committee has proposed adding to the GV-130. Moving or deleting 5(b) and adding a separate "Restrained Person Has Prohibited Items" section as the committee has	As indicated above, the committee recommends modifying item 4.c of form GV-110 to change "documents" to "evidence." The committee agrees that this item is duplicative and recommends deleting item 5.b from form GV-130.

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	Commenter	Position	Comment	Committee Response
			proposed would promote clarity and help address confusion.	
			Comment 2K, concerning GV-130 Item #5 (inconsistent language in 5(c)) Additionally, for the reasons described above, we recommend that the committee ensure Item #5(c) on the GV-130 uses language that is more consistent with the same finding on the GV-110 and GV-030, and recommend clarifying in this Item that the court may check this box if it finds, among other things, that "supporting documents, *testimony, or other evidence*" provided to the court establish sufficient grounds for issuance of the order.	The committee notes that there are variances between the language seen on item 5.c of form GV-030, item 4.c of form GV-110, and item 5.c of form GV-130. The committee recommends modifying item 5.c of form GV-130 to more closely align with the phrasing of item 5.c of form GV-030, as follows: The facts as stated in the Petition and supporting ~~documents~~ *evidence*, which are incorporated here by reference, *and for the reasons set forth below*, establish sufficient grounds for the issuance of this Order. ~~And for the reasons stated below.~~ As indicated above, the committee recommends modifying item 5.c of form GV-130 to change "documents" to "evidence."
			Three Recommendations on the GV-030, Item #5: **Comment 2L, concerning GV-030 Item #5 (deleting confusing and duplicative finding in 5(b))** For the reasons described above, the language and formatting in Item #5(b) on the GV-030 is somewhat confusing and duplicative of the new Item #7 ("Restrained Person Has Prohibited Items") that the committee has proposed adding	The committee agrees that this item is duplicative and recommends deleting item 5.b from form GV-030.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

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	Commenter	Position	Comment	Committee Response
			to the GV-030. Moving or deleting 5(b) and adding a separate "Restrained Person Has Prohibited Items" section as the committee has proposed would promote clarity and help address confusion.	
			Comment 2L, concerning GV-030 Item #5 (check box inconsistency) Additionally, we note that Item #5 on the GV-030 is nearly identical to the GV-110 Item #4 and to the GV-130, Item #5, ***except*** that on the GV-030, Item #5(a) has a check box for the court to indicate that it finds sufficient evidence that the respondent is a significant danger and that a GVRO is necessary under the circumstances. There is no check box in the analogous portions of the GV-110 or GV-130. For consistency, we recommend that the committee consider removing this check box from the GV-030 or instead adding a check box for the same finding on the GV-110 and GV-130.	The committee agrees and recommends deleting the check box from item 5.a of form GV-030.
			Comment 2L, concerning GV-030 Item #5 (inconsistent language in 5(c)) Finally, for the reasons explained above, we recommend that the committee ensure Item #5(c) on the GV-030 uses language that is more consistent with the same finding on the GV-110 and GV-130 and that this Item should clarify that the court may check this box if it finds,	As explained above, the committee recommends revisions to item 4.c of form GV-110 and item 5.c of form GV-130 to more closely align with the phrasing of item 5.c of form GV-030. Moreover, the committee recommends modifying item 5.c of form GV-030 to change "documents" to "evidence."

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			among other things, that "supporting documents, *testimony, or other evidence*" provided to the court establish sufficient grounds for issuance of the order.	
2.1.	GIFFORDS by Ethan Murray, State & Local Policy Attorney	NI	GIFFORDS, the gun violence prevention organization led by former Congresswoman, gun owner, and gun violence survivor Gabby Giffords, writes as the proud sponsor of Senate Bill (SB) 899, authored by Senators Skinner and Blakespear. The measure enhances the firearm relinquishment procedures required by civil restraining orders and criminal protective orders, a significant addition to existing protective orders that GIFFORDS firmly believes will improve firearm relinquishment rates and save lives. We appreciate the chronicling of the history of this bill and its effort to expand SB 320's relinquishment provisions to the many protective orders available to Californians. We understand and agree with the Judicial Council's strategy to make similar changes to those it made implementing SB 320. We appreciate the Judicial Council's attention to detail in crafting these form updates and believe the forms achieve the stated purpose of the invitation to comment overall.	The committee appreciates the information provided.

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SPR25-27

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			We also want to commend the Department of Justice for its comment on SPR-25-27. We concur with the department's suggestions and ask the Judicial Council to consider its recommendations to revise gun violence restraining order forms.	
			Below are comments addressing specific areas for the Judicial Council to consider revising the forms.	No response required.
			CH-120-INFO • Page 33 What if I have a firearm (gun), firearm part, or ammunition?: We recommend considering removing the word "immediate" to avoid confusion.	Code of Civil Procedure section 527.9(b) provides that upon the issuance of a protective order against a person, the court must order that person to relinquish "any firearm and ammunition in that person's immediate possession or control, or subject to that person's immediate possession or control." The committee agrees with the comment and recommends modifying forms CH-120-INFO, EA-120-INFO, SV-120-INFO, and WV-120-INFO to delete the word "immediate." The committee further recommends deleting "possession or control" at this same item, instead favoring the more concise verb "has."
			Service Language The forms are inconsistent on service, with some prompts having an unintentional steering	The committee cannot entirely remove the checkboxes from these service of process items (item 13 of form CH-100, item 15 of form SV-100, and item 15 of form WV-100) because a

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			effect for people to choose peace officers over sheriffs and marshals. The intent of SB 899, drawing on previous legislation in the domestic violence space, was to expand free service to other peace officers to make all restraining orders consistent and ensure that if an individual approached law enforcement, they were not turned away. It was not necessarily to supplant the existing system of sheriffs and marshals, being the court's main option for service when a petitioner requests it. We ask the court to consider removing the option aspect, and just make it a request for free service that the court then helps administer by directing service to the law enforcement provider it has developed a process.	record must be maintained to facilitate the reimbursement process outlined in Government Code section 6103.2(b)(4) for certain forms of service provided by the sheriff or marshal. However, the committee recommends removing the proposed language regarding service of process by peace officers from item 13 of form CH-100, item 21 of form EA-100, item 15 of form SV-100, and item 15 of form WV-100 to address the commenter's concerns. Instead, the committee recommends that this information exist only on forms CH-200-INFO, EA-200-INFO, SV-200-INFO, and WV-200-INFO.
			Some forms, like CH-120, CH-130-INFO, EA-200-INFO, etc., take the following approach: If the sheriff or marshal serves this Order, the sheriff or marshal will do so for free. A peace officer may also serve this Order for free. See form [...] for more information. This sort of explanation, with a checkbox for "I ask for free service" could achieve the policy goal of facilitating service without creating implementation issues. We believe it is more effective because it will allow courts to rely on existing service processes and relationships the	The committee notes that the invitation to comment did not contain any information regarding free service of process pursuant to SB 899 on form CH-120, and that form CH-130-INFO does not exist. However, to address the commenter's concerns, the committee recommends removing the proposed language regarding service of process by peace officers from forms CH-110, CH-130, EA-110, EA-130, SV-110, SV-130, WV-110, and WV-130.

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	Commenter	Position	Comment	Committee Response
			courts have developed with law enforcement, while still preserving the expanded option of police as possible service providers. We also believe it to be more consistent with the intent of SB 899.	The committee recommends retaining language regarding service of process by peace officers on forms CH-200-INFO, EA-200-INFO, SV-200-INFO, and WV-200-INFO. The committee appreciates the information provided by the commenter regarding the intent of SB 899, however, Code of Civil Procedure section 527.12 requires a peace officer to, upon the request of a petitioner, serve various orders upon the respondent. The committee believes that this information is best communicated on forms CH-200-INFO, EA-200-INFO, SV-200-INFO, and WV-200-INFO, which are information sheets that explain the mechanics of personal service, including an explanation of who can provide service of process.
			Meanwhile, the following orders take an asymmetrical approach that may unintentionally push people to choose peace officers over sheriffs. • Pg 145 - WV-100 o No Fee to Serve Orders o I ask the court to order the sheriff or marshal to serve the respondent with the orders for free because this request for orders is based on a credible threat of violence or stalking.	As explained above, the committee recommends removing the proposed language regarding service of process by peace officers from item 15 of form WV-100 to address the commenter's concerns.

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			(note: we recommend bolding free here as some of the info sheets do) o If the court issues an order, I ask that a peace officer serve it for free.	
			• School Violence Restraining orders forms have a similar, but more extensive asymmetry problem. The SV-100 creates an asymmetrical prompt by switching between no fee and free. Free is likely more attractive biasing people filling out the form towards the peace officer option over the seemingly more complex sheriff or marshal • SV-100 (emphasis added) o I ask the court to order the sheriff or marshal to serve the respondent. There is *no fee* for service of process by a sheriff or marshal if the order is based upon a credible threat of violence or assault, battery, or stalking. b. If the court issues an order, I ask that a peace officer serve it for *free*.	As explained above, the committee recommends removing circulated language regarding service of process by peace officers from item 15 of form SV-100 to address the commenter's concerns.

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			GIFFORDS appreciates consideration of our comments and suggestions. I want to again commend the Judicial Council for its efforts to effectively implement SB 899. Your work is critical to realizing the full potential of the law.	The committee appreciates the response.
2.2.	GIFFORDS by Ethan Murray, State & Local Policy Attorney	NI	On behalf of GIFFORDS, the gun violence prevention organization founded by former Congresswoman Gabby Giffords, and the sponsor of SB 599, SB 899, and AB 2096, I respectfully submit this public comment. GIFFORDS appreciates the hard work, expertise, and attention to detail evident in these proposals, and commends the Judicial Council and the California Judiciary for its effort to implement these laws judiciously.	The committee appreciates the response.
			Overall, the proposed revisions achieve the stated purpose of the invitation to comment. We only have one recommendation concerning the no fee to serve orders language. As we noted in our comment on SPR-25-28, the proposed revision creates an unintentional asymmetry issue that may result in a person filling out the form being biased towards choosing peace officers over sheriffs and marshals. The intent of SB 899, drawing on previous legislation in the domestic violence space, was to expand free service to other peace officers to make all restraining orders consistent and ensure that if an individual	As explained above, the committee recommends removing circulated language regarding service of process by peace officers from item 15 of form SV-100 to address the commenter's concerns. The committee appreciates the information provided by the commenter regarding the intent of SB 899, however, Code of Civil Procedure section 527.12 requires a peace officer to, upon the request of a petitioner, serve various orders upon the respondent. The committee believes that this information is best communicated on forms CH-200-INFO, EA-200-INFO, SV-200-INFO, and WV-200-INFO, which is an information sheet that

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			approached law enforcement they were not turned away. It was not necessarily to supplant the existing system of sheriffs and marshals, being the court's main option for service when a petitioner requests it.	explains the mechanics of personal service, including an explanation of who can provide service of process.
			The SV-100 creates an asymmetrical prompt by switching between no fee and free. Free is likely more attractive, biasing people to fill out the form towards the peace officer option over the seemingly more complex sheriff or marshal option.	As explained above, the committee recommends removing circulated language regarding service of process by peace officers from item 15 of form SV-100 to address the commenter's concerns.
			• SV-100 (emphasis added) o I ask the court to order the sheriff or marshal to serve the respondent. There is *no fee* for service of process by a sheriff or marshal if the order is based upon a credible threat of violence or assault, battery, or stalking. b. If the court issues an order, I ask that a peace officer serve it for *free*.	No response required.
			GIFFORDS appreciates consideration of our comments and suggestions. I want to again commend the Judicial Council for its efforts to effectively implement AB 2096. Your work is critical to realizing the full potential of the law.	The committee appreciates the response.
3.	Ryan Montgomery	NI	I, Ryan Montgomery, wishes to utilize the Invitation to Comment on the proposal Titled:	California law and the California Rules of Court set various deadlines for providing notice to the

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			Civil Restraining Order Forms to Implement Senate Bill 899 by submitting a comment as follows; I wish to ask why the committee hasn't included a bright line amount of business day rule for timeliness of Notice before hearing on the Civil Restraining Orders and subsequent procedures for review hearings as are contemplated in SB 899 and thus that are impacted by the legislations passage? Without adequate and mandatory notice requirements, judges will make rulings when they actually never obtained real jurisdiction over the case or the parties involved. All types of Justice is built on one foundation, which is due process of which entitles all to fair, reasonable and adequate notice of proceedings. Specifically, how many business days of summons or notice of hearing prior to the scheduled civil court hearing must the respondent or subject of the petition for a restraining order be entitled to under their due process rights under the California Constitution and U.S. Constitution as was recently brought up in the U.S. Supreme Court decision in Rahimi?	respondent in cases involving restraining orders. Generally speaking, upon the filing of a petition for a civil harassment, elder or dependent adult abuse, postsecondary school violence, or workplace violence restraining order, the respondent must be personally served with a notice of hearing at least five days before the hearing, unless the court for good cause orders a shorter time (Cal. Rules of Court, rule 3.1160(c)). Pursuant to SB 899, if the restrained person is not present when the court sets the review hearing, the protected person must provide notice of the review hearing to the restrained person at least two court days before the review hearing, as provided. (Code Civ. Proc., § 527.11(c)(2); Pen. Code, § 18120.5(c)(2)). Moreover, the proposed order after hearing forms (forms CH-130, EA-130, GV-130, SV-130, and WV-130), as well as the proposed forms entitled *Notice of Compliance Hearing for Firearms, Firearm Parts, and Ammunition* (forms CH-840, EA-840, SV-840, and WV-840) and *Notice of Compliance Hearing for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-840) facilitate notice related to the compliance hearing. Regarding the question of due process, the opinion delivered by Chief Justice Roberts in

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
				United States v. Rahimi (2024) 602 U.S. 680 [144 S.Ct. 1889, 219 L.Ed.2d 351] stated the following: [W]e need not address any due process concern here because this challenge was not litigated as a due process challenge and there is no such claim before us. Moreover, the committee notes that Rahimi does not require a brightline number of days by which such notice must occur.
4.	Orange County Bar Association by Mei Tsang, President	A	This proposal addresses amendments to existing forms and adoption of new forms necessary to implement SB 899, which creates several requirements and court procedures for civil restraining orders involving firearms and ammunition.	No response required.
			• The proposal appropriately addresses the stated purpose.	The committee appreciates the response.
			• There are no reasons why it would not be necessary to replicate form DV-840 for civil harassment, elder or dependent adult abuse, gun violence, postsecondary school violence, and workplace violence restraining orders.	The committee agrees with the commenter and recommends adopting forms CH-840, EA-840, GV-840, SV-840, and WV-840.
			• The information in item 2c on forms CH-850, EA-850, SV-850, and WV-850 (advisement to the restricted person that a	The committee agrees with the commenter and recommends incorporating this language as a

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			granted firearm exemption only applies to the specific restraining order, and that if the restricted person is prohibited from having firearms or ammunition by another order or law, the restricted person may be in violation of state or federal law) is important information that would be more clearly communicated in a stand-alone warning box.	stand-alone warning below item 2 on forms CH-850, EA-850, SV-850, and WV-850.
5.	Superior Court of Los Angeles County by Stephanie Kuo	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, "Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899," the Court agrees with the proposal and has no other comments.	The committee appreciates the response.
6.	Superior Court of Orange County, Civil and Probate Operations Management by Janay Marks, Operations Analyst	NI	Orange recommends that the Prohibited Items Finding and Orders forms (CH-820, EA-820, GV-820, SV-820, and WV-820) forms be adopted for optional use, not for mandatory use. The findings language on these forms is also included on the Order After Hearing forms (CH-130, EA-130, GV-130, SV-130, and WV-130). On the Temporary Restraining Order forms	The committee is not recommending revisions in response to this suggestion because adopting forms CH-820, EA-820, GV-820, SV-820, and WV-820 as mandatory forms is consistent with what was already done on form DV-820 to implement SB 320. Although the committee acknowledges the commenter's concern regarding the potential for duplicative language causing

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			(CH-110, EA-110, GV-110, SV-110, and WV-110), two of the three findings are also included. Forms are already confusing enough and when there is duplicate language across numerous mandatory forms, this can cause confusion and frustration for both parties and staff.	confusion, the committee notes that even if a form is adopted for mandatory use, that does not require the form to be used in all instances. Specifically, because forms CH-130, EA-130, GV-130, SV-130, and WV-130 contain all the items seen in forms CH-820, EA-820, GV-820, SV-820, and WV-820, an -820 form would not be used as an attachment to a -130 form. However, forms CH-820, EA-820, GV-820, SV-820, and WV-820 could be used in other contexts, for example, at another noticed hearing where the court receives information that a restrained person has a prohibited item.
			The exemption to carry a firearm is on the CH-130. The same exemption should be included on the CH-110 as there are many times where a peace officer, military personnel or other person who is required to carry a weapon comes to the court to request an exemption before the 21-day Order After Hearing date because they need to continue to work. Another consideration is that a Temporary Restraining Order (CH-110, EA-110, EV-110, SV-110, and EV-110) can be continued numerous times for good cause which is even more reason if an exemption is in place.	It is the understanding of the committee that the situation described by the commenter is exceedingly rare. Additionally, including a checkbox for the exemption on the temporary restraining order may lead to the impression that the exemption can be granted without a hearing, as many temporary restraining orders are granted based solely on the pleadings. In the event that the court does grant the exemption in a temporary restraining order that is issued or modified after a hearing, the court could make note of this on the order and attach a form -850.
			The proposed forms for Notice of Compliance Hearing for Firearms, Firearm Parts, and	The committee is not recommending revisions in response to this suggestion because adopting

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	Commenter	Position	Comment	Committee Response
			Ammunition (forms CH-840, EA-840, SV-840, and WV-840) and the proposed GV-840 that includes magazines should also be for optional use. The 110 and 130 series forms contain the hearing date that can be used for a compliance hearing. The language in SB-899 reads in part "When relevant information is provided to the court at any noticed hearing that the restrained person has a firearm […] the court has the option of setting a review hearing within 10 court days after the hearing at which the information was presented". As a matter of judicial expediency, courts may choose to set the hearing at the same time as another subsequent hearing rather than a separate hearing. Finally, item #17 on the Order After Hearing Forms (CH-130, EA-130, GV-130, SV-130, and WV-130) states in part "someone […] must personally serve a copy of this Order", not the 840 forms; and the 840 form is not included on the list of forms to serve under items 4 and 5 on the Proof of Service forms (CH-200, WV-200, respectively). It would have to be written in under "Other". items 4.i. and 5.i, respectively.	forms CH-840, EA-840, GV-840, SV-840, and WV-840 as mandatory forms is consistent with what was already done on form DV-840 to implement SB 320, and the committee strives to maintain consistency across protective order types when possible. Moreover, the committee is not recommending revisions in response to the suggestion to list a form -840 in the service item of the order after hearing forms (forms -130). Forms CH-840, EA-840, GV-840, SV-840, and WV-840 would be used when the issue of noncompliance arises after a long-term restraining order has been issued and the court elects to set the matter for a review hearing. Therefore, in the situation described by the commenter, a court would use a form -130 to facilitate the review hearing and would not attach a form -840.
			The warning at the end of forms CH-850, EA-850, and WV-850 may cause confusion. As such, perhaps it should be included on an Information sheet. Alternatively, it should be a	The committee agrees with the commenter and recommends incorporating this language as a stand-alone warning below item 2 on forms CH-850, EA-850, SV-850, and WV-850. The

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SPR25-27

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			standalone warning, not part of the order.	committee also notes that the proposal did not contemplate an information sheet to accompany the -850 forms, and that locating this information elsewhere may make it more difficult for respondents to access this information.
			The Temporary Restraining Order (CH-110) is missing an order related to the Possession and Protection of Animals. The Request For Civil Harassment Restraining Orders (CH-100) and the Order After Hearing (CH-130) each include that provision. This is not an issue with the Elder Abuse forms.	On form CH-110, the item entitled "Possession and Protection of Animals" was excluded in error on the version of the form attached to the invitation to comment. The committee has restored that item to the version of the form attached to the committee's recommendations to the Judicial Council.
			What would the implementation requirement be for courts? Implementation would require revising procedures, training for judicial officers and staff, and updating the case management system.	The committee appreciates the information provided.
			Would two months be enough time? Two months is a challenge. Four months would be preferred for adding new forms, hearing types, efiling, etc.	The committee appreciates the amount of work involved in implementing new forms changes. The changes in this proposal are largely to implement laws that will be effective on January 1, 2026. Given the importance and safety issues associated with the new laws, the committee does not recommend delaying implementation of this proposal.
7.	Superior Court of San Bernardino County Staff Civil Committee	NI	Does the proposal appropriately address the stated purpose?	The committee appreciates the response.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

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SPR25-27

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			Yes, the proposal appropriately addresses the stated purpose.	
			The committee has proposed adopting Notice of Compliance Hearing for Firearms, Firearm Parts, and Ammunition (forms CH-840, EA-840, SV-840, and WV-840) and Notice of Compliance Hearing for Firearms, Firearm Parts, Ammunition, and Magazines (form GV-840), but questions their utility in the context of civil harassment, elder or dependent adult abuse, gun violence, postsecondary school violence, and workplace violence restraining orders. The forms proposed for adoption are similar to form DV-840 for domestic violence restraining orders. Are there any reasons why it would not be necessary to replicate form DV-840 for civil harassment, elder or dependent adult abuse, gun violence, postsecondary school violence, and workplace violence restraining orders (forms CH-840, EA-840, GV-840, SV-840, and WV-840)? I think it would be necessary to adopt proposed forms. This will help bring all division areas with similar processes and procedures.	The committee agrees with the commenter and recommends adopting forms CH-840, EA-840, GV-840, SV-840, and WV-840.
			There is a warning appearing on proposed forms CH-850, EA-850, SV-850, and WV[1]850 that reads, “Warning: The court orders listed above in (2) only apply to this restraining order. If you	The committee agrees with the commenter and recommends incorporating this language as a stand-alone warning below item 2 on forms CH-850, EA-850, SV-850, and WV-850.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

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SPR25-27

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			are prohibited from having a firearm or ammunition by another order or law, you may still be in violation of state or federal law." Should this information exist as a stand-alone warning, or instead be part of the order itself? In other words, should the committee make this statement in item 2c on these forms, rather than in a separate box that appears below the order? The warning box is sufficient. I do not think that it needs to be a part of the order itself.	
			Would the proposal provide cost savings? If so, please quantify No cost savings.	The committee appreciates the information provided.
			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? Some change/training will be required. Clerk's Office, Judicial Assistants, and Judges would need to be informed of the change. This can be done by email. Revising needed for clerk's office and judicial assistant procedures manuals. Possibly need to update verbiage in system for judicial assistant	The committee appreciates the information provided.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

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SPR25-27

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			to complete minute orders. Training would be needed for both clerk's office and judicial assistants as there are new forms and processes that will be used. (1 month) Time would be needed for the clerk's office to update any forms in office with the revised forms and time would be needed for court tech to make sure correct forms are online. (1 day) No changes in the case management system would be needed.	
			Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.	The committee appreciates the information provided.
			How well would this proposal work in courts of different sizes? This will work well in any size court.	The committee appreciates the information provided.
8.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	Q: Does the proposal appropriately address the stated purpose? **A: Yes.**	The committee appreciates the information provided.
			Q: The committee has proposed adopting Notice of Compliance Hearing for Firearms, Firearm Parts, and Ammunition (forms CH-840, EA-840, SV-840, and WV-840) and Notice of Compliance Hearing for Firearms, Firearm Parts, Ammunition, and Magazines (form GV-840), but questions their utility in the context of	The committee agrees with the commenter and recommends adopting forms CH-840, EA-840, GV-840, SV-840, and WV-840.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

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	Commenter	Position	Comment	Committee Response
			civil harassment, elder or dependent adult abuse, gun violence, postsecondary school violence, and workplace violence restraining orders. The forms proposed for adoption are similar to form DV-840 for domestic violence restraining orders. Are there any reasons why it would not be necessary to replicate form DV-840 for civil harassment, elder or dependent adult abuse, gun violence, postsecondary school violence, and workplace violence restraining orders (forms CH-840, EA-840, GV-840, SV-840, and WV-840)? **A: No. Although it is less likely that a noncompliance hearing would need to be set after a long-term restraining has been issued, having forms that include the necessary notice to the restrained party would be helpful.**	
			Q: There is a warning appearing on proposed forms CH-850, EA-850, SV-850, and WV-850 that reads, "Warning: The court orders listed above in (2) only apply to this restraining order. If you are prohibited from having a firearm or ammunition by another order or law, you may still be in violation of state or federal law." Should this information exist as a stand-alone warning, or instead be part of the order itself? In other words, should the committee make this	In light of all the comments received on this issue, the committee is persuaded that the information proposed is a warning that is informational in nature and makes more sense as a stand-alone text box rather than as part of the order itself. The committee therefore recommends incorporating this language as a stand-alone warning below item 2 on forms CH-850, EA-850, SV-850, and WV-850.

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			statement in item 2c on these forms, rather than in a separate box that appears below the order? **A: The statement should be included as item 2c.**	
			Q: Would the proposal provide cost savings? If so, please quantify. **A: No.**	The committee appreciates the information provided.
			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: Updating internal procedures and local packets, adding new filings in the case management system, training staff, and notifying judicial officers.**	The committee appreciates the information provided.
			Q: Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? **A: Our court would request three months from Judicial Council approval, which has been provided in previous invitation cycles.**	The committee appreciates the amount of work involved in implementing new forms changes. The changes in this proposal are largely to implement laws that will be effective on January 1, 2026. Given the importance and safety issues associated with the new laws, the committee does not recommend delaying implementation of this proposal.
			Q: How well would this proposal work in courts of different sizes?	The committee appreciates the response.

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Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

SPR25-27

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			A: It appears the proposal would work for courts of all sizes.	
			Propose that the language under the court's signature be consistent on all forms. Current forms list "*Judicial Officer*" (CH/EA/WV-109, 110, 116, 130 and the new forms list "*Judge or Judicial Officer"* (CH/EA/GV/SV/WV-830; 840).	The committee agrees with the commenter and recommends labeling the judicial officer's signature line on all these forms with "Judicial Officer" instead of "Judge" or "Judge or Judicial Officer."
			CH/EA/GV/SV/WV-830: **Item 3:** Propose removing the checkbox preceding "Restrained Person Has Not Complied with Surrendering Firearms (Guns) Firearms Parts, and Ammunition." It appears that the checkbox was carried over from the DV-830, which provides additional options (e.g. "Outstanding Warrant(s)" and "Additional Information") for the court to select, which are not eligible to these actions.	The committee agrees with the commenter and recommends that this checkbox be removed from item 3 on the -830 forms.
			Clerk's Certificate: Remove item c. "Law enforcement agency listed in 4, If different than 3" as this is not applicable to CH/EA/GV/SV/WV ROs. This also appears to have been carried over from the DV-830 and applies to outstanding warrants.	The committee agrees with the commenter and recommends removing item 4c on the -830 forms.
9.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC)	AM	The JRS notes that the proposal is required to conform to a change of law.	No response required.
			The JRS also notes the following impact to court operations:	The committee appreciates the information provided.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
	(TCPJAC/CEAC Joint Rules Subcommittee (JRS))		• Impact on existing automated systems. o There will be a minimal impact on case management systems because the system will need to create additional compliance calendars and maintain court file organization with the additional forms and court compliance responsibility.	
			• Results in additional training, which requires the commitment of staff time and court resources. o There is no requirement for the court to find whether an individual has body armor and no requirement for the court to ensure compliance with a body armor prohibition. (i.e. CH-110 sec. 8 and sec. 10) The court and court staff will receive questions from protected parties and litigants regarding compliance with relinquishing body armor. o Judicial officers will need to be trained on the new forms. o The court clerks (courtroom and processing) will need to be trained on using the new documents. The clerks at the window will need to be trained on the most recent	The committee appreciates the information provided.

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			documents since a judicial officer will not be available to assist.	
			• Increases court staff workload. o The court will need to establish an additional, regular compliance calendar which will require court staff resources, judicial officer resources and court security resources.	The committee appreciates the information provided.
			• Changes the responsibilities of the presiding judge and/or supervising judge. o The SJ or PJ will need to ensure the court complies with the new firearm relinquishment compliance requirements. The SJ or PJ will need to work with court staff and court security to find an available courtroom for a compliance calendar. The PJ or SJ will need to find a judicial officer that is available to cover the new calendar.	The committee appreciates the information provided.
			• Impact on court security. o Court security will need to staff a new compliance calendar.	The committee appreciates the information provided.
			• Impact on local or statewide justice partners. o There will be a significant impact on justice partners that are required to handle individuals that fail to	The committee appreciates the information provided.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			comply with relinquishment. That may involve authoring and executing high risk search warrants for individuals that refuse to relinquish their firearms. The prosecuting agency may see a nominal increase in caseload.	
			• Proposed date for implementation is not feasible or is problematic. o January 1, 2026, is problematic without more clear direction to justice partners about how to handle a failure to comply.	The committee appreciates the information provided. Please see response below.
			• Other major fiscal or operational impacts o There will be operational impacts because of the additional need for judicial officer, security, and court staff resources to handle the court's task of monitoring compliance. This includes the need to have cases/individuals return to court for additional hearings on a separate compliance calendar.	The committee appreciates the information provided.
			Suggested modification(s): • CH 109, consider including on page 3, section "To the Person in 2" a bullet point for how to dispose of body armor similar to the information provided on	The committee is not recommending revisions in response to this suggestion because Penal Code section 31360 does not outline a detailed procedure for the relinquishment of body armor. By contrast, Code of Civil Procedure section

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SPR25-27

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			how to dispose of firearms and ammunition.	527.9 does outline a detailed procedure for the relinquishment of firearms and ammunition.
			• CH-110, consider modifying sec. 13 to state, "The sheriff, marshal or a peace officer will serve this order without charge because". It may confuse litigants that there is a distinction between whether a sheriff or police officer is permitted to serve unless police officer is included in the first sentence. If the modification is approved, this change will need to happen in all the documents attached to SPR25-27.	The committee is not recommending revisions in response to the suggestion to list the sheriff, marshal, or a peace officer alongside each other on form CH-110 because there are differing statutory requirements for free service by a sheriff or marshal pursuant to Code of Civil Procedure section 527.6(z) and free service by a peace officer pursuant to SB 899 (Code of Civil Procedure section 527.12). Moreover, a record must be maintained to facilitate the reimbursement process outlined in Government Code section 6103.2(b)(4) for certain forms of service provided by the sheriff or marshal. However, the committee recommends removing circulated language regarding service of process by peace officers from form CH-110 while retaining this language on form CH-200-INFO, which is an information sheet that explains the mechanics of personal service, including an explanation of who can provide service of process.
			• CH-120, p. 2 of 5, sec. 6 at the bottom in the section "(Note that you will be required to show the judge…There are other things you will need to prove…"	The committee is not recommending revisions in response to this suggestion because "things" is more clear and concise language than "requirements."

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

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SPR25-27

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			Consider changing "things" to "requirements." If approved language change, it should be changed consistently throughout all the documents included with SPR25-27.	
			• CH-120, p. 2 of 5, sec. 6c(2), "Are there any orders or laws that prohibit you from having…" Considering modifying to "any orders, state or federal laws that prohibit you…" If approved, this language will need to be changed throughout the documents included with SPR25-27.	The committee agrees with the commenter and recommends that forms CH-120, EA-120, SV-120, and WV-120 instead read, "Are there any orders *or state or federal* laws that prohibit you from having firearms or ammunition?"
			• CH-120-INFO, p. 2 of 2, consider adding a FAQ re: Per PC 31360(c), only a chief of police or sheriff may grant an exemption for body armor and how to relinquish body armor.	The committee agrees with the commenter and notes that form DV-120-INFO contains an instruction regarding the body armor exemption, while forms CH-120-INFO, EA-120-INFO, SV-120-INFO, and WV-120-INFO do not. Therefore, the committee recommends that forms CH-120-INFO, EA-120-INFO, SV-120-INFO, and WV-120-INFO include the following information: **What if I need to have body armor?** If you need to have and use body armor for your work, livelihood, or safety, you may ask for an exception with the chief of police or sheriff in the county where you will have and use the body armor (see Penal Code section 31360(c)).

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			• CH-130, sec. 11, no exemption provided in the order if a sheriff grants an exception to prohibition on body armor.	Penal Code section 31360 contemplates a body armor exemption being granted by the chief of police or sheriff, not the court. To the extent the commenter suggests adding information about the possibility of respondent obtaining an exception to possess body armor, the committee is not recommending revisions in response to this suggestion at this time because it believes that the issue would benefit from public comment.
			• CH-200-INFO, p. 1 of 2, it may not be clear to litigants why service of papers is separate from service by a police officer. Consider modifying the language to include police officer with sheriff.	While free service by a sheriff or marshal depends on the existence of certain underlying allegations (*see* Code of Civil Procedure section 527.6(z)), free service by a peace officer does not depend on the existence of certain underlying allegations pursuant to SB 899 (Code of Civil Procedure section 527.12). Moreover, the definition of "peace officer" pursuant to SB 899 (Code of Civil Procedure section 527.12(e)) includes, but is not limited to, a sheriff or marshal. Therefore, given these statutory differences, the committee is not recommending revisions in response to the suggestion to include a peace officer alongside the sheriff or marshal on form CH-200-INFO.
			• CH-850, sec. 1e, the court findings do not include whether the judge made the necessary findings to support the exemption based on the review of the psychological report. If approved this modification would need to be changed	The committee is not recommending revisions in response to this suggestion because Code of Civil Procedure section 527.9(f) does not require a nexus between the psychological report and the other findings, and forms -850 already state that the court reviewed the psychological evaluation.

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Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

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	Commenter	Position	Comment	Committee Response
			on several documents included with SPR25-27.	The committee notes that there is another finding on form -850 that requires the court to find that the restrained person "[d]oes not pose an additional threat of harm to any protected person or the public by having access to a specific firearm or ammunition." The finding regarding additional threats of harm, in combination with the language regarding the court's review of the psychological evaluation, is likely broad enough to address the commenter's concern.
			• EA-130 sec. 13, there is no exemption if a sheriff or police chief grants a body armor exception.	Penal Code section 31360 contemplates the exemption being granted by the chief of police or sheriff, not the court. To the extent the commenter suggests adding information about the possibility of respondent obtaining an exception to possess body armor, the committee is not recommending revisions in response to this suggestion at this time because it believes that the issue would benefit from public comment. The committee may consider adding such information as time and resources permit.
			Request for Specific Comments: *Does the proposal appropriately address the stated purpose?* Yes, with the suggestions listed above the apply throughout the proposed forms. The proposed forms respond appropriately to the change in the law.	The committee appreciates the response.

Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

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SPR25-27

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			Is there utility in the forms CH/EQ/SV/WV-840? Yes, these proposed forms will likely assist the judicial officer, court staff and law enforcement with compliance. Those groups will be able to clearly correlate the type of case with the corresponding form number to ensure consistency of process. The forms will likely help to ensure that all required findings are made.	The committee agrees with the commenter and recommends adopting forms CH-840, EA-840, GV-840, SV-840, and WV-840.
			Should the warning listed in forms CH/EA/SV/WV-850 be moved to part of the order? Yes, the warning is somewhat out of place, but if it were moved and became 2c on forms CH/EA/SV/WV-850 it will likely be more clear to the restrained party that the exception is not a nationwide exception for any reason but is solely an exception to this specific order.	The committee is not recommending revisions in response to this suggestion because the committee does not believe that relocating the information provided would result in increased clarity.
			Would the proposal provide cost savings? No.	The committee appreciates the response.
			What are the implementation requirements for the courts? The implementation requirements include training court staff and judicial officers in the new forms. The most significant requirement is the court's role firearm relinquishment compliance. That will require a new calendar and will require bringing cases and individuals back to court for additional appearances.	The committee appreciates the response.

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Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

SPR25-27

Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 (Adopt forms CH-820, CH-830, CH-840, CH-850, EA-820, EA-830, EA-840, EA-850, GV-820, GV-830, GV-840, WV-820, WV-830, WV-840, and WV-850; revise forms CH-109, CH-110, CH-116, CH-120, CH-120-INFO, CH-130, CH-200, CH-200-INFO, CH-800, CH-800-INFO, EA-100, EA-109, EA-110, EA-116, EA-120, EA-120-INFO, EA-130, EA-200-INFO, EA-716, EA-800, EA-800-INFO, GV-030, GV-110, GV-116, GV-130, WV-100, WV-109, WV-110, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-200-INFO, WV-800, and WV-800- INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			Is two months enough for implementation? Two months is enough to implement the use of the forms themselves. Two months is not enough to establish a business process with the justice partners for how enforcement will occur.	The committee appreciates the amount of work involved in implementing new forms changes. The changes in this proposal are largely to implement laws that will be effective on January 1, 2026. Given the importance and safety issues associated with the new laws, the committee does not recommend delaying implementation of this proposal.
			Will this proposal work similarly in different sized courts? Yes, a larger court will likely have more staff training, more judicial officer training and need more compliance calendars.	The committee appreciates the response.

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Positions: A = Agree; AM = Agree if modified; N = Do not agree, NI = not indicated

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: September 11, 2025

Rules Committee action requested [Choose from drop-down menu below]:
Recommend JC approval (has circulated for comment)

Title of proposal: Protective Orders: Postsecondary School Violence Forms to Implement Assembly Bill 2096

Proposed rules, forms, or standards (include amend/revise/adopt/approve)*:*
Adopt forms SV-820, SV-830, SV-840, and SV-850; revise forms SV-100, SV 100 INFO, SV-109, SV-110, SV-115, SV-115- INFO, SV-116, SV-120, SV 120 INFO, SV-130, SV-200, SV 200 INFO, SV-250, SV260, SV-600, SV-610, SV-620, SV-630, SV-700, SV-710, SV-715, SV-716, SV-720, SV-730, SV-800, and SV-800-INFO

Committee or other entity submitting the proposal:
Civil and Small Claims Advisory Committee

Staff contact (name, phone and email)*: Maddie Joyner, 916-643-8068, maddie.joyner@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*): 10/22/2024
Project description from annual agenda: Project Summary: Develop form recommendations as appropriate. AB 2096 expands the definition of postsecondary educational institutions in school violence restraining orders to include public institutions, broadens the criteria for seeking restraining orders to include any form of unlawful violence, and removes the condition that the violent conduct must occur off-campus or be construed to occur on campus. The current forms should be revised to reflect the expanded definition and criteria for school violence restraining orders.

Out of Cycle/Early Implementation: *If requesting July 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.)
The forms included in this proposal also contain proposed revisions to implement Senate Bill 899 (Stats. 2024, ch. 544), as well as the proposed adoption of four new forms to implement that law. A separate proposal entitled Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 explains that new law and proposes form revisions and the adoption of new forms for other categories of protective orders.

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)* 7/18/2025
  ☒ approved by Office Director (or Designee) (*name*) Michael Giden
  on (date) 8/13/2025

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

REPORT TO THE JUDICIAL COUNCIL

Item No.: 25-139
For business meeting on October 24, 2025

Title
Protective Orders: Postsecondary School Violence Forms to Implement Assembly Bill 2096

Rules, Forms, Standards, or Statutes Affected
Adopt forms SV-820, SV-830, SV-840, and SV-850; revise forms SV-100, SV-100-INFO, SV-109, SV-110, SV-115, SV-115-INFO, SV-116, SV-120, SV-120-INFO, SV-130, SV-200, SV-200-INFO, SV-250, SV-260, SV-600, SV-610, SV-620, SV-630, SV-700, SV-710, SV-715, SV-716, SV-720, SV-730, SV-800, and SV-800-INFO

Recommended by
Civil and Small Claims Advisory Committee
Hon. Donald J. Proietti, Chair

Report Type
Action Required

Effective Date
January 1, 2026

Date of Report
August 19, 2025

Contact
Maddie Joyner, 916-643-8068
maddie.joyner@jud.ca.gov

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Executive Summary

The Civil and Small Claims Advisory Committee proposes the revision of all 26 forms in the private postsecondary school violence form set to implement Assembly Bill 2096 (Stats. 2024, ch. 947), which goes into effect on January 1, 2026, and to make other necessary changes to accurately reflect current law. The forms included with this report also contain revisions recommended to implement Senate Bill 899 (Stats. 2024, ch. 544), as well as four forms the committee recommends adopting to implement that law. Those recommendations are explained in a separate proposal entitled *Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899*, which also includes new and revised forms for other categories of protective orders.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2026:

1. Adopt the following forms to implement SB 899:

   - *Prohibited Items Finding and Orders* (form SV-820);
   - *Noncompliance With Firearms, Firearm Parts, and Ammunition Order* (form SV-830);
   - *Notice of Compliance Hearing for Firearms, Firearm Parts, and Ammunition* (form SV-840); and
   - *Permission to Have Firearm or Ammunition for Work* (form SV-850).

2. Revise the following forms to implement AB 2096 or SB 899, or both:

   - *Petition for Postsecondary School Violence Restraining Order* (form SV-100);
   - *How Do I Get an Order to Prohibit Postsecondary School Violence?* (form SV-100-INFO);
   - *Notice of Court Hearing* (form SV-109);
   - *Temporary Restraining Order* (form SV-110);
   - *Request to Continue Court Hearing* (form SV-115);
   - *How to Ask for a New Hearing Date* (form SV-115-INFO);
   - *Order on Request to Continue Hearing* (form SV-116);
   - *Response to Petition for Postsecondary School Violence Restraining Orders* (form SV-120);
   - *How Can I Respond to a Petition for Postsecondary School Violence Restraining Orders* (form SV-120-INFO);
   - *Postsecondary School Violence Restraining Order After Hearing* (form SV-130);
   - *Proof of Personal Service* (form SV-200);
   - *What Is "Proof of Personal Service"?* (form SV-200-INFO);
   - *Proof of Service of Response by Mail* (form SV-250);
   - *Proof of Service of Order After Hearing by Mail* (form SV-260);
   - *Request to Modify/Terminate Postsecondary School Violence Restraining Order* (form SV-600);
   - *Notice of Hearing on Request to Modify/Terminate Postsecondary School Violence Restraining Order* (form SV-610);
   - *Response to Request to Modify/Terminate Postsecondary School Violence Restraining Order* (form SV-620);
   - *Order on Request to Modify/Terminate Postsecondary School Violence Restraining Order* (form SV-630);
   - *Request to Renew Restraining Order* (form SV-700);
   - *Notice of Hearing to Renew Restraining Order* (form SV-710);
   - *Request to Reschedule Hearing to Renew Restraining Order* (form SV-715);
   - *Order to Reschedule Hearing to Renew Restraining Order* (form SV-716);

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- *Response to Request to Renew Restraining Order* (form SV-720);
- *Order Renewing Postsecondary School Violence Restraining Order* (form SV-730);
- *Receipt for Firearms, Firearm Parts, and Ammunition* (form SV-800); and
- *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?* (form SV-800-INFO).

The proposed new and revised forms are included at pages 9–87.

Relevant Previous Council Action

Under Code of Civil Procedure section 527.85(v), the Judicial Council must provide forms and instructions for use in postsecondary school violence restraining order matters. The council first adopted and approved protective order forms for use in preventing private postsecondary school violence on October 29, 2010. The council last approved substantive changes to these forms in 2024 to implement a new law prohibiting the possession of body armor by those who are prohibited from possessing firearms.

Analysis/Rationale

The recommendations in this report implement changes in law made by AB 2096 (see Link A) and SB 899 (see Link B). The recommendations to implement SB 899 are described in a separate proposal entitled *Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899* The four forms recommended for adoption (forms SV-820, SV-830, SV-840, and SV-850) all relate to SB 899.

To implement AB 2096, the committee recommends revising the postsecondary school violence forms to (1) remove the word "private" as a modifier across all 26 of these forms, (2) include additional criteria establishing the basis of a protective order, (3) add a prohibition against stalking to the list of personal conduct orders, (4) revise the explanation of the circumstances meriting free filing, and (5) revise the explanation of the circumstances meriting free service by the sheriff or marshal.

The recommended revisions to implement AB 2096 are highlighted in yellow in the attached forms, and the recommended revisions to implement SB 899 are in grey.

Removing "private"

Under existing law, Code of Civil Procedure section 527.85 defines "postsecondary educational institution" to mean "a private institution of vocational, professional, or postsecondary education." AB 2096 removes the word "private" from the definition of "postsecondary educational institution," thereby expanding the definition to include public institutions.[1]

[1] Please note that proposed revised forms are highlighted in the forms included in this proposal, to the extent possible. However, deletions do not show in highlighting. The deletion of "private" is the only recommended revision on several of the forms in this report.

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Criteria for seeking a protective order or injunction

Under existing law, Code of Civil Procedure section 527.85(a) authorizes certain postsecondary educational institution officers and employees to seek a temporary restraining order or injunction on behalf of a student who suffers a credible threat of violence "made off the school campus or facility from any individual which can reasonably be construed to be carried out or to have been carried out at the school campus or facility." AB 2096 removes the location language quoted above and broadens the criteria for seeking these orders to include unlawful violence in addition to credible threats of violence.

The committee recommends removing the language regarding a credible threat of violence made off the campus or facility that can reasonably be construed to be carried out or to have been carried out at the campus or facility from item 8 of the petition (form SV-100), item 5 of the notice of court hearing (form SV-109), and two information sheets (forms SV-100-INFO and SV-120-INFO).

In addition to credible threats of violence, AB 2096 includes protections for students who have suffered unlawful violence, which Code of Civil Procedure section 527.85(b) defines as "assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code," but which excludes "lawful acts of self-defense or defense of others." The committee therefore recommends revising item 5 of the notice of court hearing (form SV-109) and one information sheet (form SV-100-INFO) to mention assault, battery, or stalking.

Personal conduct orders

On the existing petition (form SV-100), the request for personal conduct orders mentions stalking twice by including a request that the respondent not (1) "follow or stalk the person during school hours or to or from the campus or facility,"[2] or (2) "stalk" the person.[3] However, the personal conduct orders on the temporary restraining order (form SV-110) and order after hearing (form SV-130) only mention stalking in the first sense and not in the second sense.

As amended by SB 899, Code of Civil Procedure section 527.85(j) provides that, if a judge finds by clear and convincing evidence that the respondent engaged in unlawful violence or made a credible threat of violence, an order shall issue prohibiting further unlawful violence or threats of violence.[4] As described above, the definition of "unlawful violence" in Code of Civil Procedure section 527.85(b) contemplates stalking.

The committee therefore recommends adding "stalking" to the personal conduct orders on the temporary restraining order (form SV-110) and order after hearing (form SV-130).

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[2] For additional information regarding stalking in this sense, see Code of Civil Procedure section 527.85(b)(2)–(3).

[3] For additional information regarding stalking in this sense, see Code of Civil Procedure section 527.85(b)(8).

[4] The committee notes that, even before AB 2096, Code of Civil Procedure section 527.85(b)(8) defined a "temporary restraining order" and an "order after hearing" for purposes of that section to mean orders that enjoin a party from stalking the student, whether issued *ex parte* or after notice and hearing.

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Circumstances meriting free filing

Existing Code of Civil Procedure section 527.85(w) provides that there is no filing fee for a petition that alleges that a person has "threatened violence against a student of the petitioner, or stalked the student, or acted or spoken in any other manner that has placed the student in reasonable fear of violence." Under AB 2096, there is no filing fee for a petition that alleges that a person has "inflicted unlawful violence, including stalking, or made a credible threat against a student of the petitioner."

As discussed above, Code of Civil Procedure section 527.85(b) defines "unlawful violence" as "assault or battery, or stalking." Accordingly, the committee recommends revising item 14 on the petition (form SV-100) to reflect the legislation's expansion of free filing to include allegations of assault or battery, in addition to stalking.

Circumstances meriting free service of process

Existing Code of Civil Procedure section 527.85(x)(1) provides that there is no fee for service of process by a sheriff or marshal of a temporary restraining order or order after hearing if the order issued is based upon a credible threat of violence or stalking. AB 2096 prohibits fees for such service if a temporary restraining order or order after hearing is based upon "unlawful violence, including stalking" or "a credible threat of violence."

The committee therefore proposes revising all existing mentions of free service by the sheriff or marshal in this form group to reflect the language of AB 2096. The proposed revisions include item 15 of the petition (form SV-100), item 14 of the temporary restraining order (form SV-110), item 7 of the order on request to continue (form SV-116), item 18 of the order after hearing (form SV-130), item 6 of the order to reschedule to renew (form SV-716), and one information sheet (form SV-200-INFO).

Other recommended revisions

It came to the committee's attention that, unlike the other free service items for postsecondary school violence restraining orders,[5] the existing free service language on the order after hearing (form SV-130) did not mention free service because of the petitioner's entitlement to a fee waiver.[6] Therefore, the committee proposes revising the free service language on form SV-130 so that it mirrors the language seen on the other forms within this form set.

The committee also proposes various revisions to enhance clarity, reflect current law, and reflect current best practices for Judicial Council forms. Those revisions include:

- Revising form SV-100 to delete item 8.b, which asks for the address of the campus or facility, and moving that information to item 2;

[5] For example, see existing forms SV-110, SV-116, and SV-716, all of which (1) contain checkboxes indicating whether free service was ordered, and (2) provide language regarding free service because of the petitioner's entitlement to a fee waiver.

[6] Gov. Code, § 26720.5; Cal. Rules of Court, rule 3.55.

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- Revising text under the heading "Who can get this school violence protection order?" on form SV-100-INFO by replacing "may request court orders prohibiting credible threats of violence against a student" with "may request these court orders" because proposed revisions on the same page of form SV-100-INFO already flag both credible threats of violence and assault, battery, or stalking;
- Revising form SV-100-INFO under the heading "What forms must be used to get the order?" to delete the first clause, which does not describe the list that follows;
- Revising the instructions under item 4 on form SV-109 to reflect that a restraining order could last up to three years, not five years;
- Revising item 1 in forms SV-110 and SV-130 to list the name of the postsecondary educational institution;
- Revising the text appearing under the heading "After You Have Been Served with a Restraining Order" on form SV-110 to reflect current law by indicating that the petition alleges certain actions against students rather than against employees;
- On several forms, changing "credible threats of violence or assault, battery, or stalking" to "assault, battery, or stalking, or to a credible threat of violence," to clarify that "credible threat" modifies only "of violence" and not the other items in the list;
- Replacing gendered language with gender-neutral language throughout the forms;
- Decapitalizing various words, including "order;"
- Updating various URLs throughout the forms; and
- Revising the format of statutory citations throughout the forms.

Policy implications

The revised forms in this proposal largely implement new law enacted by the Legislature. The revised forms also undertake a number of clarifying corrections and make the forms more user-friendly. This helps implement Goal I, "Access, Fairness, Diversity, and Inclusion," of the Judicial Council's strategic plan by helping to make forms easier to complete and understand for self-represented litigants.

Comments

This proposal was released for public comment from April 14 through May 23, 2025. Four commenters responded to the proposal. Two commenters agreed with the proposal, one agreed if modified, and one did not indicate a position; no commenters disagreed with the proposal. Commenters were the Superior Courts of Los Angeles and San Bernardino Counties, the Orange County Bar Association, and the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee (Joint Rules Subcommittee), and one individual. All comments and the committee's responses are provided in the attached chart of comments at pages 88–90.

The Joint Rules Subcommittee, which took an agreed-if-modified position, suggested the deletion of a duplicative "and" on item 17 of form SV-130. The committee recommends this approach.

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The jurat on form SV-100

A member of the Rules Committee recommended revising the jurat on form SV-100. Currently, the postsecondary school violence restraining order petitions require the petitioner to declare that the information above and on all attachments is true and correct. However, the statute governing this order type authorizes certain persons to seek an order on the behalf of another,[7] and therefore, the petitioner may not have firsthand knowledge of the facts underlying the petition.

After surveying the language used in this regard on other council forms,[8] the committee recommends the following revision to the jurat of form SV-100:

> 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, *except as to those matters stated on information and belief, and as to those matters, I am informed and believe them to be true.*

Alternatives considered

The committee did not consider the alternative of taking no action because form revisions are needed to comply with AB 2096. To the extent the proposed revisions were not required by the terms of AB 2096, the committee considered taking no action but ultimately determined the revisions were warranted in light of the benefits the revisions would provide to the courts and court users.

The committee discussed whether to use "unlawful violence" across these forms, or to instead use "assault, battery, or stalking." The committee recommends using "assault, battery, or stalking," as those terms are more readily understood than "unlawful violence" and there is existing precedent for using "assault, battery, or stalking" within this form group.

Fiscal and Operational Impacts

The committee anticipates that this proposal will require courts to train court staff and judicial officers on the newly approved and revised forms. Courts will also incur costs to incorporate the revised forms into paper or electronic processes. Most of the impacts arising from this new law—including education of judicial officers, staff, and justice partners as to the new provisions—are a result of the changes in statute, not the forms proposal, and therefore cannot be avoided.

Attachments and Links

1. Forms SV-100, SV-100-INFO, SV-109, SV-110, SV-115, SV-115-INFO, SV-116, SV-120, SV-120-INFO, SV-130, SV-200, SV-200-INFO, SV-250, SV-260, SV-600, SV-610, SV-620, SV-630, SV-700, SV-710, SV-715, SV-716, SV-720, SV-730, SV-800, SV-800-INFO, SV-820, SV-830, SV-840, and SV-850, at pages 9–87

[7] See Code Civ. Proc., § 527.85(a).

[8] E.g., *Petition to Establish Fact, Time, and Place of Birth* (form BMD-001).

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2. Chart of comments, at pages 88–90
3. Link A: Assem. Bill 2096 (Stats. 2024, ch. 947), *https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB2096*
4. Link B: Sen. Bill 899 (Stats. 2024, ch. 544), *https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB899*

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SV-100 Petition for Postsecondary School Violence Restraining Orders

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

Not approved by the Judicial Council

Read *How Do I Get a 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.

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 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: _____

Address of student's school campus or facility: _____

_____

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
			☐ Yes ☐ No	
			☐ 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.

5 Relationship of Student and Respondent

a. How does the student know the respondent? *(Describe):* ☐ Response is stated in Attachment 5a.

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.

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):*

Kind of Case	Filed in *(County/State)*	Year Filed	Case Number *(if known)*
(1) ☐ Postsecondary School Violence			
(2) ☐ Civil Harassment			
(3) ☐ Domestic Violence			
(4) ☐ Divorce, Nullity, Legal Separation			
(5) ☐ Paternity, Parentage, Child Support			
(6) ☐ Elder or Dependent Adult Abuse			
(7) ☐ Eviction			
(8) ☐ Guardianship			
(9) ☐ Workplace Violence			
(10) ☐ Small Claims			
(11) ☐ Criminal			
(12) ☐ Other *(specify):*			

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.

Case Number:

8 Description of Respondent's Conduct

a. Respondent has *(check one or more):*

(1) ☐ Assaulted, battered, or stalked the student.

(2) ☐ Made a credible threat of violence against the student by making knowing or willful statements or engaging in a course of conduct that served no legitimate purpose and that would place a reasonable person in fear for their safety or the safety of their immediate family.

b. 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 8b.

c. Was the student harmed or injured? ☐ Yes ☐ No *(If yes, describe harm or injuries):*

☐ Response is stated in Attachment 8c.

d. Did the respondent use or threaten to use a gun or any other weapon? ☐ Yes ☐ No *(If yes, describe):*

☐ Response is stated in Attachment 8d.

e. 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.)

This is not a Court Order.

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.

_____

_____

_____

_____

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):*

_____

_____

_____

_____

b. If the court orders the respondent to stay away from all the places listed above, will the respondent still be able to get to their home, school, or job? ☐ Yes ☐ No *(If no, explain):*
☐ Response is stated on Attachment 10b.

_____

_____

This is not a Court Order.

11 Firearms (Guns), Firearm Parts, and Ammunition

Does the respondent have 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).)

a. ☐ I don't know

b. ☐ No

c. ☐ Yes *(If you have information, complete the section below.)*

	Describe Firearms (Guns), Firearm Parts, or Ammunition	Number or Amount	Location, if known
(1)			
(2)			
(3)			
(4)			
(5)			
(6)			

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), firearm parts, and ammunition 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 them?

☐ Yes ☐ No *(If you answered no, explain why below):*

☐ Reasons are stated in Attachment 12.

_____

_____

_____

_____

_____

This is not a Court Order.

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.

14 No Fee for Filing

There is no filing fee for a petition alleging that the respondent made a credible threat against or assaulted, battered, or stalked a student of the petitioner.

15 ☐ Request for No Fee to Serve Orders

I ask the court to order the sheriff or marshal to serve the respondent. There is no fee for service of process by a sheriff or marshal if the order is based upon a credible threat of violence or assault, battery, 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.

18 Number of pages attached to this form, if any: _____

This is not a Court Order.

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, except as to those matters stated on information and belief, and as to those matters, I am informed and believe them to be true.

Date: _____

_____ ▶ _____

Name of petitioner *Signature*

_____

Title

I consent to the filing of the Petition.

Date: _____

_____ ▶ _____

Name of student *Signature*

SV-100-INFO How Do I Get an Order to Prohibit 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 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 assault, battery, or stalking, or to a credible threat of violence. The procedure is only available with regard to students at 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.

These orders will be enforced by law enforcement agencies.

Who can get a postsecondary school violence protection order?

The chief administrative officer of a 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 these court orders. 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 postsecondary educational institution.
- A "postsecondary educational institution" is an 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. The court order can last 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 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 assault, battery, or stalking, or a credible threat of violence;
2. 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
3. The respondent is not engaged in constitutionally protected activity.

What forms must be used to get the order?

1. *Petition for 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. *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 courts.ca.gov/rules-forms/find-your-court-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 their 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 assault, battery, or stalking, or the credible threat 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.

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.

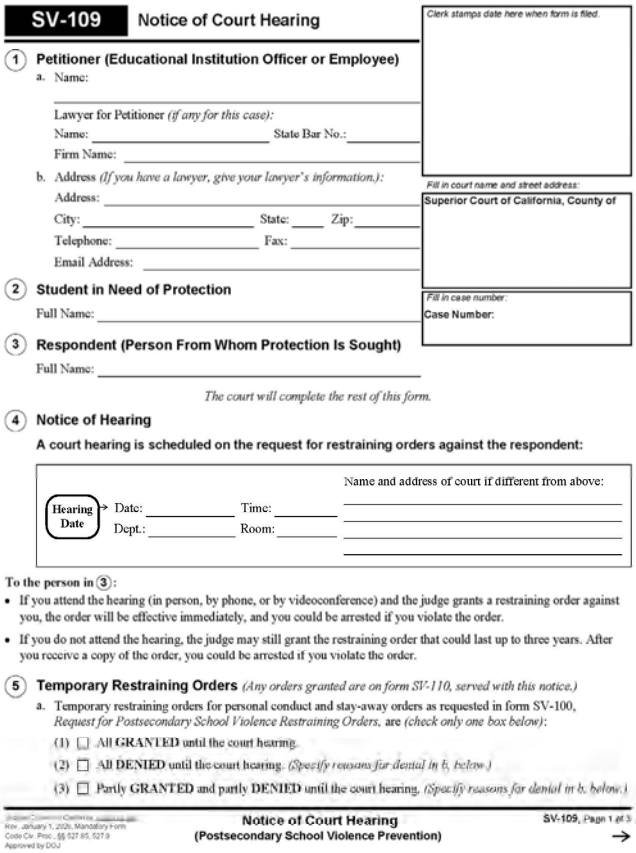
11. Go to court on the date shown at item 4 on the *Notice of Court Hearing* (form SV-109).You do not need to bring any witnesses, but it helps to have more proof of the violence or threats than just one person's word.

    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 the respondent 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.

(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:

Fill in court name and street address:
Superior Court of California, County of

(2) Student in Need of Protection
Full Name:

Fill in case number:
Case Number:

(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 three 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 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.)

Rev. January 1, 2026, Mandatory Form
Code Civ. Proc., §§ 527.85, 527.9
Approved by DOJ

Notice of Court Hearing
(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 the respondent 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.

For help in your area, contact:

[Local information may be inserted.]

SV-109 Notice of Court Hearing

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

Not approved by the Judicial Council

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: _____

Fill in court name and street address:

Superior Court of California, County of

2 Student in Need of Protection

Full Name: _____

Fill in case number:

Case Number:

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 three 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 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 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 assault, battery, or stalking, or a credible threat of violence, 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 Postsecondary School Violence Restraining Orders (file-stamped)*

b. ☐ SV-110, *Temporary Restraining Order* (file-stamped) **IF GRANTED**

c. SV-120, *Response to Petition for Postsecondary School Violence Restraining Orders* (blank form)

d. SV-120-INFO, *How Can I Respond to a Petition for 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 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 Postsecondary School Violence?*

Case Number:

To the Respondent:

- If you want to respond to the request for orders in writing, file form SV-120, *Response to Petition for 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), firearm parts, and ammunition 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 courts.ca.gov/rules-forms/find-your-court-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

SV-110 Temporary Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-07-23

Not approved by the Judicial Council

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: _____

c. Name of the Postsecondary Educational Institution:

_____

Fill in court name and street address:

Superior Court of California, County of

2 Student (Protected Person)

Full Name: _____

Court fills in case number when form is filed.

Case Number:

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
			☐ Yes ☐ No	
			☐ Yes ☐ No	
			☐ Yes ☐ 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, stalk, 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).

_____
_____
_____
_____

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):*

_____
_____
_____
_____

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), firearm parts, and ammunition 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), firearm parts, and ammunition have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, and Ammunition* (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 ☐ 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)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

b. **Ammunition**

	Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)				☐ *(date):*
(2)				☐ *(date):*
(3)				☐ *(date):*
(4)				☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "SV-110, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

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 ☐ Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance

In addition to the hearing listed on form SV-109, you must attend the court hearing listed below 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 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:

_____
_____
_____

12 Other Orders

☐ **Not Requested** ☐ **Denied Until the Hearing** ☐ **Granted as Follows** *(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 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 13.

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 assault, battery, or stalking, or a credible threat of violence.

b. ☐ The petitioner is entitled to a fee waiver.

This is a Court Order.

15 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 8 b 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), firearm parts, and ammunition that you have or control as stated in 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 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.

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 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 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 made a credible threat against the student or assaulted, battered, or stalked the student.
- 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 courts.ca.gov/rules-forms/find-your-court-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.

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 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 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).)

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; Fam. Code, §§ 6383(h)(2), 6405(b); Code Civ. Proc., § 527.12(d)(2)):

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 also be enforced.
2. *No-Contact Order:* If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. ⑥ a(4) is an example of a no-contact order.
3. *Criminal Protective Order (CPO):* If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2), 6405(b); Code Civ. Proc., § 527.12(d)(2).) 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 also 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 also be enforced.

This is a Court Order.

(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.

SV-115 Request to Continue Court Hearing

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

Not approved by the Judicial Council

Instructions: Use this form to ask the court to reschedule the court date listed on *Notice of Court Hearing* (form SV-109). Read *How to Ask for a New Hearing Date* (form SV-115-INFO) for more information.

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** (educational institution officer or employee) *(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 the 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 SV-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:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

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.

SV-115-INFO How to Ask for a New Hearing Date

DRAFT
2025-05-29
Not approved by the Judicial Council

1 You may need to ask for a new court date if:

- You are the petitioner and are unable to have *Notice of Court Hearing* (form SV-109) and other papers served in time before your court date.
- You are the respondent and are making your first request to reschedule your court date.
- You have a good reason for needing a new court date. (The court may grant your request to reschedule your court date on a showing of good cause.)

2 What does form SV-115 do?

Use *Request to Continue Hearing* (form SV-115) to ask the court to reschedule your court date. If your court date is rescheduled and a *Temporary Restraining Order* (TRO; form SV-110) was granted, the TRO will be extended until the end of your new court date unless the court decides to modify or terminate it. "Extend" means to keep any temporary orders in effect until the new court date.

3 Follow these steps:

- Fill out all of form SV-115.
- Fill out items 1 through 2 on *Order on Request to Continue Hearing* (form SV-116).
- The judge will need to review your papers. In some courts, you must give your papers to the clerk. Ask the court clerk for information on how you ask the judge to review your papers.
- After you turn in your forms as required by your local court, check with the clerk's office to see if the judge approved (granted) your request to reschedule your court date.
- If the judge signed form SV-116, the court will give you a new court date. If the judge did NOT sign the form, you should go to court at the date, time, and location that is on form SV-109.
- Next, file both forms SV-115 and SV-116 with the clerk. The clerk will make up to three file-stamped copies for you. Keep at least one copy to bring to your court date.
- The other party must be served with a copy of the court papers as described in item 6 on form SV-116.
- Ask the person who serves the papers to complete a proof of service form and give it to you. If service was in person, use *Proof of Personal Service* (form SV-200). If service was by mail, use *Proof of Service—Civil* (form POS-040). Make two copies of the completed forms.
- File the completed and signed proof of service form with the clerk's office before your court date.
- If the court reschedules your court date and extends the TRO to the new court date, the clerk will send the TRO to law enforcement. It will be entered into a statewide computer system that lets police know about the order so that it can be enforced.

4 Go to your court date

- Take at least two copies of your documents and filed forms to your court date. Include a filed proof of service form. "Documents" may include exhibits, declarations, and financial statements, and the court may enter them into evidence at its discretion.
- If you are the petitioner and you do not go to your court date, the TRO will expire at the end of your new court date.
- If you are the respondent and you do not go to your court date, the court can still make orders against you that can last for up to three years.

5 Need help?

Ask the court clerk about free or low-cost legal help that may be available in your county.

SV-116 Order on Request to Continue Hearing

Clerk stamps date here when form is filed.

DRAFT

2025-07-23

Not approved by the Judicial Council

Complete (1) and (2) only.

(1) **Petitioner (Educational Institution Officer or Employee):** _____

(2) **Respondent:** _____

The court will complete the rest of this form

Fill in court name and street address:

Superior Court of California, County of

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 SV-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.

Hearing 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 (3) b.)

(2) ☐ The court changes the TRO previously granted and signs a new TRO (form SV-110).

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.

c. ☐ Other *(specify)*: _____

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**

(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 this order and a copy of all documents listed on form SV-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 _____

b. ☐ **Respondent**

(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 _____

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.

Case Number:

7 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 assault, battery, or stalking, or a credible threat of violence.

b. ☐ The person in 1 is entitled to a fee waiver.

8 ☐ Other Orders

_____

_____

_____

_____

9 Number of pages attached to this order, if any: _____

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 courts.ca.gov/rules-forms/find-your-court-forms 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-TSV)* (form SV-116) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

SV-120 Response to Petition for Postsecondary School Violence Restraining Orders

Clerk stamps date here when form is filed.

DRAFT

2025-08-07

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 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 3b 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 12 on page 4.)*

c. ☐ I agree to the following orders *(specify below or in 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 12 on page 4.)*

c. ☐ I agree to the following orders *(specify below or in 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), firearm parts, and ammunition 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, Firearm Parts, and Ammunition* (form SV-800) for the receipt.

a. ☐ I do not own or control any firearms (guns), firearm parts, or ammunition.

b. ☐ I have turned in my firearms (guns), firearm parts, and ammunition to law enforcement or sold them to or stored them with a licensed gun dealer. A copy of the receipt

(1) ☐ is attached.

(2) ☐ has already been filed with the court.

c. ☐ I ask for an exception to carry a firearm or ammunition for work. *(Complete items (1)–(3) below):*

(1) Are you a sworn peace officer?

☐ No

☐ Yes

(2) Are there any orders or state or federal laws that prohibit you from having firearms or ammunition?

☐ No

☐ I don't know *(explain):*

_____

_____

_____

☐ Yes *(explain):*

_____

_____

_____

(3) *(Explain what your job is and why you need a firearm or ammunition):*

_____

_____

_____

(Note: You **must** follow any orders to turn in, sell, or store prohibited items until the judge decides whether to grant you an exception. Before an exception can be granted, you will be required to show the judge that (1) carrying a firearm or ammunition is required for your work, and (2) your employer is unable to reassign you to another position where carrying a firearm or ammunition is not necessary. There are other things you will need to prove. For more information on what you need to show the judge to qualify for this exception, go to selfhelp.courts.ca.gov/respond-to-SV-restraining-order/obey-firearms-orders/exception or see Code of Civil Procedure section 527.9(f).)

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 12 on page 4.)*

c. ☐ I agree to the following orders *(specify below or in 12 on page 4):*

10 ☐ Denial

I did not do anything described in item 8 of form SV-100. *(Skip to 12.)*

Case Number:

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.

12 ☐ Reasons I Do Not Agree to the Orders Requested

Explain your answers to each order 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 12—Reasons I Disagree" as a title. You may use form MC-025,* Attachment.

13 ☐ No Fee for Filing

a. ☐ I ask the court to waive the filing fee because the petitioner claims in form SV-100, item 14, to be entitled to free filing.

b. ☐ I request that I not be required to pay the filing fee because I am eligible for a fee waiver. *(Form* FW-001, Request to Waive Court Fees, *must be filed separately.)*

14 ☐ Costs

a. ☐ I ask the court to order the petitioner to pay my court costs. The amounts requested are:

Item	Amount	Item	Amount
_____	$ _____	_____	$ _____
_____	$ _____	_____	$ _____
_____	$ _____	_____	$ _____

☐ *Check here if there are more items. Put the items and amounts on the attached sheet of paper and write "Attachment 14—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 their 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 is true and correct.

Date: _____

_____ ▶ _____

Type or print your name *Sign your name*

SV-120-INFO How Can I Respond to a Petition for Postsecondary School Violence Restraining Orders?

What is a 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.

Who can ask for a postsecondary school violence restraining order?

The chief administrative officer of a 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 these court orders.

I've been served with a petition for 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 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 courts.ca.gov/rules-forms/find-your-court-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.

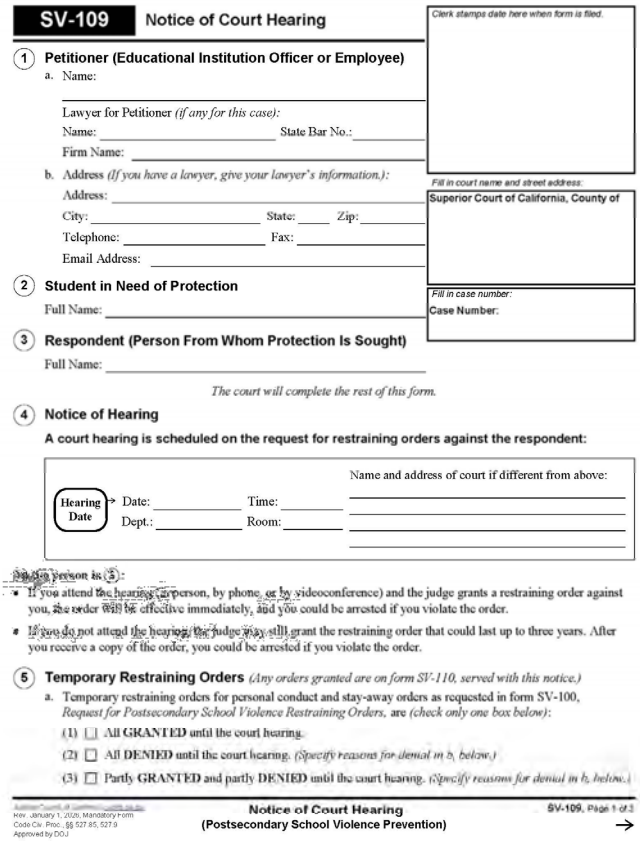
Do I have to serve the other person with a copy of my response?

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 to 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:

Fill in court name and street address:
Superior Court of California, County of

Fill in case number:
Case Number:

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:

[illegible] person is (5):
- 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 three 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 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.)

Rev. January 1, 2026, Mandatory form
Code Civ. Proc., §§ 527.85, 527.9
Approved by DOJ

Notice of Court Hearing
(Postsecondary School Violence Prevention)

SV-109, Page 1 of 2

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 the student unless the judge or the student'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.

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.

Information about the process is also available online.

See selfhelp.courts.ca.gov/SV-restraining-order.

For help in your area, contact:

[Local information may be inserted.]

What if I have a firearm (gun), firearm part, or ammunition?

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), firearm parts, or ammunition, you must sell it to or store it with a licensed gun dealer, or turn it in to a law enforcement agency.

What if I need to have a firearm or ammunition for my job?

If the judge grants a restraining order against you, you cannot have firearms or ammunition. The judge may give you permission to have a firearm or ammunition for work. Before permission can be granted, you will be required to show the judge that (1) carrying a firearm or ammunition is required for your work, and (2) your employer is unable to reassign you to another position where carrying a firearm or ammunition is not necessary. There are other things that you will have to prove. For more information, go to selfhelp.courts.ca.gov/respond-to-SV-restraining-order/obey-firearms-orders/exception, or see Code of Civil Procedure section 527.9(f).

What if I need to have body armor?

If you need to have and use body armor for your work, livelihood, or safety, you may ask for an exception with the chief of police or sheriff in the county where you will have and use the body armor (see Penal Code section 31360(c)).

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.*

SV-130 Postsecondary School Violence Restraining Order After Hearing

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

Not approved by the Judicial Council

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: _____

c. Name of the Postsecondary Educational Institution:

_____

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 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
			☐ Yes ☐ No	
			☐ Yes ☐ No	
			☐ Yes ☐ 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** to do the following things to the student
☐ and to the other protected persons listed in 4:

(1) ☐ Harass, molest, strike, stalk, 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) ☐ 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):*

_____
_____
_____
_____

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), firearm parts, and ammunition 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), firearm parts, and ammunition have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, and Ammunition* (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. ☐ Permission to have firearm or ammunition for work: The judge has made the necessary findings to grant an exception under Code of Civil Procedure section 527.9(f). The orders are included on form SV-850, *Permission to Have Firearm or Ammunition for Work.*

10 ☐ 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)	_____	_____	☐ *(date):* _____
(2)	_____	_____	☐ *(date):* _____
(3)	_____	_____	☐ *(date):* _____
(4)	_____	_____	☐ *(date):* _____

10 b. **Ammunition**

	Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)				☐ *(date):*
(2)				☐ *(date):*
(3)				☐ *(date):*
(4)				☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "SV-130, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

11 ☐ 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 **10**.

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): _____

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.

13 ☐ Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance

You must attend the court hearing listed below to prove that you have properly turned in, sold, or stored all prohibited items (described in **9** b) you still have or own, including any items listed in **10**. 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:
_____
_____
_____

This is a Court Order.

14 ☐ Costs

You must pay the following amounts for costs to the petitioner:

Item	Amount	Item	Amount
	$		$
	$		$
	$		$

☐ Additional amounts are attached at the end of this order on Attachment 14.

15 ☐ Other Orders *(specify):*

☐ Additional orders are attached at the end of this order on Attachment 15.

To the Person in 1:

16 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 16.

17 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.

17 b. (3) ☐ The court has scheduled a firearms, firearms parts, and ammunition compliance hearing. The petitioner must have a copy of this order served on the respondent by:

(a) ☐ Personal service by *(date):* _____

(b) ☐ Mail at respondent's last known address by *(date):* _____

18 **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 assault, battery, or stalking, or a credible threat of violence.

b. ☐ The petitioner is entitled to a fee waiver.

19 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 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 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), firearm parts, and ammunition 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 17), 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 6 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; Fam. Code, §§ 6383(h)(2), 6405(b); Code Civ. Proc., § 527.12(d)(2)):

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 also be enforced.
2. *No-Contact Order:* If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. 7 a(4) is an example of a no-contact order.
3. *Criminal Protective Order (CPO):* If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2), 6405(b); Code Civ. Proc., § 527.12(d)(2).) 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 also 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 also be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *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.

SV-200 Proof of Personal Service

Clerk stamps date here when form is filed.

DRAFT

2025-05-29

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:

1 Petitioner (Educational Institution Officer or Employee)

Name: _____

2 Student in Need of Protection

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 SV-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. ☐ SV-109, *Notice of Court Hearing*
b. ☐ SV-110, *Temporary Restraining Order*
c. ☐ SV-100, *Petition for Postsecondary School Violence Restraining Orders*
d. ☐ SV-120, *Response to Petition for Postsecondary School Violence Restraining Orders* (blank form)
e. ☐ SV-120-INFO, *How Can I Respond to a Petition for Postsecondary School Violence Restraining Orders?*
f. ☐ SV-130, *Postsecondary School Violence Restraining Order After Hearing*
g. ☐ SV-250, *Proof of Service by Mail* (blank form)
h. ☐ SV-800, *Receipt for Firearms, Firearm Parts, and Ammunition* (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*

What is "Service"?

Service is the act of giving legal papers to the other party. There are many kinds of service—in person, by mail, and others. This form is about personal or "in-person" service. The *Petition for Postsecondary School Violence Restraining Orders* (form SV-100), the *Notice of Court Hearing* (form SV-109), and the *Temporary Restraining Order* (form SV-110) must be served in person. That means that someone must personally "serve" (give) a copy of the forms to the person to be restrained. These forms cannot be served by mail.

Service lets the other person know:

- What orders you are asking for
- The hearing date
- How to respond

Why do I have to get the orders served?

- The police cannot arrest anyone for violating an order unless that person knows about the order.
- The judge cannot make the orders permanent unless the restrained person was served.



Don't serve it by mail!

Who can serve?

Ask someone you know, a process server, or a law enforcement agency to personally serve (give) a copy of the forms to the person to be restrained. You **cannot** send the forms to that person by mail.

The server must:

- Be 18 years of age or older
- Not be you or anyone whom you are asking to be protected by the orders

The sheriff or marshal may be authorized to serve the court's orders **for free** if the orders are based on claims of a credible threat of violence or assault, battery, or stalking, or if you are eligible for a fee waiver. Another peace officer may also serve the order for free. See selfhelp.courts.ca.gov/SV-restraining-order/sheriff-serves-request for additional information regarding free service by a sheriff, marshal, or other peace officer.

A registered process server is a business you pay to deliver court forms. Look for "Process Serving" in the Yellow Pages or on the internet. (If a law enforcement agency or the process server uses a different proof-of-service form, make sure it lists the forms served.)

How to serve

Ask the server to:

- Walk up to the person to be served.
- Make sure it is the right person. Ask the person's name.
- Give the person copies of all papers checked on form SV-200, *Proof of Personal Service*.
- Fill out and sign the *Proof of Personal Service*.
- Give the signed *Proof of Personal Service* to you.

What if the person won't take the papers or tears them up?

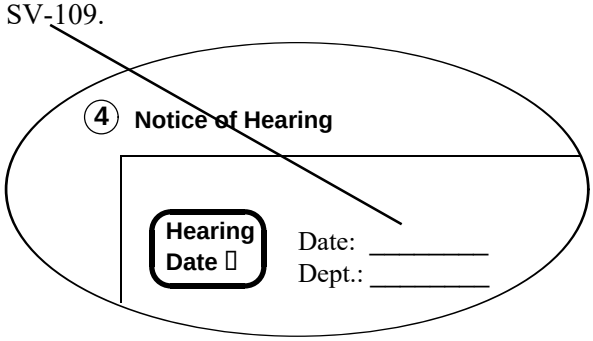
- If the person will not take the papers, just leave the papers near them.
- It does not matter if the person tears the papers up. Service is still complete.

SV-200-INFO What Is "Proof of Personal Service"?

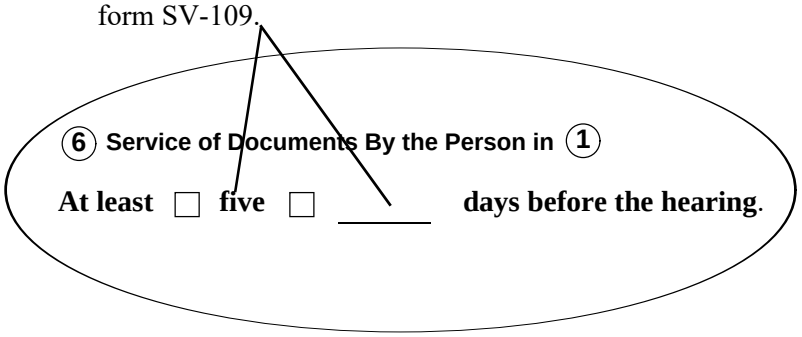
When do the orders have to be served?

It depends. To know the exact date, you have to look at two things on form SV-109, *Notice of Court Hearing.*

First, look at the hearing date on page 1 of form SV-109.



Next, look at the number of days in item 6 on page 2 of form SV-109.



Look at a calendar. Subtract the number of days in item 6 from the hearing date. That is the final date to have the orders served. It is always okay to serve earlier than that date.

If nothing is checked or written in item 6, you must serve the orders at least five days before the hearing.

Who signs the *Proof of Personal Service*?

Only the person who serves the forms can sign form SV-200, *Proof of Personal Service*. You do not sign it; the restrained person does not need to sign it.

What do I do with the completed *Proof of Personal Service*?

If someone other than the sheriff serves the papers, you should:

- Make several copies.
- File the original with the court before your hearing.
- Ask the clerk to enter it into the California Law Enforcement Telecommunications System (CLETS), a special computer system that lets police all over the state find out about the orders protecting you.
- If the clerk tells you that the court cannot enter it into the computer, take a copy of the *Temporary Restraining Order* (form SV-110) and *Proof of Personal Service* (form SV-200) to your local police. They will put the information into the state computer system. That way, police all over the state will know that your restraining order has been served.
- Bring a copy of the completed *Proof of Personal Service* to your hearing.
- Always keep an extra copy of the restraining orders with you for your safety.

If the sheriff or another peace officer serves the papers, they will send proof of service to the court for you. The sheriff will also send proof of service to CLETS for you.

What happens if I can't get the orders served before the hearing date?

Before your hearing, fill out and file form SV-115, *Request to Continue Court Hearing*. This form asks the court for a new hearing date and makes your orders last until then. Ask the clerk for the form. After the court has reissued the orders, attach a copy of form SV-116, *Order on Request to Continue Hearing* to a copy of your original orders. Ask the clerk to enter form SV-116 into CLETS, or the clerk may ask you or your attorney to deliver a copy to the police. That way, the police will know your orders are still in effect.

SV-250 Proof of Service of Response by Mail

Clerk stamps date here when form is filed.

DRAFT

2025-05-29

Not approved by the Judicial Council

1 Petitioner (Educational Institution Officer or Employee)

Name: _____

2 Student in Need of Protection

Name: _____

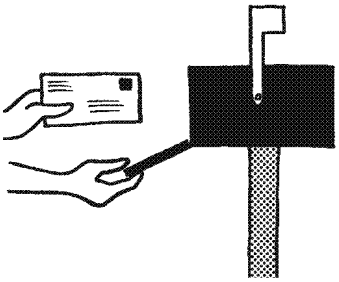
3 Respondent (Person From Whom Protection Is Sought)

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.



Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

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 SV-120, *Response to Petition for Postsecondary School Violence Restraining Orders* (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*

SV-260 Proof of Service of Order After Hearing by Mail

Clerk stamps date here when form is filed.

DRAFT

2025-05-29

Not approved by the Judicial Council

You may serve form SV-130, Postsecondary School 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 SV-110,* Temporary Restraining Order, *and proof of service of form SV-110 was presented to the court at the hearing; and*
- *The judge's orders in Form SV-130 are the same as in form SV-110 except for the expiration date.*

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 (Protected Person)

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 student, or any person listed in item 4 of form SV-130. I mailed the respondent a copy of:

a. Form SV-130, *Postsecondary School 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*

SV-600

Request to ☐ Modify ☐ Terminate Postsecondary School Violence Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-05-29

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 Party Seeking Modification/Termination

a. Your Full Name: _____

b. ☐ Petitioner ☐ Respondent

c. Your Lawyer *(if you have one for this case)*

Name: _____ State Bar No.: _____

Firm Name: _____

d. 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 Other Party

a. Full Name: _____

b. Address *(if known)*: _____

City: _____ State: _____ Zip: _____

3 Current Order

a. The current order is:

☐ *Postsecondary School Violence Restraining Order After Hearing* (form SV-130)

☐ *Order Renewing Postsecondary School Violence Restraining Order* (form SV-730)

b. The current order expires on *(date):* _____

c. ☐ A copy of the current order is attached.

4 ☐ Request to Modify Restraining Order

a. I ask the court to modify the current order as follows *(specify requested changes referring to the item number in order that you want to change or delete):*

☐ *Check here if there is not enough space for your answer. Attach a sheet of paper and write "Attachment 4a —Requested Changes" for a title. You may use form MC-025,* Attachment.

_____

_____

_____

_____

_____

b. I ask the court to modify the order because *(explain below):*

☐ *Check here if there is not enough space for your answer. Attach a sheet of paper and write "Attachment 4b —Reasons for Requested Changes" for a title. You may use form MC-025,* Attachment.

5 ☐ Request to Terminate Restraining Order

I ask the court to terminate the current order because *(give reasons below):*

☐ *Check here if there is not enough space for your answer. Attach a sheet of paper and write "Attachment 5— Reasons to Terminate Order" for a title. You may use form MC-025,* Attachment.

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-610

Notice of Hearing on Request to ☐ Modify ☐ Terminate Postsecondary School Violence Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

Not approved by the Judicial Council

Party seeking order completes (1) and (2).

(1) Party Seeking Modification/Termination

a. Your Full Name: _____

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.)*

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) Other Party

a. Full Name: _____

b. 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 unless terminated by the court.

Name and address of court if different from above:

Hearing Date →

Date: _____ Time: _____

Dept.: _____ Room: _____

(4) Service on Other Party

a. Someone age 18 or older—**not you**—must serve a copy of the following forms on the other party or parties:

- SV-600, *Request to Modify/Terminate Postsecondary School Violence Restraining Order;*
- SV-610, *Notice of Hearing on Request to Modify/Terminate Postsecondary School Violence Restraining Order* (this form);
- SV-620, *Response to Request to Modify/Terminate Postsecondary School Violence Restraining Order* (blank copy).

The forms must be served on the other party _____ days before the hearing.

b. **If you are the Respondent: You must have the protected person personally served with these forms. This requirement of personal service on the protected person is not a justification for you to violate the terms of the restraining order.** You must also serve the Petitioner educational institution officer or employee. Service on the Petitioner may be by mail.

c. **If you are the Petitioner Education Institution Officer or Employee and you are requesting modification or termination other than at the request of the protected person: You must have the protected person personally served with these forms.** You must also serve the Respondent. Service on the Respondent may be by mail.

d **If you are the Protected Person:** The Respondent and Petitioner educational institution officer or employee may be served with these forms by mail.

e. The person who serves the forms must fill out either form SV-200, *Proof of Personal Service,* or form SV-250, *Proof of Service of Response by Mail* (or both). Have the person who served sign the original. Take the signed original proof-of-service form back to the court clerk for filing or bring it with you to the hearing. For help with personal service, see form SV-200-INFO, *What Is "Proof of Personal Service"?*.

Date: _____ Clerk, by _____, Deputy

To the Other Party:

If you wish to make a written response to this request to modify or terminate the current postsecondary school violence restraining order, you may fill out form SV-620, *Response to Request to Modify/Terminate Postsecondary School Violence 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 other party at the address in (1) at least _____ days before the hearing. Also file form SV-250, *Proof of Service of Response by Mail,* with the court before the hearing.



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 for *Request for Accommodations by Persons With Disabilities and Response* (form MC-410). (Civ. Code, § 54.8.)

Clerk's Certificate
[seal]

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Hearing on Request to Modify/Terminate Postsecondary School Violence Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____

Clerk, by _____, Deputy

SV-620

Response to Request to ☐ Modify ☐ Terminate Postsecondary School Violence Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-05-29

Not approved by the Judicial Council

Use this form to respond to the *Request to Modify or Terminate Postsecondary School Violence Restraining Order* (form SV-600).

- Fill out this form and then 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 other party at the address in (2) below. 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) Party Filing Response

a. Your Full Name: _____

b. ☐ Petitioner ☐ Respondent

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: _____

The court will consider your response at the hearing. Write your hearing date, time, and place from form SV-610, item 3, here.

Hearing Date → Date: _____

Time: _____

Dept.: _____ Room: _____

(2) Other Party

Full Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Email Address: _____

(3) Response

a. ☐ I agree to the ☐ Modification ☐ Termination of the order

b. ☐ I do not agree to the ☐ Modification ☐ Termination
(Specify why you disagree in (4) on page 2.)

c. ☐ I agree to the following orders *(specify below or in (4) on page 2):*

_____

_____

_____

_____

_____

4 ☐ Reasons I Do Not Agree to the ☐ Modification ☐ Termination

☐ *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 4—Reasons I Disagree" as a title. You may use form MC-025,* Attachment.

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*

To the Party Filing This Response:

Have someone age 18 or older—**not you**—mail a copy of this completed form SV-620 to the other party or to the other party's lawyer, if any. This is called "service by mail." The person who serves the form by mail 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 signed original proof-of-service form back to the court clerk or bring it with you to the hearing.

SV-630

Order on Request to ☐ Modify ☐ Terminate Postsecondary School Violence Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

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:

Prevailing party completes (1) and (2).

(1) Party Seeking Modification/Termination

a. Full Name: _____

Lawyer *(if any for this case):*

Name: _____ State Bar No.: _____

Firm Name: _____

b. Address *(If this party has a lawyer, give the lawyer's information. If the party does not have a lawyer and wants to keep home address private, give a different mailing address instead. Telephone, fax, or email are not required.)*

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

(2) Other Party

Full Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Email Address: _____

(3) 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 party seeking ☐ modification ☐ termination

b. ☐ The party opposing ☐ modification ☐ termination

c. ☐ The lawyer for the party seeking ☐ modification ☐ termination *(name):* _____

d. ☐ The lawyer for the party opposing ☐ modification ☐ termination *(name):* _____

(4) Order

☐ The request to ☐ modify ☐ terminate the attached:

☐ *Postsecondary School Violence Restraining Order After Hearing* (form SV-130)

☐ *Order Renewing Postsecondary School Violence Restraining Order* (form SV-730)

originally issued on *(date)*: _____ is:

a. ☐ **DENIED**. The order and expiration date remain the same.

This is a Court Order.

b. ☐ **DENIED** without prejudice because the other party was not served on time.

c. ☐ **GRANTED**.

(1) ☐ The order is **TERMINATED** as of the date this order is signed on page 3.

(2) ☐ The order is **MODIFIED** as stated: ☐ Below ☐ On Attachment 4c(2)

(Specify, referring to item numbers in the original order):

(3) The order now **EXPIRES** on *(date):* _____ at *(time):* _____

5 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 prevailing party or their 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 5.

This is a Court Order.

To the Prevailing Party:

6 Service of Order

If service is required, someone age 18 or older—**not you**—must serve a copy of this order on the other party. If a party is represented by a lawyer, you must serve the lawyer instead of the party.

a. ☐ The other party attended the hearing. **No further service is required.**

b. ☐ **Order Granted—**The other party did not attend the hearing. **Service is required.** This order
   (1) ☐ must be personally served on the other party within _____ days of the date of this order.
   (2) ☐ may be served by mail on the other party within 5 days of the date of this order.

c. ☐ **Order Denied—**The other party did not attend the hearing. **Service by Mail:** The other party may be served with this order by mail.

Date: _____ _____

Judicial Officer

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate [seal]

I certify that this *Order on Request to Modify/Terminate Postsecondary School Violence 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.

SV-700 Request to Renew Restraining Order

Clerk stamps below when form is filed.

DRAFT

2025-05-29

Not approved by the Judicial Council

1 Petitioner (School Official)

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 Student (Protected Person)

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 *Postsecondary School Violence Restraining Order After Hearing* (form SV-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.

_____

_____

_____

_____

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.

SV-710 Notice of Hearing to Renew Restraining Order

Clerk stamps below when form is filed.

DRAFT

2025-07-23

Not approved by the Judicial Council

1 Petitioner (School Official)

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 Student (Protected Person)

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 SV-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 SV-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:

- SV-700, *Request to Renew Restraining Order;*
- SV-710, *Notice of Hearing to Renew Restraining Order* (this form);
- SV-720, *Response to Request to Renew Restraining Order* (blank copy);
- SV-130, the current *Postsecondary School Violence Restraining Order After Hearing* for which renewal is requested.

After the respondent has been served, file form SV-200, *Proof of Personal Service,* with the court clerk. For help with service, read form SV-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 courts.ca.gov/rules-forms/find-your-court-forms for *Request for Accommodations by Persons with Disabilities and Response* (form MC-410). (Civ. Code, § 54.8.)

This is a Court Order.

SV-715 Request to Reschedule Hearing to Renew Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-05-29

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 SV-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.

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 *(check one):*

(1) ☐ **Petitioner** (educational institution officer or employee)

(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: _____

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 SV-716, *Order to Reschedule Hearing to Renew Restraining Order* (only items 1 and 2).
- File forms SV-715 and SV-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 SV-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/SV-restraining-order/renew/sheriff-serves.
- If the judge denies your request to reschedule, you must go to your court hearing (listed on form SV-710).

SV-716 Order to Reschedule Hearing to Renew Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-07-23

Not approved by the Judicial Council

(Complete ① and ② only. The court will complete the rest of this form.)

① Petitioner (Educational Institution Officer or Employee):

_____

② Restrained Party: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

③ Next Court Date

a. ☐ **Denied:** The request to reschedule the court date is denied.

Your court date is: _____

(1) The *Postsecondary School Violence Restraining Order After Hearing* (SV-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:

_____

_____

_____

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 SV-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 assault, battery, or stalking, or a credible threat of violence.

b. ☐ The person in (1) is entitled to a fee waiver.

7 ☐ Other Orders

_____

_____

_____

_____

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 courts.ca.gov/rules-forms/find-your-court-forms 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 SV-716) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

SV-720 Response to Request to Renew Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-08-05

Not approved by the Judicial Council

Use this form to respond to the *Request to Renew Restraining Order* (form SV-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 SV-250,* Proof of Service of Response by Mail.*)*

Court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Petitioner (School Official)

Name: _____

2 Student (Protected Person)

Name: _____

3 Respondent (Restrained Person)

a. 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-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.

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 an attached sheet of paper or form MC-025 and write "Attachment 4d—Reasons Not to Renew" for a title.*

_____

_____

_____

_____

_____

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*

SV-730

Order Renewing Postsecondary School Violence Restraining Order

Clerk stamps date here when form is filed.

DRAFT

2025-07-23

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 (School Official)

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 (Protected Person)

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

b. ☐ The respondent

c. ☐ The lawyer for the petitioner *(name)*: _____

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 *Postsecondary School 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 4.

b. ☐ **DENIED**. The attached order expires as stated in item 5 of the order.

Date: _____

_____

Judicial Officer

This is a Court Order.

SV-800 Receipt for Firearms, Firearm Parts, and Ammunition

Clerk stamps date here when form is filed.

DRAFT

2025-05-29

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:

1 Petitioner (Educational Institution Officer or Employee)

Name: _____

2 Student in Need of Protection

Full Name: _____

3 Respondent (Person From Whom Protection Is Sought)

Your Name: _____

Your Lawyer *(if you have one for this case):*

Name: _____ State Bar No.: _____

Firm Name: _____

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: _____

4 To the Respondent:

If a judge has ordered you to turn in, sell, or store your firearms (guns), ammunition, and 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)—use this form to prove to the judge that you have obeyed their orders. Take this form to a law enforcement officer or a licensed gun dealer to complete 5 or 6. For more information on how to properly turn in your items, read form SV-800-INFO, *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?*

5 To Law Enforcement

(Complete the section below. Keep a copy and give the original to the person in 3.)

Name of Law Enforcement Agency: _____

Name of Law Enforcement Agent: _____

Address: _____

Telephone: _____ Email Address: _____

Items Surrendered

a. Firearms, firearm parts, and ammunition transferred on:

Date: _____ Time: _____ ☐ a.m. ☐ p.m.

b. List of items *(List all the items surrendered by the person in 3. You may attach a separate form from your agency (e.g., a property report), use 7, or both. Check below if you have attached a separate form):*

☐ Separate form is attached. *(If it does not include all surrendered items, list additional items in 7.)*

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

▶ *Signature of law enforcement agent:* _____

Case Number:

6 To Licensed Gun Dealer

(Complete the section below. Keep a copy and give the original to the person in 3.)

Name of Licensed Gun Dealer: _____

License number: _____

Address: _____

Telephone: _____ Email Address: _____

Items Stored or Sold

a. Firearms, firearm parts, and ammunition transferred on:
Date: _____ Time: _____ ☐ a.m. ☐ p.m.

b. List of items *(List all the items surrendered by the person in 3. You may attach a separate form (e.g., Department of Justice's* Report of Firearms Acquisition*) or you may use 7. Check below if you have attached a separate form):*

☐ Separate form is attached. *(If it does not include all surrendered items, list additional items in 7.)*

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

▶ *Signature of licensed gun dealer:* _____

7 ☐ List of Items Surrendered

Firearms and firearm parts

	Make	Model	Serial Number, if there is one	Sold	Stored	To be destroyed
(1)				☐	☐	☐
(2)				☐	☐	☐
(3)				☐	☐	☐
(4)				☐	☐	☐
(5)				☐	☐	☐
(6)				☐	☐	☐

Ammunition

	Brand	Type	Amount	Sold	Stored	To be destroyed
(1)				☐	☐	☐
(2)				☐	☐	☐
(3)				☐	☐	☐
(4)				☐	☐	☐
(5)				☐	☐	☐
(6)				☐	☐	☐

☐ *Check here if there is not enough space above for your answer. Use a separate sheet of paper to list other items. Write "SV-800, item 7" at the top, and attach it to this form.*

Case Number:

8 To the Restrained Person:

Besides the items listed on page 2 or in an attached form, do you have or own any other firearms (guns), firearm parts, or ammunition?

☐ No

☐ Yes *(If yes, check one of the boxes below):*

a. ☐ I filed a *Receipt for Firearms, Firearm Parts, and Ammunition* (form SV-800) or other proof for those items with the court on *(date):* _____

b. ☐ I am filing the proof for those firearms (guns), firearm parts, or ammunition along with this proof.

c. ☐ I have not yet filed the proof for the other firearms (guns), firearm parts, or ammunition.
(Explain why not):

_____
_____
_____
_____
_____
_____

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*

Your Next Steps

- After the form is complete, make two additional copies. Take the copies and original to the court clerk to file.
- Keep a copy for yourself.

Note that failure to file a receipt with the court is a violation of the court's order.

SV-800-INFO How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?

DRAFT
05/29/2025
Not approved by
the Judicial Council

What items do I need to turn in, sell, or store?

You must turn in, sell, or store all of the following prohibited items that you have or control:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- 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), which may also be called ghost guns; and
- Ammunition.

How do I properly turn in, sell, or store the prohibited items?

You must take them to:

- Law enforcement, who will accept all prohibited items and may store them or destroy them;

OR

- A licensed gun dealer, who can buy or store firearms. If you have firearm parts, call ahead for more information.

When do I have to turn in, sell, or store the prohibited items?

Immediately, if law enforcement asks you for the items. Otherwise, within 24 hours.

Who can I turn in, sell, or store the prohibited items with?

Only law enforcement or a licensed gun dealer. You cannot give your prohibited items to a family member, friend, or anyone else.

Where can I sell the prohibited items?

At a licensed gun dealer in your area. You can search the internet for "Gun Dealers" or "Firearms Dealers" to find one. Make sure the dealer is licensed.

Do I have to pay a fee to store prohibited items?

You may have to pay a fee. Contact your local law enforcement agency or a licensed gun dealer about fees and whether they have space to store your items.

How do I turn in the prohibited items to law enforcement?

Call your local law enforcement agency to ask about their procedures. Unload your firearms and take a copy of the court order with you.
Do not bring firearms to court.

If I turn in the prohibited items to law enforcement, how long will they keep them?

It depends. There are procedures for getting your firearms back after the restraining order has expired. Ask the law enforcement agency for more information.

After I turn in the prohibited items to law enforcement, can I change my mind?

Yes. You are allowed to sell firearms to a licensed gun dealer. To do so, the gun dealer must present a bill of sale to your local law enforcement agency. The law enforcement agency will give the licensed gun dealer the items that you are selling.

Do I have to prove that I have turned in, sold, or stored the prohibited items?

Yes. Within 48 hours you must file a receipt with the court showing that you have surrendered the prohibited items to a law enforcement agency or sold them to or stored them with a licensed gun dealer. You may use *Receipt for Firearms, Firearm Parts, and Ammunition* (form SV-800) for this purpose.

Additional Questions?

Contact an attorney for legal advice. Call your local law enforcement agency, for example, your city police or county sheriff for their procedures.

Information about prohibited items and how to obey these orders is also available online.

See selfhelp.courts.ca.gov/respond-to-SV-restraining-order/obey-firearms-orders

For help in your area, contact:

[Local information may be inserted.]

SV-820 Prohibited Items Finding and Orders

Case Number:

This form is attached to *(check one):* ☐ Form SV-110 ☐ Form SV-116 ☐ Other: _____

1 Restrained Person Has Prohibited Items

The court finds that the restrained person has prohibited items as follows:

a. ☐ Listed on form SV-110, *Temporary Restraining Order*

b. ☐ Listed below:

Firearms (guns) or firearm parts

Description *(include serial number, if known)*	Location, if known	Proof of compliance received by the court
(1)		☐ *(date):*
(2)		☐ *(date):*
(3)		☐ *(date):*
(4)		☐ *(date):*

Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "SV-820, 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 law enforcement and a prosecuting attorney of the violation.

Name and address of court, if different than court address listed on the front of this order:

Date: _____ Dept.: _____

Time: _____ Room: _____

This is a Court Order.

(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 Law Enforcement

The court will immediately notify the following law enforcement agency of this violation *(name of agency):*

_____

c. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation *(prosecuting agency):*

_____

This is a Court Order.

SV-830 Noncompliance With Firearms, Firearm Parts, and Ammunition Order

CONFIDENTIAL

Clerk stamps date here when form is filed.

This notice is provided to the agency or agencies listed below, as required by the Code of Civil Procedure.

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)

Name: _____

2 Restrained Person

Name: _____

3 Restrained Person Has Not Complied with Surrendering Firearms (Guns), Firearm Parts, and Ammunition

The court has found that the person listed in 2 has firearms (guns), firearm parts, or ammunition in violation of a restraining order. The restraining order granted by the court is attached to this form.

(Check all that apply):

a. ☐ Notice to Law Enforcement Agency *(name of agency or agencies):*

_____

(Notice is provided pursuant to Code of Civil Procedure section 527.9(b).)

b. ☐ Notice to Prosecuting Agency *(name of agency):* _____

(Notice is provided pursuant to Code of Civil Procedure section 527.9(b).)

4 Number of pages attached to this form, if any: _____

Judicial Officer's Signature

Date: _____ _____

Judicial Officer

Case Number:

—Clerk's Certificate—

I certify that I am not a party to this case and that a true copy of the *Noncompliance With Firearms, Firearm Parts, and Ammunition Order* (form SV-830), was sent to the agency or agencies listed on page 1:

a. ☐ **Law enforcement agency listed in ③ a**

(1) ☐ by fax, email, or other electronic means ☐ by personal delivery

(2) *(Phone number, email address, or address):*

_____

_____

(3) Date of transmission or delivery: _____

b. ☐ **Prosecuting agency listed in ③ b**

(1) ☐ by fax, email, or other electronic means ☐ by personal delivery

(2) *(Phone number, email address, or address):*

_____

_____

(3) Date of transmission or delivery: _____

[seal]

Date: _____

Clerk, by _____, Deputy

SV-840

Notice of Compliance Hearing for Firearms, Firearm Parts, and Ammunition

Clerk stamps date here when form is filed.

DRAFT

2025-08-18

Not approved by the Judicial Council

1 Petitioner (Educational Institution Officer or Employee)

Name: _____

2 Restrained Person

Name: _____

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 Notice of Compliance Hearing

To the person in 2:

The court has issued a postsecondary school violence restraining order against you. You must attend the court hearing on the date and time listed below. At the hearing, you must prove that you have properly turned in, sold, or stored any firearms (guns), firearm parts, or ammunition that you have or own, as required in the restraining order and listed below in 4.



Date: _____ Dept.: _____

Time: _____ Room: _____

Name and address of court, if different from the one listed above:

_____

_____

_____

4 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 SV-800, *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.

This is a Court Order.

5 ☐ Restrained Person Has Prohibited Items

The court has found 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)		☐ *(date):*
(2)		☐ *(date):*
(3)		☐ *(date):*
(4)		☐ *(date):*

b. **Ammunition**

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1)			☐ *(date):*
(2)			☐ *(date):*
(3)			☐ *(date):*
(4)			☐ *(date):*

☐ Check here to list additional items. List them on a separate piece of paper, write "SV-840, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

6 ☐ Restrained Person Has Not Complied With Surrendering Prohibited Items

a. The court finds that you have 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 5.

b. Notify Law Enforcement
The court will immediately notify the following law enforcement agency of this violation *(name of agency):*

c. Notify Prosecutor
The court will immediately notify the following prosecuting agency of this violation *(prosecuting agency):* _____

7 ☐ Service

The person in 2 does not have notice of these orders. The person in 1 must have the person in 2 served by:

a. ☐ Personal service by *(date):* _____

b. ☐ Mail, at the person in 2's last known address by *(date):* _____

Judge's Signature

Date: _____ _____
Judicial Officer

This is a Court Order.

SV-850 Permission to Have Firearm or Ammunition for Work

Case Number:

This form is attached to *(check one):* ☐ form SV-130 ☐ Other: _____

1 Court Findings

The court finds that the restrained person *(name):* _____

a. Is required to carry a specific firearm or ammunition during scheduled work hours as a condition of their continued employment.

b. Cannot be reassigned by their employer to another position where having a firearm or ammunition is not needed.

c. Is not otherwise prohibited from having firearms or ammunition under state or federal law.

d. Does not pose an additional threat of harm to any protected person or the public by having access to a specific firearm or ammunition.

e. ☐ Is a sworn peace officer and:

(1) The court ordered and reviewed a completed psychological evaluation of the restrained person by a licensed mental health professional with domestic violence expertise; and

(2) The personal safety of the restrained person depends on their ability to carry a specific firearm or ammunition outside of scheduled work hours.

f. ☐ Is not a sworn peace officer and *(check 1 or 2):*

(1) ☐ The court did not order the restrained person to complete a psychological evaluation.

(2) ☐ The court ordered and reviewed a completed psychological evaluation of the restrained person by a licensed mental health professional with domestic violence expertise.

g. ☐ Other

_____
_____
_____
_____

This is a Court Order.

2 Court Order

a. The restrained person is *(check one):*

(1) ☐ Not a sworn peace officer and may have the items listed in 2b only during scheduled work hours.

(2) ☐ A sworn peace officer and *(check one):*

(a) ☐ May have the items listed in 2b while on duty.

(b) ☐ May have the items listed in 2b while on or off duty.

b. This restraining order does not require the restrained person to relinquish the specific firearm or ammunition listed below:

☐ Firearm *(make):* _____ *(model):* _____ *(serial no.):* _____

☐ Ammunition *(description):* _____

Warning: The court orders listed above in 2 only apply to this restraining order. If you are prohibited from having a firearm or ammunition by another order or law, you may still be in violation of state or federal law.

This is a Court Order.

SPR25-28

Protective Orders: Postsecondary School Violence Forms to Implement Assembly Bill 2096 (Adopt forms SV-820, SV-830, SV-840, and SV-850; revise forms SV-100, SV-100- INFO, SV-109, SV-110, SV-115, SV-115- INFO, SV-116, SV-120, SV-120-INFO, SV130, SV-200, SV-200-INFO, SV-250, SV260, SV-600, SV-610, SV-620, SV-630, SV700, SV-710, SV-715, SV-716, SV-720, SV730, SV-800, and SV-800-INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	Orange County Bar Association by Mei Tsang, President	A	This proposal addresses revisions to the private postsecondary school violence form group to: (l) Remove the word "private" as a modifier across all 26 of these forms, (2) Include additional criteria establishing the basis of a protective order; (3) Add a prohibition against stalking to the list of personal conduct orders, (4) Revise the explanation of the circumstances meriting free filing, and (5) Revise the explanation of the circumstances meriting free service by the sheriff or marshal.	No response required.
			• The proposal appropriately addresses the stated purpose.	The committee appreciates the response.
2.	Superior Court of California, County of Los Angeles by Stephanie Kuo	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, "Protective Orders: Postsecondary School Violence Forms to Implement Assembly Bill 2096," the Court agrees with the proposal and has no other comments.	The committee appreciates the response.
3.	Superior Court of California, County of San Bernardino Staff Civil Committee	NI	Does the proposal appropriately address the stated purpose?	The committee appreciates the response.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

DRAFT

SPR25-28

Protective Orders: Postsecondary School Violence Forms to Implement Assembly Bill 2096 (Adopt forms SV-820, SV-830, SV-840, and SV-850; revise forms SV-100, SV-100- INFO, SV-109, SV-110, SV-115, SV-115- INFO, SV-116, SV-120, SV-120-INFO, SV130, SV-200, SV-200-INFO, SV-250, SV260, SV-600, SV-610, SV-620, SV-630, SV700, SV-710, SV-715, SV-716, SV-720, SV730, SV-800, and SV-800-INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			Yes, the proposal appropriately addresses the stated purpose.	
			Would the proposal provide cost savings? If so, please quantify. No costs savings.	The committee appreciates the 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? Minimal change will be required. Clerk's Office, Judicial Assistants, and Judges would need to be informed of the change. This can be done by email. No additional training required. Possibly brief revising needed for clerk's office procedures manual. Time would be needed for the clerk's office to update any forms in office with the revised forms and time would be needed for court tech to make sure correct forms are online. (1 day) No changes in the case management system would be needed.	The committee appreciates the response.

DRAFT

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR25-28

Protective Orders: Postsecondary School Violence Forms to Implement Assembly Bill 2096 (Adopt forms SV-820, SV-830, SV-840, and SV-850; revise forms SV-100, SV-100- INFO, SV-109, SV-110, SV-115, SV-115- INFO, SV-116, SV-120, SV-120-INFO, SV130, SV-200, SV-200-INFO, SV-250, SV260, SV-600, SV-610, SV-620, SV-630, SV700, SV-710, SV-715, SV-716, SV-720, SV730, SV-800, and SV-800-INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.	The committee appreciates the response.
			How well would this proposal work in courts of different sizes? This will work well in any size court.	The committee appreciates the response.
4.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) (TCPJAC/CEAC Joint Rules Subcommittee (JRS))	AM	The JRS notes that the proposal is required to conform to a change of law.	The committee appreciates the response.
			The JRS also notes the following impact to court operations: • Impact on existing automated systems.	The committee appreciates the response.
			Suggested modification(s): SV-130 – Pg. 6 of 7 – Section 17b(3) – "and and"	The committee recommends revising item 17 of form SV-130 to delete the duplicative "and."

DRAFT

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

Item number: 29

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: September 11, 2025

Rules Committee action requested [Choose from drop-down menu below]:
Recommend JC approval (has circulated for comment)

Title of proposal: Protective Orders: Civil Harassment Forms to Implement Senate Bill 554

Proposed rules, forms, or standards (include amend/revise/adopt/approve)*:*
Revise forms CH-100 and CH-100-INFO

Committee or other entity submitting the proposal:
Civil and Small Claims Advisory Committee

Staff contact (name, phone and email)*: Maddie Joyner, 916-643-8068, maddie.joyner@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*): 10/22/2024
Project description from annual agenda: Project Summary: Develop form recommendations as appropriate. SB 554 permits petitioners to file civil harassment restraining orders in the county where the petitioner resides. The civil harassment restraining order petition (form CH-100) should be revised to reflect this new possible venue.

Out of Cycle/Early Implementation: *If requesting July 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.)
The petition (form CH-100) included in this proposal also contains proposed revisions to implement Senate Bill 899 (Stats. 2024, ch. 544). A separate proposal entitled Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 explains that new law and includes additional forms that require changes based on that law.

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)* 7/22/2025
  ☒ approved by Office Director (or Designee) (*name*) Michael Giden
  on (date) 8/7/2025

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

REPORT TO THE JUDICIAL COUNCIL

Item No.: 25-140
For business meeting on October 24, 2025

Title
Protective Orders: Civil Harassment Forms to Implement Senate Bill 554

Rules, Forms, Standards, or Statutes Affected
Revise forms CH-100 and CH-100-INFO

Recommended by
Civil and Small Claims Advisory Committee
Hon. Donald J. Proietti, Chair

Report Type
Action Required

Effective Date
January 1, 2026

Date of Report
August 12, 2025

Contact
Maddie Joyner, 916-643-8068
maddie.joyner@jud.ca.gov

DRAFT

Executive Summary

The Civil and Small Claims Advisory Committee recommends revisions to two civil harassment restraining order forms to implement Senate Bill 554 (Stats. 2024, ch. 652). The petition (form CH-100) included in this proposal also contains proposed revisions to implement Senate Bill 899 (Stats. 2024, ch. 544).

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2026:

1. Revise *Request for Civil Harassment Restraining Orders* (form CH-100) to implement legislation relating to venue in civil harassment restraining order cases (Sen. Bill 544) and to implement legislation relating to firearm and ammunition relinquishment (Sen. Bill 899); and

2. Revise *Can a Civil Harassment Restraining Order Help Me?* (form CH-100-INFO) to reflect SB 544's venue provisions and to specify that a petitioner does not need to be a resident of California to file a petition for a civil harassment restraining order.

The proposed revised forms are included at pages 4–13.

Relevant Previous Council Action

The Judicial Council has adopted forms for use in preventing civil harassment as required by statute.[1] These forms have been revised from time to time to reflect changes in the law and in response to suggestions from the public, judicial officers, and court professionals. These forms were first adopted effective January 1, 1979. The most recent changes went into effect on January 1, 2025, and added body armor prohibitions.[2]

Analysis/Rationale

This proposal is needed to implement SB 544. A separate proposal that is also before the council, *Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899*, also affects the civil harassment form group. The proposed form revisions on form CH-100 that are highlighted in yellow relate to SB 554, while the form revisions implementing SB 899 that are the subject of the separate proposal are highlighted in gray.

SB 554 outlines four possible options for venue, only three of which are reflected on form CH-100.[3] Therefore, the committee recommends adding another venue option to item 5 explaining that venue is also proper in the county in which the petitioner resides or is temporarily located.[4] The committee recommends revising form CH-100-INFO to reflect SB 554's venue options and the fact that, under this legislation, a petitioner does not need to reside in California to file a request for a civil harassment restraining order.[5] Finally, the committee recommends making various technical corrections to the forms and updating gendered language with gender-neutral language.[6]

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.

Comments

This proposal circulated for public comment from April 14 through May 23, 2025. Four commenters responded to the proposal. Two commenters agreed with the proposal, one agreed if

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[1] Code Civ. Proc., § 527.6(x).

[2] Judicial Council of Cal., Advisory Com. Rep., *Protective Orders: Revisions to Civil Forms to Implement New Law* (Aug. 27, 2024), *jcc.legistar.com/View.ashx?M=F&ID=13262168&GUID=F95ED887-5298-44C7-B3D8-F7128898B4BC*.

[3] Form CH-100 contains three options for venue: (1) the respondent lives in the county, (2) the petitioner was harassed by the respondent in the county, or (3) other (specify). Because SB 554 uses "resides" rather than "lives," the committee recommends using the verb "resides."

[4] See Code Civ. Proc., § 527.6(a)(2)(A).

[5] See Code Civ. Proc., § 527.6(a)(2).

[6] Among other proposed revisions, the committee recommends updating various URLs throughout the forms included in the proposal.

modified, and one did not indicate a position; no commenters disagreed with the proposal. The committee thanks the commenters for taking the time to respond to this proposal. All comments and the committee's responses are provided in the attached chart of comments at pages 14–15.

With respect to the proposed modification, the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee (Joint Rules Subcommittee) suggested revising form CH-100-INFO to expand the description of appropriate filing locations. Code of Civil Procedure section 527.6(a)(2)(D), which was added by SB 554, provides that a petition for a civil harassment restraining order may be filed, among other places, "in any other court that may have jurisdiction over the parties or the subject matter of the case." This is reflected in item 5d of proposed revised form CH-100 as "Other (*specify*)." However, as noted by the Joint Rules Subcommittee, the committee did not propose similar language for form CH-100-INFO.

In response to this comment, the committee recommends adding, "Another court may also have jurisdiction over your case" to form CH-100-INFO under the heading "What do I need to do to get the order?"

Alternatives considered

The committee did not consider the alternative of taking no action as this would result in forms that do not accurately reflect the amended statute. The committee did not initially propose addressing Code of Civil Procedure section 527.6(a)(2)(D) in form CH-100-INFO. As discussed above, based on the recommendation of the Joint Rules Subcommittee, the committee ultimately determined that form CH-100-INFO should reflect the same information as the venue item of form CH-100. Therefore, the committee now proposes adding, "Another court may also have jurisdiction over your case" to form CH-100-INFO.

Fiscal and Operational Impacts

The impacts from this proposal are the result of legislation. The committee anticipates that this proposal will require courts to train court staff and judicial officers on the revised forms. Courts will also incur costs to incorporate the revised forms into their paper or electronic processes.

Attachments and Links

1. Forms CH-100 and CH-100-INFO, at pages 4–13
2. Chart of comments, at pages 14–15
3. Link A: Sen. Bill 554 (Stats. 2024, ch. 652), *https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB554*
4. Link B: Sen. Bill 899 (Stats. 2024, ch. 544), *https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB899*

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CH-100 Request for Civil Harassment Restraining Orders

Clerk stamps date here when form is filed.

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2025-07-28

Not approved by the Judicial Council

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.

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?
			☐ Yes ☐ No	
			☐ Yes ☐ No	
			☐ Yes ☐ No	
			☐ Yes ☐ 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.

Case Number:

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) resides in this county.
b. ☐ I was harassed by the person in (2) in this county.
c. ☐ I reside or am temporarily located in this county.
d. ☐ 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) ☐ Civil Harassment			
(2) ☐ Domestic Violence			
(3) ☐ Divorce, Nullity, Legal Separation			
(4) ☐ Paternity, Parentage, Child Custody			
(5) ☐ Elder or Dependent Adult Abuse			
(6) ☐ Eviction			
(7) ☐ Guardianship			
(8) ☐ Workplace Violence			
(9) ☐ Small Claims			
(10) ☐ Criminal			
(11) ☐ 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?

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) ☐ Me.
(2) ☐ The other persons listed in (3).
(3) ☐ My home.
(4) ☐ My job or workplace.
(5) ☐ My school.
(6) ☐ My children's school.
(7) ☐ My children's place of child care.
(8) ☐ My vehicle.
(9) ☐ Other *(specify):*

_____
_____
_____
_____
_____
_____

b. If the court orders the person in (2) to stay away from all the places listed above, will they still be able to get to their 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) have 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).)

a. ☐ I don't know

b. ☐ No

c. ☐ Yes *(If you have information, complete the section below.)*

This is not a Court Order.

10 Describe Firearms (Guns), Firearm Parts, or Ammunition | Number or Amount | Location, if known

(1) _____ _____ _____
(2) _____ _____ _____
(3) _____ _____ _____
(4) _____ _____ _____
(5) _____ _____ _____
(6) _____ _____ _____

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), firearm parts, and ammunition 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.

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 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 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.*

_____
_____
_____
_____
_____

This is not a Court Order.

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:

Item	Amount	Item	Amount
_____	$_____	_____	$_____
_____	$_____	_____	$_____
_____	$_____	_____	$_____

☐ *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.*

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.)

_____
_____
_____

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.*

_____
_____
_____
_____

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.

This is not a Court Order.

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.*

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*

This is not a Court Order.

CH-100-INFO Can a Civil Harassment 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.

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

You do not need to reside in California to file your request for a civil harassment restraining order.

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.

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 the person 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 courts.ca.gov/rules-forms/find-your-court-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, the person to be restrained resides, or you reside or are temporarily located. Another court may also have jurisdiction over your case. 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. (See item 3 on form CH-109, *Notice of Court Hearing*.)

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?

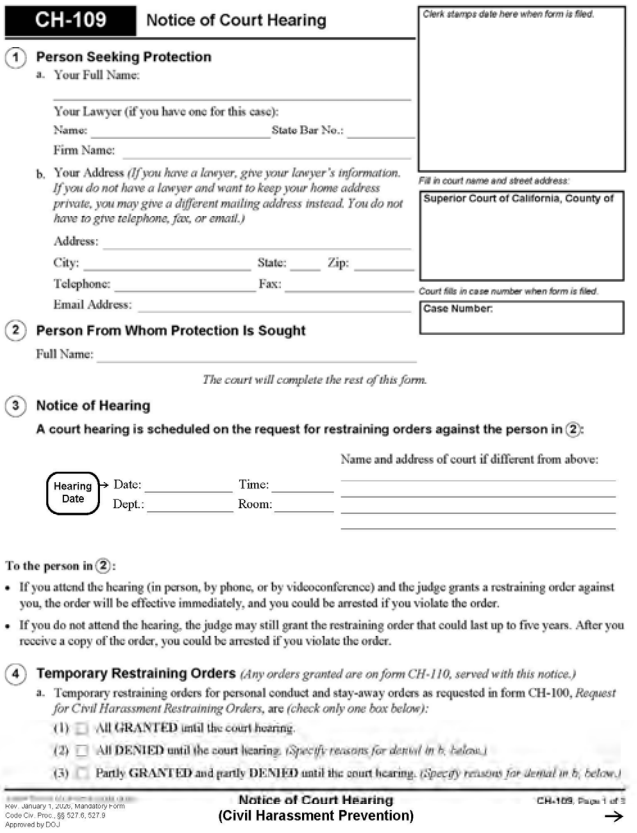
Having a lawyer is always a good idea, but it is not required and you are not entitled to a free, court-appointed lawyer. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

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.

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:

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 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.*)

Rev. January 1, 2026, Mandatory Form
Code Civ. Proc., §§ 527.6, 527.9
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.

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.

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.

SPR25-29

Protective Orders: Civil Harassment Forms to Implement Senate Bill 554 (Revise forms CH-100 and CH-100-INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	Orange County Bar Association by Mei Tsang, President	A	This proposal revises two civil harassment restraining order forms to implement updated requirements under Senate Bill 554.	No response required.
			• The proposal appropriately addresses the stated purpose.	The committee appreciates the response.
2.	Superior Court of California, County of Los Angeles by Stephanie Kuo	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, "SPR25-29 Protective Orders: Civil Harassment Forms to Implement Senate Bill 554," the Court agrees with the proposal and has no other comments.	The committee appreciates the response.
3.	Superior Court of California, County of San Bernardino	NI	Does the proposal appropriately address the stated purpose? Yes, the proposal appropriately addresses the stated purpose.	The committee appreciates the response.
			Would the proposal provide cost savings? If so, please quantify No costs savings.	The committee appreciates the 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? Minimal change will be required. Clerk's Office, Judicial Assistants, and Judges would need to be informed of the change. This can be done by email. No additional training required. Possibly brief revising needed for clerk's office procedures manual.	The committee appreciates the response.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

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	Commenter	Position	Comment	Committee Response
			Time would be needed for the clerk's office to update any forms in office with the revised forms and time would be needed for court tech to make sure correct forms are online. (1 day) No changes in the case management system would be needed.	
			Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.	The committee appreciates the response.
			How well would this proposal work in courts of different sizes? This will work well in any size court.	The committee appreciates the response.
4.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) (TCPJAC/CEAC Joint Rules Subcommittee (JRS))	AM	The JRS notes that the proposal is required to conform to a change of law.	No response required.
			The JRS also notes the following impact to court operations: • Impact on existing automated systems.	The committee appreciates the response.
			Suggested modification(s): Fails to fully incorporate SB 554 in the CH-100-INFO. The section "What do I need to get the order?" appears to be too narrow. See: CCP 527.6(a)(2)(D). This is incorporated into the CH-100 form in Section 5d under "Other (specify):"	The committee recommends adding "<u>Another court may also have jurisdiction over your case.</u>" to form CH-100-INFO on page 1 under "What do I need to do to get the order?" to communicate that another court "may have jurisdiction over the parties or the subject matter of the case." (Code Civ. Proc., § 527.6(a)(2)(D).)

DRAFT

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: September 11, 2025

Rules Committee action requested [Choose from drop-down menu below]:
Recommend JC approval (has circulated for comment)

Title of proposal: Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding

Proposed rules, forms, or standards (include amend/revise/adopt/approve)*:*
Amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457

Committee or other entity submitting the proposal:
Family and Juvenile Law Advisory Committee and the Tribal Court - State Court Forum

Staff contact (name, phone and email)*: Ann Gilmour, 415-865-4207 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*): Family and Juvenile Law Advisory Committee Annual Agenda Approved October 22, 2024; amended November 26, 2024
Project description from annual agenda: Item 1 j. on page 5: AB 81 (Ramos) Indian children: child custody proceedings (Stats. of 2024, Ch. 656) Provides that the sections of the Family Code, the Probate Code, and the Welfare and Institutions Code that apply to proceedings involving an Indian child shall be collectively known as the California Indian Child Welfare Act. Codifies in section 224.1 the definitions from the federal Indian Child Welfare Act. Clarifies requirements around inquiry concerning possible eligibility for tribal membership and requires that inquiry about possible tribal membership eligibility be conducted of any party or interested person at their first appearance in court, and that the inquiry occur on the record. Additionally requires the court to instruct the parties and persons present to inform the court if they subsequently receive information that provides reason to know the child is, or may be, an Indian child, and item 7 on page 12: ICWA Inquiry: Recent Supreme Court Decisions: Consider amendments to rules and revisions to forms based on recent opinions from the California Supreme Court in In Re Dezi C., S275578, and In re Kenneth D., S276649, and the pending decision In re Ja.O., S280572, and legislative changes in Assembly Bill 81 Indian Children: Child Custody Proceedings. The opinions address significant issues regarding inquiry in Indian Child Welfare Act cases. Also, revise form JV-101A, Additional Children Attachment Juvenile Dependency Petition, to add Indian Child Welfare Act inquiry content for each child. Item 1 p. on page 6: Legislative Changes from the 2024 Legislative Session: 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 2929 (Carillo, Juan) Dependents: family finding (Stats. of 2024, Ch 845) Requires a social worker's supplemental report filed in connection with a status review hearing to include, for a nonminor dependent who does not reside with relatives, kin, or an Indian custodian, the social worker's continued efforts to locate relatives or kin who could provide family support or a placement; and requires the juvenile court to determine, at the status review hearing, whether the social worker has continued to make those efforts.

Tribal Court–State Court Forum Annual Agenda approved by the Executive and Planning Committee: December 5, 2024
Project description from annual agenda: Item 1, page 3: Indian Child Welfare Act (ICWA): Recent and Pending Supreme Court Decisions and Legislation: Consider amendments to rules and revisions to forms if required by recent opinions from the California Supreme Court in In Re Dezi C., S275578, In re. Kenneth D. S276649, and the pending decision In re Ja.O., S280572 and anticipated legislative changes in Assembly Bill 81 Indian Children: Child Custody Proceedings. Revise form JV-101A, Additional Children Attachment Juvenile Dependency Petition, to add ICWA inquiry content for each child.

Out of Cycle/Early Implementation: *If requesting July 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)* 7.15.2025
  ☒ approved by Office Director (or Designee) (*name*) Audrey Fancy
  on (date) 7/21/2025

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
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REPORT TO THE JUDICIAL COUNCIL

Item No.: 25-172
For business meeting on October 24, 2025

Title
Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding

Rules, Forms, Standards, or Statutes Affected
Amend Cal. Rules of Court, rules 5.481, 5.668, 5.708, and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457

Recommended by
Family and Juvenile Law Advisory Committee
Hon. Tari L. Cody, Cochair
Hon. Stephanie E. Hulsey, Cochair

Tribal Court–State Court Forum
Hon. Abby Abinanti, Cochair
Hon. Joyce D. Hinrichs *(Ret.)*, Cochair

Report Type
Action Required

Effective Date
January 1, 2026

Date of Report
September 3, 2025

Contact
Ann Gilmour, 415-865-4207,
ann.gilmour@jud.ca.gov

Executive Summary

To implement new legislation and recent case law regarding the Indian Child Welfare Act (ICWA) and foster-care placement in juvenile cases, the Family and Juvenile Law Advisory Committee and the Tribal Court–State Court Forum recommend amending four rules of court and revising 22 forms. This proposal responds to Assembly Bill 81 (Ramos; Stats. 2024, ch. 656), which addressed the implementation of the Indian Child Welfare Act (25 U.S.C. §§ 1901 et seq.), including ICWA inquiry, and Assembly Bill 2929 (Carillo; Stats. 2024, ch. 845), which addressed family finding in juvenile dependency cases. The proposal also responds to two recent

decisions from the Supreme Court of California concerning ICWA inquiry: *In re Kenneth D.* (2024) 16 Cal.5th 1087; and *In re Dezi C.* (2024) 16 Cal.5th 1112. The proposal would also correct several technical issues in the rules and forms.

Recommendation

The Tribal Court–State Court Forum and the Family and Juvenile Law Advisory Committee recommend that the Judicial Council, effective January 1, 2026:

1. Amend California Rules of Court, rule 5.481(a)(2)[1] regarding who must be asked if they have information that the child is or may be an Indian child to better align with the language in recent revisions to section 224.2(c) of the Welfare and Institutions Code[2] and for consistency with the language used in other rules; to add the words "on the record" to the end of that paragraph; and to change the term "participant" in subdivision (a)(2)(A) to "party or other interested person", and the words "or may be" between "knows or has reason to the child is" and "an Indian child." In addition, the proposal would add to subdivision (a)(4)(B) language clarifying that contacting the Bureau of Indian Affairs (BIA) and California Department of Social Services (CDSS) for assistance should occur only if the contacting entities—after interviewing the parents, Indian custodian, and extended family members—still require assistance in identifying or contacting tribes. This language is proposed in response to comments from the BIA and the CDSS that they routinely have agencies contact them without having first interviewed available family members. Without the family background information, the BIA and the CDSS will not conduct these interviews and cannot assist with locating and contacting tribes (the assistance they are mandated to provide). Finally, there would be a technical amendment to (a)(4)(C) to correct a code reference.
2. Amend rule 5.668(c) to make the language regarding ICWA inquiry consistent with the new language in section 224.2 regarding asking each party or other interested person present who has not previously been asked and making this inquiry on the record.
3. Amend rule 5.708(b)(1) to require that the report discuss all efforts the agency has made to comply with its ICWA inquiry duty by adding new subsection (E) and add new paragraph (b)(4) to state that the court must make a finding as to whether the agency has fulfilled its duty of ICWA inquiry.
4. Amend rule 5.725 to require in subdivision (c), governing reporting requirements, evidence of the affirmative and continuing duty to inquire whether the child is or may be an Indian child, and to add a paragraph under subdivision (d), conduct of the hearing, to require the court to make a finding as to whether the agency has fulfilled its duty of ICWA inquiry under the holdings of the California Supreme Court in *Kenneth D.* and *Dezi C.* These cases clarify that there must be robust evidence of ICWA inquiry throughout the life of the case and findings by the court on ICWA inquiry and ICWA

[1] All further rule references are to the California Rules of Court unless otherwise stated.

[2] All further code references are to the California Welfare and Institutions Code unless otherwise stated.

status that are grounded in the record. Also, a technical change would update a rule reference in subdivision (g).

5. Revise *Information Sheet on Indian Child Inquiry Attachment and Notice of Child Custody Proceeding for Indian Child* (form ICWA-005-INFO) to clarify and explain the ongoing duty of inquiry of extended family members and make the technical correction of including notice to the Secretary of the Interior when the identity and location of the child's parents or tribe are now known.
6. Revise *Indian Child Inquiry Attachment* (form ICWA-010(A)) to clarify what must be asked of the individuals questioned and clarify steps of the inquiry process.
7. Revise *Parental Notification of Indian Status* (form ICWA-020) to clarify that the inquiry is related to relatives and lineal ancestors of the *child*, rather than the parent, Indian custodian, or guardian, add the terms citizen and citizenship when the terms member and membership are used, and ask whether the parent or child has lived on tribal trust lands in the past as well as whether they currently live on such lands.
8. Revise *Additional Children Attachment* (form JV-101(A)) by reformatting it to ensure that ICWA inquiry is documented for each individual child and removing the reference to gender in item 4e, which is not required by statute.
9. Revise *Orders Under Welfare and Institutions Code Sections 366.24, 266.26, 727.3, 727.31* (form JV-320), which is used to document the findings and orders at a permanency hearing, to add a required finding as to the sufficiency of ICWA inquiry and to fix a typographical error at item 19(b)(3) by changing the first word from "an" to "a."
10. Revise *Continuance—Dependency Detention Hearing* (form JV-405) to correct the name of the hearing in item 2 from "dispositional" to "detention," change existing item 12b to 12a(2), renumber the subitems in 12, modify renumbered item 12b to include language that the court has reviewed evidence of ICWA inquiry submitted for the hearing, remove the finding in original item 12c(2)(a) that ICWA does not apply, add language in item 12c(4) that ICWA applies when the court makes a finding that the child is an Indian child, and revise the wording and format for the counter-signature line for a judge that may be required under section 249 to be consistent with other forms that include this counter signature.
11. Revise *Findings and Orders After Detention Hearing* (form JV-410) to add a new item 9 ordering the county agency to make diligent efforts to locate and evaluate appropriate kin, add an instruction to the ICWA status language in renumbered item 11 to clarify that the court must choose one of the alternative findings, add a new sentence to renumbered item 11a ordering the county agency to continue to inquire about the child's Indian status, and delete the language in renumbered item 11b(1) that ICWA does not apply.
12. Revise *Findings and Orders After Jurisdictional Hearing* (form JV-412) to update the language in item 5 regarding ICWA inquiry and status.
13. Revise *Findings and Orders After Dispositional Hearing* (form JV-415) to move current item 5, which addresses ICWA status, into item 7, ICWA Inquiry; renumber the remaining items; and delete the language in original item 8d (1) finding that ICWA does not apply unless new information is received and add language requiring the agency to continue its ICWA inquiry efforts.

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14. Revise *Dispositional Attachment: Removal From Custodial Parent—Placement With Nonparent* (form JV-421) to update the language and clarify the findings regarding ICWA inquiry and status by adding item 4, include the family finding requirements in renumbered item 8, and revise language in item 34 to provide a link to rule 5.650 rather than direct litigants to the court clerk.
15. Revise *Findings and Orders After Six-Month Status Review Hearing* (form JV-430) to include language about continuing ICWA inquiry, and revise language in item 15 to provide a link to rule 5.650 rather than direct litigants to the court clerk.
16. Revise *Six-Month Permanency Attachment: Reunification Services Continued* (form JV-432) to add language concerning family finding and engagement as item 14.
17. Revise *Six-Month Permanency Attachment: Reunification Services Terminated* (form JV-433) to add as new item 15 language regarding family finding and engagement and to require in renumbered item 18(c) that the report that the agency is required to prepare for the permanency hearing include evidence of ICWA inquiry throughout the life of the case.
18. Revise *Findings and Orders After 12-Month Permanency Hearing* (form JV-435) to include language about continuing ICWA inquiry, and revise language in item 15 to provide a link to rule 5.650 rather than direct litigants to the court clerk.
19. Revise *Twelve-Month Permanency Attachment: Reunification Services Continued* (form JV-437) to add language concerning family finding and engagement.
20. Revise *Twelve-Month Permanency Attachment: Reunification Services Terminated* (form JV-438) to add language regarding family finding and engagement at item13 and to require that the agency's permanency hearing report include evidence of ICWA inquiry throughout the life of the case at item 18.
21. Revise *Findings and Orders After 18-Month Permanency Hearing* (form JV-440) to delete existing item 4 concerning ICWA status and replace it with new item 6 to include language about continuing ICWA inquiry and ICWA status findings, and revise language in item 15 to provide a link to rule 5.650 rather than direct litigants to the court clerk.
22. Revise *Eighteen-Month Permanency Attachment: Reunification Services Terminated* (form JV-442) to add language regarding family finding and engagement and to require that the agency's permanency hearing report include evidence of ICWA inquiry throughout the life of the case.
23. Revise *Eighteen-Month Permanency Attachment: Reunification Services Continued* (form JV-443) to add language concerning family finding and engagement.
24. Revise *Findings and Orders After Postpermanency Hearing—Permanent Plan Other Than Adoption* (form JV-446) to add language regarding notice to the Bureau of Indian Affairs when such is required, and about family finding and engagement.
25. Revise *Findings and Orders After 24-Month Permanency Hearing* (form JV-455) to delete existing item 4 concerning ICWA status and replace it with new item 6 to include language about continuing ICWA inquiry and ICWA status findings, and revise language in item 15 to provide a link to rule 5.650 rather than direct litigants to the court clerk.
26. Revise *Twenty-Four-Month Permanency Attachment: Reunification Services Terminated* (form JV-457) to require the county agency to include evidence of ICWA inquiry in its

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report for the permanency hearing and to add language about family finding and engagement.

The recommended amended rules are attached at pages 9–13. The recommended revised forms are attached at pages 14–115.

Relevant Previous Council Action

The federal Indian Child Welfare Act (ICWA; 25 U.S.C. § 1901 et seq.) was enacted in 1978 and establishes minimum federal standards that apply in all state court proceedings involving an Indian child where the child could be involuntarily placed in the custody of a nonparent, or where the parental rights of a parent could be terminated. California statutes refine and expand upon these minimal federal standards. The Judicial Council has acted numerous times to implement and improve compliance with ICWA, and to implement state laws including:

- 1995 amendments to former rules 1431, 1432, and 1463 to assure proper notice consistent with ICWA, and adoption of former rule 1439;
- 1998 amendments to former rule 1439 and forms JV-100 and JV-110 to better identify Indian children and comply with ICWA; and
- 2000 and 2005 amendments to former rule 1439 and revisions to various juvenile and family law forms to clarify when and how notice should be given under ICWA.

In 2006, California enacted Senate Bill 678 (Ducheny; Stats. 2006, ch. 838) to substantially incorporate provisions of ICWA into the Family Code, Probate Code, and Welfare and Institutions Code. Following enactment of SB 678, the Judicial Council adopted implementing rules of court and forms.[3] Following the enactment of Assembly Bill 3176 (Waldron; Stats. 2018, ch. 833), in 2019 the Judicial Council updated various ICWA and juvenile rules and forms effective January 1, 2020.[4]

In 2023 the Judicial Council amended four rules of court in its implementation of Senate Bill 384 (Cortese; Stats. 2022, ch. 811) which expanded the obligation of the placing agency to engage in family finding in dependency and delinquency cases.[5]

Analysis/Rationale

When children and families encounter the child welfare system, the court and the agency must follow specific obligations and requirements. These include the requirement under state and federal statutes to (1) identify kin who can provide family support and potential placement

[3] That rules and forms proposal was adopted by the Judicial Council at a meeting on October 26, 2007 (agenda item A27) and is available at *www.courts.ca.gov/documents/102607ItemA27.pdf*.

[4] That rules and forms proposal was adopted by the Judicial Council at a meeting on September 24, 2019 (agenda item 19-195) and is available at *https://jcc.legistar.com/View.ashx?M=F&ID=7684873&GUID=52B4C6B1-F704-458F-BF42-EB1AA4F82000.*

[5] Approved by the Judicial Council at its meeting on September 19, 2023, as Item No. 23-166 https://jcc.legistar.com/View.ashx?M=F&ID=12246464&GUID=FF0A3C37-4A42-4B36-B044-4C1CEAA9993C.

should children need to be removed from their homes, and (2) identify Indian children so their tribes can be notified and the requirements of ICWA and implementing state law can be fulfilled. Recent legislative changes to both these "family finding" and ICWA inquiry requirements as well as recent case law regarding ICWA inquiry require changes to various Judicial Council forms.

ICWA inquiry and family finding are often documented on the same Judicial Council forms. Because they involve the same forms, the two issues were combined into one proposal.

To fulfill the requirement to identify Indian children, California law imposes on local agencies and courts an affirmative and continuing duty to inquire of various individuals, including extended family members contacted by or available to the agency or court throughout the life of a case, whether the child is or may be an Indian child.[6]

Following the implementation of AB 3176[7] in 2019, appeals related to ICWA inquiry increased substantially based on claims that the inquiry of available extended family members throughout the life of a case was inadequate. Issues in these appeals, including the consequences of a failure to inquire of available extended family members, were eventually decided by the California Supreme Court in a pair of decisions: *In re Kenneth D.* and *In re Dezi C.* In these decisions, the court stressed the need for robust and thorough evidence of ICWA inquiry throughout the life of a case and for the trial court to make fact-specific findings about the child's Indian status and the adequacy of ICWA inquiry that are grounded in the record.

In AB 81, the Legislature clarified the initial and continuing duty of the court, a county welfare department, or county probation department to inquire whether the child is or may be an Indian child. (Additionally, AB 2929 strengthened the family finding and engagement requirements in all juvenile dependency cases by requiring the agency to present (1) evidence at all review hearings that the agency continued its efforts to locate any relatives, extended family members, or nonrelative extended family members (also defined as kin) who could provide family support or possible placement of the child; and (2) the results of those efforts.

The recommended changes detailed in the Recommendations section are required to conform the rules and forms with the new legislation and to help minimize ICWA inquiry appeals.

Policy implications

ICWA inquiry and family finding are of critical importance in child welfare cases. ICWA inquiry has caused numerous appeals. The proposal advances the judicial branch goal of delivering the highest quality of justice and service to the public.

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[6] Welf. & Inst. Code, § 224.2.

[7] Judicial Council of Cal., Advisory Com. Rep., *Indian Child Welfare Act (ICWA): Implementation of AB 3176 for Indian Children* (Sept. 5, 2019), item 19-195, *https://jcc.legistar.com/View.ashx?M=F&ID=7684873&GUID=52B4C6B1-F704-458F-BF42-EB1AA4F82000*.

Comments

The proposal circulated for public comment from April 15 through May 17, 2025, as part of the spring 2025 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 clerk/executive officers, 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.

The proposal received 11 comments from three superior courts, a superior court judge, two county counsel's offices, the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee, a county bar association, a statewide tribal advocacy organization, a committee of the California Lawyers Association, and the California Department of Social Services.

All the commenters either agreed with the proposal as circulated or agreed with modifications. None opposed the proposal.

Many comments on the forms were technical in nature such as updating code and section references, updating for gender neutral language, correcting singulars and plurals, adding "citizen" and "citizenship" to tribal "member" and "membership" throughout the proposal to be consistent with section 224.2, adding code and rule references to the footnotes of the forms, adding space for responding to questions, and correcting spelling and grammatical errors. The committee and the forum recommend making these changes. In addition, the committee and the forum recommend changing the word "select" to "check," as in "check the box," to use consistent language in juvenile forms and revising the judicial officer signature line on form JV-405 to clarify that a judge's countersignature may be required. In addition, the footers on all of the forms were updated post-comment consistent with Judicial Council form guidelines.

There were also more substantive comments related to the wording of both the rules and the forms where commenters suggested refinement of language to provide greater clarity and more closely align the language in the rules and forms with statutory language and intent. These include (1) refinements in the language of rules 5.481(a)(2) and 5.668(c) to more closely follow the language of the statute, and rule 5.708(b)(1)(E) to include a more complete list of the individuals of whom inquiry should be made; (2) adding to rule 5.708(b)(4) language requiring the court to revisit any previous findings of ICWA applicability in light of new information; and (3) removing the language "throughout the life of the case" in rule 5.725 discussing reporting requirements of ICWA inquiry and throughout the forms in response to a comment that the language is not used in the statute and may also be inconsistent with case law that says a failure of inquiry at an early stage of the case can be remedied by later inquiry.

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The California Department of Social Services suggested several further revisions to the ICWA rules and forms, such as including findings and orders regarding which of multiple tribes should be recognized as the child's tribe, revising rule 5.534 to reflect the right of an indigent Indian custodian to appointed counsel, revising rules 5.708 through 5.720 to include findings with respect to reunification services, and including more robust ICWA findings in juvenile justice cases. These suggestions are beyond the scope of the proposal as circulated for public comment and were therefore not incorporated but will be considered for future proposals.

Alternatives considered

The forum and the committee considered whether the proposal should be delayed to address the broader scope of comments from the California Department of Social Services but determined that it was important to give the courts and parties guidance on the updated requirements concerning ICWA inquiry and family finding.

The forum and the committee did not consider taking no action because changes to rules and forms are necessary to implement the legislation and case law.

Fiscal and Operational Impacts

The Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee and the superior courts that provided comments on the proposal noted operational impacts including potential updating of case management systems and tracking, training for juvenile judges and clerks, an increase of court staff workload, and updating of self-help resources. There should also be substantial savings because of fewer ICWA inquiry appeals.

Attachments and Links

1. Cal. Rules of Court, rules 5.481, 5.668, 5.708, and 5.725, at pages 9–13
2. Forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457, at pages 14–115
3. Chart of comments, at pages 116–175

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Rules 5.481, 5.668, 5.708, and 5.725 of the California Rules of Court are amended, effective January 1, 2026, to read:

Rule 5.481. Inquiry and notice

(a) Inquiry

* * *

(1) * * *

(2) At the first appearance ~~by a parent, Indian custodian, or guardian,~~ in court by each party and all other ~~participants~~ interested persons in any of the following: any dependency case; juvenile wardship proceedings in which the child is at risk of entering foster care or is in foster care; at the initiation of any guardianship, conservatorship, proceeding for custody under Family Code section 3041, proceeding to terminate parental rights, proceeding to declare a child free of the custody and control of one or both parents, preadoptive placement, or adoption proceeding; and at each hearing that may culminate in an order for foster care placement, termination of parental rights, preadoptive placement or adoptive placement as described in Welfare and Institutions Code section 224.1(d)(1), or that may result in an order for guardianship, conservatorship, or custody under Family Code section 3041; the court must on the record:

(A) Ask each ~~participant~~ party or interested person present whether the ~~participant~~ party or other interested person knows or has reason to know the child is or may be an Indian child;

(B) Instruct the parties and other interested persons to inform the court if they subsequently receive information that provides reason to know the child is or may be an Indian child; and

(C) * * *

(3) * * *

(4) If the social worker, probation officer, licensed adoption agency, adoption service provider, investigator, or petitioner knows or has reason to know or believe that an Indian child is or may be involved, that person or entity must make further inquiry as soon as practicable by:

(A) Interviewing the parents, Indian custodian, and "extended family members" as defined in 25 United States Code section 1903, to gather

the information listed in Welfare and Institutions Code section 224.3(a)(5), Family Code section 180(b)(5), or Probate Code section 1460.2(b)(5);

(B) Based on the information gathered under (a)(4)(A), contacting the Bureau of Indian Affairs and the California Department of Social Services for assistance in identifying the names and contact information of the tribes in which the child may be a member or eligible for membership if the agency has been unable to make contact with such tribes; and

(C) Contacting the tribes and any other person who reasonably can be expected to have information regarding the child's membership status or eligibility. These contacts must at a minimum include the contacts and sharing of information listed in Welfare and Institutions Code section 224.2(e)~~(3)~~(2)(C).

(5) * * *

(b)–(c) * * *

Rule 5.668. Commencement of hearing—explanation of proceedings (§§ 316, 316.2)

(a)–(b) * * *

(c) Indian Child Welfare Act inquiry (§ 224.2(c) & (g))

(1) At the first appearance in court of each party or other interested person, the court must ask ~~each participant present at the hearing~~ on the record whether:

(A)–(D) * * *

(2) The court must also instruct all parties and other interested persons to inform the court if they subsequently receive information that provides reason to know the child is or may be an Indian child and order the parents, Indian custodian, or guardian, if available, to complete *Parental Notification of Indian Status* (form ICWA-020).

(3)–(4) * * *

(d) * * *

Rule 5.708. General review hearing requirements

(a) * * *

(b) Reports (§§ 366.05, 366.1, 366.21, 366.22, 366.25, 16002)

* * *

(1) The report must include:

(A)–(B) * * *

(C) A factual discussion of each item listed in sections 366.1 and 366.21(c); ~~and~~

(D) A factual discussion of the information required by section 16002(b)~~.~~; and

(E) A factual discussion of all efforts the agency has made to comply with the affirmative and continuing duty to inquire whether the child is or may be an Indian child, including evidence that inquiry in accordance with section 224.2 has been made of the child, any parent, legal guardian, Indian custodian, extended family members, or other interested persons contacted by the agency.

(2)–(3) * * *

(4) The court must make a finding as to whether the agency has fulfilled its affirmative and continuing duty to inquire whether the child is or may be an Indian child. If the court previously found that ICWA does not apply to the proceedings pursuant to section 224.2(i)(2), the court must determine whether there is any additional information that was not previously available to the agency or the court, when making a finding as to whether the agency has fulfilled its affirmative and continuing duty to inquire whether the child is or may be an Indian child.

(c)–(k) * * *

Rule 5.725. Selection of permanent plan (§§ 366.24, 366.26, 727.31)

(a)–(b) * * *

(c) Report

Before the hearing, petitioner must prepare an assessment under section 366.21(i) including evidence that the agency has fulfilled its affirmative and continuing duty to inquire whether the child is or may be an Indian child. At least 10 calendar days before the hearing, the petitioner must file the assessment, provide copies to each parent or guardian and all counsel of record, and provide a summary of the recommendations to the present custodians of the child, to any CASA volunteer, and to the tribe of an Indian child.

(d) Conduct of hearing

At the hearing, the court must state on the record that the court has read and considered the report of petitioner, the report of any CASA volunteer, the case plan submitted for this hearing, any report submitted by the child's caregiver under section 366.21(d), and any other evidence, and must proceed under section 366.26 and as follows:

(1) Make a finding as to whether:

(A) The court and the agency have fulfilled their affirmative and continuing duty to inquire whether the child is or may be an Indian child;

(B) The record contains evidence of such inquiry, including evidence of inquiry of the parents, guardians, Indian custodian, and other available extended family members contacted by the court or the agency; and

(C) Based on that inquiry and evidence, there is reason to believe or know the child may be an Indian child.

~~(1)~~(2)* * *

~~(2)~~(3)* * *

~~(3)~~(4)* * *

~~(4)~~(5)* * *

**(e)–(f) * * *

(g) Advisement of appeal rights

The court must advise all parties of their appeal rights as provided in rule 5.~~585~~590 and section 366.26(*l*).

INFORMATION SHEET ON INDIAN CHILD INQUIRY ATTACHMENT AND NOTICE OF CHILD CUSTODY PROCEEDING FOR INDIAN CHILD

This is an information sheet to help you fill out form ICWA-010(A), *Indian Child Inquiry Attachment,* and form ICWA-030, *Notice of Child Custody Proceeding for Indian Child.*

Form ICWA-010(A), *Indian Child Inquiry Attachment*

You are responsible for helping to find out whether the child is or may be an Indian child and filling out the information requested on ICWA-010(A), *Indian Child Inquiry Attachment.* This is important because if the child is or may be an Indian child, specific steps must be taken to gather family background information, contact the child's tribe, and prevent the breakup of the child's Indian family and to obtain for the child resources and services that are culturally specific to the child's family. The court will check to make sure that the child receives these resources and services.

Tips on how to fill out form ICWA-010(A), Indian Child Inquiry Attachment

1. Try to find contact information for the child's parents, the child's Indian custodian (if the child is living with an Indian person other than a parent) or other legal guardian, the child's grandparents and great-grandparents, and other available family members.
2. Contact the child's parents, the child's Indian custodian or any other legal guardians, available extended family members, and any other persons known to have an interest in the child and ask them (and the child, if old enough) these questions:
   a. Do they think the child might be a member or citizen of a tribe or eligible for tribal membership or citizenship, and if they think the child might be, then which tribe or tribes?
   b. Are the parents or other members of the extended family members or citizens of a tribe, and if they think they might be, which tribe or tribes?
   c. Does the child, or do the child's parents or Indian custodian, if any, live in Indian country, including a reservation, rancheria, Alaska Native village, or other tribal trust land?
   d. Does the child or any of the child's relatives receive services or benefits from a tribe, and if yes, which tribe?
   e. Does the child or any of the child's relatives receive services or benefits available to Indians from the federal government?
   f. Do they have any other information indicating the child is an Indian child?
3. If you are in touch with any of the child's relatives or extended family members at any time, ask them the same questions and let the court know whom you have asked and what they said.

The court clerk's office cannot file your petition unless you have filled out form ICWA-010(A), *Indian Child Inquiry Attachment,* and attached it to the petition. This requirement does not apply to a petition for appointment of a guardian of the estate only.

After you take the steps described above, if you have reason to believe that the child is an Indian child, you must gather as much family background information as you can and contact the tribe or tribes that may have a connection with the child about your court case.

You have reason to believe the child is an Indian child if any of the people you talk to answers "Yes" to any of your questions. Tribes that learn about the case can investigate and advise you and the court whether the child is a tribal member or citizen or eligible to become a tribal member or citizen, and can then decide whether to get involved in the case or assume tribal jurisdiction.

Your contacts with the tribe or tribes should include:

(1) Contacting the tribe's designated agent for service of notice under the Indian Child Welfare Act, which is published in the Federal Register, by telephone, facsimile, or email; and

(2) Sharing with the tribe or tribes any information identified by the tribe as necessary for the tribe to make a determination about the child's tribal membership or citizenship or eligibility for membership or citizenship, as well as information on the current status of the child and the case.

Form ICWA-030, *Notice of Child Custody Proceeding for Indian Child*

Following your inquiry about the child's Indian status and contacts with the child's tribe or tribes, if at any time you know or have reason to know the child is an Indian child, you must provide formal notice on form ICWA-030, *Notice of Child Custody Proceeding for Indian Child.*

Some tips to help you figure out if you have a reason to know the child is an Indian child

You have reason to know:

1. If the child, an Indian tribe, an Indian organization, an attorney, a public or private agency, a member of the child's extended family or any other person having an interest in the child says the child is an Indian child or provides information to anyone involved in the case suggesting that the child is an Indian child;
2. If the child, the child's parents, or an Indian custodian live on a reservation or rancheria or in an Alaskan Native village;

(continued on next page)

You have reason to know *(continued):*

3. If the child is or has been a ward of the tribal court; or
4. If the child's parent(s) have an identification card indicating membership or citizenship in an Indian tribe.

These are just a few of the facts that would give you reason to know that a child is an Indian child. There may also be other information that would give you reason to know that the child is an Indian child.

Who do you need to notify?

If you know or have reason to know that the child is an Indian child, you must send the *Notice* to the following:

1. Child's parents or other legal guardian, including adoptive parents;
2. Child's Indian custodian (if the child is living with an Indian person who has legal custody of the child under tribal law or custom, under state law, or if the parent asked that person to take care of the child);
3. Child's tribe or tribes; and
4. Sacramento Area Director, Bureau of Indian Affairs, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825 (if the parents, Indian custodian, or tribe cannot be determined or located).

Tips on how to find the address for the child's tribe or tribes

The Secretary of the Interior periodically updates and publishes in the Federal Register (see 25 Code of Federal Regulations § 23.12) a list of tribe names and addresses. The Bureau of Indian Affairs also keeps a list. You can access the Federal Register list and other resources related to ICWA on the Bureau of Indian Affairs website at bia.gov/bia/ois/dhs/icwa.

Copy to the Area Director of the Bureau of Indian Affairs

If you know the identity and location of the parent, Indian custodian, and the tribe or tribes, when you send the *Notice* to the parent, Indian custodian, and the tribe or tribes, you must also send a copy to the Sacramento Area Director, Bureau of Indian Affairs, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

Copy to the Area Director of the Bureau of Indian Affairs and Secretary of the Interior

If you do **not** know the identity and location of the child's parents, Indian custodian, and tribe or tribes, you must send copies of the *Notice* and the other documents to the Sacramento Area Director, Bureau of Indian Affairs, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825 and to the Secretary of the Interior, 1849 C Street, NW, Washington DC 20240. To help establish the child's tribal identity, you must have completed your further inquiry of available extended family members before contacting the Bureau of Indian Affairs and Secretary of the Interior and provide as much information as possible, including the child's name, birthdate, and birthplace; the names of all of the child's known relatives with addresses and other identifying information; and a copy of the petition in the case.

How do you send the *Notice* and prove to the court that you have done so?

If you have an attorney, the attorney will complete the steps described below. If you are representing yourself without an attorney in a probate guardianship case, the court clerk will help you with steps 1 and 2 below, including doing the mailing and signing the certificate of mailing on page 9 of the *Notice,* but you must deliver copies of the *Notice* and other documents listed in step 1 below to the court in addressed envelopes ready for mailing and then complete step 3.

1. Mail to the persons and organizations listed at the top of this page, by registered or certified mail, with return receipt requested, completed and signed copies of the following forms:
   a. Your petition;
   b. Form ICWA-010(A), *Indian Child Inquiry Attachment;* and
   c. Form ICWA-030, *Notice of Child Custody Proceeding for Indian Child.*
2. The person who does the mailing must fill out the information requested on page 10 of form ICWA-030, *Notice of Child Custody Proceeding for Indian Child,* and then date and sign the original form on page 9.
3. Go to the court and file with the clerk of the court proof that you have given notice to everyone listed above and on page 10 of form ICWA-030, *Notice of Child Custody Proceeding for Indian Child.* Your proof must consist of the following:
   a. The original signed *Notice* (form ICWA-030) and copies of the documents you sent with it (the petition and form ICWA-010(A);
   b. All return receipts given to you by the post office and returned from the mailing; and
   c. All responses you receive from the child's parents, the child's Indian custodian, the child's tribe or tribes, and the Bureau of Indian Affairs.

Please note that you are subject to court sanctions if you knowingly and willfully falsify or conceal a material fact concerning whether the child is an Indian child or if you counsel a party to do so. (Welf. & Inst. Code, § 224.3(e).)

CHILD'S NAME:	CASE NUMBER:

1. Name of child:

2. (Check one)
   ☐ I have not yet been able to complete the inquiry about the child's Indian status because:

   I understand that I have an affirmative and continuing duty to complete this inquiry. I will do it as soon as possible and advise the court of my efforts.

   ☐ I have asked or ☐ I am advised by: and on information and belief confirm that this person has completed inquiry by asking the child, the child's parents, and other required and available persons about the child's Indian status. Each of these persons was asked whether they had any information that the child is or may be an Indian child; whether the parents or child are or were domiciled or lived on a reservation, rancheria, Alaska Native village, or other tribal trust land, or had ancestors who were members of an Indian tribe. The person(s) questioned are:

Name:	Name:
Address:	Address:
City, state, zip:	City, state, zip:
Telephone:	Telephone:
Date questioned:	Date questioned:
Relationship to child:	Relationship to child:

   ☐ Additional persons questioned and their information is attached. *(Form MC-020 may be used for this purpose.)*

3. This inquiry *(check one)*
   ☐ gave me reason to believe the child is or may be an Indian child. *(If checked, continue to 4.)*
   ☐ gave me no reason to believe the child is or may be an Indian child. *(If checked, continue to signature page at end of form.)*

4. ☐ I contacted the tribe(s) that the child may be affiliated with and worked with them to establish whether the child is a member or citizen or eligible for membership or citizenship in the tribe(s). Information detailing the tribes contacted, the names of the individuals contacted, and the manner of the contacts is attached.

5. Based on inquiry and tribal contacts *(check all that apply):*
   a. ☐ the child is or may be a member or citizen of or eligible for membership or citizenship in a tribe.
      Name of tribe(s):
      Location of tribe(s):
   b. ☐ the child's parents, grandparents, or great-grandparents are or were members or citizens of a tribe.
      Name of tribe(s):
      Location of tribe(s):
   c. ☐ the residence or domicile of the child, child's parents, or Indian custodian is on a reservation, rancheria, Alaska Native village, or other tribal trust land.
   d. ☐ the child or the child's family has received services or benefits from a tribe or services that are available to Indians from tribes or the federal government, such as the Indian Health Service or Tribal Temporary Assistance to Needy Families (TANF).
   e. ☐ the child is or has been a ward of a tribal court.
      Name of tribe(s):
      Location of tribe(s):
   f. ☐ either parent or the child possesses an Indian identification card indicating membership or citizenship in an Indian tribe.
      Name of tribe(s):
      Location of tribe(s):

CHILD'S NAME:	CASE NUMBER:

6. If this is a delinquency proceeding under Welfare and Institutions Code section 601 or 602,
   - ☐ the child is in foster care.
   - ☐ it is probable the child will be entering foster care.

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)

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*):	*FOR COURT USE ONLY* **DRAFT** **Not approved by the Judicial Council**
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
PARENTAL NOTIFICATION OF INDIAN STATUS	CASE NUMBER:

To the parent, Indian custodian, or guardian of the above named child: You must provide all the requested information about the child's Indian status by completing this form. If you get new information that would change your answers, you must let your attorney, all the other attorneys on the case, and the social worker or probation officer, or the court investigator know immediately and an updated form must be filed with the court.

1. Name:

2. Relationship to child: ☐ Parent ☐ Indian custodian ☐ Guardian ☐ Other:

Indian status

3. a. ☐ I am or may be a member or citizen of, or eligible for membership or citizenship in, a federally recognized Indian tribe.
   Name of tribe(s) *(name each):*

   Location of tribe(s):

   b. ☐ The child is or may be a member or citizen of, or eligible for membership or citizenship in, a federally recognized Indian tribe because *(state why you think the child is or may be a member or citizen or eligible for membership or citizenship in the tribe):*
   Name of tribe(s) *(name each):*

   Location of tribe(s):

   c. ☐ One or more of the child's parents, grandparents, or other lineal ancestors is or was a member or citizen of a federally recognized tribe.
   Name of tribe(s) *(name each):*

   Location of tribe(s):

   Name and relationship of ancestor(s):

   d. ☐ I am a resident of or am domiciled, live, or have lived on a reservation, rancheria, Alaska Native village, or other tribal trust land.

   e. ☐ The child is a resident of or is domiciled, lives, or has lived on a reservation, rancheria, Alaska Native village, or other tribal trust land.

CHILD'S NAME:	CASE NUMBER:

3. f. ☐ The child is or has been a ward of a tribal court of the: tribe.

   g. ☐ Either parent or the child possesses an Indian identification card indicating membership or citizenship in an Indian tribe.
   Name of tribe(s) *(name each):*

   Membership or citizenship number *(if any):*

   h. ☐ None of the above apply.

4. A previous form ICWA-020 ☐ has ☐ has not been filed with the court.

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)

Note: This form is not intended to constitute a complete inquiry into Indian heritage. Additional inquiry may be required by the Indian Child Welfare Act and state law.

CHILD'S NAME:	CASE NUMBER:

4. Petitioner on information and belief alleges the following:

a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code *(check applicable boxes; see attachment 3a for concise statements of facts):*

☐ (a) ☐ (b)(1) ☐ (b)(4) ☐ (c) ☐ (d) ☐ (e) ☐ (f) ☐ (g) ☐ (h) ☐ (i) ☐ (j)

b. Child's name:	c. Age:	d. Date of birth:

☐ Information is the same as that given for the child in item 1. *(If not the same, provide different information below.)*

e. Name:
Address:

☐ mother ☐ father ☐ guardian ☐ unknown

If mother or father *(check all that apply):*
☐ legal ☐ biological ☐ presumed ☐ alleged

f. Name:
Address:

☐ mother ☐ father ☐ guardian ☐ unknown

If mother or father *(check all that apply):*
☐ legal ☐ biological ☐ presumed ☐ alleged

g. Name:
Address:

☐ mother ☐ father ☐ guardian ☐ unknown

If mother or father *(check all that apply):*
☐ legal ☐ biological ☐ presumed ☐ alleged

h. *Other (state name, address, and relationship to child):*

☐ No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.

i. Prior to intervention, child resided with
☐ parent *(name):*
☐ parent *(name):*
☐ guardian *(name):*
☐ Indian custodian *(name):*
☐ *other (state name, address, and relationship to child):*

j. Child is
☐ not detained ☐ detained
Date and time of detention:
Current place of detention *(address):*

☐ Relative ☐ Shelter/foster care ☐ Other

k. Indian Child Welfare Act Inquiry *(check one)*

(1) ☐ I have asked whether the child is or may be a member or citizen of an Indian tribe or eligible for membership or citizenship and the biological child of a member or citizen, and the *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.

(2) ☐ On information and belief, I am aware that inquiry has been completed by *(insert name)* and the *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.

(3) ☐ Inquiry about whether the child is or may be a member or citizen of an Indian tribe or eligible for membership or citizenship and the biological child of a member or citizen has not yet been completed for the reasons set out below. I am aware of the ongoing duty to complete this inquiry and will complete the *Indian Child Inquiry Attachment* (form ICWA-010(A)), and submit it to the court as soon as possible.

CHILD'S NAME:	CASE NUMBER:

5. Petitioner on information and belief alleges the following:

a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code *(check applicable boxes; see attachment 3a for concise statements of facts):*

☐ (a) ☐ (b)(1) ☐ (b)(4) ☐ (c) ☐ (d) ☐ (e) ☐ (f) ☐ (g) ☐ (h) ☐ (i) ☐ (j)

b. Child's name:	c. Age:	d. Date of birth:

☐ Information is the same as that given for the child in item 1. *(If not the same, provide different information below.)*

e. Name:
Address:

☐ mother ☐ father ☐ guardian ☐ unknown

If mother or father *(check all that apply):*
☐ legal ☐ biological ☐ presumed ☐ alleged

f. Name:
Address:

☐ mother ☐ father ☐ guardian ☐ unknown

If mother or father *(check all that apply):*
☐ legal ☐ biological ☐ presumed ☐ alleged

g. Name:
Address:

☐ mother ☐ father ☐ guardian ☐ unknown

If mother or father *(check all that apply):*
☐ legal ☐ biological ☐ presumed ☐ alleged

h. *Other (state name, address, and relationship to child):*

☐ No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.

i. Prior to intervention, child resided with
☐ parent *(name):*
☐ parent *(name):*
☐ guardian *(name):*
☐ Indian custodian *(name):*
☐ other *(state name, address, and relationship to child):*

j. Child is
☐ not detained ☐ detained
Date and time of detention:
Current place of detention *(address):*

☐ Relative ☐ Shelter/foster care ☐ Other

k. Indian Child Welfare Act Inquiry *(check one)*

(1) ☐ I have asked as to whether the child is or may be a member or citizen of an Indian tribe or eligible for membership or citizenship and the biological child of a member or citizen, and the *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.

(2) ☐ On information and belief, I am aware that inquiry has been completed by *(insert name)* and the *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.

(3) ☐ Inquiry about whether the child is or may be a member or citizen of an Indian tribe or eligible for membership or citizenship and the biological child of a member or citizen has not yet been completed for the reasons set out below. I am aware of the ongoing duty to complete this inquiry and will complete the *Indian Child Inquiry Attachment* (form ICWA-010(A)), and submit it to the court as soon as possible.

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	*FOR COURT USE ONLY*
NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR *(name):*		**DRAFT** **Not approved by the Judicial Council**
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CHILD'S NAME:		
ORDERS UNDER WELFARE AND INSTITUTIONS CODE SECTIONS 366.24, 366.26, 727.3, 727.31		CASE NUMBER:

Child's Name:	Date of birth:	Age:
Parent's name *(if known):*		
Parent's name *(if known):*		
Parent's name *(if known):*		

1. a. Hearing date: Time: Dept.: Room:
   b. Judicial officer:
   c. Parties and attorneys present:

2. ☐ The court has read and considered the assessment prepared under Welf. & Inst. Code, §§ 361.5(g), 366.21(i), 366.22(c), 366.25(b), or 727.31(b) and the report and recommendation of the
   ☐ social worker ☐ probation officer ☐ and other evidence.

3. ☐ The court has considered the wishes of the child, consistent with the child's age, and all findings and orders of the court are made in the best interest of the child.

THE COURT FINDS AND ORDERS

4. a. ☐ Notice has been given as required by law.
   b. (1) ☐ The court has reviewed *Parental Notification of Indian Status* (form ICWA-020), evidence taken at earlier hearings, and reports and evidence filed by the agency. The court finds that the court and the agency have fulfilled their affirmative and ongoing duty of inquiry to determine whether the child is or may be an Indian child, including interviewing available extended family members, and that there is no reason to believe or know that the child is or may be an Indian child.
   (2) ☐ This case involves an Indian child, and the court finds that notice has been given to the parents, Indian custodian, Indian child's tribe, and the Bureau of Indian Affairs (BIA) in accordance with Welf. & Inst. Code, § 224.3; the original certified mail receipts, return cards, copies of all notices, and any responses to those notices are in the court file.

CHILD'S NAME:	CASE NUMBER:

5. ☐ For a child 10 years of age or older who is not present,
   a. ☐ the child was properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d) and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.
   b. ☐ the child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d), or the child wished to be present and was not given an opportunity to be present, and
      (1) ☐ there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child to enable the child to be present.
      (2) ☐ it is in the best interest of the child not to continue the hearing.

6. ☐ The court takes judicial notice of all prior findings, orders, and judgments in this proceeding.

7. ☐ The court previously made an order denying or terminating reunification services, under Welf. & Inst. Code, §§ 361.5, 366.21, 366.22, 366.25, 727.2, or 727.3, for
   ☐ parent *(name):*
   ☐ parent *(name):*
   ☐ parent *(name):*

8. a. ☐ The court finds, by clear and convincing evidence, that it is likely the child will be adopted.
   b. ☐ The child is an Indian child or ☐ there is reason to know that the child is an Indian child, and
      (1) ☐ the court has heard and considered all relevant, admissible evidence, including
         (A) ☐ qualified expert witness testimony provided by *(name of witnesses)* and
         (B) ☐ evidence regarding the prevailing social and cultural practices of the child's tribe; and
      (2) ☐ the court finds beyond a reasonable doubt that continued physical custody by the ☐ mother ☐ father ☐ Indian custodian ☐ Other *(name and relationship to child):* ☐ Other *(name and relationship to child):* is likely to result in serious emotional or physical damage to the child.

9. The parental rights of
   a. ☐ parent *(name):*
   b. ☐ parent *(name):*
   c. ☐ parent *(name):*
   d. ☐ alleged fathers *(names):*
   e. ☐ unknown mother ☐ all unknown fathers
   are terminated, adoption is the child's permanent plan, and the child is referred to the California Department of Social Services or a local licensed adoption agency for adoptive placement.
   f. **The adoption is likely to be finalized by *(date):***

(If item 9 is completed, skip items 10–18 and go directly to item 19.)

10. This case involves an Indian child. The parental rights of
    a. ☐ parent *(name):*
    b. ☐ parent *(name):*
    c. ☐ parent *(name):*
    d. ☐ Indian custodians *(names):*
    e. ☐ alleged fathers *(names):*
    f. ☐ unknown mother ☐ all unknown fathers
    are modified in accordance with the tribal customary adoption order of the *(specify):* tribe, dated and comprising pages, which is accorded full faith and credit and fully incorporated herein.
    The child is referred to the California Department of Social Services or a local licensed adoption agency for tribal customary adoptive placement in accordance with the tribal customary adoption order.

(If item 10 is completed, skip items 11–18 and go directly to item 19.)

CHILD'S NAME:	CASE NUMBER:

11. ☐ The child is living with a relative who is unable or unwilling to adopt the child because of circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of giving the child a stable and permanent home through legal guardianship. Removal of the child from the custody of this relative would be detrimental to the child's emotional well-being. *(If item 11 is checked, skip items 12–14 and go directly to item 15 (guardianship).)*

12. ☐ Termination of parental rights would be detrimental to the child for the following reasons: *(If item 12 is checked, check the applicable reasons below, skip items 13–14, and go directly to item 15 (guardianship),16 (permanent placement with a relative)* or *17 (continued foster care).)*

a. ☐ The parents or guardians have maintained regular visitation and contact with the child, and the child would benefit from continuing the relationship.

b. ☐ The child is 12 years of age or older and objects to termination of parental rights.

c. ☐ The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

d. ☐ The child is living with a foster parent or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment. Removal of the child from the physical custody of the foster parent or Indian custodian would be detrimental to the emotional well-being of the child.

NOTE: Do not check item 12d if the child is either

(1) under the age of 6; or

(2) a member of a sibling group, at least one member of which is under the age of 6, that is or should be placed together.

e. ☐ There would be substantial interference with the child's sibling relationship.

f. ☐ The child is an Indian child, and there are compelling reasons for determining that termination of parental rights would not be in the best interest of the child, including, but not limited to the following:

(1) Termination of parental rights would substantially interfere with the child's connection to the tribal community or the child's tribal membership rights.

(2) The child's tribe has identified guardianship or another permanent plan for the child.

13. ☐ Termination of parental rights would not be detrimental to the child, but the child is difficult to place for adoption and there is no identified or available prospective adoptive parent for the child because the child *(check the applicable reason or reasons below and complete item 14)*

a. ☐ is a member of a sibling group that should stay together.

b. ☐ has a diagnosed medical, physical, or mental disability.

c. ☐ is 7 years of age or older.

14. a. ☐ Termination of parental rights is not ordered at this time. Adoption is the permanent plan, and efforts are to be made to locate an appropriate adoptive family. A report to the court is due by *(date, not to exceed 180 days from the date of this order):*

(Do not check item 14a for a tribal customary adoption. If item 14a is checked, provide for visitation in items 14b and 14c, as appropriate, skip items 15–18, and go directly to item 19.)

b. ☐ Visitation between the child and

(1) ☐ parent *(name):*

(2) ☐ parent *(name):*

(3) ☐ legal guardian *(name):*

(4) ☐ other *(name):*

is scheduled as follows *(specify):*

CHILD'S NAME:	CASE NUMBER:

14. c. ☐ Visitation between the child and *(names):*
is detrimental to the child's physical or emotional well-being and is terminated.

15. ☐ The child's permanent plan is legal guardianship.
☐ *(Name):*
is appointed guardian of the child's person ☐ and estate. The clerk is ordered to issue *Letters of Guardianship* once the appointed guardian has signed the required oath or affirmation. This appointment is not effective until the *Letters* have issued.
(Do not check item 15 for a tribal customary adoption. If item 15 is checked, provide for visitation in items 15a and 15b, as appropriate, complete item 15c or 15d, then skip item 16–18 and go directly to item 19.)

a. ☐ Visitation between the child and
(1) ☐ parent *(name):*
(2) ☐ parent *(name):*
(3) ☐ legal guardian *(name):*
(4) ☐ other *(name):*
is scheduled as follows *(specify):*

b. ☐ Visitation between the child and *(names):*
is detrimental to the child's physical or emotional well-being and is terminated.

c. ☐ Dependency ☐ Wardship jurisdiction is terminated.
(If the child is a dependent and the appointed guardian is a relative or nonrelative extended family member whose home has been approved as a resource family home for at least six months, the court must terminate dependency unless the guardian objects or the court makes a finding of exceptional circumstances.)

The juvenile court retains jurisdiction over the guardianship under Welf. & Inst. Code, § 366.4 or § 728(e).

d. ☐ Dependency ☐ Wardship jurisdiction is not terminated. Dependency or wardship jurisdiction is likely to be terminated by *(date):* .

16. ☐ The child's permanent plan is permanent placement with *(name):* , a fit and willing relative, subject to the periodic review of the juvenile court under Welf. & Inst. Code, § 366.3 or § 727.2.
The likely date by which the child's permanent plan will be achieved is *(specify date):*
(If item 16 is checked, skip item 17, provide for visitation in item 18, as appropriate, and go to item 19.)

17. ☐ The child remains placed in foster care with *(name of placement):*

a. ☐ with a permanent plan of *(check one):*
(1) ☐ returning home.
(2) ☐ adoption.
(3) ☐ tribal customary adoption.
(4) ☐ legal guardianship.
(5) ☐ placement with a fit and willing relative.

b. ☐ The child is 16 years of age or older and no other permanent plan is appropriate at this time. The child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to
☐ return home. ☐ establish a legal guardianship.
☐ place for adoption. ☐ place with a fit and willing relative.
☐ Other *(specify):*

CHILD'S NAME:	CASE NUMBER:

17. c. The barriers to achieving the permanent plan in items 17a and 17b are:

d. The child, if 10 years of age or older, has identified the following individuals, other than the child's siblings, who are important to the child *(specify):*

e. **The child's permanent plan is likely to be achieved by *(date):***
(If item 17 is checked, provide for visitation in item 18, as appropriate, and go to item 19.)

18. The child is permanently placed with a relative or remains placed in foster care *(if item 16 or 17 is checked).*

a. ☐ Visitation between the child and
(1) ☐ parent *(name):*
(2) ☐ parent *(name):*
(3) ☐ legal guardian *(name):*
(4) ☐ other *(name):*
is scheduled as follows *(specify):*

b. ☐ Visitation between the child and *(names):*
is detrimental to the child's physical or emotional well-being and is terminated.

19. ☐ The child is an Indian child. The court finds that the child's permanent plan complies with the placement preferences because

a. ☐ the permanent plan is not adoption, and *(check one):*
(1) ☐ the child is placed with a member of the child's extended family, as defined by Welf. & Inst. Code, § 224.1(c); or
(2) ☐ a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
(3) ☐ a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
(4) ☐ a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
(5) ☐ the child is placed in accordance with the preferences established by the tribe; or
(6) ☐ the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

b. ☐ the permanent plan is adoption, and *(check one):*
(1) ☐ the child is placed with a member of the child's extended family; or
(2) ☐ a diligent search was made for a placement with a member of the child's extended family, those efforts are documented in detail in the record, and the child is placed with other members of the child's tribe; or
(3) ☐ a diligent search was made for a placement with a member of the child's extended family or other member of the child's tribe, those efforts are documented in detail in the record, and the child is placed with another Indian family; or

CHILD'S NAME:	CASE NUMBER:

19. b. (4) ☐ the child is placed in accordance with the preferences established by the tribe; or
(5) ☐ the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

20. ☐ The child's placement is necessary.

21. ☐ The child's placement is appropriate.

22. ☐ For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(m) when determining the continuing necessity for and appropriateness of the placement.

23. ☐ The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate. The county agency ☐ has ☐ has not made reasonable efforts to locate the child.

24. ☐ The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate.

25. ☐ The agency has complied with the case plan by making reasonable efforts, including whatever steps are necessary to finalize the permanent plan.

26. ☐ The child is an Indian child, and active efforts, as detailed in the record, ☐ were ☐ were not made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.
If active efforts were made, those efforts have proved ☐ successful ☐ unsuccessful.

27. The child is 14 years of age or older, and

a. ☐ the services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.

b. ☐ the services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.

c. ☐ to assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
(1) ☐ stated on the record.
(2) ☐ as follows:

28. ☐ The child remains a ☐ dependent ☐ ward of the court. *(Do NOT check this item if item 15c is checked.)*

29. ☐ All prior orders not in conflict with this order remain in full force and effect.

30. ☐ Other *(specify):*

CHILD'S NAME:	CASE NUMBER:

31. ☐ Next hearing date: Time: Dept.: Room:
    a. ☐ Continued hearing under Welf. & Inst. Code, § 366.26 for receipt of report on attempts to locate an appropriate adoptive family
    b. ☐ Continued hearing under Welf. & Inst. Code, § 366.24(c)(6) for receipt of the tribal customary adoption order
    c. ☐ Six-month postpermanency review
    d. ☐ Other *(specify):*

32. The
    a. ☐ parent *(name):*
    b. ☐ parent *(name):*
    c. ☐ parent *(name):*
    d. ☐ Indian custodian *(name):*
    e. ☐ child
    f. ☐ Other *(name):*
    g. ☐ Other *(name):*

    have been advised of their appeal rights under California Rules of Court, rule 5.590.

Date: _____

_____
JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	FOR COURT USE ONLY
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:		
CHILD'S NAME:		
CONTINUANCE—DEPENDENCY DETENTION HEARING		CASE NUMBER:

DRAFT
Not approved by the Judicial Council

1. This matter came before the court on the
   ☐ original petition ☐ subsequent petition ☐ supplemental petition ☐ other *(specify):*
   filed on *(date):*

2. **Detention hearing**
   a. Date:
   b. Department:
   c. Judicial officer *(name):*
   d. Court clerk *(name):*
   e. Court reporter *(name):*
   f. Bailiff *(name):*
   g. Interpreter *(name and language):*

   h.

Party *(name):*	Present	Attorney *(name):*	Present	Appointed today
(1) Child:	☐		☐	☐
(2) Mother:	☐		☐	☐
(3) Father—presumed:	☐		☐	☐
(4) Father—biological:	☐		☐	☐
(5) Father—alleged:	☐		☐	☐
(6) Legal guardian:	☐		☐	☐
(7) Indian custodian:	☐		☐	☐
(8) De facto parent:	☐		☐	☐
(9) County agency social worker:	☐		☐	☐
(10) Tribal representative:	☐		☐	☐
(11) Other *(specify):*	☐		☐	☐

   i. Others present in courtroom:
      (1) Court Appointed Special Advocate (CASA) volunteer *(name):*
      (2) Other *(name):*
      (3) Other *(name):*

THE COURT FINDS AND ORDERS:

3. ☐ The attorney appointed to represent the child as the child's attorney of record is also appointed as the child's Child Abuse Prevention and Treatment Act guardian ad litem.

4. ☐ a. The child will not benefit from representation by an attorney, and for the reasons stated on the record, the court finds
      (1) the child understands the nature of the proceedings;
      (2) the child is able to communicate and advocate effectively with the court, other counsel, other parties, including social workers, and other professionals involved in the case; and
      (3) under the circumstances of the case, the child would not gain any benefit from being represented by counsel.
   b. A Court Appointed Special Advocate is appointed for the child, and that person is also appointed as the child's Child Abuse Prevention and Treatment Act guardian ad litem.

CHILD'S NAME:	CASE NUMBER:

5. ☐ A Court Appointed Special Advocate is appointed for the child.

6. **The court has informed and advised the**

☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ other *(specify):*

of the following:

a. The right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

b. The right to be informed by the court of:
- the contents of the petition;
- the nature of and possible consequences of juvenile court proceedings;
- the reasons for the initial detention and the purpose and scope of the detention hearing if the child is detained;
- the right to have a child who is detained immediately returned to the home of the parent, legal guardian, or Indian custodian if the petition is not sustained;
- that if the petition is sustained and the child is removed from the care of the parent, legal guardian, or Indian custodian, the time for services will commence on the date the petition is sustained or 60 days from the date of the initial removal, whichever is earlier;
- that the time for services will not exceed 12 months for a child aged three years or over at the time of the initial removal; and
- that the time for services will not exceed 6 months for a child under the age of three years at the time of the initial removal or for the member of a sibling group that includes such a child if the parent, legal guardian, or Indian custodian fails to participate regularly and make substantive progress in any court-ordered treatment program.

c. The right to a hearing by the court on the issues presented by the petition.

d. The right to assert the privilege against self-incrimination; to confront and cross-examine the persons who prepared reports or documents submitted to the court by the petitioner and the witnesses called to testify against the parent, legal guardian; or Indian custodian; to subpoena witnesses; and to present evidence on his or her own behalf.

7. The court has considered the information contained in
a. ☐ the report of social worker dated:
b. ☐ other *(specify):*
c. ☐ other *(specify):*
and based on this information finds that continuance in the home is contrary to the child's welfare pending a further determination at the continued hearing.

8. ☐ The court grants the motion for continuance under Welfare and Institutions Code section 322 made by the
☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ other *(specify):*

9. ☐ A motion for continuance was made by the
☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ other *(specify):*
and good cause exists for granting the continuance in that
a. ☐ notice of the date, time, and location of the hearing was not given to *(name):*
b. ☐ the child did not receive proper notice of the right to attend the hearing.
c. ☐ other *(specify):*

The motion for the continuance is granted.

CHILD'S NAME:	CASE NUMBER:

10. ☐ **Contact with the child is ordered as stated in** *(check appropriate boxes and attach indicated forms):*
    a. ☐ *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
    b. ☐ *Visitation Attachment: Sibling* (form JV-401).
    c. ☐ *Visitation Attachment: Grandparent* (form JV-402).

11. **Parentage**
    a. ☐ The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
    b. ☐ The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
       (1) alleged parent *(name):*
       (2) alleged parent *(name):*
       (3) alleged parent *(name):*

12. **ICWA inquiry**
    a. On the record, the court has
       (1) ☐ asked each participant present at the hearing
       - whether the participant is aware of any information indicating that the child is a member or citizen of or eligible for membership or citizenship in an Indian tribe or Alaska Native village and, if yes, the name of the tribe or village;
       - whether the residence or domicile of the child, either of the child's parents, or the Indian custodian is on a reservation, rancheria, Alaska Native village, or other tribal trust land, and, if yes, the name of the tribe or village;
       - whether the child is or was ever a ward of a tribal court, and if yes, the name of the tribe or village; and
       - if the child, either of the child's parents, or the child's Indian custodian possesses an identification card indicating membership or citizenship in a tribe or Alaska Native village, and if so, the name of the tribe or village.

       (2) ☐ instructed the participants to inform the court if they receive any information indicating that the child is a member or citizen or eligible for membership or citizenship in a tribe or Alaska Native village.

    b. Based on this inquiry and a review of the evidence of ICWA inquiry submitted for the hearing, *(check one)*
       (1) ☐ the court finds there is no reason to believe or reason to know the child is an Indian child. The agency has an affirmative and continuing duty of inquiry to determine whether the child is or may be an Indian child and to report to the court on its inquiry efforts.
       (2) ☐ the court finds there is reason to believe the child is an Indian child, and *(check one)*
          (a) ☐ the record includes evidence that the agency has complied with Welf. & Inst. Code, § 224.2(e), and there is no reason to know that the child is an Indian child; or
          (b) ☐ the agency is ordered to complete further inquiry as required by Welf. & Inst. Code, § 224.2(e) and file with the court evidence of this inquiry, including all contacts with extended family members, tribes that the child may be affiliated with, the Bureau of Indian Affairs, the California Department of Social Services, and/or others.
       (3) ☐ the court finds that there is reason to know that the child is an Indian child, and
          (a) ☐ the agency has presented evidence in the record that it has exercised due diligence to identify and work with all of the tribes where the child may be a member or eligible for membership to verify the child's status; or
          (b) ☐ the agency is required to exercise due diligence to identify and work with all of the tribes where the child may be a member or eligible for membership to verify the child's status and provide notice in accordance with Welf. & Inst. Code, § 224.3 and file proof of due diligence and notice with the court; and
          (c) ☐ notice has been provided as required by law; and
          (d) ☐ the court will treat the child as an Indian child until it is determined on the record that the child is not an Indian child.
       (4) ☐ the court finds that the child is an Indian child and the Indian Child Welfare Act applies. The child is a member or citizen of, or eligible for membership or citizenship and a biological child of a member or citizen, of the tribe.

CHILD'S NAME:	CASE NUMBER:

13. The parents, legal guardians, and Indian custodians must keep the court, the agency, and their attorneys advised of their current addresses and telephone numbers and provide written notification of any changes to their mailing addresses. The parents, legal guardians, and Indian custodians present during the hearing who had not previously submitted a *Notification of Mailing Address* (form JV-140) or its equivalent were provided with and ordered to complete the form or its equivalent and to submit it to the court before leaving the courthouse today.

14. The ☐ mother ☐ biological father ☐ legal guardian
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ other *(specify):*
must complete *Your Child's Health and Education* (form JV-225) or provide the necessary information for the county agency social worker to complete the form.

15. The ☐ mother ☐ biological father ☐ legal guardian
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ other *(specify):*
were provided with a *Parental Notification of Indian Status* (form ICWA-020) and ordered to complete form ICWA-020 and to submit it to the court before leaving the courthouse today.

16. ☐ There is reason to know the child is an Indian child, and the county agency must provide notice under Welf. & Inst. Code, § 224.3 for any hearings that may result in the removal or foster care placement of the child, termination of parental rights, preadoptive placement, or adoptive placement. Proof of such notice must be filed with this court.

17. The ☐ mother ☐ biological father ☐ legal guardian
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ other *(specify):*
must disclose to the county agency social worker the names, residences, and any known identifying information of any maternal or paternal relatives of the child.

18. ☐ **Other findings and orders**
a. ☐ See attached.
b. ☐ *(Specify):*

19. **All parties are ordered to return for the continued hearing:**

Hearing date:	Time:	Dept:	Room:

20. **All prior orders not in conflict with this order remain in full force and effect.**

21. Number of pages attached: _____

Date:

_____
JUDICIAL OFFICER

Countersignature for detention orders *(if necessary):*

Date:

_____
JUDGE

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	FOR COURT USE ONLY
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:		
CHILD'S NAME:		
FINDINGS AND ORDERS AFTER DETENTION HEARING (Welf. & Inst. Code, § 319)		CASE NUMBER:

DRAFT
Not approved by the Judicial Council

1. This matter came before the court on the
   ☐ original petition ☐ subsequent petition ☐ supplemental petition ☐ other *(specify):*
   filed on *(date):*

2. **Detention hearing**
   a. Date:
   b. Court reporter *(name):*
   c. Department:
   d. Bailiff *(name):*
   e. Judicial officer *(name):*
   f. Interpreter *(name and language):*
   g. Court clerk *(name):*
   h.

Party *(name)*	Present	Attorney *(name):*	Present	Appointed today
(1) Child:	☐		☐	☐
(2) Mother:	☐		☐	☐
(3) Father—presumed:	☐		☐	☐
(4) Father—biological:	☐		☐	☐
(5) Father—alleged:	☐		☐	☐
(6) Legal guardian:	☐		☐	☐
(7) Indian custodian:	☐		☐	☐
(8) De facto parent:	☐		☐	☐
(9) County agency social worker:	☐		☐	☐
(10) Tribal representative:	☐		☐	☐
(11) Other *(specify):*	☐		☐	☐

   i. Others present in courtroom
      (1) Court Appointed Special Advocate (CASA) volunteer *(name):*
      (2) Other *(name):*
      (3) Other *(name):*

3. **The court has read and considered and admits the following into evidence:**
   a. ☐ Report of social worker dated:
   b. ☐ Report of CASA volunteer dated:
   c. ☐ Other *(specify):*
   d. ☐ Other *(specify):*

CHILD'S NAME:	CASE NUMBER:

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

4. a. ☐ Notice of the date, time, and location of the hearing was given as required by law.

   b. ☐ **For a child 10 years of age or older who is not present**

      (1) ☐ The child was properly notified under Welf. & Inst. Code, § 349(d) of the right to attend the hearing and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

      (2) ☐ The child was not properly notified under Welf. & Inst. Code, § 349(d) of the right to attend the hearing or the child wished to be present and was not given an opportunity to be present and

         (a) ☐ there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child to enable the child to be present.

         (b) ☐ it is in the best interest of the child not to continue the hearing.

5. ☐ The attorney appointed to represent the child as the child's attorney of record is also appointed as the child's Child Abuse Prevention and Treatment Act guardian ad litem.

6. a. ☐ The child will not benefit from representation by an attorney and, for the reasons stated on the record, the court finds

      (1) the child understands the nature of the proceedings;

      (2) the child is able to communicate and advocate effectively with the court, other counsel, other parties, including social workers, and other professionals involved in the case; and

      (3) under the circumstances of the case, the child would not gain any benefit from being represented by counsel.

   b. A Court Appointed Special Advocate volunteer is appointed for the child, and that person is also appointed as the child's Child Abuse Prevention and Treatment Act guardian ad litem.

7. ☐ A Court Appointed Special Advocate volunteer is appointed for the child.

8. **Parentage**

   a. ☐ The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.

   b. ☐ The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to

      (1) alleged parent *(name):*

      (2) alleged parent *(name):*

      (3) alleged parent *(name):*

9. **Family finding**

   The county agency is ordered to make diligent efforts to locate and evaluate appropriate kin to provide family support and serve as a resource.

10. **Indian Child Welfare Act (ICWA) inquiry**

    On the record, the court has

    a. ☐ asked each participant present at the hearing

    - whether the participant is aware of any information indicating that the child is a member or citizen of or eligible for membership or citizenship in an Indian tribe or Alaska Native village and if yes, the name of the tribe or village;
    - whether the residence or domicile of the child, either of the child's parents, or Indian custodian is on a reservation or in an Alaska Native village and if yes, the name of the tribe or village;
    - whether the child is or was ever a ward of a tribal court, and if yes, the name of the tribe or village; and
    - if the child, either of the child's parents, or the child's Indian custodian possesses an identification card indicating membership or citizenship in a tribe or Alaska Native village, and if so, the name of the tribe or village.

CHILD'S NAME:	CASE NUMBER:

10. b. ☐ instructed the participants to inform the court if they receive any information indicating that the child is a member or citizen of or eligible for membership or citizenship in a tribe or Alaska Native village.

11. **ICWA status *(check one):***
   a. ☐ The court finds there is no reason to believe or reason to know the child is an Indian child. The agency has an affirmative and continuing duty of inquiry to determine whether the child is or may be an Indian child and to report to the court on its inquiry efforts; or
   b. ☐ The court finds there is reason to believe the child is an Indian child; and
      (1) ☐ the agency has completed further inquiry as required by Welf. & Inst. Code, § 224.2(e), and there is no reason to know that the child is an Indian child. ICWA does not apply; or
      (2) ☐ the agency is ordered to complete further inquiry as required by Welf. & Inst. Code, § 224.2(e) and file with the court evidence of this inquiry, including all contacts with extended family members, tribes that the child may be affiliated with, the Bureau of Indian Affairs, the California Department of Social Services, and/or others.
   c. ☐ The court finds that there is reason to know that the child is an Indian child, and
      (1) ☐ the agency has presented evidence in the record that it has exercised due diligence to identify and work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify the child's status; or
      (2) ☐ the agency is required to exercise due diligence to identify and work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify the child's status and provide notice in accordance with Welf. & Inst. Code, § 224.3 and file proof of due diligence and notice with the court; and
      (3) ☐ notice has been provided as required by law; and
      (4) ☐ the court will treat the child as an Indian child until it is determined on the record that the child is not an Indian child.
   d. ☐ The court finds that the child is an Indian child and a member of the: tribe.

12. **ICWA jurisdiction**
   a. It is known or there is reason to know that the child is an Indian child. The court finds *(check one):*
      (1) ☐ that the court has jurisdiction over the proceeding because
         (a) the residence and domicile of the child are not on a reservation where the tribe exercises exclusive jurisdiction; and
         (b) the child is not already under the jurisdiction of a tribal court; or
      (2) ☐ the court does not have jurisdiction because the child is under the exclusive jurisdiction of the tribal court; or
      (3) ☐ that the child is under the exclusive jurisdiction of the tribal court, but that there is a basis for emergency jurisdiction in accordance with section 1922 of title 25 of the United States Code.

Advisements and waivers

13. **The court has informed and advised the**

☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ Other *(specify):*
☐ Other *(specify):*

of the following:

   a. The right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.
   b. The right to be informed by the court of the following:
      - the contents of the petition;
      - the nature of and possible consequences of juvenile court proceedings;
      - the reasons for the initial detention and the purpose and scope of the detention hearing if the child is detained;

CHILD'S NAME:	CASE NUMBER:

13. b.
- the right to have a child who is detained immediately returned to the home of the parent, legal guardian, or Indian custodian if the petition is not sustained;
- that if the petition is sustained and the child is removed from the care of the parent, legal guardian, or Indian custodian, the time for services will commence on the date the petition is sustained or 60 days from the date of the initial removal, whichever is earlier;
- that the time for services will not exceed 12 months for a child aged three years or over at the time of the initial removal; and
- that the time for services will not exceed 6 months for a child under the age of three years at the time of the initial removal or for the member of a sibling group that includes such a child if the parent, legal guardian, or Indian custodian fails to participate regularly and make substantive progress in any court-ordered treatment program.

c. The right to a hearing by the court on the issues presented by the petition.

d. The right to assert the privilege against self-incrimination; to confront and cross-examine the persons who prepared reports or documents submitted to the court by the petitioner and the witnesses called to testify against the parent, legal guardian, or Indian custodian; to subpoena witnesses; and to present evidence on their own behalf.

14. ☐ The ☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ Other *(specify):*
☐ Other *(specify):*

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on one's own behalf.

15. ☐ **CHILD NOT DETAINED**

a. ☐ Services that would prevent the need for further detention, including those set forth in item 18, are available.

b. ☐ The child is returned to the custody of
☐ mother ☐ biological father ☐ legal guardian ☐ Other *(specify):*
☐ presumed father ☐ alleged father ☐ Indian custodian ☐ Other *(specify):*

16. ☐ **CHILD DETAINED**

a. Services that would prevent the need for further detention are not available.

b. A prima facie showing has been made that the child comes within Welf. & Inst. Code, § 300.

c. Continuance in the parent's or legal guardian's home is contrary to the child's welfare AND *(check at least one):*

(1) ☐ there is a substantial danger to the physical health of the child or the child is suffering severe emotional damage, and there are no reasonable means by which the child's physical or emotional health may be protected without removing the child from the physical custody of the parent or legal guardian.

(2) ☐ there is substantial evidence that a parent, legal guardian, or custodian of the child is likely to flee the jurisdiction of the court, and in the case of an Indian child, fleeing the jurisdiction will place the child at risk of imminent physical damage or harm.

(3) ☐ the child has left a placement in which they were placed by the juvenile court.

(4) ☐ the child has been physically abused by a person residing in the home and is unwilling to return home.

(5) ☐ the child has been sexually abused by a person residing in the home and is unwilling to return home.

d. The child is detained, and temporary placement and care of the child is vested with the county child welfare department pending the hearing under Welf. & Inst. Code, § 355 or further order of the court.

e. The initial removal of the child from the home was necessary for the reasons stated here or on the record:

f. The facts on which the court bases its decision to order the child detained are stated here or were stated on the record:

CHILD'S NAME:	CASE NUMBER:

16. g. The child is temporarily placed in

(1) ☐ the home of a relative; an extended family member, as defined in Welf. & Inst. Code, § 224.1 and section 1903 of the federal Indian Child Welfare Act of 1978 (25 U.S.C. § 1901 et seq.); or a nonrelative extended family member, as defined in Welf. & Inst. Code, § 362.7, that has been assessed under Welf. & Inst. Code, § 361.4;

(2) ☐ the approved home of a resource family, as described in Welf. & Inst. Code, § 16519.5, or a home licensed or approved by the Indian child's tribe;

(3) ☐ an emergency shelter or other suitable licensed place; if a short-term residential therapeutic program or community treatment facility, a hearing to review the placement under Welf. & Inst. Code, § 361.22 is set for *(date):*

(4) ☐ a place exempt from licensure designated by the juvenile court.

h. Services, including those stated in item 18, are to be provided to the family as soon as possible to reunify the child with their family.

i. ☐ Reasonable efforts were made to prevent or eliminate the need for removal from the home.

j. ☐ Reasonable efforts were not made to prevent or eliminate the need for removal from the home.

k. ☐ There is a relative who is able, approved, and willing to care for the child.

l. ☐ A relative who is able, approved, and willing to care for the child is not available. This is a temporary finding and does not preclude later placement with a relative under Welf. & Inst. Code, § 361.3.

m. ☐ Less disruptive alternatives to removal were considered by the agency.

n. ☐ The impact of removal on the child was considered by the agency, including

(1) ☐ the relationship between the child and their parents, guardians, or Indian custodians, based on the child's perspective.

(2) ☐ the child's response to removal and, where developmentally appropriate, their perspective on removal.

(3) ☐ the relationship between the child and any siblings.

(4) ☐ the relationship between the child and other members of the household.

(5) ☐ any disruption to the child's schooling, social relationships, and physical or emotional health that may result from placement out of the home, and in the case of an Indian child, any impact on the child's connection to their tribe, extended family members, and tribal community.

(6) ☐ Other *(specify):*

o. ☐ Orders necessary to alleviate any disruption or harm to the child resulting from removal were stated on the record or are stated here:

17. ☐ **CHILD DETAINED AND THERE IS REASON TO KNOW CHILD IS AN INDIAN CHILD**

a. ☐ The evidence includes all the requirements of Welf. & Inst. Code, § 319(b).

b. The agency *(check (1) or (2))*

(1) ☐ has made active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family as detailed in the record, and these efforts have proved ☐ successful or ☐ unsuccessful;

or

(2) ☐ has not made active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family; the agency is ordered to initiate or continue active efforts.

c. ☐ For the reasons stated on the record, detention is necessary to prevent imminent physical damage or harm to the child.

d. Either *(check (1) or (2))*

(1) ☐ The child's placement complies with the placement preferences stated in Welf. & Inst. Code, § 361.31 and less disruptive alternatives. The child is placed

(a) ☐ with a member of the child's extended family;

(b) ☐ in a foster home licensed, approved, or specified by the child's tribe;

(c) ☐ in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

(d) ☐ in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or

CHILD'S NAME:	CASE NUMBER:

17. d. (2) ☐ For the reasons stated on the record, the court finds by clear and convincing evidence that there is good cause not to follow the placement preferences.

18. ☐ The services below will be provided pending further proceedings:

Service	Mother	Presumed father	Biological father	Legal guardian	Indian custodian	Other *(specify):*
a. ☐ Alcohol and drug testing	☐	☐	☐	☐	☐	☐
b. ☐ Substance abuse treatment	☐	☐	☐	☐	☐	☐
c. ☐ Parenting education	☐	☐	☐	☐	☐	☐
d. ☐ *(Specify):*	☐	☐	☐	☐	☐	☐
e. ☐ *(Specify):*	☐	☐	☐	☐	☐	☐
f. ☐ *(Specify):*	☐	☐	☐	☐	☐	☐

19. ☐ **Contact with the child is ordered as stated in** *(check appropriate boxes and attach indicated forms)*

a. ☐ *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).

b. ☐ *Visitation Attachment: Sibling* (form JV-401).

c. ☐ *Visitation Attachment: Grandparent* (form JV-402).

20. ☐ The ☐ mother ☐ biological father ☐ legal guardian ☐ presumed father ☐ alleged father ☐ Indian custodian ☐ Other *(specify):* ☐ Other *(specify):* must disclose to the county agency social worker the names, residences, and any known identifying information of any maternal or paternal relatives of the child.

21. ☐ The ☐ mother ☐ biological father ☐ legal guardian ☐ presumed father ☐ alleged father ☐ Indian custodian ☐ Other *(specify):* ☐ Other *(specify):* must complete *Your Child's Health and Education* (form JV-225) or provide the necessary information for the county agency social worker to complete the form.

22. ☐ There is reason to know the child is an Indian child, and the county agency must provide notice under Welf. & Inst. Code, § 224.3 for any hearings that may result in the removal or foster care placement of the child, termination of parental rights, preadoptive placement, or adoptive placement. Proof of such notice must be filed with this court.

23. ☐ **Other findings and orders**

a. ☐ See attached.

b. ☐ *(Specify):*

24. ☐ The parents, legal guardians, and Indian custodians must keep the court, the agency, and their attorneys advised of their current addresses and telephone numbers and provide written notification of any changes to their mailing addresses. The parents, legal guardians, and Indian custodians present during the hearing who had not previously submitted a *Notification of Mailing Address* (form JV-140) or its equivalent were provided with and ordered to complete the form or its equivalent and to submit it to the court before leaving the courthouse today.

CHILD'S NAME:	CASE NUMBER:

25. ☐ **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:

a. ☐ Jurisdictional hearing
b. ☐ Dispositional hearing
c. ☐ Settlement conference
d. ☐ Mediation
e. ☐ Other *(specify):*

26. **All prior orders not in conflict with this order remain in full force and effect.**

27. Number of pages attached: _____

Date: _____ _____
JUDICIAL OFFICER

Countersignature for detention orders *(if necessary):*

Date: _____ _____
JUDGE

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	FOR COURT USE ONLY
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:		
CHILD'S NAME:		
FINDINGS AND ORDERS AFTER JURISDICTIONAL HEARING (Welf. & Inst. Code, § 356)		CASE NUMBER:

DRAFT
Not approved by the Judicial Council

1. This matter came before the court on the
   ☐ original petition ☐ subsequent petition ☐ supplemental petition ☐ other *(specify):*
   filed on *(date):*

2. **Jurisdictional hearing**
   a. Date:
   b. Department:
   c. Judicial officer *(name):*
   d. Court clerk *(name):*
   e. Court reporter *(name):*
   f. Bailiff *(name):*
   g. Interpreter *(name and language):*

   h.

Party *(name):*	Present	Attorney *(name):*	Present	Appointed today
(1) Child:	☐		☐	☐
(2) Mother:	☐		☐	☐
(3) Father—presumed:	☐		☐	☐
(4) Father—biological:	☐		☐	☐
(5) Father—alleged:	☐		☐	☐
(6) Legal guardian:	☐		☐	☐
(7) Indian custodian:	☐		☐	☐
(8) De facto parent:	☐		☐	☐
(9) County agency social worker:	☐		☐	☐
(10) Tribal representative:	☐		☐	☐
(11) Other *(specify):*	☐		☐	☐

   i. Others present in courtroom:
      (1) Court Appointed Special Advocate (CASA) volunteer *(name):*
      (2) Other *(name):*
      (3) Other *(name):*

3. **The court has read and considered and admits the following into evidence:**
   a. ☐ Report of social worker dated:
   b. ☐ Report of CASA volunteer dated:
   c. ☐ Case plan dated:
   d. ☐ Other *(specify):*
   e. ☐ Other *(specify):*

CHILD'S NAME:	CASE NUMBER:

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS:

4. a. ☐ Notice of the date, time, and location of the hearing was given as required by law.

   b. ☐ **For child 10 years of age or older who is not present:** The child was properly notified under Welf. & Inst. Code, § 349(d) of their right to attend the hearing, was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

5. **ICWA inquiry and status** *(check one):*

   a. ☐ The court and the agency have inquired as to whether the child is or may be an Indian child, and there is no reason to believe or reason to know the child is an Indian child. The agency has an affirmative and continuing duty of inquiry to determine whether the child is or may be an Indian child and report to the court on its inquiry efforts.

   b. ☐ There is reason to believe that the child is or may be an Indian child, and the agency is ordered to complete further inquiry to determine the child's Indian status and report to the court on the results of that further inquiry.

   c. ☐ There is reason to know the child is an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.

   d. ☐ The child is an Indian child and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.

6. ☐ The attorney appointed to represent the child as the child's attorney of record is also appointed as the child's Child Abuse Prevention and Treatment Act guardian ad litem.

7. ☐ a. The child will not benefit from representation by an attorney, and for the reasons stated on the record, the court finds
   (1) the child understands the nature of the proceedings;
   (2) the child is able to communicate and advocate effectively with the court, other counsel, other parties, including social workers, and other professionals involved in the case; and
   (3) under the circumstances of the case, the child would not gain any benefit from being represented by counsel.

   b. A Court Appointed Special Advocate is appointed for the child, and that person is also appointed as the child's Child Abuse Prevention and Treatment Act guardian ad litem.

8. ☐ A Court Appointed Special Advocate is appointed for the child.

9. The child's county of residence is:

10. The child's date of birth is *(specify):*

11. **Parentage**

   a. ☐ The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.

   b. ☐ The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
   (1) alleged parent *(name):*
   (2) alleged parent *(name):*
   (3) alleged parent *(name):*

Advisements and waivers

12. a. ☐ The petition was read to those present at the beginning of this jurisdictional hearing.

   b. ☐ Reading of the petition was waived by all those present at the beginning of this jurisdictional hearing.

CHILD'S NAME:	CASE NUMBER:

13. **The court has informed and advised the**

☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ other *(specify):*

of the following:

a. The right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

b. The right to be informed by the court of
- the contents of the petition;
- the nature of and possible consequences of juvenile court proceedings;
- the reasons for the initial detention and the purpose and scope of the detention hearing if the child is detained;
- the right to have a child who is detained immediately returned to the home of the parent, legal guardian, or Indian custodian if the petition is not sustained;
- that if the petition is sustained and the child is removed from the care of the parent, legal guardian, or Indian custodian, the time for services will commence on the date the petition is sustained or 60 days from the date of the initial removal, whichever is earlier;
- that the time for services will not exceed 12 months for a child aged three years or over at the time of the initial removal; and
- that the time for services will not exceed 6 months for a child under the age of three years at the time of the initial removal or for the member of a sibling group that includes such a child if the parent, legal guardian, or Indian custodian fails to participate regularly and make substantive progress in any court-ordered treatment program.

c. The right to a hearing by the court on the issues presented by the petition.

d. The right to assert the privilege against self-incrimination; to confront and cross-examine the persons who prepared reports or documents submitted to the court by the petitioner and the witnesses called to testify against the parent, legal guardian; or Indian custodian; to subpoena witnesses; and to present evidence on his or her own behalf.

14. ☐ On the motion of the petitioner, the following allegations are stricken:

15. ☐ The ☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ other *(specify):*

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on one's own behalf.

16. ☐ The ☐ mother ☐ biological father ☐ legal guardian
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ other *(specify):*

understands the nature of the conduct alleged in the petition and the possible consequences of his or her admission, plea of no contest, or submission.

CHILD'S NAME:	CASE NUMBER:

17. ☐ Party

	Admits	Submits	Pleads no contest	To petition as amended on *(specify date):*
a. ☐ Mother	☐	☐	☐	
b. ☐ Presumed father	☐	☐	☐	
c. ☐ Biological father	☐	☐	☐	
d. ☐ Alleged father	☐	☐	☐	
e. ☐ Legal guardian	☐	☐	☐	
f. ☐ Indian custodian	☐	☐	☐	
g. ☐ Other *(specify):*	☐	☐	☐	

18. ☐ There is a factual basis for the admission.

19. ☐ By a preponderance of the evidence, the allegations stated below are true:

a. ☐ as stated in the petition as originally filed.

b. ☐ as stated in the petition as amended on *(date):*

(1) ☐ by agreement of the parties.

(2) ☐ by the court to conform to proof.

20. ☐ The allegations *(specify):*

as stated in the petition ☐ as amended on *(date):* are not proven and are ordered stricken.

21. ☐ The allegations of the petition are not sustained.

22. ☐ The petition is sustained under, and the child is a person described by, Welf. & Inst. Code, § 300 *(check all that apply):*

☐ 300(a) ☐ 300(c) ☐ 300(e) ☐ 300(g) ☐ 300(i)
☐ 300(b) ☐ 300(d) ☐ 300(f) ☐ 300(h) ☐ 300(j)

23. ☐ The previous disposition has not been effective in the protection of the child.

24. ☐ The county agency is ordered to immediately return the child to the

☐ mother ☐ biological father ☐ legal guardian
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ other *(specify):*

25. ☐ The child and the

☐ mother ☐ biological father ☐ legal guardian
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ other *(specify):*

are placed under the supervision of the county agency for a minimum of six months under their voluntary agreement to informal supervision and the provision of services designed to keep the family together as stated in the family's case plan.

CHILD'S NAME:	CASE NUMBER:

26. ☐ **Contact with the child is ordered as stated in** *(check appropriate boxes and attach indicated forms)*
    a. ☐ *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
    b. ☐ *Visitation Attachment: Sibling* (form JV-401).
    c. ☐ *Visitation Attachment: Grandparent* (form JV-402).

27. **All prior orders not in conflict with this order remain in full force and effect.**

28. ☐ **Other findings and orders:**
    a. ☐ See attached.
    b. ☐ *(Specify):*

29. ☐ **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:

    a. ☐ Dispositional hearing
    b. ☐ Settlement conference
    c. ☐ Mediation
    d. ☐ Other *(specify):*

30. ☐ **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved of the duty to provide further representation.

31. Number of pages attached: _____

Date:

_____
JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	FOR COURT USE ONLY
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:		
CHILD'S NAME:		
FINDINGS AND ORDERS AFTER DISPOSITIONAL HEARING (Welf. & Inst. Code, § 361 et seq.)		CASE NUMBER:

DRAFT
Not approved by the Judicial Council

1. This matter came before the court on the
   ☐ original petition ☐ subsequent petition ☐ supplemental petition ☐ other *(specify):*
   filed on *(date):*
2. **Jurisdictional hearing**
   a. Date:
   b. Department:
   c. Judicial officer *(name):*
   d. Court clerk *(name):*
   e. Court reporter *(name):*
   f. Bailiff *(name):*
   g. Interpreter *(name and language):*

   h.

Party *(name):*	Present	Attorney *(name):*	Present	Appointed today
(1) Child:	☐		☐	☐
(2) Mother:	☐		☐	☐
(3) Father—presumed:	☐		☐	☐
(4) Father—biological:	☐		☐	☐
(5) Father—alleged:	☐		☐	☐
(6) Legal guardian:	☐		☐	☐
(7) Indian custodian:	☐		☐	☐
(8) De facto parent:	☐		☐	☐
(9) County agency social worker:	☐		☐	☐
(10) Tribal representative:	☐		☐	☐
(11) Other *(specify):*	☐		☐	☐

   i. Others present in courtroom:
      (1) Court Appointed Special Advocate (CASA) volunteer *(name):*
      (2) Other *(name):*
      (3) Other *(name):*

3. **The court has read and considered and admits into evidence the following:**
   a. ☐ Report of social worker dated:
      (1) ☐ For the purposes of establishing a guardianship, the report of the social worker includes an assessment as specified in Welf. & Inst. Code, §§ 360(a), 361.5(g).
      (2) ☐ In the case of an Indian child, the report of the social worker includes
         (a) evidence that the agency ☐ has ☐ has not provided affirmative, active, thorough, and timely efforts to prevent the breakup of the Indian family and make it possible for the child to be returned home, and these efforts have proved ☐ successful ☐ unsuccessful; and
         (b) an assessment in consultation with the Indian child's tribe, as specified in Welf. & Inst. Code, § 358.1(j), whether tribal customary adoption is an appropriate permanent plan for the child if reunification is unsuccessful.

CHILD'S NAME:	CASE NUMBER:

3. b. ☐ Report of CASA volunteer dated:
   c. ☐ Case plan dated:
   d. ☐ Other *(specify):*
   e. ☐ Other *(specify):*
   f. ☐ Testimony of qualified expert witness under the Indian Child Welfare Act

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

4. a. ☐ Notice of the date, time, and location of the hearing was given as required by law.
   b. ☐ **For child 10 years of age or older who is not present:** The child was properly notified under Welf. & Inst. Code, § 349(d) of their right to attend the hearing, was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

5. ☐ A Court Appointed Special Advocate is appointed for the child.

6. **Parentage**
   a. ☐ The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
   b. ☐ The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
      (1) alleged parent *(name):*
      (2) alleged parent *(name):*
      (3) alleged parent *(name):*

7. **ICWA inquiry**
   a. ☐ The court finds that the social worker or probation officer has asked the child, if old enough, and their parents or legal guardians, and the following relatives: , whether there is information that provides reason to know the child is an Indian child.
   b. ☐ The court, on the record, has asked the child, if old enough, and their parents or legal guardians, all participants in the proceedings, and the following relatives: , whether there is information indicating the child is an Indian child.
   c. ☐ The parties were instructed to inform the court if they receive any information indicating that the child is an Indian child.
   d. ☐ The court finds that there is no reason to know that the child is an Indian child. The agency has an affirmative and continuing duty of inquiry to determine whether the child is or may be an Indian child and to report to the court on its inquiry efforts.
      ☐ The court finds that there is reason to know that the child is an Indian child; and
      (1) the agency has presented evidence in the record that it has exercised due diligence to identify and work with all of the tribes of which the child may be a member or citizen or eligible for membership or citizenship to verify the child's status;
      (2) notice has been provided as required by law; and
      (3) the court will treat the child as an Indian child until it is determined on the record that the child is not an Indian child.
   e. ☐ The court finds that the child is an Indian child and the Indian Child Welfare Act applies. The child is a member or citizen of, or eligible for membership or citizenship and a biological child of a tribal member or citizen, of the tribe.

CHILD'S NAME:	CASE NUMBER:

Advisements and waivers

8. **The court informed and advised the**
   ☐ mother ☐ biological father ☐ legal guardian ☐ child
   ☐ presumed father ☐ alleged father ☐ Indian custodian
   ☐ other *(specify):*
   of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

9. The ☐ mother ☐ biological father ☐ legal guardian ☐ child
   ☐ presumed father ☐ alleged father ☐ Indian custodian
   ☐ other *(specify):*
   has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on his or her own behalf.

10. ☐ **Sibling group**
    The child and the child's siblings listed below form a sibling group in which at least one child in the sibling group was under the age of three years at the time of the initial removal, and all children in the sibling group were removed from parental custody at the same time.
    Sibling *(name):*
    a.
    b.
    c.
    d.
    e.
    f.

11. **Disposition is ordered as stated in** *(check appropriate box and attach indicated form)*
    a. ☐ *Dispositional Attachment: Dismissal of Petition With or Without Informal Supervision (Welf. & Inst. Code, § 360(b))* (form JV-416), which is attached and incorporated by reference.
    b. ☐ *Dispositional Attachment: In-Home Placement With Formal Supervision (Welf. & Inst. Code, § 361)* (form JV-417), which is attached and incorporated by reference.
    c. ☐ *Dispositional Attachment: Appointment of Guardian (Welf. & Inst. Code, § 360(a))* (form JV-418), which is attached and incorporated by reference.
    d. ☐ *Dispositional Attachment: Removal From Custodial Parent—Placement With Previously Noncustodial Parent (Welf. & Inst. Code, §§ 361, 361.2)* (form JV-420), which is attached and incorporated by reference.
    e. ☐ *Dispositional Attachment: Removal From Custodial Parent—Placement With Nonparent (Welf. & Inst. Code, §§ 361, 361.2)* (form JV-421), which is attached and incorporated by reference.

12. **The child's rights** under Welf. & Inst. Code, § 388 and the procedure for bringing a petition under Welf. & Inst. Code, § 388, including the availability of appropriate and necessary forms, were provided to the child as follows:
    a. ☐ Child under the age of 12 years, through the child's attorney of record or guardian ad litem
    b. ☐ Child 12 years of age or older who was present at the hearing, on the record and in writing by handing the child a copy of *Child's Information Sheet—Request to Change Court Order* (form JV-185)
    c. ☐ Child 12 years of age or older who was not present at the hearing, in writing by mailing the child a copy of *Child's Information Sheet—Request to Change Court Order* (form JV-185)

CHILD'S NAME:	CASE NUMBER:

13. ☐ **Contact with the child is ordered as stated in** *(check appropriate boxes and attach indicated forms)*
    a. ☐ *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
    b. ☐ *Visitation Attachment: Sibling* (form JV-401).
    c. ☐ *Visitation Attachment: Grandparent* (form JV-402).

14. The child's medical, dental, mental health, and educational information required by Welfare and Institutions Code section 16010 was provided by the ☐ mother ☐ biological father ☐ legal guardian ☐ presumed father ☐ alleged father ☐ Indian custodian ☐ other *(specify):*

15. **All prior orders not in conflict with this order remain in full force and effect.**

16. ☐ **Other findings and orders**
    a. ☐ See attached.
    b. ☐ *(Specify):*

17. ☐ **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:

    a. ☐ In-home status review hearing (Welf. & Inst. Code, § 364)
    b. ☐ Six-month permanency hearing (Welf. & Inst. Code, § 366.21(e))
    c. ☐ Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
    (Also schedule a Welf. & Inst. Code, § 366.3 status review hearing within six months.)

Hearing date:	Time:	Dept:	Room:

    d. ☐ Postpermanency hearing (Welf. & Inst. Code, § 366.3)
    e. ☐ Other *(specify):*

18. ☐ **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved of the duty to provide further representation.

19. Number of pages attached: _____

Date:

_____
JUDICIAL OFFICER

For Your Information

You may have a right to appellate review of some or all of the orders made during this hearing. Contact your attorney to discuss your appellate rights. Decisions made at the next hearing may also be subject to appellate review. If you do not attend the next hearing you may not be advised of your appellate rights. Contact your attorney if you miss the next hearing and want to discuss your appellate rights.

CHILD'S NAME:	CASE NUMBER:

DISPOSITIONAL ATTACHMENT: REMOVAL FROM CUSTODIAL PARENT—PLACEMENT WITH NONPARENT

(Welf. & Inst. Code, §§ 361, 361.2)

1. ☐ The child is a person described by Welf. & Inst. Code, § 300 *(check all that apply)*

   ☐ 300(a) ☐ 300(c) ☐ 300(e) ☐ 300(g) ☐ 300(i)

   ☐ 300(b) ☐ 300(d) ☐ 300(f) ☐ 300(h) ☐ 300(j)

   and is adjudged a dependent of the court.

Circumstances justifying removal from custodial parent

2. ☐ There is clear and convincing evidence of the circumstances stated in Welf. & Inst. Code, § 361 regarding the persons specified below *(check all that apply):*

	361(c)(1)	361(c)(2)	361(c)(3)	361(c)(4)	361(c)(5)
a. ☐ Mother	☐	☐	☐	☐	☐
b. ☐ Presumed father	☐	☐	☐	☐	☐
c. ☐ Biological father	☐	☐	☐	☐	☐
d. ☐ Legal guardian	☐	☐	☐	☐	☐
e. ☐ Indian custodian	☐	☐	☐	☐	☐
f. ☐ Other *(specify):*	☐	☐	☐	☐	☐
g. ☐ Other *(specify):*	☐	☐	☐	☐	☐

3. Reasonable efforts ☐ were ☐ were not made to prevent or eliminate the need for removal from the home.

ICWA status

4. ☐ The court has inquired of each participant present who has not already been asked whether the participant has any information indicating that the child is a member or citizen of or eligible for membership or citizenship in an Indian tribe or Alaska Native village and reviewed the evidence of the affirmative and ongoing inquiry by the agency to determine whether the child is or may be an Indian child, and finds that there is no reason to believe or know that the child is an Indian child. The agency has an affirmative and continuing duty of inquiry to determine whether the child is or may be an Indian child and to report to the court on its inquiry efforts.

5. ☐ The child is an Indian child, ☐ there is reason to know that the child is an Indian child, and
   a. qualified expert witness testimony was provided by ; and
   b. evidence regarding the prevailing social and cultural practices of the child's tribe was provided; and
   c. there is clear and convincing evidence that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:
      ☐ Mother ☐ Biological father ☐ Legal guardian
      ☐ Presumed father ☐ Indian custodian
      ☐ Other *(specify):*
      ☐ Other *(specify):*

6. ☐ The child is an Indian child or ☐ there is reason to know that the child is an Indian child as set out in detail in the record, and
   a. affirmative, active, thorough, and timely efforts ☐ have ☐ have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
   b. these efforts ☐ did ☐ did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
   c. to the maximum extent possible, the efforts ☐ were ☐ were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;

CHILD'S NAME:	CASE NUMBER:

6. d. these efforts and the case plan ☐ have ☐ have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, utilizing the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers; and

   e. the active efforts have proved ☐ successful ☐ unsuccessful.

7. **Based on the facts stated on the record, continuance in the home is contrary to the child's welfare and physical custody is removed from** *(check all that apply)*

   ☐ mother ☐ biological father ☐ legal guardian
   ☐ presumed father ☐ Indian custodian
   ☐ Other *(specify):*
   ☐ Other *(specify):*

Family finding and engagement

8. a. ☐ The county agency has exercised due diligence to identify, locate, and contact the child's kin who could provide family support or possible placement, and the names of the kin and results of the diligent efforts are documented.

   b. ☐ The county agency has not exercised due diligence to identify, locate, and contact the child's kin who could provide family support or possible placement.

      (1) ☐ The county agency is ordered to make such diligent efforts, except for individuals the agency has determined to be inappropriate to contact because of their involvement with the family or domestic violence.

      (2) ☐ The county agency must submit a report to the court on or before *(date):* detailing the diligent efforts made and the results of such efforts.

Case plan development

9. a. ☐ The county agency solicited and integrated into the case plan the input of the ☐ child ☐ mother ☐ father
   ☐ representative of child's identified Indian tribe ☐ Other *(specify):*
   ☐ Other *(specify):*

   b. ☐ The county agency did not solicit and integrate into the case plan the input of the ☐ child ☐ mother
   ☐ father ☐ representative of child's identified Indian tribe ☐ Other *(specify):*
   ☐ Other *(specify):*
   and the agency is ordered to do so and submit an updated case plan within 30 days of the date of this hearing.

   c. ☐ The county agency did not solicit and integrate into the case plan the input of the ☐ child ☐ mother
   ☐ father ☐ representative of child's identified Indian tribe ☐ Other *(specify):*
   ☐ Other *(specify):*
   and the county agency is not required to do so because these persons are unable, unavailable, or unwilling to participate.

Custody and placement

10. ☐ The ☐ mother ☐ presumed father ☐ biological father did not reside with the child at the time the petition was filed and ☐ does ☐ does not desire custody of the child.

   a. ☐ By clear and convincing evidence, placement with the following parent would be detrimental to the safety, protection, or physical or emotional well-being of the child:
   ☐ Mother ☐ Presumed father ☐ Biological father

   b. ☐ The factual basis for the findings in this item is stated on the record.

11. ☐ **The care, custody, control, and conduct of the child is under the supervision of the county agency for placement**

   a. ☐ in the approved home of a relative.

   b. ☐ in the approved home of a nonrelative extended family member.

   c. ☐ in the approved home of a resource family, as defined in Welf. & Inst. Code, § 16519.5 or a home that is pending approval under Welf & Inst. Code, § 16519.5(e)(1).

CHILD'S NAME:	CASE NUMBER:

11. d. ☐ with a foster family agency for placement in a foster family home.
    e. ☐ in a suitable licensed community care facility.
    f. ☐ in a short-term residential therapeutic program or community treatment facility. A hearing to review the placement under Welf. & Inst. Code, § 361.22 was held on or is set for *(date):*

12. ☐ **Placement with the child's relative,** *(name):*
    has been independently considered by the court and is denied for the reasons stated on the record.

Placement of an Indian child

13. ☐ The child is an Indian child or there is reason to know the child is an Indian child. Currently *(check one)*
    a. ☐ the child is placed with a member of the child's extended family as defined by section 1903 of title 25 of the United States Code; or
    b. ☐ a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
    c. ☐ a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
    d. ☐ a diligent search was made for a placement with a member of the child's extended family, or in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
    e. ☐ the child is placed in accordance with the preferences established by the tribe; or
    f. ☐ the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

14. **The child's out-of-home placement is necessary.**

15. ☐ **The child's current placement is appropriate.**

16. ☐ The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary.
    The placement ☐ was ☐ was not appropriate. The county agency ☐ has ☐ has not made reasonable efforts to locate the child.

17. ☐ The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate.

18. ☐ **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
    a. ☐ The matter is continued to the date and time indicated in form JV-415, item 17 for a ☐ written ☐ oral report by the county agency on the progress made in locating an appropriate placement.
    b. ☐ Other *(specify):*

19. ☐ For a child placed in short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(m) when determining the continuing necessity for and appropriateness of the placement.

20. ☐ **The child is placed outside the state of California, and that out-of-state placement**
    a. ☐ continues to be the most appropriate placement for the child and is in the best interest of the child.
    b. ☐ is not the most appropriate placement for the child and is not in the best interest of the child.
    The matter is continued to the date and time indicated in form JV-415, item 18 for a ☐ written ☐ oral report by the county agency on the progress made toward
    (1) ☐ returning the child to California and locating an appropriate placement within California.

CHILD'S NAME:	CASE NUMBER:

20. b. (2) ☐ locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.

(3) ☐ Other *(specify):*

Reunification services

21. ☐ **Provision of reunification services to the biological father** ☐ will ☐ will not benefit the child.

22. ☐ **The mother is incarcerated** and is seeking to participate in the Department of Corrections and Rehabilitation community treatment program.

a. ☐ Participation in the program ☐ is ☐ is not in the child's best interest.

b. ☐ The program ☐ is ☐ is not suitable to meet the needs of the mother and child.

23. ☐ The

☐ mother ☐ legal guardian ☐ Other *(specify):*

☐ presumed father ☐ Indian custodian ☐ Other *(specify):*

is incarcerated, and reasonable reunification services are

a. ☐ granted.

b. ☐ denied because, by clear and convincing evidence, providing reunification services would be detrimental to the child.

24. ☐ **As provided in Welf. & Inst. Code, § 361.5(b), by clear and convincing evidence,**

a. the ☐ mother ☐ legal guardian ☐ Other *(specify):*

☐ presumed father ☐ Indian custodian ☐ Other *(specify):*

is a person described in Welf. & Inst. Code, § *(choose all that apply)*

☐ 361.5(b)(3) ☐ 361.5(b)(7) ☐ 361.5(b)(9) ☐ 361.5(b)(11) ☐ 361.5(b)(13) ☐ 361.5(b)(16)

☐ 361.5(b)(4) ☐ 361.5(b)(8) ☐ 361.5(b)(10) ☐ 361.5(b)(12) ☐ 361.5(b)(15) ☐ 361.5(b)(17)

and reunification services are

(1) ☐ granted because, by clear and convincing evidence reunification is in the best interest of the child.

(2) ☐ denied.

b. The ☐ mother ☐ legal guardian ☐ Other *(specify):*

☐ presumed father ☐ Indian custodian ☐ Other *(specify):*

is a person described in Welf. & Inst. Code, § 361.5(b)(1), and a reasonably diligent search has failed to locate the person. Reunification services are denied.

c. The ☐ mother ☐ legal guardian ☐ Other *(specify):*

☐ presumed father ☐ Indian custodian ☐ Other *(specify):*

is a person described in Welf. & Inst. Code, § 361.5(b)(2), and reunification services are

(1) ☐ granted.

(2) ☐ denied because the person, even with the provision of services, is unlikely to be capable of adequately caring for the child within the statutory time limits.

d. The ☐ mother ☐ legal guardian ☐ Other *(specify):*

☐ presumed father ☐ Indian custodian ☐ Other *(specify):*

is a person described in Welf. & Inst. Code, § 361.5(b)(5), and reunification services are

(1) ☐ granted because

(a) ☐ reunification services are likely to prevent reabuse or neglect.

(b) ☐ the failure to try reunification will be detrimental to the child because the child is closely and positively bonded to the person.

(2) ☐ denied.

CHILD'S NAME:	CASE NUMBER:

24. e. The ☐ mother ☐ legal guardian
☐ presumed father ☐ Indian custodian
☐ other person who is a legal parent of the child *(name):*
☐ Other *(specify):*

is a person described in Welf. & Inst. Code, § 361.5(b)(6), and reunification services are

(1) ☐ granted because by clear and convincing evidence reunification is in the best interest of the child.

(2) ☐ denied because the child or the child's sibling suffered severe sexual abuse or the infliction of severe physical harm by the person, and it would not benefit the child to pursue reunification with that person.

(3) ☐ The factual basis for the findings in this item is stated on the record.

f. The ☐ mother ☐ legal guardian ☐ Other *(specify):*
☐ presumed father ☐ Indian custodian ☐ Other *(specify):*

is a person described in Welf. & Inst. Code, § 361.5(b)(14). The court advised the person of any right to services and the possible consequences of a waiver. The person executed *Waiver of Reunification Services* (form JV-195), and the court accepts the waiver, the person having knowingly and intelligently waived the right to services. Reunification services are denied.

g. **The county agency must provide reunification services,** and the following must participate in the reunification services stated in the case plan:

☐ Mother ☐ Biological father ☐ Presumed father ☐ Other *(specify):*
☐ Indian custodian ☐ Legal guardian ☐ Other *(specify):*

25. **The likely date** by which the child may be returned to and safely maintained in the home or another permanent plan selected is *(specify):*

Efforts

26. The county agency ☐ has ☐ has not complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete any steps necessary to finalize the permanent placement of the child.

27. **The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:**

	None	Minimal	Adequate	Substantial	Excellent
☐ Mother	☐	☐	☐	☐	☐
☐ Presumed father	☐	☐	☐	☐	☐
☐ Biological father	☐	☐	☐	☐	☐
☐ Legal guardian	☐	☐	☐	☐	☐
☐ Indian custodian	☐	☐	☐	☐	☐
☐ Other *(specify):*	☐	☐	☐	☐	☐
☐ Other *(specify):*	☐	☐	☐	☐	☐

Siblings

28. ☐ **The child does not have siblings under the court's jurisdiction.**

29. a. The child's educational needs ☐ are ☐ are not being met.
b. The child's physical needs ☐ are ☐ are not being met.
c. The child's mental health needs ☐ are ☐ are not being met.
d. The child's developmental needs ☐ are ☐ are not being met.

CHILD'S NAME:	CASE NUMBER:

Health and education

30. ☐ The ☐ mother ☐ biological father ☐ Indian custodian
☐ presumed father ☐ legal guardian ☐ Other *(specify):*
☐ Other *(specify):*
is ☐ unable ☐ unwilling ☐ unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

31. ☐ The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 29 or other concerns are
a. ☐ stated in the social worker's report.
b. ☐ specified here:

32. ☐ **The child has siblings under the court's jurisdiction.** *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.

33. The child ☐ does ☐ does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on *(date):*

34. a. ☐ A limitation on the right of the parents to make educational decisions for the child is **not** necessary. The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650 can be obtained from the California Courts website at courts.ca.gov/cms/rules/index/five/rule5_650, or from the court's self-help center.
b. ☐ A limitation on the right of the parents to make educational decisions for the child is necessary and those rights are limited as stated in *Order Designating Educational Rights Holder* (form JV-535) filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650 can be obtained from the California Courts website at courts.ca.gov/cms/rules/index/five/rule5_650, or from the court's self-help center.

35. ☐ The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 31:
a. ☐ Social worker
b. ☐ Parent *(name):*
c. ☐ Surrogate parent *(name):*
d. ☐ Educational representative *(name):*
e. ☐ Other *(name):*

36. ☐ The child's education placement has changed since the date the child was physically removed from the home.
a. ☐ The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll, and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
b. ☐ The child is enrolled in school.
c. ☐ The child is attending school.

37. a. ☐ The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),
(1) ☐ an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
(2) ☐ the name of the support person(s) to assist the child is:
the support person's relationship(s) to the child is:

CHILD'S NAME:	CASE NUMBER:

37. a. (3) ☐ an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.

(4) ☐ to assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services

(a) ☐ stated on the record.

(b) ☐ as follows:

b. ☐ The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

38. ☐ For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.

39. ☐ **Child 14 years of age or older**

a. ☐ The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.

b. ☐ The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.

c. ☐ To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services

(1) ☐ stated on the record.

(2) ☐ as follows:

Advisements

40. ☐ Child under three years of age on the date of initial removal from the physical custody of the child's parent or guardian, or for a child in a sibling group whose members were removed from parental custody at the same time, and in which one member of the sibling group was under three years of age on the date of initial removal from the physical custody of the child's parent or guardian.

a. **Failure to participate regularly and make substantive progress in court-ordered treatment programs may result in the termination of reunification services** for all or some members of the sibling group at the hearing scheduled on a date within six months from the date the child entered foster care under Welf. & Inst. Code, § 366.21(e).

Six-month hearing date:

b. **At the six-month hearing** under Welf. & Inst. Code, § 366.21(e), the court will consider the following factors in deciding whether to limit reunification services to six months for all or some members of the sibling group:

- Whether the sibling group was removed from parental care as a group;
- The closeness and strength of the sibling bond;
- The ages of the siblings;
- The appropriateness of maintaining the sibling group;
- The detriment to the child if sibling ties are not maintained;
- The likelihood of finding a permanent home for the sibling group;
- Whether the sibling group is currently placed in the same preadoptive home or has a concurrent plan goal of legal permanency in the same home;
- The wishes of each child whose age and physical and emotional condition permits a meaningful response; and
- The best interest of each child in the sibling group.

CHILD'S NAME:	CASE NUMBER:

40. c. **At the six-month hearing** under Welf. & Inst. Code, § 366.21(e), if the child is not returned to the custody of a parent, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26. The selection and implementation hearing **may result in the termination of parental rights and adoption of the child and other members of the sibling group or, in the case of an Indian child for whom tribal customary adoption under Welf. & Inst. Code, § 366.24 is selected as the permanent plan goal, modification of parental rights and the adoption of the child and other members of the sibling group.**

41. ☐ **Child three years of age or older who is not a member of a sibling group as described in Welf. & Inst. Code, § 361.5(a)(1)(C).** The court informed all parties present at the time of the hearing and further advises all parties that, because the child was three years of age or older with no siblings under the age of three years at the time of initial removal, if the child is not returned to the custody of a parent at the Welf. & Inst. Code, § 366.21(f) permanency hearing set on a date within 12 months from the date the child entered foster care, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26. The selection and implementation hearing **may result in the termination of parental rights and adoption of the child or, in the case of an Indian child for whom tribal customary adoption under Welf. & Inst. Code, § 366.24 is selected as the permanent plan goal, modification of parental rights and the adoption of the child.**

Twelve-month permanency hearing date:

42. ☐ a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**

b. By clear and convincing evidence, the court found that reunification services were not to be provided to the child's parents, legal guardian, or Indian custodian under Welf. & Inst. Code, § 361.5(b).

c. The county agency and the licensed county adoption agency or the California Department of Social Services acting as an adoption agency will prepare and serve an assessment report as described in Welf. & Inst. Code, § 361.5(g).

d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing a notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record to Review Order Setting a Hearing Under Welfare and Institutions Code Section 366.26 (California Rules of Court, Rule 8.450)* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court further advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court is directed to provide written notice as stated in rule 5.695(f)(10) of the California Rules of Court to any party not present.

e. ☐ The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who had relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Family Code section 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage (Juvenile)* (form JV-505).

(1) *(name):*

(2) *(name):*

(3) *(name):*

(4) *(name):*

f. **The likely date** by which the permanent plan will be achieved is *(date):*

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	FOR COURT USE ONLY
NAME:		
FIRM NAME:		
STREET ADDRESS:		
CITY:	STATE: ZIP CODE:	
TELEPHONE NO.:	FAX NO.:	
EMAIL ADDRESS:		
ATTORNEY FOR (*name*):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		**DRAFT Not approved by the Judicial Council**
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
CHILD'S NAME:		
FINDINGS AND ORDERS AFTER SIX-MONTH STATUS REVIEW HEARING (Welf. & Inst. Code, § 366.21(e))		CASE NUMBER:

1. **Six-month status review hearing**

   a. Date:
   b. Department:
   c. Judicial officer *(name):*
   d. Court clerk *(name):*
   e. Court reporter *(name):*
   f. Bailiff *(name):*
   g. Interpreter *(name and language):*

h. Party *(name):*	Present	Attorney *(name):*	Present	Appointed today
(1) Child:	☐		☐	☐
(2) Mother:	☐		☐	☐
(3) Father—presumed:	☐		☐	☐
(4) Father—biological:	☐		☐	☐
(5) Father—alleged:	☐		☐	☐
(6) Legal guardian:	☐		☐	☐
(7) Indian custodian:	☐		☐	☐
(8) De facto parent:	☐		☐	☐
(9) County agency social worker:	☐		☐	☐
(10) Tribal representative:	☐		☐	☐
(11) Other *(specify):*	☐		☐	☐
(12) Other *(specify):*	☐		☐	☐

   i. Others present in courtroom:
      (1) Court Appointed Special Advocate (CASA) volunteer *(name):*
      (2) Other *(name):*
      (3) Other *(name):*

2. **The court has read and considered and admits into evidence**
   a. ☐ report of social worker dated:
   b. ☐ report of CASA volunteer dated:
   c. ☐ case plan dated:
   d. ☐ Other *(specify):*
   e. ☐ Other *(specify):*

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

3. a. ☐ Notice of the date, time, and location of the hearing was given as required by law.

CHILD'S NAME:	CASE NUMBER:

3. b. ☐ **For a child 10 years of age or older who is not present,**

(1) ☐ the child was properly notified under Welf. & Inst. Code, § 349(d) of the right to attend the hearing and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

(2) ☐ the child was not properly notified under Welf. & Inst. Code, § 349(d) of the right to attend the hearing, or the child wished to be present and was not given an opportunity to be present, and

(a) ☐ there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child.

(b) ☐ it is in the best interest of the child not to continue the hearing.

4. ☐ A Court Appointed Special Advocate is appointed for the child.

5. **Parentage**

a. ☐ The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.

b. ☐ The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to

(1) alleged parent *(name):*

(2) alleged parent *(name):*

(3) alleged parent *(name):*

6. **ICWA inquiry**

The court has inquired of each participant present who has not already been asked whether the participant has any information indicating that the child is a member or citizen of or eligible for membership or citizenship in an Indian tribe or Alaska Native village, reviewed the evidence of the affirmative and ongoing inquiry by the agency to determine whether the child is or may be an Indian child, and finds *(check one):*

a. ☐ there is no reason to believe or know that the child is an Indian child. The agency has an affirmative and continuing duty of inquiry to determine whether the child is or may be an Indian child and to report to the court on its inquiry efforts.

b. ☐ there is reason to believe the child is an Indian child, and *(check 1 or 2):*

(1) ☐ the agency has completed further inquiry as required by Welf. & Inst. Code, § 224.2(e), and there is no reason to know that the child is an Indian child; or

(2) ☐ the agency is ordered to complete further inquiry as required by Welf. & Inst. Code, § 224.2(e) and file with the court evidence of this inquiry, including all contacts with extended family members, tribes that the child may be affiliated with, the Bureau of Indian Affairs if required, the California Department of Social Services if required, and others.

c. ☐ there is reason to know that the child is an Indian child, and

(1) the agency *(check A or B):*

A. ☐ has presented evidence in the record that it has exercised due diligence to identify and work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify the child's status; or

B. ☐ is required to exercise due diligence to identify and work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify the child's status and provide notice in accordance with Welf. & Inst. Code, § 224.3 and file proof of due diligence and notice with the court.

(2) ☐ notice has been provided as required by law; and

(3) ☐ the court will treat the child as an Indian child until it is determined on the record that the child is not an Indian child.

d. ☐ The child is a member or citizen of or eligible for membership or citizenship in, and a biological child of a tribal member or citizen of, the tribe.

CHILD'S NAME:	CASE NUMBER:

Advisements and waivers

7. **The court has informed and advised the**

☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ Other *(specify):*

of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

8. The ☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ Other *(specify):*

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on their own behalf.

Case plan development

9. a. ☐ The following were actively involved in the case plan development, including the child's plan for permanent placement:
☐ Child ☐ Mother ☐ Father ☐ Representative of child's identified Indian tribe
☐ Other *(specify):* ☐ Other *(specify):*

b. ☐ The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:
☐ Child ☐ Mother ☐ Father ☐ Representative of child's identified Indian tribe
☐ Other *(specify):* ☐ Other *(specify):*
The county agency is ordered to actively involve them and submit an updated case plan within 30 days of the date of this hearing.

c. ☐ The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:
☐ Child ☐ Mother ☐ Father ☐ Representative of child's identified Indian tribe
☐ Other *(specify):* ☐ Other *(specify):*
The county agency is not required to involve them because these persons are unable, unavailable, or unwilling to participate.

Efforts

10. **The county agency**
a. ☐ has
b. ☐ has not
complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent placement of the child.

11. ☐ The child is an Indian child or
☐ there is reason to know that the child is an Indian child, and as set out in detail in the record,

a. affirmative, active, thorough, and timely efforts ☐ have ☐ have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;

CHILD'S NAME:	CASE NUMBER:

11. b. these efforts ☐ did ☐ did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;

c. to the maximum extent possible, the efforts ☐ were ☐ were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;

d. these efforts and the case plan ☐ have ☐ have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers; and

e. the active efforts have proved ☐ successful ☐ unsuccessful.

12. **The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:**

	None	Minimal	Adequate	Substantial	Excellent
a. ☐ Mother	☐	☐	☐	☐	☐
b. ☐ Presumed father	☐	☐	☐	☐	☐
c. ☐ Biological father	☐	☐	☐	☐	☐
d. ☐ Legal guardian	☐	☐	☐	☐	☐
e. ☐ Indian custodian	☐	☐	☐	☐	☐
f. ☐ Other *(specify):*	☐	☐	☐	☐	☐
g. ☐ Other *(specify):*	☐	☐	☐	☐	☐

Siblings

13. ☐ **The child does not have siblings under the court's jurisdiction.**

14. ☐ **The child has siblings under the court's jurisdiction.** *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.

Health and education

15. a. ☐ A limitation on the right of the parents to make educational decisions for the child is **not** necessary. The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650 can be obtained from the California Courts website at courts.ca.gov/cms/rules/index/five/rule5_650, or from the court's self-help center.

b. ☐ A limitation on the right of the parents to make educational decisions for the child is necessary, and those rights are limited as stated in *Order Designating Educational Rights Holder* (form JV-535) filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650 can be obtained from the California Courts website at courts.ca.gov/cms/rules/index/five/rule5_650, or from the court's self-help center.

16. a. The child's educational needs ☐ are ☐ are not being met.
b. The child's physical needs ☐ are ☐ are not being met.
c. The child's mental health needs ☐ are ☐ are not being met.
d. The child's developmental needs ☐ are ☐ are not being met.

17. The child ☐ does ☐ does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on *(specify date):*

18. ☐ The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 16 or other concerns are
a. ☐ stated in the social worker's report.
b. ☐ specified here:

CHILD'S NAME:	CASE NUMBER:

19. ☐ The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 18:
    a. ☐ Social worker
    b. ☐ Parent *(name):*
    c. ☐ Surrogate parent *(name):*
    d. ☐ Educational representative *(name):*
    e. ☐ Other *(name):*

20. ☐ The child's education placement has changed since the last review hearing.
    a. ☐ The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
    b. ☐ The child is enrolled in school.
    c. ☐ The child is attending school.

21. ☐ For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.

22. a. ☐ The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),
    (1) ☐ an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
    (2) ☐ the name of the support person(s) to assist the child is: .
    The support person's relationship(s) to the child is: .
    (3) ☐ an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
    (4) ☐ to assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
        (a) ☐ stated on the record.
        (b) ☐ as follows:

    b. ☐ The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

23. ☐ **Child 14 years of age or older:**
    a. ☐ The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
    b. ☐ The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
    c. ☐ To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
        (1) ☐ stated on the record.
        (2) ☐ as follows:

CHILD'S NAME:	CASE NUMBER:

24. **Placement and services are ordered as stated in** *(check appropriate box and attach indicated form)*

a. ☐ *Six-Month Permanency Attachment: Child Reunified (Welf. & Inst. Code, § 366.21(e))* (form JV-431), which is attached and incorporated by reference.

b. ☐ *Six-Month Prepermanency Attachment: Reunification Services Continued (Welf. & Inst. Code, § 366.21(e))* (form JV-432), which is attached and incorporated by reference.

c. ☐ *Six-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.21(e))* (form JV-433), which is attached and incorporated by reference.

25. ☐ **Contact with the child is ordered as stated in** *(check appropriate boxes and attach indicated forms)*

a. ☐ *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400)

b. ☐ *Visitation Attachment: Sibling* (form JV-401)

c. ☐ *Visitation Attachment: Grandparent* (form JV-402)

26. **All prior orders not in conflict with this order remain in full force and effect.**

27. ☐ **Other findings and orders**

a. ☐ See attached.

b. ☐ *(Specify):*

28. ☐ **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:

a. ☐ In-home status review hearing (Welf. & Inst. Code, § 364)

b. ☐ Twelve-month permanency hearing (Welf. & Inst. Code, § 366.21(f))

c. ☐ Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
(Also schedule a Welf. & Inst. Code, § 366.3 status review hearing within six months.)

Hearing date:	Time:	Dept.:	Room:

d. ☐ Nonminor dependent status review (Welf. & Inst. Code, § 366.31)

e. ☐ Other *(specify):*

29. ☐ **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved of the duty to provide further representation.

30. Number of pages attached: _____

Date:

_____
JUDICIAL OFFICER

CHILD'S NAME:	CASE NUMBER:

SIX-MONTH PERMANENCY ATTACHMENT: REUNIFICATION SERVICES CONTINUED
(Welf. & Inst. Code, § 366.21(e))

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

Placement

2. **The child's out-of-home placement is necessary.**

3. ☐ **The child's current placement is appropriate.**

4. ☐ For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(m) when determining the continuing necessity for and appropriateness of the placement.

5. ☐ **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
   a. ☐ The matter is continued to the date and time indicated in form JV-430, item 28, for a ☐ written ☐ oral report by the county agency on the progress made in locating an appropriate placement.
   b. ☐ Other *(specify):*

6. ☐ The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate. The county agency ☐ has ☐ has not made reasonable efforts to locate the child.

7. ☐ The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate.

8. ☐ There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently *(choose one),*
   a. ☐ the child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
   b. ☐ a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
   c. ☐ a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
   d. ☐ a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
   e. ☐ the child is placed in accordance with the preferences established by the tribe; or
   f. ☐ the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

9. ☐ **The child is placed outside the state of California, and that out-of-state placement**
   a. ☐ continues to be the most appropriate placement for the child and is in the best interest of the child.
   b. ☐ is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-430, item 28, for a ☐ written ☐ oral report by the county agency on the progress made toward
      (1) ☐ returning the child to California and locating an appropriate placement within California.
      (2) ☐ locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
      (3) ☐ Other *(specify):*

CHILD'S NAME:	CASE NUMBER:

Reunification services

10. ☐ The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,
    a. affirmative, active, thorough, and timely efforts ☐ have ☐ have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
    b. these efforts ☐ did ☐ did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
    c. to the maximum extent possible, the efforts ☐ were ☐ were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;
    d. these efforts and the case plan ☐ have ☐ have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers; and
    e. the active efforts have proved ☐ successful ☐ unsuccessful.

11. ☐ **Reunification services continued: Child under age of three at time of removal or member of sibling group**
    a. ☐ The child was under the age of three years on the date of the initial removal from the home.
    b. ☐ The child and the child's siblings listed below form a sibling group in which one child in the sibling group was under the age of three years at the time of the initial removal, and all children in the sibling group were removed from parental custody at the same time and are placed together.
       (1) *(name):*
       (2) *(name):*
       (3) *(name):*
       (4) *(name):*
       (5) *(name):*
       (6) *(name):*
    c. ☐ Services are continued as described in item 12; or
    d. ☐ The court finds by clear and convincing evidence that the parent or legal guardian failed to participate regularly and make substantive progress in a court-ordered treatment plan, but reunification services are continued because
       (1) ☐ having considered the relevant evidence, including
          (a) ☐ whether there has been significant progress in resolving the problems that led to the removal;
          (b) ☐ whether the capacity and ability to complete the objectives of the treatment plan and to provide for the child's safety, protection, physical and emotional health, and special needs has been demonstrated; and
          (c) ☐ whether there has been consistent and regular contact and visitation with the child;

       the court finds there is a substantial probability that the child may be returned to the
       ☐ mother ☐ biological father ☐ Indian custodian
       ☐ presumed father ☐ legal guardian ☐ Other *(specify):*
       ☐ Other *(specify):*

       within six months of the date of this hearing or within 12 months of the date the child entered foster care, whichever is sooner.
       (2) Reasonable services have not been provided to the
       ☐ mother ☐ biological father ☐ Indian custodian
       ☐ presumed father ☐ legal guardian ☐ Other *(specify):*
       ☐ Other *(specify):*

12. **Reunification services are continued for the**
    ☐ mother ☐ biological father ☐ Indian custodian
    ☐ presumed father ☐ legal guardian ☐ Other *(specify):*
    ☐ Other *(specify):*
    a. ☐ as previously ordered.

CHILD'S NAME:	CASE NUMBER:

12. b. ☐ as modified
    (1) ☐ on the record.
    (2) ☐ in the case plan.

13. ☐ **The likely date** by which the child may be returned to and safely maintained in the home or placed for adoption, tribal customary adoption in the case of an Indian child, legal guardianship, placed with a fit and willing relative or in another planned permanent living arrangement is *(date):*

Family finding and engagement

14. a. ☐ The county agency has exercised due diligence to identify, locate, and contact the child's kin who could provide family support or possible placement, and the names of the kin and results of the diligent efforts are documented.
    b. ☐ The county agency has not exercised due diligence to identify, locate, and contact the child's kin.
    (1) ☐ The county agency is ordered to make such diligent efforts, except with respect to individuals whom the agency has determined to be inappropriate to contact because of their involvement with the family or domestic violence.
    (2) ☐ The county agency must submit a report to the court on or before *(date):* detailing the diligent efforts made and the results of such efforts.

Important individuals

15. ☐ **The child is 10 years of age or older and has been in out-of-home placement for six months or longer.**
    a. ☐ The county agency has made efforts to identify individuals who are important to the child and to maintain the child's relationship with those individuals, consistent with the child's best interest.
    b. ☐ The county agency has not made efforts to identify individuals who are important to the child and to maintain the child's relationship with those individuals, consistent with the child's best interest.
    c. ☐ To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
    (1) ☐ as stated on the record.
    (2) ☐ as follows:

Health

16. ☐ The ☐ mother ☐ biological father ☐ Indian custodian ☐ presumed father ☐ legal guardian ☐ Other *(specify):* ☐ Other *(specify):*
    is ☐ unable ☐ unwilling ☐ unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Advisement

17. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the permanency hearing set on a date within 12 months from the date the child entered foster care, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26 **that may result in the termination of parental rights and adoption of the child and other members of the sibling group or, in the case of an Indian child for whom tribal customary adoption under Welf. & Inst. Code, § 366.24 is selected as the permanent plan, modification of parental rights and the adoption of the child and other members of the sibling group.**

Twelve-month permanency hearing date:

CHILD'S NAME:	CASE NUMBER:

SIX-MONTH PERMANENCY ATTACHMENT: REUNIFICATION SERVICES TERMINATED

(Welf. & Inst. Code, § 366.21(e))

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

Placement

2. **The child's out-of-home placement is necessary.**

3. ☐ **The child's current placement is appropriate.**

4. ☐ For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(m) when determining the continuing necessity for and appropriateness of the placement.

5. ☐ **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
   a. ☐ The matter is continued to the date and time indicated in form JV-430, item 28, for a ☐ written ☐ oral report by the county agency on the progress made in locating an appropriate placement.
   b. ☐ Other *(specify):*

6. ☐ The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate. The county agency ☐ has ☐ has not made reasonable efforts to locate the child.

7. ☐ The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate.

8. ☐ There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently *(choose one),*
   a. ☐ the child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
   b. ☐ a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
   c. ☐ a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
   d. ☐ a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
   e. ☐ the child is placed in accordance with the preferences established by the tribe; or
   f. ☐ the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

9. ☐ **The child is placed outside the state of California, and that out-of-state placement**
   a. ☐ continues to be the most appropriate placement for the child and is in the best interest of the child.
   b. ☐ is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-430, item 28, for a ☐ written ☐ oral report by the county agency on the progress made toward

CHILD'S NAME:	CASE NUMBER:

9. b. (1) ☐ returning the child to California and locating an appropriate placement within California.
   (2) ☐ locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
   (3) ☐ Other *(specify):*

Reunification services

10. ☐ The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,
   a. affirmative, active, thorough, and timely efforts ☐ have ☐ have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
   b. these efforts ☐ did ☐ did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
   c. to the maximum extent possible, the efforts ☐ were ☐ were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;
   d. these efforts and the case plan ☐ have ☐ have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers; and
   e. the active efforts have proved ☐ successful ☐ unsuccessful.

11. ☐ The child is an Indian child or there is reason to know that the child is an Indian child, and
   a. ☐ qualified expert witness testimony was provided by: ; and
   b. ☐ evidence regarding the prevailing social and cultural practices of the child's tribe was provided; and
   c. ☐ there is clear and convincing evidence that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:
      ☐ Mother ☐ Biological father ☐ Legal guardian
      ☐ Presumed father ☐ Indian custodian
      ☐ Other *(specify):*
      ☐ Other *(specify):*

12. ☐ **Reunification services terminated: Child under age of three years at time of removal or member of sibling group**
   a. ☐ The child was under the age of three years on the date of the initial removal from the home.
   b. ☐ The child and the child's siblings listed below form a sibling group in which one child in the sibling group was under the age of three years at the time of the initial removal, and all children in the sibling group were removed from parental custody at the same time and are placed together.
      (1) *(name):*
      (2) *(name):*
      (3) *(name):*
      (4) *(name):*
      (5) *(name):*
      (6) *(name):*
   c. By clear and convincing evidence the
      ☐ mother ☐ biological father ☐ Indian custodian
      ☐ presumed father ☐ legal guardian ☐ Other *(specify):*
      ☐ Other *(specify):*
      failed to participate regularly and make substantive progress in a court-ordered treatment plan and there is not a substantial probability of return within six months. Reunification services are terminated.

CHILD'S NAME:	CASE NUMBER:

12. d. Scheduling a hearing under Welf. & Inst. Code, § 366.26 for this child and some or all members of the sibling group is in the child's best interest. The factual basis for this finding is stated on the record.

13. ☐ **Reunification services terminated: Child of any age**

a. ☐ Reunification services are terminated for the
☐ mother ☐ biological father ☐ Indian custodian
☐ presumed father ☐ legal guardian ☐ Other *(specify):*
☐ Other *(specify):*
because the child was initially removed from the person indicated under Welf. & Inst. Code, § 300(g) and, by clear and convincing evidence,
(1) ☐ the person's whereabouts remain unknown.
(2) ☐ the person has not had contact or visited with the child for six months.

b. ☐ Reunification services are terminated for the
☐ mother ☐ biological father ☐ Indian custodian
☐ presumed father ☐ legal guardian ☐ Other *(specify):*
☐ Other *(specify):*
because, by clear and convincing evidence, that person has been convicted of a felony indicating parental unfitness.

c. ☐ Reunification services are terminated for the
☐ mother ☐ biological father ☐ Indian custodian
☐ presumed father ☐ legal guardian ☐ Other *(specify):*
☐ Other *(specify):*
because it is determined that the person is deceased.

14. The county agency ☐ has ☐ has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the agency ☐ has ☐ has not been evaluated.

Family finding and engagement

15. a. ☐ The county agency has exercised due diligence to identify, locate, and contact the child's kin who could provide family support or possible placement, and the names of the kin and results of the diligent efforts are documented.

b. ☐ The county agency has not exercised due diligence to identify, locate, and contact the child's kin.
(1) The county agency is ordered to make such diligent efforts, except for individuals the agency has determined to be inappropriate to contact because of their involvement with the family or domestic violence.
(2) The county agency must submit a report to the court on or before *(date):* detailing the diligent efforts made and the results of such efforts.

Important individuals

16. ☐ **Child in out-of-home placement for six months or longer**

a. ☐ The county agency has made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationship with those individuals, consistent with the child's best interest.

b. ☐ The county agency has **not** made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationship with those individuals, consistent with the child's best interest.

c. ☐ To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
(1) ☐ as stated on the record.
(2) ☐ as follows:

CHILD'S NAME:	CASE NUMBER:

Health

17. ☐ The ☐ mother ☐ biological father ☐ Indian custodian
☐ presumed father ☐ legal guardian ☐ Other *(specify):*
☐ Other *(specify):*
is ☐ unable ☐ unwilling ☐ unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Setting for selection of permanent plan

18. ☐ a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**

b. By clear and convincing evidence, reasonable services have been provided or offered to the child's parents or legal guardian, or, in the case of an Indian child, active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family, and the services or efforts have been unsuccessful.

c. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.21(i). The county agency report must include evidence of all inquiry done to determine whether the child is or may be an Indian child, including evidence that inquiry has been made of the child, the parents, and available extended family members, and the results of that inquiry.

d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record to Review Order Setting a Hearing Under Welfare and Institutions Code Section 366.26 (California Rules of Court, Rule 8.450)* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court further advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court must provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.

e. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to their usual place of residence or business only.

f. ☐ The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Family Code, § 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage* (form JV-505).
(1) *(name):*
(2) *(name):*
(3) *(name):*
(4) *(name):*

g. **The likely date** by which the child may be placed for adoption, tribal customary adoption, legal guardianship, or with a fit and willing relative is *(date):*

19. ☐ **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.

a. ☐ The child's permanent plan is permanent placement with *(name):* , a fit and willing relative.
The likely date by which the child's permanent plan will be achieved is *(date):*

CHILD'S NAME:	CASE NUMBER:

19. b. ☐ The child is ordered to remain in foster care with a permanent plan of *(check one):*
   (1) ☐ return home.
   (2) ☐ adoption.
   (3) ☐ tribal customary adoption.
   (4) ☐ legal guardianship.
   (5) ☐ placement with a fit and willing relative.

   c. ☐ The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to
   ☐ return home. ☐ establish legal guardianship.
   ☐ place for adoption. ☐ place with a relative.
   ☐ Other *(specify):*

   The likely date by which the child's permanent plan will be achieved is *(date):*

   d. ☐ The court finds that the barriers to achieving the child's permanent plans are *(describe):*

20. ☐ **For children 16 years of age or older placed in another planned permanent living arrangement,**

   a. the court asked the child where the child wants to live, and the child provided the following information *(describe):*

   b. the court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because *(describe):*

   c. the compelling reasons why the other permanent plan options are not in the child's best interests are *(describe):*

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (*name*):	*FOR COURT USE ONLY* **DRAFT** **Not approved by the Judicial Council**
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS AFTER 12-MONTH PERMANENCY HEARING (Welf. & Inst. Code, § 366.21(f))	CASE NUMBER:

1. **Twelve-month permanency hearing**

   a. Date:
   b. Department:
   c. Judicial officer *(name):*
   d. Court clerk *(name):*
   e. Court reporter *(name):*
   f. Bailiff *(name):*
   g. Interpreter *(name and language):*

   h.

Party *(name):*	Present	Attorney *(name):*	Present	Appointed today
(1) Child:	☐		☐	☐
(2) Mother:	☐		☐	☐
(3) Father—presumed:	☐		☐	☐
(4) Father—biological:	☐		☐	☐
(5) Father—alleged:	☐		☐	☐
(6) Legal guardian:	☐		☐	☐
(7) Indian custodian:	☐		☐	☐
(8) De facto parent:	☐		☐	☐
(9) County agency social worker:	☐		☐	☐
(10) Tribal representative:	☐		☐	☐
(11) Other *(specify):*	☐		☐	☐
(12) Other *(specify):*	☐		☐	☐

   i. Others present in courtroom:
      (1) Court Appointed Special Advocate (CASA) volunteer *(name):*
      (2) Other *(name):*
      (3) Other *(name):*

2. **The court has read and considered and admits into evidence**
   a. ☐ report of social worker dated:
   b. ☐ report of CASA volunteer dated:
   c. ☐ case plan dated:
   d. ☐ Other *(specify):*
   e. ☐ Other *(specify):*

CHILD'S NAME:	CASE NUMBER:

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

3. a. ☐ Notice of the date, time, and location of the hearing was given as required by law.

   b. ☐ For a child 10 years of age or older who is not present,

      (1) ☐ the child was properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d) and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

      (2) ☐ the child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d), or the child wished to be present and was not given an opportunity to be present and

         (a) ☐ there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child.

         (b) ☐ it is in the best interest of the child not to continue the hearing.

4. ☐ A Court Appointed Special Advocate is appointed for the child.

5. **Parentage**

   a. ☐ The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.

   b. ☐ The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to

      (1) alleged parent *(name):*

      (2) alleged parent *(name):*

      (3) alleged parent *(name):*

6. **ICWA inquiry**

   The court has inquired of each participant present who has not already been asked whether the participant has any information indicating that the child is a member or citizen of or eligible for membership or citizenship in an Indian tribe or Alaska Native village, reviewed the evidence of the affirmative and ongoing inquiry by the agency to determine whether the child is or may be an Indian child, and finds *(check one):*

   a. ☐ there is no reason to believe or know that the child is an Indian child. The agency has an affirmative and continuing duty of inquiry to determine whether the child is or may be an Indian child and to report to the court on its inquiry efforts.

   b. ☐ there is reason to believe the child is an Indian child, and *(check 1 or 2):*

      (1) ☐ the agency has completed further inquiry as required by Welf. & Inst. Code, § 224.2(e), and there is no reason to know that the child is an Indian child; or

      (2) ☐ the agency is ordered to complete further inquiry as required by Welf. & Inst. Code, § 224.2(e) and file with the court evidence of this inquiry, including all contacts with extended family members, tribes that the child may be affiliated with, the Bureau of Indian Affairs if required, the California Department of Social Services if required, and others.

   c. ☐ there is reason to know that the child is an Indian child, and

      (1) the agency *(check A or B):*

         A. ☐ has presented evidence in the record that it has exercised due diligence to identify and work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify the child's status; or

         B. ☐ is required to exercise due diligence to identify and work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify the child's status and provide notice in accordance with Welf. & Inst. Code, § 224.3 and file proof of due diligence and notice with the court.

      (2) ☐ notice has been provided as required by law; and

      (3) ☐ the court will treat the child as an Indian child until it is determined on the record that the child is not an Indian child.

   d. ☐ The child is a member or citizen of or eligible for membership or citizenship in, and a biological child of a tribal member or citizen of, the tribe.

CHILD'S NAME:	CASE NUMBER:

Advisements and waivers

7. **The court has informed and advised the**

☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ Other *(specify):* ☐ Other *(specify):*

of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

8. The ☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ Other *(specify):* ☐ Other *(specify):*

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on their own behalf.

Case plan development

9. a. ☐ The following were actively involved in the case plan development, including the child's plan for permanent placement:
☐ Child ☐ Mother ☐ Father ☐ Representative of child's identified Indian tribe
☐ Other *(specify):* ☐ Other *(specify):*

b. ☐ The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:
☐ Child ☐ Mother ☐ Father ☐ Representative of child's identified Indian tribe
☐ Other *(specify):* ☐ Other *(specify):*
The county agency is ordered to actively involve them and submit an updated case plan within 30 days of the date of this hearing.

c. ☐ The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:
☐ Child ☐ Mother ☐ Father ☐ Representative of child's identified Indian tribe
☐ Other *(specify):* ☐ Other *(specify):*
The county agency is not required to involve them because these persons are unable, unavailable, or unwilling to participate.

Efforts

10. **The county agency**

a. ☐ has
b. ☐ has not

complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent placement of the child.

11. ☐ The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,

a. affirmative, active, thorough, and timely efforts ☐ have ☐ have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;

b. these efforts ☐ did ☐ did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;

CHILD'S NAME:	CASE NUMBER:

11. c. to the maximum extent possible, the efforts ☐ were ☐ were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;

    d. these efforts and the case plan ☐ have ☐ have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers; and

    e. the active efforts have proved ☐ successful ☐ unsuccessful.

12. **The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:**

	None	Minimal	Adequate	Substantial	Excellent
a. ☐ Mother	☐	☐	☐	☐	☐
b. ☐ Presumed father	☐	☐	☐	☐	☐
c. ☐ Biological father	☐	☐	☐	☐	☐
d. ☐ Legal guardian	☐	☐	☐	☐	☐
e. ☐ Indian custodian	☐	☐	☐	☐	☐
f. ☐ Other *(specify):*	☐	☐	☐	☐	☐
g. ☐ Other *(specify):*	☐	☐	☐	☐	☐

Siblings

13. ☐ **The child does not have siblings under the court's jurisdiction.**

14. ☐ **The child has siblings under the court's jurisdiction.** *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.

Health and education

15. a. ☐ **A limitation on the right of the parents to make educational decisions for the child is not necessary.** The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650 can be obtained from the California Courts website at **courts.ca.gov/cms/rules/index/five/rule5_650**, or from the court's self-help center.

    b. ☐ A limitation on the right of the parents to make educational decisions for the child is necessary, and those rights are limited as stated in *Order Designating Educational Rights Holder* (form JV-535) filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650 can be obtained from the California Courts website at courts.ca.gov/cms/rules/index/five/rule5_650, or from the court's self-help center.

16. a. The child's educational needs ☐ are ☐ are not being met.
    b. The child's physical needs ☐ are ☐ are not being met.
    c. The child's mental health needs ☐ are ☐ are not being met.
    d. The child's developmental needs ☐ are ☐ are not being met.

17. The child ☐ does ☐ does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on *(date):* .

18. ☐ The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 16 or other concerns are

    a. ☐ stated in the social worker's report.

    b. ☐ specified here:

CHILD'S NAME:	CASE NUMBER:

19. ☐ The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 18:
    a. ☐ Social worker
    b. ☐ Parent *(name):*
    c. ☐ Surrogate parent *(name):*
    d. ☐ Educational representative *(name):*
    e. ☐ Other *(name):*

20. ☐ The child's education placement has changed since the last review hearing.
    a. ☐ The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
    b. ☐ The child is enrolled in school.
    c. ☐ The child is attending school.

21. ☐ For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.

22. a. ☐ The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),
    (1) ☐ an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
    (2) ☐ the name of the support person(s) to assist the child is: , and the relationship(s) to the child is: .
    (3) ☐ an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
    (4) ☐ to assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
        (a) ☐ stated on the record.
        (b) ☐ as follows:

    b. ☐ The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

23. ☐ **Child 14 years of age or older:**
    a. ☐ The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
    b. ☐ The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
    c. ☐ To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
        (1) ☐ stated on the record.
        (2) ☐ as follows:

CHILD'S NAME:	CASE NUMBER:

24. **Placement and services are ordered as stated in** *(check appropriate box and attach indicated form):*

a. ☐ *Twelve-Month Permanency Attachment: Child Reunified (Welf. & Inst. Code, § 366.21(f))* (form JV-436), which is attached and incorporated by reference.

b. ☐ *Twelve-Month Permanency Attachment: Reunification Services Continued (Welf. & Inst. Code, § 366.21(f))* (form JV-437), which is attached and incorporated by reference.

c. ☐ *Twelve-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.21(f))* (form JV-438), which is attached and incorporated by reference.

25. ☐ **Contact with the child is ordered as stated in** *(check appropriate boxes and attach indicated forms)*

a. ☐ *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).

b. ☐ *Visitation Attachment: Sibling* (form JV-401).

c. ☐ *Visitation Attachment: Grandparent* (form JV-402).

26. **All prior orders not in conflict with this order remain in full force and effect.**

27. ☐ **Other findings and orders**

a. ☐ See attached.

b. ☐ *(Specify):*

28. ☐ **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:

a. ☐ In-home status review hearing (Welf. & Inst. Code, § 364)

b. ☐ Eighteen-month permanency hearing (Welf. & Inst. Code, § 366.22)

c. ☐ Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
(Also schedule a Welf. & Inst. Code, § 366.3 status review hearing within six months.)

Hearing date:	Time:	Dept.:	Room:

d. ☐ Postpermanency hearing (Welf. & Inst. Code, § 366.3)

e. ☐ Nonminor dependent status review (Welf. & Inst. Code, § 366.31)

f. ☐ Other *(specify):*

29. ☐ **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved of the duty to provide further representation.

30. Number of pages attached: _____

Date:

_____
JUDICIAL OFFICER

CHILD'S NAME:	CASE NUMBER:

TWELVE-MONTH PERMANENCY ATTACHMENT: REUNIFICATION SERVICES CONTINUED
(Welf. & Inst. Code, § 366.21(f))

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

Placement

2. **The child's out-of-home placement is necessary.**

3. ☐ **The child's current placement is appropriate.**

4. ☐ For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(m) when determining the continuing necessity for and appropriateness of the placement.

5. ☐ **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
   a. ☐ The matter is continued to the date and time indicated in form JV-435, item 28, for a ☐ written ☐ oral report by the county agency on the progress made in locating an appropriate placement.
   b. ☐ Other *(specify):*

6. ☐ The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate. The county agency ☐ has ☐ has not made reasonable efforts to locate the child.

7. ☐ The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate.

8. ☐ There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently *(choose one),*
   a. ☐ the child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
   b. ☐ a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
   c. ☐ a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
   d. ☐ a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
   e. ☐ the child is placed in accordance with the preferences established by the tribe; or
   f. ☐ the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

CHILD'S NAME:	CASE NUMBER:

9. ☐ **The child is placed outside the state of California, and that out-of-state placement**
   a. ☐ continues to be the most appropriate placement for the child and is in the best interest of the child.
   b. ☐ is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-435, item 28, for a ☐ written ☐ oral report by the county agency on the progress made toward
      (1) ☐ returning the child to California and locating an appropriate placement within California.
      (2) ☐ locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
      (3) ☐ Other *(specify):*

Reunification services

10. a. ☐ **There is substantial probability that the child may be returned** to the
   ☐ mother ☐ biological father ☐ Indian custodian
   ☐ presumed father ☐ legal guardian ☐ Other *(specify):*
   ☐ Other *(specify):*

   by the date set for the 18-month permanency hearing under Welf. & Inst. Code, § 366.22 because the person has
   (1) made significant progress in resolving the problems that led to the removal;
   (2) demonstrated the capacity and ability to complete the objectives of the treatment plan and to provide for the safety, protection, physical and emotional health, and special needs of the child; and
   (3) consistently and regularly contacted and visited the child.

   b. ☐ Reasonable services have not been provided to the
   ☐ mother ☐ biological father ☐ Indian custodian
   ☐ presumed father ☐ legal guardian ☐ Other *(specify):*
   ☐ Other *(specify):*

11. Reunification services are continued for the
   ☐ mother ☐ biological father ☐ Indian custodian
   ☐ presumed father ☐ legal guardian ☐ Other *(specify):*
   ☐ Other *(specify):*
   a. ☐ as previously ordered.
   b. ☐ as modified
      (1) ☐ on the record.
      (2) ☐ in the case plan.

12. ☐ **The likely date** by which the child may be returned to and safely maintained in the home or another permanent plan selected is *(date):*

Family finding and engagement

13. a. ☐ The county agency has exercised due diligence to identify, locate, and contact the child's kin who could provide family support or possible placement, and the names of the kin and results of the diligent efforts are documented.
   b. ☐ The county agency has not exercised due diligence to identify, locate, and contact the child's kin.
      (1) The county agency is ordered to make such diligent efforts, except for individuals the agency has determined to be inappropriate to contact because of their involvement with the family or domestic violence.
      (2) The county agency must submit a report to the court on or before *(date):* detailing the diligent efforts made and the results of such efforts.

CHILD'S NAME:	CASE NUMBER:

Important individuals

14. ☐ **Child 10 years of age or older**

a. ☐ The county agency has made efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.

b. ☐ The county agency has not made efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.

c. ☐ To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services

(1) ☐ as stated on the record.

(2) ☐ as follows:

Health

15. ☐ The ☐ mother ☐ biological father ☐ Indian custodian ☐ presumed father ☐ legal guardian ☐ Other *(specify):* ☐ Other *(specify):*

is ☐ unable ☐ unwilling ☐ unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Advisement

16. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the 18-month permanency hearing set on a date within 18 months from the date the child was initially removed from their home, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26 **that may result in the termination of parental rights and adoption of the child and other members of the sibling group or, in the case of an Indian child for whom tribal customary adoption under Welf. & Inst. Code, § 366.24 is selected as the permanent plan goal, modification of parental rights and the adoption of the child and other members of the sibling group.**

Eighteen-month permanency hearing date:

CHILD'S NAME:	CASE NUMBER:

TWELVE-MONTH PERMANENCY ATTACHMENT: REUNIFICATION SERVICES TERMINATED

(Welf. & Inst. Code, § 366.21(f))

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

2. **Reunification services are terminated.**

3. ☐ The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,
   a. affirmative, active, thorough, and timely efforts ☐ have ☐ have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
   b. these efforts ☐ did ☐ did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
   c. to the maximum extent possible, the efforts ☐ were ☐ were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;
   d. these efforts and the case plan ☐ have ☐ have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers; and
   e. the active efforts have proved ☐ successful ☐ unsuccessful.

4. ☐ The child is an Indian child or there is reason to know that the child is an Indian child, and
   a. ☐ qualified expert witness testimony was provided by *(name):* ; and
   b. ☐ evidence regarding the prevailing social and cultural practices of the child's tribe was provided; and
   c. ☐ there is clear and convincing evidence that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:
      ☐ Mother ☐ Biological father ☐ Legal guardian
      ☐ Presumed father ☐ Indian custodian
      ☐ Other *(specify):*
      ☐ Other *(specify):*

Placement

5. **The child's out-of-home placement is necessary.**

6. ☐ **The child's current placement is appropriate.**

7. ☐ For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(m) when determining the continuing necessity for and appropriateness of the placement.

8. ☐ The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate. The county agency ☐ has ☐ has not made reasonable efforts to locate the child.

9. ☐ The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate.

10. ☐ **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
    a. ☐ The matter is continued to the date and time indicated in form JV-435, item 28, for a ☐ written ☐ oral report by the county agency on the progress made in locating an appropriate placement.
    b. ☐ Other *(specify):*

CHILD'S NAME:	CASE NUMBER:

11. ☐ There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently, *(check one)*

a. ☐ the child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or

b. ☐ a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or

c. ☐ a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

d. ☐ a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or

e. ☐ the child is placed in accordance with the preferences established by the tribe; or

f. ☐ the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

12. ☐ **The child is placed outside the state of California, and that out-of-state placement**

a. ☐ continues to be the most appropriate placement for the child and is in the best interest of the child.

b. ☐ is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-435, item 28, for a ☐ written ☐ oral report by the county agency on the progress made toward

(1) ☐ returning the child to California and locating an appropriate placement within California.

(2) ☐ locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.

(3) ☐ Other *(specify):*

Family finding and engagement

13. a. ☐ The county agency has exercised due diligence to identify, locate, and contact the child's kin who could provide family support or possible placement, and the names of the kin and results of the diligent efforts are documented.

b. ☐ The county agency has not exercised due diligence to identify, locate, and contact the child's kin.

(1) The county agency is ordered to make such diligent efforts, except for individuals the agency has determined to be inappropriate to contact because of their involvement with the family or domestic violence.

(2) The county agency must submit a report to the court on or before *(date):* detailing the diligent efforts made and the results of such efforts.

c. Each relative whose name has been submitted to the agency ☐ has ☐ has not been evaluated.

Important individuals

14. ☐ **For a child who is 10 years of age or older,**

a. ☐ the county agency has made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.

b. ☐ the county agency has not made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.

CHILD'S NAME:	CASE NUMBER:

14. c. ☐ to identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
   (1) ☐ as stated on the record.
   (2) ☐ as follows:

Health

15. ☐ The ☐ mother ☐ biological father ☐ Other *(specify):*
   ☐ presumed father ☐ legal guardian ☐ Other *(specify):*
   is ☐ unable ☐ unwilling ☐ unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Selection of permanent plan

16. ☐ **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.

   a. ☐ The child's permanent plan is permanent placement with *(name):* , a fit and willing relative.
   The likely date by which the child's permanent plan will be achieved is *(date):*

   b. ☐ The child is ordered to remain in foster care with a permanent plan of
   (1) ☐ return home.
   (2) ☐ adoption.
   (3) ☐ tribal customary adoption.
   (4) ☐ legal guardianship.
   (5) ☐ placement with a fit and willing relative.

   c. ☐ The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to
   ☐ return home. ☐ establish legal guardianship.
   ☐ place for adoption. ☐ place with a relative.
   ☐ Other *(specify):*
   The likely date by which the child's permanent plan will be achieved is *(date):*

   d. ☐ The court finds that the barriers to achieving the child's permanent plans are *(describe):*

17. ☐ **For children 16 years of age or older placed in another planned permanent living arrangement,**

   a. the court asked the child where the child wants to live, and the child provided the following information *(describe):*

CHILD'S NAME:	CASE NUMBER:

17. b. the court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because *(describe):*

c. the compelling reasons why the other permanent plan options are not in the child's best interest are *(describe):*

18. ☐ a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**

b. By clear and convincing evidence, reasonable services have been provided or offered to the child's parents, legal guardian, or in the case of an Indian child, active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.

c. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.21(i). The county agency report must include evidence of all inquiry done throughout the life of the case to determine whether the child is or may be an Indian child, including evidence that inquiry has been made of the child, the parents, and available extended family members, and the results of that inquiry.

d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing a notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record to Review Order Setting a Hearing Under Welfare and Institutions Code Section 366.26 (California Rules of Court, Rule 8.450)* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court must provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.

e. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to their usual place of residence or business only.

f. ☐ The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Family Code section 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage (Juvenile)* (form JV-505).

(1) *(name):*

(2) *(name):*

g. **The likely date** by which the child may be placed for adoption, tribal customary adoption, legal guardianship, or with a fit and willing relative is *(specify date):*

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	FOR COURT USE ONLY
NAME:		
FIRM NAME:		
STREET ADDRESS:		
CITY:	STATE: ZIP CODE:	
TELEPHONE NO.:	FAX NO.:	
EMAIL ADDRESS:		
ATTORNEY FOR *(name)*:		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		**DRAFT Not approved by the Judicial Council**
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
CHILD'S NAME:		
FINDINGS AND ORDERS AFTER 18-MONTH PERMANENCY HEARING (Welf. & Inst. Code, § 366.22)		CASE NUMBER:

1. **Eighteen-month permanency hearing**

   a. Date:
   b. Department:
   c. Judicial officer *(name)*:
   d. Court clerk *(name)*:
   e. Court reporter *(name)*:
   f. Bailiff *(name)*:
   g. Interpreter *(name and language)*:

   h.

Party *(name)*:	Present	Attorney *(name)*:	Present	Appointed today
(1) Child:	☐		☐	☐
(2) Mother:	☐		☐	☐
(3) Father—presumed:	☐		☐	☐
(4) Father—biological:	☐		☐	☐
(5) Father—alleged:	☐		☐	☐
(6) Legal guardian:	☐		☐	☐
(7) Indian custodian:	☐		☐	☐
(8) De facto parent:	☐		☐	☐
(9) County agency social worker:	☐		☐	☐
(10) Tribal representative:	☐		☐	☐
(11) Other *(specify)*:	☐		☐	☐
(12) Other *(specify)*:	☐		☐	☐

   i. Others present in courtroom:
      (1) Court Appointed Special Advocate (CASA) volunteer *(name)*:
      (2) Other *(name)*:
      (3) Other *(name)*:

2. **The court has read and considered and admits into evidence the**
   a. ☐ report of social worker dated:
   b. ☐ report of CASA volunteer dated:
   c. ☐ case plan dated:
   d. ☐ Other *(specify)*:
   e. ☐ Other *(specify)*:

CHILD'S NAME:	CASE NUMBER:

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

3. a. ☐ Notice of the date, time, and location of the hearing was given as required by law.
   b. ☐ For a child 10 years of age or older who is not present,
      (1) ☐ the child was properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d) and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.
      (2) ☐ the child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d) or the child wished to be present and was not given an opportunity to be present, and
         (a) ☐ there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child.
         (b) ☐ it is in the best interest of the child not to continue the hearing.

4. ☐ A Court Appointed Special Advocate is appointed for the child.

5. **Parentage**
   a. ☐ The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
   b. ☐ The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
      (1) alleged parent *(name):*
      (2) alleged parent *(name):*
      (3) alleged parent *(name):*

6. **ICWA inquiry**

   The court has inquired of each participant present who has not already been asked whether the participant has any information indicating that the child is a member or citizen of or eligible for membership or citizenship in an Indian tribe or Alaska Native village, has reviewed the evidence of the affirmative and ongoing inquiry by the agency to determine whether the child is or may be an Indian child, and finds *(check one):*
   a. ☐ there is no reason to believe or know that the child is an Indian child. The agency has an affirmative and continuing duty of inquiry to determine whether the child is or may be an Indian child and to report to the court on its inquiry efforts.
   b. ☐ there is reason to believe the child is an Indian child, and *(check one):*
      (1) ☐ the agency has completed further inquiry as required by Welf. & Inst. Code, § 224.2(e), and there is no reason to know that the child is an Indian child; or
      (2) ☐ the agency is ordered to complete further inquiry as required by Welf. & Inst. Code, § 224.2(e) and file with the court evidence of this inquiry, including all contacts with extended family members, tribes that the child may be affiliated with, the Bureau of Indian Affairs if required, and the California Department of Social Services if required.
   c. ☐ there is reason to know that the child is an Indian child, and
      (1) the agency *(check A or B):*
         A. ☐ has presented evidence in the record that it has exercised due diligence to identify and work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify the child's status; or
         B. ☐ is required to exercise due diligence to identify and work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify the child's status and provide notice in accordance with Welf. & Inst. Code, § 224.3 and file proof of due diligence and notice with the court.
      (2) ☐ notice has been provided as required by law; and
      (3) ☐ the court will treat the child as an Indian child until it is determined on the record that the child is not an Indian child.
   d. ☐ The child is a member or citizen of or eligible for membership or citizenship in, and a biological child of a tribal member or citizen of, the tribe.

CHILD'S NAME:	CASE NUMBER:

Advisements and waivers

7. **The court has informed and advised the**

☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ Other *(specify):* ☐ Other *(specify):*

of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

8. The ☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ Other *(specify):* ☐ Other *(specify):*

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on their own behalf.

Case plan development

9. a. ☐ The following were actively involved in the case plan development, including the child's plan for permanent placement:
☐ Child ☐ Mother ☐ Father ☐ Representative of child's identified Indian tribe
☐ Other *(specify):* ☐ Other *(specify):*

b. ☐ The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:
☐ Child ☐ Mother ☐ Father ☐ Representative of child's identified Indian tribe
☐ Other *(specify):* ☐ Other *(specify):*
The county agency is ordered to actively involve them and submit an updated case plan within 30 days of the date of this hearing.

c. ☐ The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:
☐ Child ☐ Mother ☐ Father ☐ Representative of child's identified Indian tribe
☐ Other *(specify):* ☐ Other *(specify):*
The county agency is not required to involve them because these persons are unable, unavailable, or unwilling to participate.

Efforts

10. **The county agency**
a. ☐ has
b. ☐ has not
complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent placement of the child.

11. ☐ The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,

a. affirmative, active, thorough, and timely efforts ☐ have ☐ have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;

CHILD'S NAME:	CASE NUMBER:

11. b. these efforts ☐ did ☐ did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
    c. to the maximum extent possible, the efforts ☐ were ☐ were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;
    d. these efforts and the case plan ☐ have ☐ have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers; and
    e. the active efforts have proved ☐ successful ☐ unsuccessful.

12. **The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:**

	None	Minimal	Adequate	Substantial	Excellent
a. ☐ Mother	☐	☐	☐	☐	☐
b. ☐ Presumed father	☐	☐	☐	☐	☐
c. ☐ Biological father	☐	☐	☐	☐	☐
d. ☐ Legal guardian	☐	☐	☐	☐	☐
e. ☐ Indian custodian	☐	☐	☐	☐	☐
f. ☐ Other *(specify):*	☐	☐	☐	☐	☐
g. ☐ Other *(specify):*	☐	☐	☐	☐	☐

Siblings

13. ☐ **The child does not have siblings under the court's jurisdiction.**

14. ☐ **The child has siblings under the court's jurisdiction.** *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.

Health and education

15. a. ☐ A limitation on the right of the parents to make educational decisions for the child is **not** necessary. The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650 can be obtained from the California Courts website at courts.ca.gov/cms/rules/index/five/rule5_650, or from the court's self-help center.

    b. ☐ A limitation on the right of the parents to make educational decisions for the child is necessary, and those rights are limited as stated in *Order Designating Educational Rights Holder* (form JV-535) filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650 of the California Rules of Court. A copy of rule 5.650(e) and (f) can be obtained from the California Courts website at courts.ca.gov/cms/rules/index/five/rule5_650, or from the court's self-help center.

16. a. The child's educational needs ☐ are ☐ are not being met.
    b. The child's physical needs ☐ are ☐ are not being met.
    c. The child's mental health needs ☐ are ☐ are not being met.
    d. The child's developmental needs ☐ are ☐ are not being met.

17. The child ☐ does ☐ does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on *(date):* .

18. ☐ The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 16 or other concerns are
    a. ☐ stated in the social worker's report.
    b. ☐ specified here:

CHILD'S NAME:	CASE NUMBER:

19. ☐ The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 18:
    a. ☐ Social worker
    b. ☐ Parent *(name):*
    c. ☐ Surrogate parent *(name):*
    d. ☐ Educational representative *(name):*
    e. ☐ Other *(name):*

20. ☐ The child's education placement has changed since the last review hearing.
    a. ☐ The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
    b. ☐ The child is enrolled in school.
    c. ☐ The child is attending school.

21. ☐ For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.

22. a. ☐ The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),
    (1) ☐ an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
    (2) ☐ the name of the support person(s) to assist the child is: , and the support person's relationship(s) to the child is: .
    (3) ☐ an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
    (4) ☐ to assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
        (a) ☐ stated on the record.
        (b) ☐ as follows:

    b. ☐ The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

23. ☐ **Child 14 years of age or older**
    a. ☐ The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
    b. ☐ The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
    c. ☐ To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
        (1) ☐ stated on the record.
        (2) ☐ as follows:

CHILD'S NAME:	CASE NUMBER:

24. **Placement and services are ordered as stated in** *(check appropriate box and attach indicated form)*

a. ☐ *Eighteen-Month Permanency Attachment: Child Reunified (Welf. & Inst. Code, § 366.22)* (form JV-441), which is attached and incorporated by reference.

b. ☐ *Eighteen-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.22)* (form JV-442), which is attached and incorporated by reference.

c. ☐ *Eighteen-Month Permanency Attachment: Reunification Services Continued (Welf. & Inst. Code, § 366.22)* (form JV-443), which is attached and incorporated by reference.

25. ☐ **Contact with the child is ordered as stated in** *(check appropriate boxes and attach indicated forms)*

a. ☐ *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).

b. ☐ *Visitation Attachment: Sibling* (form JV-401).

c. ☐ *Visitation Attachment: Grandparent* (form JV-402).

26. **All prior orders not in conflict with this order remain in full force and effect.**

27. ☐ **Other findings and orders**

a. ☐ See attached.

b. ☐ *(Specify):*

28. ☐ **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:

a. ☐ In-home status review hearing (Welf. & Inst. Code, § 364)

b. ☐ Twenty-four-month permanency hearing (Welf. & Inst. Code, § 366.25)

c. ☐ Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
(Also schedule a Welf. & Inst. Code, § 366.3 status review hearing within six months.)

Hearing date:	Time:	Dept.:	Room:

d. ☐ Postpermanency hearing (Welf. & Inst. Code, § 366.3)

e. ☐ Nonminor dependent status review (Welf. & Inst. Code, § 366.31)

f. ☐ Other *(specify):*

29. ☐ **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved of the duty to provide further representation.

30. Number of pages attached: _____

Date:

_____
JUDICIAL OFFICER

CHILD'S NAME:	CASE NUMBER:

EIGHTEEN-MONTH PERMANENCY ATTACHMENT: REUNIFICATION SERVICES TERMINATED

(Welf. & Inst. Code, § 366.22)

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

2. **Reunification services are terminated.**

3. ☐ The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,
   a. affirmative, active, thorough, and timely efforts ☐ have ☐ have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
   b. these efforts ☐ did ☐ did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
   c. to the maximum extent possible, the efforts ☐ were ☐ were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;
   d. these efforts and the case plan ☐ have ☐ have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers; and
   e. the active efforts have proved ☐ successful ☐ unsuccessful.

4. ☐ The child is an Indian child or there is reason to know that the child is an Indian child, and
   a. ☐ qualified expert witness testimony was provided by *(name):* ; and
   b. ☐ evidence regarding the prevailing social and cultural practices of the child's tribe was provided; and
   c. ☐ there is clear and convincing evidence that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:
      ☐ Mother ☐ Biological father ☐ Legal guardian
      ☐ Presumed father ☐ Indian custodian ☐ Other *(specify):*
      ☐ Other *(specify):*

Placement

5. **The child's out-of-home placement is necessary.**

6. ☐ **The child's current placement is appropriate.**

7. ☐ For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(m) when determining the continuing necessity for and appropriateness of the placement.

8. ☐ The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate. The county agency ☐ has ☐ has not made reasonable efforts to locate the child.

9. ☐ The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate.

10. ☐ **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
    a. ☐ The matter is continued to the date and time indicated in form JV-440, item 28, for a ☐ written ☐ oral report by the county agency on the progress made in locating an appropriate placement.
    b. ☐ Other *(specify):*

CHILD'S NAME:	CASE NUMBER:

11. ☐ There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently *(check one):*

a. ☐ the child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or

b. ☐ a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or

c. ☐ a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

d. ☐ a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or

e. ☐ the child is placed in accordance with the preferences established by the tribe; or

f. ☐ the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

12. ☐ **The child is placed outside the state of California, and that out-of-state placement**

a. ☐ continues to be the most appropriate placement for the child and is in the best interest of the child.

b. ☐ is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-440, item 28, for a ☐ written ☐ oral report by the county agency on the progress made toward

(1) ☐ returning the child to California and locating an appropriate placement within California.

(2) ☐ locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.

(3) ☐ Other *(specify):*

13. **Family finding and engagement**

a. ☐ The county agency has exercised due diligence to identify, locate, and contact the child's kin who could provide family support or possible placement, and the names of the kin and results of the diligent efforts are documented.

b. ☐ The county agency has not exercised due diligence to identify, locate, and contact the child's kin.

(1) ☐ The county agency is ordered to make such diligent efforts, except for individuals the agency has determined to be inappropriate to contact because of their involvement with the family or domestic violence.

(2) ☐ The county agency must submit a report to the court on or before *(date):* detailing the diligent efforts made and the results of such efforts.

c. Each relative whose name has been submitted to the agency ☐ has ☐ has not been evaluated.

Important individuals

14. ☐ **For a child who is 10 years of age or older,**

a. ☐ the county agency has made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.

b. ☐ the county agency has not made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.

CHILD'S NAME:	CASE NUMBER:

14. c. ☐ to identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
   (1) ☐ as stated on the record.
   (2) ☐ as follows:

Health

15. ☐ The ☐ mother ☐ biological father ☐ Indian custodian
   ☐ presumed father ☐ legal guardian ☐ Other *(specify):*
   ☐ Other *(specify):*
   is ☐ unable ☐ unwilling ☐ unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Selection of permanent plan

16. ☐ **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.
   a. ☐ The child's permanent plan is permanent placement with *(name):* , a fit and willing relative.
      The likely date by which the child's permanent plan will be achieved is *(date):*
   b. ☐ The child is ordered to remain in foster care with a permanent plan of
      (1) ☐ return home.
      (2) ☐ adoption.
      (3) ☐ tribal customary adoption.
      (4) ☐ legal guardianship.
      (5) ☐ placement with a fit and willing relative.
   c. ☐ The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to
      ☐ return home. ☐ establish legal guardianship.
      ☐ place for adoption. ☐ place with a relative.
      ☐ Other *(specify):*
      The likely date by which the child's permanent plan will be achieved is *(date):*
   d. ☐ The court finds that the barriers to achieving the child's permanent plans are *(describe):*

17. ☐ **For children 16 years of age or older placed in another planned permanent living arrangement.**
   a. The court asked the child where the child wants to live, and the child provided the following information *(describe):*

CHILD'S NAME:	CASE NUMBER:

17. b. The court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because *(describe):*

c. The compelling reasons why the other permanent plan options are not in the child's best interest are *(describe):*

18. ☐ a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**

b. By clear and convincing evidence, reasonable services have been provided or offered to the child's parents, legal guardian, or Indian custodian.

c. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.22(c). The county agency report must include evidence of all inquiry done to determine whether the child is or may be an Indian child, including evidence that inquiry has been made of the child, the parents, and available extended family members, and the results of that inquiry.

d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing a notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record to Review Order Setting a Hearing Under Welfare and Institutions Code Section 366.26 (California Rules of Court, Rule 8.450)* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court must provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.

e. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to their usual place of residence or business only.

f. ☐ The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Family Code, § 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage* (form JV-505).

(1) *(name):*

(2) *(name):*

g. **The likely date** by which the child may be placed for adoption, tribal customary adoption, legal guardianship, or with a fit and willing relative is *(date):* .

CHILD'S NAME:	CASE NUMBER:

EIGHTEEN-MONTH PERMANENCY ATTACHMENT: REUNIFICATION SERVICES CONTINUED
(Welf. & Inst. Code, § 366.22)

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

Placement

2. **The child's out-of-home placement is necessary.**

3. ☐ **The child's current placement is appropriate.**

4. ☐ For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(m) when determining the continuing necessity for and appropriateness of the placement.

5. ☐ The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate. The county agency ☐ has ☐ has not made reasonable efforts to locate the child.

6. ☐ The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate.

7. ☐ **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
   a. ☐ The matter is continued to the date and time indicated in form JV-440, item 28, for a ☐ written ☐ oral report by the county agency on the progress made in locating an appropriate placement.
   b. ☐ Other *(specify):*

8. ☐ There has been a change in the child's placement and the child is an Indian child, or there is reason to know that the child is an Indian child. Currently *(choose one),*
   a. ☐ the child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
   b. ☐ a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
   c. ☐ a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
   d. ☐ a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
   e. ☐ the child is placed in accordance with the preferences established by the tribe; or
   f. ☐ the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

9. ☐ **The child is placed outside the state of California, and that out-of-state placement**
   a. ☐ continues to be the most appropriate placement for the child and is in the best interest of the child.

CHILD'S NAME:	CASE NUMBER:

9. b. ☐ is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-440, item 28, for a ☐ written ☐ oral report by the county agency on the progress made toward
   (1) ☐ returning the child to California and locating an appropriate placement within California.
   (2) ☐ locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
   (3) ☐ Other *(specify):*

Reunification services

10. **By clear and convincing evidence, it is in the best interest of the child to provide additional reunification services to the**

   a. ☐ mother ☐ biological father ☐ Indian custodian
   ☐ presumed father ☐ legal guardian ☐ Other *(specify):*
   ☐ Other *(specify):*
   (1) ☐ who is making significant and consistent progress in a substance abuse treatment program.
   (2) ☐ who is recently discharged from incarceration, institutionalization, or the custody of the Department of Homeland Security and making significant and consistent progress in establishing a safe home for the child's return.
   (3) ☐ who was a minor parent or a nonminor dependent parent at the time of the initial hearing and is making significant and consistent progress in establishing a safe home for the child's return.

   and

   b. **There is a substantial probability that the child may be returned to the**

   ☐ mother ☐ biological father ☐ Indian custodian
   ☐ presumed father ☐ legal guardian ☐ Other *(specify):*
   ☐ Other *(specify):*

   by the date set for the 24-month permanency hearing under Welf. & Inst. Code, § 366.25 because the person has
   (1) consistently and regularly contacted and visited the child;
   (2) made significant and consistent progress in the prior 18 months in resolving the problems that led to the child's removal from the home; and
   (3) demonstrated the capacity and ability to provide for the safety, protection, physical and emotional health, and special needs of the child and
      (a) ☐ to complete the objectives of their substance abuse treatment plan as evidenced by reports from a substance abuse provider.
      (b) ☐ to complete a treatment plan postdischarge from incarceration or institutionalization.

   c. ☐ The court finds reasonable reunification services have not been provided. Based on this finding and other relevant factors, including the likelihood of success of further reunification services and the child's need for a prompt resolution of dependency status, the court finds good cause under Welf. and Inst. Code, § 352 to continue the 18-month status review *to (date):*

11. **Reunification services are continued for the**

   ☐ mother ☐ biological father ☐ Indian custodian
   ☐ presumed father ☐ legal guardian ☐ Other *(specify):*
   ☐ Other *(specify):*

   a. ☐ as previously ordered.

   b. ☐ as modified
      (1) ☐ on the record.
      (2) ☐ in the case plan.

CHILD'S NAME:	CASE NUMBER:

12. ☐ **The likely date** by which the child may be returned to and safely maintained in the home or another permanent plan selected is *(date):*

Family finding and engagement

13. a. ☐ The county agency has exercised due diligence to identify, locate, and contact the child's kin who could provide family support or possible placement.

b. ☐ The county agency has not exercised due diligence to identify, locate, and contact the child's kin.

(1) ☐ The county agency is ordered to make such diligent efforts, except for individuals the agency has determined to be inappropriate to contact because of their involvement with the family or domestic violence.

(2) ☐ The county agency must submit a report to the court on or before *(date):* detailing the diligent efforts made and the results of such efforts.

Important individuals

14. ☐ **For a child who is 10 years of age or older**

a. ☐ The county agency has made efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.

b. ☐ The county agency has not made efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.

c. ☐ To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services

(1) ☐ as stated on the record.

(2) ☐ as follows:

Health

15. ☐ The ☐ mother ☐ biological father ☐ Indian custodian ☐ presumed father ☐ legal guardian ☐ Other *(specify):* ☐ Other *(specify):*

is ☐ unable ☐ unwilling ☐ unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Advisement

16. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the 24-month permanency hearing set on a date within 24 months from the date the child was initially removed from their home, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26. **That hearing may result in the termination of parental rights and adoption of the child and other members of the sibling group or, in the case of an Indian child for whom tribal customary adoption under Welf. & Inst. Code, § 366.24 is selected as the permanent plan goal, modification of parental rights and the adoption of the child and other members of the sibling group.**

Twenty-four-month permanency hearing date:

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR *(name)*:	*FOR COURT USE ONLY* **DRAFT** **Not approved by the Judicial Council**
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS AFTER POSTPERMANENCY HEARING—PERMANENT PLAN OTHER THAN ADOPTION **(Welf. & Inst. Code, § 366.3)**	CASE NUMBER:

1. **Postpermanency hearing**

   a. Date:
   b. Department:
   c. Judicial officer *(name)*:
   d. Court clerk *(name)*:
   e. Court reporter *(name)*:
   f. Bailiff *(name)*:
   g. Interpreter *(name and language)*:

h. Party *(name)*:	Present	Attorney *(name)*:	Present	Appointed today
(1) Child:	☐		☐	☐
(2) Mother:	☐		☐	☐
(3) Father—presumed:	☐		☐	☐
(4) Father—biological:	☐		☐	☐
(5) Father—alleged:	☐		☐	☐
(6) Legal guardian:	☐		☐	☐
(7) Indian custodian:	☐		☐	☐
(8) De facto parent:	☐		☐	☐
(9) County agency social worker:	☐		☐	☐
(10) Tribal representative:	☐		☐	☐
(11) Other *(specify)*:	☐		☐	☐
(12) Other *(specify)*:	☐		☐	☐

   i. Others present in courtroom:
      (1) Court Appointed Special Advocate (CASA) volunteer *(name)*:
      (2) Other *(name)*:
      (3) Other *(name)*:

2. **The court has read and considered and admits into evidence**
   a. ☐ report of social worker dated:
   b. ☐ report of CASA volunteer dated:
   c. ☐ case plan dated:

CHILD'S NAME:	CASE NUMBER:

2. d. ☐ Other *(specify):*

e. ☐ Other *(specify):*

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

3. a. ☐ Notice of the date, time, and location of the hearing was given as required by law.

b. ☐ **For a child 10 years of age or older who is not present,**

(1) ☐ the child was properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d) and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

(2) ☐ the child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d) or the child wished to be present and was not given an opportunity to be present and

(a) ☐ there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child.

(b) ☐ it is in the best interest of the child not to continue the hearing.

4. a. ☐ The child ☐ is ☐ may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.

b. ☐ There is reason to know the child is an Indian child, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.

5. ☐ A Court Appointed Special Advocate is appointed for the child.

6. **Parentage**

a. ☐ The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.

b. ☐ The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to

(1) alleged parent *(name):*

(2) alleged parent *(name):*

(3) alleged parent *(name):*

Advisements and waivers

7. **The court has informed and advised the**

☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ Other *(specify):*
☐ Other *(specify):*

of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

CHILD'S NAME:	CASE NUMBER:

8. The ☐ mother ☐ biological father ☐ legal guardian ☐ child
☐ presumed father ☐ alleged father ☐ Indian custodian
☐ Other *(specify):*
☐ Other *(specify):*

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on their own behalf.

Placement

9. ☐ **Continued out-of-home placement is in the best interest of the child.**

10. ☐ **The child's out-of-home placement is necessary.**

11. ☐ **Continued out-of-home placement is no longer necessary. The child is ordered immediately returned to the home of the** ☐ mother ☐ father ☐ legal guardian ☐ Other *(specify):*

a. ☐ Family maintenance services are ordered for six months.

b. ☐ The family does not need further services, and the person(s) specified in item 11 is or are granted physical and legal custody of the child under the custody order and final judgment entered this day. Visitation with the child will be as stated in the *Visitation Order—Juvenile* (form JV-205). The clerk of the juvenile court must file with the family court a completed *Custody Order—Juvenile—Final Judgment* (form JV-200) and *Visitation Order—Juvenile* (form JV-205).

12. ☐ **The child's current placement is appropriate.**

13. ☐ For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(m) when determining the continuing necessity for and appropriateness of the placement.

14. ☐ The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate. The county agency ☐ has ☐ has not made reasonable efforts to locate the child.

15. ☐ The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate.

16. ☐ **The child's current placement is not appropriate.** The county agency must locate an appropriate place for the child.

a. ☐ The matter is continued to the date and time indicated in item 46 for a ☐ written ☐ oral report by the county agency on the progress made in locating an appropriate placement.

b. ☐ Other *(specify):*

17. ☐ **The child is placed outside the state of California, and that out-of-state placement**

a. ☐ continues to be the most appropriate placement for the child and is in the best interest of the child.

b. ☐ is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in item 46 for a ☐ written ☐ oral report by the county agency on the progress made toward

(1) ☐ returning the child to California and locating an appropriate placement within California.

(2) ☐ locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.

CHILD'S NAME:	CASE NUMBER:

17. b. (3) ☐ Other *(specify):*

18. The county agency ☐ has ☐ has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the agency ☐ has ☐ has not been evaluated.

Case plan development

19. a. ☐ The child was actively involved in the case plan development, including the child's plan for permanent placement.

b. ☐ The child was not actively involved in the case plan development, including the child's plan for permanent placement, and

(1) ☐ the county agency is ordered to actively involve the child in the case plan development, including the plan for permanent placement, and to submit to the court an updated case plan within 30 days of the date of this hearing.

(2) ☐ the county agency is not required to actively involve the child in the case plan development because the child was unable, unavailable, or unwilling to participate.

20. ☐ **Child 14 years of age or older**

a. ☐ The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.

b. ☐ The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.

c. ☐ To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services

(1) ☐ stated on the record.

(2) ☐ as follows:

21. ☐ For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.

Efforts

22. **The county agency**

a. ☐ has

b. ☐ has not

complied with the case plan by making reasonable efforts, including whatever steps are necessary to make and to finalize the permanent placement of the child.

23. The services provided to the child have been

a. ☐ adequate.

b. ☐ inadequate.

Family finding and engagement

24. a. ☐ The county agency has exercised due diligence to identify, locate, and contact the child's kin who could provide family support or possible placement, and the names of the kin and results of the diligent efforts are documented.

b. ☐ The county agency has not exercised due diligence to identify, locate, and contact the child's kin.

CHILD'S NAME:	CASE NUMBER:

24. b. (1) ☐ The county agency is ordered to make such diligent efforts, except for individuals the agency has determined to be inappropriate to contact because of their involvement with the family or domestic violence.

(2) ☐ The county agency must submit a report to the court on or before *(date):* detailing the diligent efforts made and the results of such efforts.

25. ☐ **Child is 10 years of age or older and has been in an out-of-home placement for six months or longer.**

a. The child has identified the following as an individual important to the child:
(1) *(name):*
(2) *(name):*

b. The county agency ☐ has ☐ has not made efforts to identify individuals who are important to the child, consistent with the child's best interest.

c. The county agency ☐ has ☐ has not made efforts to maintain the child's relationships with the individuals who are important to the child, consistent with the child's best interest.

d. The county agency ☐ has ☐ has not made efforts to identify a prospective adoptive parent or a legal guardian for the child.

e. ☐ To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
(1) ☐ as stated on the record.
(2) ☐ as follows:

f. ☐ To identify a prospective adoptive parent or a legal guardian for the child, the county agency must provide the service
(1) ☐ as stated on the record.
(2) ☐ as follows:

Siblings

26. ☐ **The child does not have siblings under the court's jurisdiction.**

27. ☐ **The child has siblings under the court's jurisdiction.** *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.

28. ☐ The child has siblings. A postadoption sibling contact agreement ☐ has ☐ has not been developed. If not, the court has inquired into the status of the development of a voluntary postadoption sibling contact agreement.

Education

29. a. The child's educational needs ☐ are ☐ are not being met.
b. The child's physical needs ☐ are ☐ are not being met.
c. The child's mental health needs ☐ are ☐ are not being met.
d. The child's developmental needs ☐ are ☐ are not being met.

30. ☐ The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 29 or other concerns are

a. ☐ stated in the social worker's report.

b. ☐ specified here:

CHILD'S NAME:	CASE NUMBER:

31. ☐ The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 30:
    a. ☐ Social worker
    b. ☐ Parent *(name):*
    c. ☐ Surrogate parent *(name):*
    d. ☐ Educational representative *(name):*
    e. ☐ Other *(name):*

32. ☐ The child's education placement has changed since the last review hearing.
    a. ☐ The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll, and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
    b. ☐ The child is enrolled in school.
    c. ☐ The child is attending school.

33. a. ☐ The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),
    (1) ☐ an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
    (2) ☐ the name of the support person(s) to assist the child is: .
    The support person's relationship(s) to the child is: .
    (3) ☐ an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
    (4) ☐ to assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
        (a) ☐ stated on the record.
        (b) ☐ as follows:

    b. ☐ The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

34. ☐ **Child 12 years of age or older**
    a. ☐ The child was given the opportunity to review the case plan, sign it, and receive a copy.
    b. ☐ The child was not given the opportunity to review the case plan, sign it, and receive a copy, and
    (1) ☐ the county agency is ordered to provide the child with the opportunity to review the case plan, sign it, and receive a copy. The agency is further ordered to submit to the court within 30 days of the date of this hearing written confirmation that the child was provided with this opportunity.
    (2) ☐ the county agency is not required to give the child this opportunity because the child was unable, unavailable, or unwilling to participate.

Health

35. The child ☐ does ☐ does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on *(date):*

36. ☐ The ☐ mother ☐ biological father ☐ Indian custodian ☐ presumed father ☐ legal guardian ☐ Other *(specify):* ☐ Other *(specify):*
    is ☐ unable ☐ unwilling ☐ unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

CHILD'S NAME:	CASE NUMBER:

Permanent plan

37. a. ☐ It is ordered that
   (1) ☐ the child's permanent plan is legal guardianship. **The likely date** by which the child's permanent plan will be achieved is (date):
   (2) ☐ the child's permanent plan is permanent placement with a fit and willing relative. **The likely date** by which the child's permanent plan will be achieved is *(date):*

   b. ☐ It is ordered that the child remain in foster care with a permanent plan of
   (1) ☐ return home.
   (2) ☐ adoption.
   (3) ☐ tribal customary adoption.
   (4) ☐ legal guardianship.
   (5) ☐ placement with a fit and willing relative.

   c. ☐ The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to
   ☐ return home. ☐ establish legal guardianship.
   ☐ place for adoption. ☐ place with a relative.
   ☐ Other *(specify):*

   The likely date by which the child's permanent plan will be achieved is *(date):*

   d. The court finds that the barriers to achieving the child's permanent plan are *(describe):*

38. ☐ **For a child 16 years of age or older placed in another planned permanent living arrangement,**

   a. the placing agency has made the following ongoing and intensive efforts to return the child to a safe home or finalize the permanent plan:

   b. the court asked the child where the child wants to live, and the child provided the following information *(describe):*

   c. the court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because *(describe):*

CHILD'S NAME:	CASE NUMBER:

38. d. the compelling reasons why the other permanent plan options are not in the child's best interest are *(describe):*

39. ☐ The ☐ mother ☐ father ☐ Other *(specify):* has proved by a preponderance of the evidence that further efforts at reunification are the best alternative for the child under Welf. & Inst. Code, § 366.3(f). Further reunification services to return the child to a safe home environment are ordered for the parent for a period of six months. The case plan dated: is appropriate, and the ☐ mother ☐ father ☐ Other *(specify):* is ordered to participate in the case plan.

40. ☐ **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.

41. ☐ The child's permanent plan identified in item 37 is appropriate and continues as the permanent plan.

42. ☐ a. The child's permanent plan identified in item 37 may not be appropriate, and the matter is ordered set for a hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.

b. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.22(c).

c. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record to Review Order Setting a Hearing Under Welfare and Institutions Code Section 366.26 (Cal. Rules of Court, rule 8.450)* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court further advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court is directed to provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.

d. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to their usual place of residence or business only.

e. ☐ The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Family Code, § 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage (Juvenile)* (form JV-505).

(1) *(name):*

(2) *(name):*

(3) *(name):*

(4) *(name):*

43. ☐ **Contact with the child is ordered as stated in** *(check appropriate boxes and attach indicated forms)*

a. ☐ *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).

b. ☐ *Visitation Attachment: Sibling* (form JV-401).

c. ☐ *Visitation Attachment: Grandparent* (form JV-402).

CHILD'S NAME:	CASE NUMBER:

44. **All prior orders not in conflict with this order remain in full force and effect.**

45. ☐ **Other findings and orders**

a. ☐ See attached.

b. ☐ *(Specify):*

46. ☐ **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept:	Room:

a. ☐ Selection and implementation hearing (Welf. & Inst. Code, § 366.26)

b. ☐ Postpermanency hearing (Welf. & Inst. Code, § 366.3)

c. ☐ Nonminor dependent status review (Welf. & Inst. Code, § 366.31)

d. ☐ Other *(specify):*

47. Number of pages attached: _____

Date:

_____
JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	FOR COURT USE ONLY
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:		
CHILD'S NAME:		
FINDINGS AND ORDERS AFTER 24-MONTH PERMANENCY HEARING (Welf. & Inst. Code, § 366.25)		CASE NUMBER:

DRAFT
Not approved by the Judicial Council

1. **Twenty-four-month permanency hearing**

   a. Date:
   b. Department:
   c. Judicial officer *(name)*:
   d. Court clerk *(name)*:
   e. Court reporter *(name)*:
   f. Bailiff *(name)*:
   g. Interpreter *(name and language)*:

h. Party *(name)*:	Present	Attorney *(name)*:	Present	Appointed today
(1) Child:	☐		☐	☐
(2) Mother:	☐		☐	☐
(3) Father—presumed:	☐		☐	☐
(4) Father—biological:	☐		☐	☐
(5) Father—alleged:	☐		☐	☐
(6) Legal guardian:	☐		☐	☐
(7) Indian custodian:	☐		☐	☐
(8) De facto parent:	☐		☐	☐
(9) County agency social worker:	☐		☐	☐
(10) Tribal representative:	☐		☐	☐
(11) Other *(specify)*:	☐		☐	☐
(12) Other *(specify)*:	☐		☐	☐

   i. Others present in courtroom:
      (1) Court Appointed Special Advocate (CASA) volunteer *(name)*:
      (2) Other *(name)*:
      (3) Other *(name)*:

2. **The court has read and considered and admits the following into evidence:**

   a. ☐ report of social worker dated:
   b. ☐ report of CASA volunteer dated:
   c. ☐ case plan dated:
   d. ☐ Other *(specify)*:
   e. ☐ Other *(specify)*:

CHILD'S NAME:	CASE NUMBER:

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

3. a. ☐ Notice of the date, time, and location of the hearing was given as required by law.
   b. ☐ For a child 10 years of age or older who is not present,
      (1) ☐ the child was properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d) and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.
      (2) ☐ the child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d) or the child wished to be present and was not given an opportunity to be present, and
         (a) ☐ there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child.
         (b) ☐ it is in the best interest of the child not to continue the hearing.

4. ☐ A Court Appointed Special Advocate is appointed for the child.

5. **Parentage**
   a. ☐ The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
   b. ☐ The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
      (1) alleged parent *(name):*
      (2) alleged parent *(name):*
      (3) alleged parent *(name):*

6. **ICWA inquiry**

   The court has inquired of each participant present who has not already been asked whether the participant has any information indicating that the child is a member or citizen of or eligible for membership or citizenship in an Indian tribe or Alaska Native village, reviewed the evidence of the affirmative and ongoing inquiry by the agency to determine whether the child is or may be an Indian child, and finds *(check one):*
   a. ☐ there is no reason to believe or know that the child is an Indian child. The agency has an affirmative and continuing duty of inquiry to determine whether the child is or may be an Indian child and to report to the court on its inquiry efforts.
   b. ☐ there is reason to believe the child is an Indian child; and
      (1) ☐ the agency has completed further inquiry as required by Welf. & Inst. Code, § 224.2(e), and there is no reason to know that the child is an Indian child; or
      (2) ☐ the agency is ordered to complete further inquiry as required by Welf. & Inst. Code, § 224.2(e) and file with the court evidence of this inquiry, including all contacts with extended family members, tribes that the child may be affiliated with, the Bureau of Indian Affairs if required, the California Department of Social Services if required, and others.
   c. ☐ there is reason to know that the child is an Indian child, and
      (1) the agency *(check A or B):*
         A. ☐ has presented evidence in the record that it has exercised due diligence to identify and work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify the child's status; or
         B. ☐ is required to exercise due diligence to identify and work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify the child's status and provide notice in accordance with Welf. & Inst. Code, § 224.3 and file proof of due diligence and notice with the court.
      (2) ☐ notice has been provided as required by law; and
      (3) ☐ the court will treat the child as an Indian child until it is determined on the record that the child is not an Indian child.
   d. ☐ The child is a member or citizen of or eligible for membership or citizenship in, and a biological child of a tribal member or citizen of, the tribe.

CHILD'S NAME:	CASE NUMBER:

Advisements and waivers

7. **The court has informed and advised the**
   ☐ mother ☐ biological father ☐ legal guardian ☐ child
   ☐ presumed father ☐ alleged father ☐ Indian custodian
   ☐ Other *(specify):* ☐ Other *(specify):*
   of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

8. The ☐ mother ☐ biological father ☐ legal guardian ☐ child
   ☐ presumed father ☐ alleged father ☐ Indian custodian
   ☐ Other *(specify):* ☐ Other *(specify):*
   has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on their own behalf.

Case plan development

9. a. ☐ The following were actively involved in the case plan development, including the child's plan for permanent placement
   ☐ Child ☐ Mother ☐ Father ☐ Representative of child's identified Indian tribe
   ☐ Other *(specify):* ☐ Other *(specify):*

   b. ☐ The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:
   ☐ Child ☐ Mother ☐ Father ☐ Representative of child's identified Indian tribe
   ☐ Other *(specify):* ☐ Other *(specify):*
   The county agency is ordered to actively involve them and submit an updated case plan within 30 days of the date of this hearing.

   c. ☐ The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:
   ☐ Child ☐ Mother ☐ Father ☐ Representative of child's identified Indian tribe
   ☐ Other *(specify):* ☐ Other *(specify):*
   The county agency is not required to involve them because these persons are unable, unavailable, or unwilling to participate.

Efforts

10. **The county agency**
    a. ☐ has
    b. ☐ has not
    complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent placement of the child.

11. ☐ The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,
    a. affirmative, active, thorough, and timely efforts ☐ have ☐ have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
    b. these efforts ☐ did ☐ did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;

CHILD'S NAME:	CASE NUMBER:

11. c. to the maximum extent possible, the efforts ☐ were ☐ were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe; and

d. these efforts and the case plan ☐ have ☐ have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers; and

e. the active efforts have proved ☐ successful ☐ unsuccessful.

12. **The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:**

	None	Minimal	Adequate	Substantial	Excellent
a. ☐ Mother	☐	☐	☐	☐	☐
b. ☐ Presumed father	☐	☐	☐	☐	☐
c. ☐ Biological father	☐	☐	☐	☐	☐
d. ☐ Legal guardian	☐	☐	☐	☐	☐
e. ☐ Indian custodian	☐	☐	☐	☐	☐
f. ☐ Other *(specify):*	☐	☐	☐	☐	☐
g. ☐ Other *(specify):*	☐	☐	☐	☐	☐

Siblings

13. ☐ **The child does not have siblings under the court's jurisdiction.**

14. ☐ **The child has siblings under the court's jurisdiction.** *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.

Health and education

15. a. ☐ A limitation on the right of the parents to make educational decisions for the child is **not** necessary. The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650 can be obtained from the California Courts website at courts.ca.gov/cms/rules/index/five/rule5_650, or from the court's self-help center.

b. ☐ A limitation on the right of the parents to make educational decisions for the child is necessary, and those rights are limited as stated in *Order Designating Educational Rights Holder* (form JV-535) filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650 can be obtained from the California Courts website at courts.ca.gov/cms/rules/index/five/rule5_650, or from the court's self-help center.

16. a. The child's educational needs ☐ are ☐ are not being met.
b. The child's physical needs ☐ are ☐ are not being met.
c. The child's mental health needs ☐ are ☐ are not being met.
d. The child's developmental needs ☐ are ☐ are not being met.

17. The child ☐ does ☐ does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on *(date):* .

18. ☐ The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 16 or other concerns are

a. ☐ stated in the social worker's report.

b. ☐ specified here:

CHILD'S NAME:	CASE NUMBER:

19. ☐ The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 18:
    a. ☐ Social worker
    b. ☐ Parent *(name):*
    c. ☐ Surrogate parent *(name):*
    d. ☐ Educational representative *(name):*
    e. ☐ Other *(name):*

20. ☐ The child's education placement has changed since the last review hearing.
    a. ☐ The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
    b. ☐ The child is enrolled in school.
    c. ☐ The child is attending school.

21. ☐ **Child 14 years of age or older**
    a. ☐ The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
    b. ☐ The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
    c. ☐ To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
        (1) ☐ stated on the record.
        (2) ☐ as follows:

22. ☐ For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.

23. a. ☐ The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),
        (1) ☐ an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
        (2) ☐ the name of the support person(s) to assist the child is: .
        The support person's relationship(s) to the child is: .
        (3) ☐ an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
        (4) ☐ to assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
            (a) ☐ stated on the record.
            (b) ☐ as follows:

    b. ☐ The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

CHILD'S NAME:	CASE NUMBER:

24. **Placement and services are ordered as stated in** *(check appropriate box and attach indicated form)*

a. ☐ *Twenty-Four-Month Permanency Attachment: Child Reunified (Welf. & Inst. Code, § 366.25)* (form JV-456), which is attached and incorporated by reference.

b. ☐ *Twenty-Four-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.25)* (form JV-457), which is attached and incorporated by reference.

25. ☐ **Contact with the child is ordered as stated in** *(check appropriate boxes and attach indicated forms)*

a. ☐ *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).

b. ☐ *Visitation Attachment: Sibling* (form JV-401).

c. ☐ *Visitation Attachment: Grandparent* (form JV-402).

26. **All prior orders not in conflict with this order remain in full force and effect.**

27. ☐ **Other findings and orders**

a. ☐ See attached.

b. ☐ *(Specify):*

28. ☐ **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:

a. ☐ In-home status review hearing (Welf. & Inst. Code, § 364)

b. ☐ Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
(Also schedule a Welf. & Inst. Code, § 366.3 status review hearing within six months.)

Hearing date:	Time:	Dept.:	Room:

c. ☐ Postpermanency hearing (Welf. & Inst. Code, § 366.3)

d. ☐ Nonminor dependent status review (Welf. & Inst. Code, § 366.31)

e. ☐ Other *(specify):*

29. ☐ **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved of the duty to provide further representation.

30. Number of pages attached: _____

Date:

_____
JUDICIAL OFFICER

CHILD'S NAME:	CASE NUMBER:

TWENTY-FOUR-MONTH PERMANENCY ATTACHMENT: REUNIFICATION SERVICES TERMINATED

(Welf. & Inst. Code, § 366.25)

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

2. **The child's out-of-home placement is necessary.**

3. **Reunification services are terminated.**

4. ☐ The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,

   a. affirmative, active, thorough, and timely efforts ☐ have ☐ have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;

   b. these efforts ☐ did ☐ did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;

   c. to the maximum extent possible, the efforts ☐ were ☐ were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;

   d. these efforts and the case plan ☐ have ☐ have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers; and

   e. the active efforts have proved ☐ successful. ☐ unsuccessful.

5. ☐ The child is an Indian child or ☐ there is reason to know that the child is an Indian child, and

   a. ☐ qualified expert witness testimony was provided by *(name):* ; and

   b. ☐ evidence regarding the prevailing social and cultural practices of the child's tribe was provided; and

   c. ☐ there is clear and convincing evidence that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:

      ☐ mother ☐ Biological father ☐ Legal guardian
      ☐ Presumed father ☐ Indian custodian
      ☐ Other *(specify):* ☐ Other *(specify):*

6. ☐ There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently *(check one):*

   a. ☐ the child is placed with a member of the child's extended family as defined by section 1903 of the title 25 of the United States Code; or

   b. ☐ a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or

   c. ☐ a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

   d. ☐ a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or

   e. ☐ the child is placed in accordance with the preferences established by the tribe; or

CHILD'S NAME:	CASE NUMBER:

6. f. ☐ the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

7. ☐ **The child's current placement is appropriate.**

8. ☐ For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(m) when determining the continuing necessity for and appropriateness of the placement.

9. ☐ The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate. The county agency ☐ has ☐ has not made reasonable efforts to locate the child.

10. ☐ The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement ☐ was ☐ was not appropriate.

11. ☐ **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
    a. ☐ The matter is continued to the date and time indicated in form JV-455, item 28, for a ☐ written ☐ oral report by the county agency on the progress made in locating an appropriate placement.
    b. ☐ Other *(specify):*

12. ☐ **The child is placed outside the state of California, and that out-of-state placement**
    a. ☐ continues to be the most appropriate placement for the child and is in the best interest of the child.
    b. ☐ is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-455, item 28 for a ☐ written ☐ oral report by the county agency on the progress made toward
        (1) ☐ returning the child to California and locating an appropriate placement within California.
        (2) ☐ locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
        (3) ☐ Other *(specify):*

Selection of permanent plan

13. The county agency ☐ has ☐ has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the agency ☐ has ☐ has not been evaluated.

14. ☐ **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.
    a. ☐ The child's permanent plan is permanent placement with *(name):* a fit and willing relative. **The likely date** by which the child's permanent plan will be achieved is *(date):*
    b. ☐ The child is ordered to remain in foster care with a permanent plan of
        (1) ☐ return home.
        (2) ☐ adoption.
        (3) ☐ tribal customary adoption.
        (4) ☐ legal guardianship.
        (5) ☐ placement with a fit and willing relative.

CHILD'S NAME:	CASE NUMBER:

14. c. ☐ The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to

- ☐ return home.
- ☐ place for adoption.
- ☐ Other *(specify):*
- ☐ establish legal guardianship.
- ☐ place with a relative.

The likely date by which the child's permanent plan will be achieved is *(date):*

d. ☐ The court finds that the barriers to achieving the child's permanent plans are *(describe):*

15. ☐ **For a child 16 years of age or older placed in another planned permanent living arrangement,**

a. the court asked the child where the child wants to live, and the child provided the following information *(describe):*

b. the court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because *(describe):*

c. the compelling reasons why the other permanent plan options are not in the child's best interest are *(describe):*

16. ☐ a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**

b. By clear and convincing evidence, reasonable services have been provided or offered to the child's parents, legal guardian, or Indian custodian.

c. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.25(b). The county agency report must include evidence of all inquiry done to determine whether the child is or may be an Indian child, including evidence that inquiry has been made of the child, the parents, and available extended family members, and the results of that inquiry.

d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing a notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record to Review Order Setting a Hearing Under Welfare and Institutions Code Section 366.26 (California Rules of Court, Rule 8.450)* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court must provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.

e. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or, in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to their usual place of residence or business only.

CHILD'S NAME:	CASE NUMBER:

16. f. ☐ The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Family Code, § 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage* (form JV-505).
(1) *(name):*
(2) *(name):*
(3) *(name):*
(4) *(name):*

g. **The likely date** by which the child may be placed for adoption, tribal customary adoption, legal guardianship, or with a fit and willing relative is *(date):*

Family finding and engagement

17. a. ☐ The county agency has exercised due diligence to identify, locate, and contact the child's kin who could provide family support or possible placement, and the names of the kin and results of the diligent efforts are documented.

b. ☐ The county agency has not exercised due diligence to identify, locate, and contact the child's kin.
(1) The county agency is ordered to make such diligent efforts, except for individuals the agency has determined to be inappropriate to contact because of their involvement with the family or domestic violence.
(2) The county agency must submit a report to the court on or before *(date):* detailing the diligent efforts made and the results of such efforts.

Important individuals

18. ☐ **Child is 10 years of age or older**

a. ☐ The county agency has made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.

b. ☐ The county agency has not made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.

c. ☐ To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
(1) ☐ as stated on the record.
(2) ☐ as follows:

Health

19. ☐ The ☐ mother ☐ biological father ☐ Indian custodian
☐ presumed father ☐ legal guardian ☐ Other *(specify):*
☐ Other *(specify):*
is ☐ unable ☐ unwilling ☐ unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

SPR 25-30

Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding (amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457) All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Forum and committee Response
1.	California Department of Social Services By: Dianna L. Wagner, LMFT, Assistance Deputy Director, Children & Family Services; Laila DeRouen, Director, Office of Tribal Affairs	NI	This letter provides comments on behalf of the California Department of Social Services (CDSS) on the Judicial Council of California's proposed amendments to rules 5.481, 5.669, 5.708, and 5.724 of the California Rules of Court, and the accompanying Judicial Council forms. The proposed changes to the rules and forms are in response to amendments made by Assembly Bill (AB) 81 (Stats. 2024, Ch. 656) to California's laws (Cal-ICWA) implementing the Indian Child Welfare Act of 1978 (ICWA, 25 U.S.C. § 1901 et seq.) in Indian child custody proceedings, and by AB 2929 (Stats. 2024, Ch. 845), which addressed family finding in juvenile dependency cases.	No response required. The forum and committee appreciate the feedback.
			The CDSS is "the single state agency with full power to supervise every phase of the administration of public social services, except health care services and medical assistance, for which grants-in-aid are received from the United States government or made by the state in order to secure full compliance with the applicable provisions of state and federal laws." (Welf. & Inst. Code § 10600.) In that capacity, CDSS regulates county responsibilities for applying the Indian	No response required.

 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	Commenter	Position	Comment	Forum and committee Response
			Child Welfare Act (ICWA) and Cal-ICWA in Indian child custody proceedings, including adoptions outside of the juvenile court context. The CDSS is also responsible for providing guidance to the counties related to implementation of the ICWA and Cal-ICWA. The CDSS' comments are confined to the proposed amendments related to the ICWA rules and forms. It has no concerns related to the family finding proposals.	
			For many years, CDSS and the Judicial Council have partnered on California's efforts to improve compliance with and implementation of the ICWA and Cal-ICWA. The two branches of government have worked collaboratively with each other and Tribes in California to improve practices in the state courts and by local public and private agencies involved in Indian child custody proceedings. In this spirit of ongoing collaboration, and in its role in supervising county implementation of the relevant laws, CDSS offers these comments. The CDSS focuses its response on the two specific questions posed by the Invitation to Comment. This letter addresses CDSS' concerns about the proposed revised forms first and then turns to the issue of	No response required.

	Commenter	Position	Comment	Forum and committee Response
			whether the proposed amendments to the rules of court address the Judicial Council's stated purpose for the amendments. The CDSS has attached a chart that provides more specific feedback to individual subdivisions of the proposed rules and revised forms.	
			The CDSS' primary concern is that the revised forms may not accomplish the shared goal of ensuring that the ICWA inquiry is completed correctly. While much of the language added to the forms is consistent with the changes made to Welfare and Institutions Code section 224.2, CDSS believes more holistic changes are necessary to improve the quality of information provided through the forms. The CDSS further believes that, unless the forms are upgraded more significantly, there will continue to be numerous appeals raising the issue of inadequate ICWA inquiry.	The forum and committee would appreciate the opportunity to work with CDSS in a future cycle, as time and resources permit, on more holistic changes that might improve ICWA compliance.
			With respect to the ICWA-010(A) and the ICWA-020, they should be designed to be user friendly, with the understanding that these forms are not completed by court staff. They are completed by laypersons, i.e., social workers, probation officers, parents, legal guardians, Indian custodians, prospective adoptive parents, and prospective guardians,	The forum and committee would be happy to work with CDSS on such a redesign in a future cycle. A comprehensive redesign is beyond the scope of the current proposal.

	Commenter	Position	Comment	Forum and committee Response
			maybe with the assistance of counsel depending on the circumstances. The individuals completing these forms may be unaware of the significance of the forms in relation to the ICWA and the inquiry requirements. Furthermore, both forms would benefit from inclusion of a brief description of the ICWA to help orient the preparer as to the purpose of the forms.	
			The ICWA-010(A) is completed in preparation for filing a petition to initiate juvenile dependency and juvenile justice proceedings, termination of parental rights and adoptions proceedings, or probate guardianship proceedings. Redesigning the form to keep in mind the education and training of the person completing the form would likely result in more complete and higher quality information.	The forum and committee would be happy to work with CDSS on such a redesign in a future cycle. A comprehensive redesign is beyond the scope of the current proposal.
			The ICWA-020 was referenced in both *In re Dezi C.* (2024) 16 Cal.5 1112 (*Dezi C.*), and *In re Kenneth D.* (2024) 16 Cal.5th 1087 (*Kenneth D.*), as a primary source of information regarding inquiry. The form, however, is often incomplete due to the circumstances under which it is prepared. It is completed at the onset of the case, or first	The forum and committee would be happy to work with CDSS on such a redesign in a future cycle. A comprehensive redesign is beyond the scope of the current proposal.

	Commenter	Position	Comment	Forum and committee Response
			appearance by a party, and is expected to be completed by the parent, Indian custodian, or guardian of the child. These individuals are typically not familiar with the court system or the requirements of the ICWA. They may or may not be assisted by someone more knowledgeable, such as an attorney or social worker, when completing the form. In addition, the context when this form is being completed by these individuals is often characterized by significant stress and heightened emotional states, where the government or a private person is seeking to take custody of their child. The design of the form should take these factors into account with additional explanations as well use of plain language.	
			CDSS' specific comments and recommendations regarding these two forms, as well as other forms included in the Invitation to Comment, are addressed in the accompanying chart. The CDSS welcomes further discussion and collaboration with the Judicial Council to ensure the forms are designed to support the laypeople who explain and/or complete them. Such collaboration should include, if possible, engagement with	As set out in more detail below, to the extent the specific changes recommended were within the scope of the proposal as circulated for public comment, they have been addressed. The forum and committee would be happy to work with CDSS on such a redesign in a future cycle. A comprehensive redesign is beyond the scope of the current proposal.

	Commenter	Position	Comment	Forum and committee Response
			Tribes, juvenile court practitioners, adoption practitioners, and participants in probate guardianship proceedings.	
			Whether the Proposal Addresses the Stated Purpose The Invitation to Comment provides the relevant stated purpose to implement changes to the law made by AB 81, focusing on the inquiry requirements, and responding to the decisions in *Kenneth D.* and *Dezi C.* Overall, the proposed amendments to the rules of court are consistent with the amendments made to the Welfare and Institutions Code by AB 81, with some minor omissions identified by CDSS in the accompanying chart. CDSS' larger concern, however, is that not all the changes made by AB 81, or previously by AB 3176 (Stats. 2018, Ch. 833) or Senate Bill (SB) 678 (Stats. 2006, Ch. 838), are reflected in the proposed amendments to the rules and forms. Those omissions include, but may not be limited to, the following:	The forum and committee would be happy to work with CDSS on further changes in a future cycle.
			Rule 5.481 does not include a requirement that the court make any findings consistent with subdivision (g) of Welfare and Institutions Code section 224.2.	As a general matter, rules do not repeat what is required by statute. Further, adding additional language regarding the nature of further inquiry is outside the scope of the current proposal and would be a substantive

	Commenter	Position	Comment	Forum and committee Response
				change requiring recirculation for public comment. (See Cal. Rules of Court, rule 10.22(d)(2).) The forum and committee will consider this change in a future cycle.
			Rule 5.481 does not include any provisions related to determining which of multiple Tribes is the child's Indian Tribe, consistent with the requirements of subdivision (e) of Welfare and Institutions Code section 224.1. These were added by AB 3176 to bring the law into conformity with Section 23.109 of the 2016 Bureau of Indian Affairs (BIA) ICWA Final Rule (25 C.F.R. § 23.109). Those requirements were incorporated by AB 81 into Welfare and Institutions Code section 306.6 to apply when a child may be a member or eligible for membership in more than one non-federally recognized Tribe.	This is outside the scope of the current proposal. Addressing the issue of determining which of several tribes should be recognized as the child's tribe for a specific case would be a substantive change that should circulate for public comment. The forum and committee will consider this change in a future cycle.
			Rule 5.534 does not reflect the right of indigent Indian custodians to court-appointed counsel. This has been a federal requirement since the ICWA was enacted in 1978 (25 U.S.C. § 1912(b)) and a state requirement since 2006, when the ICWA standards were first incorporated into California law by SB 678.	This is outside the scope of the current proposal. Any changes to rule 5.534 would be a substantive change that should circulate for public comment. The forum and committee will consider this change in a future cycle.

Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding (amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457) All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Forum and committee Response
			Rules 5.708 through 5.720 have not been updated to reflect that reunification services must be extended to the next review hearing if the court determines that active efforts were not made. Section 366.22 of the Welfare and Institutions Code was amended in 2023 by AB 937 (Stats. 2023, Ch. 458) to require the extension of reunification services at the 18-month review hearing if the court found that the county child welfare agency did not make active efforts unless the court made specific findings by clear and convincing evidence that extending reunification services would be detrimental to the child. (Welf. & Inst. Code § 366.22, subd. (b)(2).) The requirement that reunification services be extended if active efforts were not made was added subsequently by AB 81 to the provisions for 6- and 12-month review hearings. (Welf. & Inst. Code § 366.21, subds. (e)(3), (g)(1), (g)(2).)	This is outside the scope of the current proposal. Rules 5.710, 5.715, and 5.720 are not part of the current proposal. This would be a substantive change that should circulate for public comment. The forum and committee will consider this change in a future cycle.
			No amendments to the Rules of Court governing juvenile justice proceedings have been made to incorporate any of the changes made by AB 81. The only form used in juvenile justice proceedings that has been updated is the JV-320.	This is outside the scope of the current proposal. This would involve substantive changes that should circulate for public comment. The forum and committee will consider this change in a future cycle.

 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	Commenter	Position	Comment	Forum and committee Response
			The rules and forms do not adequately reflect that, pursuant to the California Supreme Court's holding *In re W.B.* (2012) 55 Cal.4th 30, 54-55, inquiry must occur at the inception of all juvenile justice cases regardless of whether the minor is in foster care or at risk of entering foster care as currently described in rules 5.480 and 5.481.	This is outside the scope of the current proposal. This would involve substantive changes that should circulate for public comment. The forum and committee will consider this change in a future cycle.
			The CDSS recommends more robust review of and updates to the rules and forms to meet the stated purpose of these proposed amendments to the ICWA rules and forms.	No response required.
			Conclusion The CDSS appreciates the opportunity to participate in the public comment process and is available to answer further questions about the comments above. You can reach us at ICWAStatePlan@dss.ca.gov.	No response required.
			Rule 5.481 Subd. (a)(2) • Consider striking "in which the child is at risk of entering foster care or is in foster care" so the clause regarding juvenile wardship proceedings would end after "proceedings" • Consider making a similar amendment to Rule 5.480, subd. (2).	Striking these words would expand the category of juvenile wardship cases in which inquiry could be required. This would be a substantive change that is beyond the scope of the proposal. The forum and committee will consider this in a future cycle.

	Commenter	Position	Comment	Forum and committee Response
			Subd. (a)(4)(B) • The CDSS regularly receives requests for assistance in identifying whether a child is an Indian child, as opposed to identifying the contact person for Tribes. Consider placing "if the agency has been unable to make contact with such Tribes" at the beginning of this provision. • In this same clause, consider replacing "agency" with "petitioner" or "petitioning party" because this applies to private persons as well as agencies.	
			Rule 5.668 Subd. (c)(2) • Consider adding "and other interested persons" after "all parties" to be consistent with Welf. & Inst. Code § 224.2, subd. (c).	The proposal has been revised as suggested in response to this and other comments.
			Rule 5.708 Subd. (b)(4) • Where there is reason to know a child is an Indian child, but the petitioner has been unable to confirm the status, consider requiring a finding that the petitioner has exercised "due diligence to identify and work with all of the Tribes of which there is reason to know the child may be a member or citizen	This suggestion is a significant revision that was not part of the proposal as circulated for public comment, but the forum and committee will consider this suggestion for a future cycle.

	Commenter	Position	Comment	Forum and committee Response
			. . .” consistent with Welf. & Inst. Code § 224.2, subd. (g).	
			ICWA-005-INFO Form • The CDSS finds the Information Sheet (ICWA-005-INFO) hard to read due to the small font and small line/paragraph breaks. Consider making this form less dense to improve its readability. • To the extent this form is used to help guide inquiry and notice for juvenile court proceedings, consider mirroring the organizational structure and language used by CDSS in All County Letter No. 23-46. The CDSS issued this guidance after extensive consultation with California Indian Tribes and with input from juvenile court practitioners. Its content and structure were greatly informed by the tribal consultation and stakeholder input. • Information about service on the Secretary of the Interior and the Sacramento Area Director of the BIA is out of date. Copies of notice need only go to the Sacramento Area Director as required by the 2016 BIA ICWA Final Rule (25 C.F.R. § 23.11, subd. (b)(12)) and Welf. & Inst. Code § 224.3, subd. (a)(4).	The extensive revisions and reorganization of this form suggested in the comment are outside the scope of the current proposal and would need to circulate for public comment. These comments will be considered by the forum and committee for a future cycle.

	Commenter	Position	Comment	Forum and committee Response
			ICWA-10(A) Form Section 2 • It is unclear which check box the phrase "and on information and belief confirm that this person has completed inquiry by asking" modifies. This could be made clear by having "I have asked" be on a separate line from "I am advised by _____, and on information and belief confirm this person has completed inquiry by asking," followed by another line for "the child, the child's parents, and other required and available persons about the child's Indian status." • Consider replacing "other required and available persons" with the specific persons listed in subdivision (b)(2) of Welfare and Institutions Code section 224.2, i.e. "legal guardian, Indian custodian, extended family members, others who have an interest in the child, and the party reporting child abuse or neglect." That list can be modified with "as available." • In most dependency cases, inquiry is performed by more than one person. (See e.g. Welf. & Inst. Code § 224.2, subd. (a) & (b).) Consider having separate space to identify which person asked which individual about the child's Indian status rather than using the	The extensive revisions and reorganization of this form suggested in the comment are outside the scope of the current proposal and would need to circulate for public comment. The comments will be considered by the forum and committee for a future cycle.

	Commenter	Position	Comment	Forum and committee Response
			check boxes. Instead of the check boxes, there could be space for a name of the person performing inquiry followed by space for the names, addresses, phone numbers, date of inquiry, and the relationship to the child of the persons questioned. • The form includes areas for information about only two persons who are questioned and has no space for identifying what each person responds. Consider revising this form to include more than two entries and have each entry identify who did the questioning and what the response was. This would likely result in more complete information about who was asked, what they were asked, and by whom.	
			ICWA-020 Form Some of the information requested in the form goes beyond what is required by law. • Section 3.b – The reasons why the individual preparing the form thinks the child has a tribal affiliation is not legally required. Additionally, there is insufficient space included to add that information. If the Judicial Council believes this information is necessary and/or helpful, consider revising the form to allow more space for the narrative information.	The extensive revisions and reorganization of this form suggested in the comment are outside the scope of the current proposal and would need to circulate for public comment. The comments will be considered by the forum and committee for a future cycle.

	Commenter	Position	Comment	Forum and committee Response
			• Section 4 – This information is not legally required. It appears designed to help the court determine if prior information has been provided. The way the information is requested, however, is vague and confusing. The person completing the form may not know if an ICWA-020 has been filed previously with the court. A form could have been filed previously by another party or for another child, not the person completing the form. One could have been submitted in a previous dependency or juvenile justice case regarding the same child. If the Judicial Council believes this question is necessary for the court's information, the question should be rephrased in the active voice and specific as to the proceeding, e.g. "I have/have not previously filed an ICWA-020 in this proceeding" and add the option of an "unknown" response.	
			JV-101(A) Form Section 5.k.(3) Consider adding space for the petitioner to identify the reasons why specific persons were not questioned and/or what inquiry remains to be completed.	The forum and committee considered this request but determined that the kind of narrative that would be required is not appropriate for this form which is not intended to contain all evidence of inquiry, but only whether the initial inquiry has been completed.

	Commenter	Position	Comment	Forum and committee Response
			JV-405 section 12.b.(4) Consider replacing the statement "the ICWA applies" with the more accurate description used in other forms "The court finds that the child is an Indian child and a member of the ____ Tribe."	Item 12b(4) was revised consistent with this suggestion and similar suggestions from other commenters.
			JV-421 Section 13 Consider adding a heading to identify these findings as related to "Placement of an Indian child"	The proposal was revised as suggested in response to this comment.
			JV-430 section 6.b.(2) Contact with the BIA and/or CDSS is not required for every case. Moreover, the BIA and CDSS are to be contacted only when the petitioner is unable to determine the contact information for the Tribe(s). (Welf. & Inst. § 224.2, subd. (b)(2)(B). Consider revising consistent with the statutory requirements.	The proposal was revised as suggested in response to this comment.
			JV-440 Section 6.b.(2) Contact with the BIA and/or CDSS is not required in every case. Moreover, the BIA and CDSS are to be contacted only when the petitioner is unable to determine the contact information for the Tribe(s). (Welf. & Inst. Code § 224.2, subd. (b)(2)(B). Consider	The proposal was revised as suggested in response to this comment.

Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding (amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457) All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Forum and committee Response
			revising consistent with the statutory requirements.	
			JV-446 Section 4.6. There is no longer a requirement to provide notice to the BIA when there is reason to believe a child is an Indian child. A copy of notice to the BIA is required only when it is known or there is reason to know a child is an Indian child. (25 C.F.R. § 23.11, subd. (b)(12)) & Welf. & Inst. Code § 224.3, subd. (a)(4).)	The proposal was revised as suggested in response to this comment.
			Consider adding an Inquiry section consistent with the forms for other review hearings.	The forum and committee do not recommend adding an ICWA inquiry section for the post-permanency phase.
			JV-455 Section 6.b.(2) Contact with the BIA and/or CDSS is not required in every case. Moreover, the BIA and CDSS are to be contacted only when the petitioner is unable to determine the contact information for the Tribe(s). (Welf. & Inst. Code § 224.2, subd. (b)(2)(B)). Consider revising consistent with the statutory requirements.	The proposal was revised as suggested in response to this comment.
2.	California Lawyers Association, Family Law Section Executive Forum and committee	A	FLEXCOM agrees with this proposal.	No response required.

 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding (amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457) All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Forum and committee Response
	By: Saul Bercovitch, Chief Governmental Affairs Officer			
3.	California Tribal Families Coalition By: Michelle Castagne, Co-Executive Director	AM	RE: SPR-30 Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding Greetings, Please accept the following comments on behalf of the California Tribal Families Coalition, a tribal membership organization made up of nearly 50 member tribes throughout the state, on the proposed Rules, Forms, Standards and Statutes in the Invitation to Comment "SPR-30."	No response required.
			Rule 5.481 Yes, the proposed changes in (a)(2) adequately bring the Rule of Court in alignment with the statute following the passage of AB 81 in 2024. We are aware of the challenges described in the proposal narrative on Page 3 that representatives of the Bureau of Indian Affairs (BIA) and California Department of Social Services (CDSS) are often contacted with little to no information about a child's family and connection to a Tribe. This can delay court proceedings and overburden BIA and CDSS representatives whose duties often include responding to state inquiries as well as providing technical	No response required. The forum and committee appreciate the feedback.

 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	Commenter	Position	Comment	Forum and committee Response
			assistance and training to tribal child welfare programs. The proposed changes in (a)(4)(B) offer a reasonable clarification that interviewing family members should happen before contacting BIA or CDSS in the process of further inquiry.	
			Rule 5.668 Yes, the proposed changes adequately bring the Rule of Court in alignment with the statute following the passage of AB 81 in 2024.	No response required. The forum and committee appreciate the feedback.
			Rule 5.708 Partially, we recommend the following additional changes to (b)(1)(E): (E) A factual discussion of all efforts the agency has made to comply with the affirmative and continuing duty to inquire whether the child is or may be an Indian child, including evidence that inquiry in accordance with section 224.2 has been made of the child, any parent, legal guardian, Indian custodian, ~~or~~ extended family members, or other interested persons contacted by the agency.	The proposal was revised as suggested in response to this comment.
			The proposal seems limited to enumerating only parent and extended family members as that is the language in the case law cited in the proposal narrative, however, enumerating the	The proposal was revised as suggested in response to this comment.

	Commenter	Position	Comment	Forum and committee Response
			full list from 224.2 in the Rule of Court may eliminate confusion around what inquiry efforts need to be documented and, hopefully, limit further appeals.	
			Rule 5.725 Yes, requiring documentation of inquiry in the agency report and in court findings seems to adequately address the stated purpose to limit appeals related to inquiry when the record is left unclear as to inquiry efforts made.	No response required. The forum and committee appreciate the feedback.
			Is the information sought in the forms ICWA-010(A) and ICWA-020 helpful and complete? 1. We recommend anywhere the forms or instructions cite or refer to the federal Indian Child Welfare Act, that they also cite or refer to the corresponding California state law. For example, the "Note" on the bottom of Page 1 of 1 of the ICWA-020 could be updated to state, "Additional inquiry may be required by the Indian Child Welfare Act and/or California state law." One of the goals of AB 81, a catalyst for this proposal, was to reduce reliance on federal law and to differentiated where state law differs from the federal requirements. Including state law references wherever ICWA is cited or referenced, will	The proposal was revised as suggested to recommend that the ICWA-020 form be updated to include reference to state law requirements.

	Commenter	Position	Comment	Forum and committee Response
			lessen the reliance on only the federal protections and provide a guide to practitioners on where to find Cal-ICWA provisions throughout the state code.	
			2. We recommend updating the language of Finding #12(b)(4) on page 3 of 4 of the JV-405 to clarify that ICWA does not only apply once a child is a member of a tribe: (4) the court finds that the child is an Indian child and the Indian Child Welfare Act applies. The child is a member of, or eligible for membership and a biological child of an enrolled tribal member, of the _____ tribe.	The proposal was revised as suggested in response to this comment, with the exception of the mention of "enrollment". Neither federal nor state law require enrollment as a prerequisite to the application of ICWA.
			3. We recommend the same language change above in 2 be applied to Finding #7(e) on Page 2 of 4 of the JV-415.	The proposal was revised in response to this comment.
			4. We recommend the same language change above in 2 be applied to Finding #6(d) on Page 2 of 6 of the JV-430.	The proposal was revised in response to this comment.
			5. We recommend the same language change above in 2 be applied to Finding #6(d) on Page 2 of 6 of the JV-440.	The proposal was revised in response to this comment.

Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding (amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457) All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Forum and committee Response
			6. We recommend the same language change above in 2 be applied to Finding #6(d) on Page 2 of 6 of the JV-455.	The proposal was revised in response to this comment.
4.	Hon. Steven Ipson, Judge of the Superior Court of California, County of Los Angeles	A	[No further comments provided.]	No response required.
5.	Office of the County Counsel, County of Sacramento By: Christopher S. Costa, Supervising Deputy County Counsel	NI	-Regarding proposed rule 5.708(b)(1)(E), recommend removing reference to WIC section 224.2, so the second half of the sentence reads "…including evidence that inquiry has been made of any parent or extended family members contacted by the agency." WIC section 224.2(a) requires that the county agency inquire of the child and each family member "at the first contact" and referencing this section here may limit agencies/courts from considering additional information the agency has discovered after the first contact with the parents/family or during its further inquiry pursuant to WIC section 224.2(e)(2)(A). -Regarding proposed rule 5.708(b), recommending adding a subdivision, at or after subsection 5.708(b)(4), addressing WIC section 224.2(i)(2). Recommend adding the sentence: "If the court previously found that	The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment.

 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	Commenter	Position	Comment	Forum and committee Response
			ICWA does not apply to the proceedings pursuant to section 224.2(i)(2), the court must determine whether there is any additional information that was not previously available to the agency or the court, when making a finding as to whether the agency has fulfilled its affirmative and continuing duty to inquire whether the child is or may be an Indian child." If the rule does not address WIC section 224.2(i)(2) or any prior court order that ICWA does not apply to the proceedings (particularly pre-AB 81 orders), it will not be clear whether the agency and court have a continued obligation to inquire. This will also encourage practitioners to review the record for new or additional extended family members that may have come forward since the court's prior order. -Regarding proposed rule 5.725 and all relevant proposed JV-Forms, recommend removing the "throughout the life of the case" term. That term is not used in the relevant cases and for purposes of the court's findings at the section 366.26 hearing and other status review hearings, it may complicate the legal requirement from section 224.2. The court and agency do have an affirmative and	The proposal was revised as suggested in response to this comment.

	Commenter	Position	Comment	Forum and committee Response
			continuing duty to inquire, however, the law does not create a requirement for the court to reflect on that inquiry summarily at the later stages of the case. Instead of requiring the court to reflect on whether that inquiry was consistent throughout the life of the case, the court should continue to review whether the agency was duly diligent for the relevant review period.	
6.	Office of County Counsel, County of San Diego By: Evangelina Woo, Senior Deputy County Counsel	AM	The proposal appropriately addresses the stated purpose. Changes to Rule 5.481 regarding when to contact the BIA and CDSS are particularly helpful, as there is some confusion in our county regarding the entities' roles (some courtrooms are treating the BIA and CDSS like they can make membership determinations and continuing cases to await a response from the BIA/CDSS before proceeding.)	No response required. The forum and committee appreciate the feedback.
			For the ICWA-010(a) item 2 contains the language "Each of these persons was asked whether they had any information that the child or the child's parents were affiliated with an Indian tribe. . . ". Proposal to change this to "Each of these persons were asked whether they had any information that the child is or may be an Indian child; whether the parents or	The proposal was revised as suggested in response to this comment.

	Commenter	Position	Comment	Forum and committee Response
			child are/were domiciled or lived on tribal lands or a reservation, or had ancestors who were members of an Indian tribe" to be consistent with the language in § 224.2(c)	
			For the ICWA-020 Item 3(b) "(state why you think the child is affiliated with the tribe)" there is no room on the form to record the individual's answer to why they think the child is member or eligible for membership. Also, the term "affiliated with" is broader/more nebulous than the standard for "reason to believe" and "reason to know" – suggestion to change it to "state why you think the child is or may be a member or eligible for membership. . . " Lastly, there is a typo on item 3(d) – should say "have lived" instead of "has lived."	The proposal was revised as suggested in response to these comments.
7.	Orange County Bar Association By: Mei Tsang, President	AM	The language between Rules 5.481(a)(2), (a)(2)(A), and 5.668(c)(1) can be standardized. We suggest that the first sentence on Rule 5.481(a)(2) read: "At the first appearance in court of each party or other interested person; or in juvenile wardship proceedings…"	The proposal was revised as suggested in response to this comment.
			The proposed changes in report requirements suggested for Rules 5.708(b)(1)(E) and	No response required. The forum and committee appreciate the feedback.

	Commenter	Position	Comment	Forum and committee Response
			5.725(c) are not technically required based on the recent case authority and statutes, but align with best practices and are well-taken.	
			The change proposed for JV-405, item 12b1 [p.29] could be read to mean that there has not been sufficient inquiry given the specific facts of the case, rather than noting the generally-applicable continuing duty of inquiry. We suggest modifying the language from "The agency is ordered to continue its inquiry to determine whether the child is or may be an Indian child and report back to the court on its efforts" to "The agency is under an affirmative and continuing duty of inquiry to determine whether the child is or may be an Indian child."	The proposal was revised as suggested in response to this comment.
			For the same reason, this sentence can also replace the suggested second sentence in JV-410, item 11a [p. 32], the suggested second sentence in JV-415, item 7d [p.43]; the last suggested sentence in JV-421, item 4 [p.45]; the suggested second sentence in JV-430, item 6a [p.55]; the suggested second sentence in JV-435, item 6a [p. 69]; the suggested second sentence in JV-440, item 6a [p.82]; and the suggested second sentence in JV-455, item 6a [p.104].	The proposal was revised as suggested in response to this comment.

Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding (amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457) All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Forum and committee Response
8.	Superior Court of California, County of Los Angeles By: Stephanie Kuo	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, "Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding," the Court agrees with the proposal and its ability to appropriately address its stated purpose. Additionally, the Court agrees that the information sought in the forms ICWA-010(A) and ICWA-020 are helpful and complete.	No response required. The forum and committee appreciate the feedback.
			Although the Court does not see any cost savings from the proposal, it anticipates minimal implementation requirements, which include but are not limited to: Training for staff Updating policies and procedures Updating macros, event codes, and forms in the case management system	No response required. The forum and committee appreciate the feedback.
			Lastly, the Court agrees that three to six months from Judicial Council approval of this proposal until its effective date will provide sufficient time for implementation and that	No response required. The forum and committee appreciate the feedback.

 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	Commenter	Position	Comment	Forum and committee Response
			this proposal would work well in courts of different sizes.	
9.	Superior Court of California, County of Orange By: Katie Tobias, Operations Analyst	NI	*Does the proposal appropriately address the stated purpose?* Yes, the proposal appropriately addresses the stated purpose.	No response required. The forum and committee appreciate the feedback.
			Is the information sought in the forms ICWA-010(A) and ICWA-020 helpful and complete? Yes, the information in the forms ICWA-010(A) and ICWA-020 is helpful and complete.	No response required. The forum and committee appreciate the feedback.
			Would the proposal provide cost savings? If so, please quantify. No, the proposal does not appear to provide cost savings.	No response required. The forum and committee appreciate the feedback.
			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 providing communication to judicial officers and court staff, revising current procedures, and updating the case management system.	No response required. The forum and committee appreciate the feedback.

	Commenter	Position	Comment	Forum and committee Response
			Would three 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.	No response required. The forum and committee appreciate the feedback.
			How well would this proposal work in courts of different sizes? Our court is a large court, and this could work for Orange County.	No response required. The forum and committee appreciate the feedback.
10.	Superior Court of California, County of San Diego, Mike Roddy, Executive Officer	AM	Does the proposal appropriately address the stated purpose? Yes.	No response required. The forum and committee appreciate the feedback.
			Is the information sought in forms ICWA-010(A) and ICWA-020 helpful and complete? Yes.	No response required. The forum and committee appreciate the feedback.
			Would the proposal provide cost savings? If so, please quantify. No.	No response required. The forum and committee appreciate the feedback.
			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	No response required. The forum and committee appreciate the feedback.

	Commenter	Position	Comment	Forum and committee Response
			case management systems, or modifying case management systems? Replacing old forms, revising case management systems, training staff, and notifying judicial officers.	
			Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.	No response required. The forum and committee appreciate the feedback.
			How well would this proposal work in courts of different sizes? It appears the proposal would work for courts of all sizes.	No response required. The forum and committee appreciate the feedback.
			Rule 5.481 (a)(2)(A) – Delete "other" (match "party or interested person" earlier in the sentence): Ask each party or interested person present whether the party or ~~other~~ interested person knows or has reason to know the child is or may be an Indian child; (a)(2)(B) – Insert "other persons present" per WIC § 224.2(c), last sentence: Instruct the parties and other persons present to inform the court if they subsequently	The proposal was not revised to add "other" earlier in the sentence as the later placement is more consistent with the statutory language. The proposal was revised as suggested in response to this comment.

	Commenter	Position	Comment	Forum and committee Response
			receive information that provides reason to know the child is or may be an Indian child; and	
			Rule 5.668 (c)(2) – Insert "other persons present" per WIC § 224.2(c), last sentence: The court must also instruct all parties and other persons present to inform the court if they subsequently receive information that provides reason to know the child is or may be an Indian child and order …	
			Rule 5.708 (b)(1)(E) – Edit as follows per WIC § 224.2(b)(2) ["Inquiry includes, but is not limited to …"] A discussion of all efforts the agency has made to comply with the affirmative and continuing duty to inquire whether the child is or may be an Indian child, including evidence that inquiry in accordance with section 224.2 has been made of any parent, legal guardian, Indian custodian, ~~or~~ extended family members, others who have an interest in the child, or reporting party contacted by the agency.	The proposal was revised as suggested in response to this comment.

	Commenter	Position	Comment	Forum and committee Response
			ICWA-005-INFO Right footer on page 1 – *Query*: Should citations to WIC §§ 224.2, 224.3, et al. and Cal. Rules of Court, rule 5.481 be added above "courts.ca.gov"?	The proposal was revised in response to this comment.
			Form ICWA-010(A), 2a & 2b – *Queries* (see WIC § 224.2(e)): Should "or citizen" be added after "a member"? Should "or citizenship" be added after "a membership"? Should "or may be eligible for membership or citizenship" be added after "of a tribe"? 3rd par. after item 3: … Tribes that learn about the case can investigate and advise you and the court whether the child is a tribal member or citizen or eligible to become a tribal member or citizen, and can then decide whether to get involved in the case or assume tribal jurisdiction. 6th par. after item 3: (2) Sharing with the tribe or tribes any information identified by the tribe as necessary for the tribe to make a	Although the comment references form ICWA-10(A), the comments seem to relate to form ICWA-020, and form ICWA-020 form has been revised in response to the suggestions to add reference to tribal "citizen" and "citizenship".

	Commenter	Position	Comment	Forum and committee Response
			determination about the child's tribal membership or citizenship or eligibility for membership or citizenship, as well as information on the current status of the child and the case.	
			Form ICWA-030, Notice of Child Custody Proceeding for Indian Child 1st numbered par., per WIC § 224.3(d)(1) & (d)(3): 1. If the child, an officer of the court, an Indian tribe, an Indian organization, an attorney, a public or private agency, a member of the child's extended family, or any other person having an interest in the child says the child is an Indian child or provides information to anyone involved in the case suggesting that the child is an Indian child; 4th numbered par., per WIC § 224.3(d)(6): 4. If the child or the child's parent(s) have an identification card indicating membership or citizenship in an Indian tribe. Item 3a: Insert close parenthesis. a. The original signed Notice (form ICWA-030) and copies of the documents you sent with it (the petition and form ICWA-010(A));	Revisions to form ICWA-030 were not part of the proposal that circulated for public comment and are therefore outside the scope of this current proposal, but the forum and committee will consider these suggestions for a future proposal.

Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding (amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457) All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Forum and committee Response
			ICWA-010(A) Right footer on page 1 – *Query*: Should citations to WIC §§ 224.2, 224.3, et al. and Cal. Rules of Court, rule 5.481 be added above "courts.ca.gov"? Item 4: *Query* – Should "a citizen or" and "or citizenship" be inserted as shown? I contacted the tribe(s) that the child may be affiliated with and worked with them to establish whether the child is a member or a citizen or eligible for membership or citizenship in the tribe(s). Item 5a: Insert "or citizen" and "or citizenship" as shown. the child is or may be a member or citizen of or eligible for membership or citizenship in a tribe. Item 5b: Insert "or citizens" as shown. The child's parents, grandparents, or great-grandparents are or were members or citizens of a tribe. Item 6: Change "delinquency" to "juvenile justice."	The proposal was revised as suggested in response to this comment. The proposal has been revised to recommend adding the terms citizen and citizenship.

 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	Commenter	Position	Comment	Forum and committee Response
			If this is a ~~delinquency~~ juvenile justice proceeding under …	The Judicial Council uses the term "delinquency" in rules and forms to be consistent with statutes and would consider this change if the Legislature updates the statutory language.
			ICWA-020 Item 3a, 3b & 3c: Insert "or citizen" and "or citizenship" as shown. I am or may be a member or citizen of, or eligible for membership or citizenship in, a federally … The child is or may be a member or citizen of, or eligible for membership or citizenship in, a federally … One or more of the child's … is or was a member or citizen of a federally … Item 3d: Change "has" to "have." I am a resident of or am domiciled, live, or ~~has~~ have lived on a reservation, rancheria …	The proposal was revised as suggested in response to this comment.
			JV-101(A) Page 1, right footer: Add WIC § 224.2 and CRC rule 5.481 to citations. Pages 1 & 2, item 4k(1):	The proposal was revised as suggested in response to this comment.

Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding (amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457) All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Forum and committee Response
			I have asked ~~as to~~ whether the child is or may be a member or citizen of an Indian tribe or eligible for membership or citizenship and the biological child of a member or citizen, and the Indian Child Inquiry Attachment (form ICWA-010(A)) is attached. Pages 1 & 2, item 4k(3): Inquiry about whether the child is or may be a member or citizen of an Indian tribe or eligible for membership or citizenship and the biological child of a member or citizen has not yet been completed for the reasons set out below. … Page 2, item 5a: Query – Should line 5 be separated and above sub-item a., followed by "Petitioner on information and belief alleges the following:"? (See page 1, item 4.)	The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment.
			JV-320 Page 1, right footer: Add WIC §§ 224.2, 224.3 and CRC rules 5.481, 5.482 to citations. Page 1, item 4b(1): Replace "filed" with "the" because sentence ends with "filed by the agency."	The proposal was revised as suggested in response to these comments. The proposal was revised as suggested in response to this comment.

 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	Commenter	Position	Comment	Forum and committee Response
			The court has reviewed ~~filed~~ the *Parental Notification of Indian Status* … filed by the agency. The court finds … interviewing available extended family members, and that there is no reason to believe or know that the child is or may be an Indian child. Page 2, item 7: Replace "finding" with "order." The court previously made a ~~finding~~ order denying or terminating reunification services … Page 3, item 14b(4), page 4, item 15a(4), and page 5, item 18a(4): Insert space between "Other" and "(*name*)." Page 6, item 22: Change § 366.1(*l*) to § 366.1(m).	The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment.
			JV-405 Page 1, right footer: Add WIC § 224.2 and CRC rule 5.481 to citations. Page 2, item 9b: Change "his or her" to "their."	The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment.

	Commenter	Position	Comment	Forum and committee Response
			the child did not receive proper notice of ~~his or her~~ their right to attend the hearing. Page 4, item 16: Delete "of the" after "§ 224.3."	The proposal was revised as suggested in response to this comment
			JV-410 Page 1, right footer: Add WIC §§ 224.2, 224.3, 361.31 and CRC rules 5.481, 5.482, 5.484 to citations. Page 3, item c(1): the agency has presented evidence in the record that it has exercised due diligence to identify and work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify the child's status; or Page 3, item c(2): the agency is required to exercise due diligence to identify and work with all of the tribes where the child may be a member or citizen eligible for membership or citizenship … Page 4, item 16d: Replace "and family	The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment.

	Commenter	Position	Comment	Forum and committee Response
			services agency" with "welfare department" per WIC § 319(g). The child is detained, and temporary placement and care of the child is vested with the county child ~~and family services agency~~ welfare department pending the hearing under Welf. & Inst. Code, § 355 or further order of the court. Page 4, item 16g: Edit as shown below per WIC § 319(h)(1)(A). g. The child is temporarily placed in (1) the ~~approved~~ home of a relative that has been assessed pursuant to Welf. & Inst. Code § 361.4. (2) an emergency shelter or other suitable licensed place. ~~(3) other suitable licensed place.~~ ~~(4)~~(3) a place exempt from licensure designated by the juvenile court. ~~(5)~~(4) the approved home of a nonrelative extended family member as defined in Welf. & Inst. Code, § 362.7 that has been assessed pursuant to Welf. & Inst. Code § 361.4. (5) in the case of an Indian child, the home of an extended family member as defined in Welf. & Inst. Code § 224.1(c)(1) that has been	The proposal was revised to better reflect the language of the statute, though not in the precise way suggested by the commenter. The comment alerted staff that the version of form JV-410 that circulated for public comment did not include revisions that took effect January 1, 2025 and reworded this item consistent with the language of section 319(h) of the Welfare and Institutions Code. That updated language appears to address many of the concerns in this comment. The forum and the committee considered the remaining suggested revisions, specifically the suggestion to have placement options for Indian children in their own section but were concerned that if the additional placement options for Indian children were pulled out in the way suggested by the commenter, it might suggest that those were the exclusive options available for

	Commenter	Position	Comment	Forum and committee Response
			assessed pursuant to Welf. & Inst. Code § 361.4. (6) the approved home of a resource family as described in Welf. & Inst. Code § 16519.5, or a home licensed or approved by the Indian child's tribe. ~~(6)~~(7) a short-term residential therapeutic program or community treatment facility. …	placement of an Indian child, and not additional options available in those cases.
			JV-412 Page 1, right footer: Add WIC §§ 224.2, 224.3 and CRC rules 5.481, 5.482 to citations. Page 2, item 4b: Replace "his or her" with "their." … The child was properly notified … of ~~his or her~~ their right to attend the hearing, …. Page 4, item 17g: Insert "Other" before "(~~S~~*specify*):"	The proposal was revised as suggested in response to these comments.
			JV-415 Page 1, right footer: Add WIC §§ 224.2, 224.3 and CRC rules 5.481, 5.482 to citations. Page 2, item 4b: Replace "his or her" with "their." … The child was properly notified … of ~~his or her~~ their right to attend the hearing, ….	The proposal was revised in response as suggested to these comments.

Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding (amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457) All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Forum and committee Response
			Page 2, items 7a & 7b: Replace "his or her" with "the child's." … has asked the child, if old enough, and ~~his or her~~ the child's parents or legal guardians … Page 2, items 7d(1): Insert "or citizen" and "or citizenship." … of which the child may be a member or citizen or eligible for membership or citizenship to verify the child's status; Page 3, item 13: Change "*box*" to "*boxes"* and change "*form"* to "*forms*."	
			JV-421 Page 1, right footer: Add WIC §§ 224.2, 224.3 and CRC rules 5.481, 5.482 to citations. Page 3, item 16: *Query* – Should text be added ordering the county agency to report back to the court on the progress made toward locating the child (e.g., items 18.a. and 20.b.)? Page 3, items 18a & 20b: Change "item 18" to "item 17" after "JV-415."	The proposal was revised as suggested in response to this comment. The forum and committee appreciate this comment, but the suggested text is not required by statute and would create a burden on the agency. The forum and committee do recommend such a change at this time. The proposal was revised as suggested in response to this comment.

 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding (amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457) All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Forum and committee Response
			Page 3, item 19: Change "§ 366.1(*l*)" to "§ 366.1(m)." Alternatively, delete the subdivision (i.e., "§ 366.1") so that future amendments to the statute do not require further revisions to the form.	The proposal was revised as suggested in response to this comment.
			Page 6, item 31: Change "item 28" to "item 29."	The proposal was revised as suggested in response to this comment.
			Page 6, item 34: Query – Should "and developmental services" be inserted after "educational"? See suggested edits below. a. A limitation on the right of the parents to make educational and developmental-services decisions for the child is not necessary. The parents hold ~~educational~~ decision making rights and responsibilities in regard to the child's education and developmental services, including those described in rule 5.650(e) and (f) of the California Rules of Court. … b. b. A limitation on the right of the parents to make educational and developmental-services decisions for the child is necessary, and those rights	The forum and committee considered this comment but do not recommend the revision. The forum and committee note the form references rule 5.650(e) and (f), which already includes "developmental services" as vesting with the educational rights holder.

	Commenter	Position	Comment	Forum and committee Response
			are limited …. The ~~educational~~ decision making rights and responsibilities of the educational ~~representative~~ rights holder are described in rule 5.650(e) and (f) of the California Rules of Court. …	
			Page 6, item 35: Change "item 30" to "item 31."	The proposal was revised as suggested in response to this comment.
			Page 6, item 35d: Change "representative" to "rights holder."	The forum and committee do not recommend this change as the statute uses the term representative rather than rights holder.
			Page 8, item 42d, last sentence: Change "rule 5.695(g)(10)" to "rule 5.695(f)(10)." Alternatively, delete "rule 5.695(g)(10) of" – i.e., "as stated in the California Rules of Court" so that future revisions to the CRCs do not necessitate further revisions to this form.	The proposal was revised as suggested in response to this comment.
			JV-430 Page 1, right footer: Add WIC §§ 224.2, 224.3 and CRC rules 5.481, 5.482 to citations.	The proposal was revised as suggested in response to this comment.
			Page 2, item 6c(1): Add "or citizen" and "or citizenship."	The proposal was revised as suggested in response to this comment.

	Commenter	Position	Comment	Forum and committee Response
			the agency … work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify the child's status; or Page 2, item 6c(2): Add "or citizen" and "or citizenship." the agency is required to exercise due diligence to identify and work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify … Page 2, item 6c(2): Change "an" to "and." … the child's status ~~an~~ and provide notice in accordance … Page 4, item 11d: Suggested changes (see CRC 5.485(c)(3)): … been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers ~~service providers~~; and	The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment.

Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding (amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457) All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Forum and committee Response
			Page 4, items 15a & 15b: *Query* – Should "and developmental services" be inserted after "educational"? See suggested edits below. a. A limitation on the right of the parents to make educational and developmental-services decisions for the child is **not** necessary. The parents hold ~~educational~~ decision making rights and responsibilities in regard to the child's education and developmental services, including those described in rule 5.650(e) and (f) of the California Rules of Court. … b. A limitation on the right of the parents to make educational and developmental-services decisions for the child is necessary, and those rights are limited …. The ~~educational~~ decision making rights and responsibilities of the educational ~~representative~~ rights holder are described in rule 5.650(e) and (f) of the California Rules of Court. … Page 5, item 19d: Change "representative" to "rights holder."	The forum and committee do not recommend this revision. The forum and committee note the form references rule 5.650(e) and (f), which already includes "developmental services" as vesting with the educational rights holder. The forum and committee do not recommend this revision as the statute uses the term representative rather than rights holder.

 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding (amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457) All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Forum and committee Response
			Page 6, item 24: Change "*boxes*" to "*box*" and change "*forms*" to "*form*." Page 6, item 25: Change "*box*" to "*boxes"* and change "*form"* to "*forms*." Page 6, left footer: Change "2023" to "2026."	The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment.
			JV-432 Page 1, right footer: Add WIC § 361.31 and CRC 5.485 Page 1, item 4: Change "§ 366.1(*l*)" to "§ 366.1(m)." Page 2, item 10: This item duplicates item 11 on the JV-430. Should it be deleted from the JV-432? Page 2, item 10d: Suggested changes (see CRC 5.485(c)(3)): … been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian	The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment. The forum and committee have considered this comment but do not recommend the revision as there is value in having the finding in both places. The proposal was revised as suggested in response to this comment.

 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	Commenter	Position	Comment	Forum and committee Response
			child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers ~~service providers~~; and Page 3, item 14b(1): Change "who" to "whom" … except with respect to individuals whom the agency has determined to be … Or edit to match item 15.b.(1) on the JV-433. … except for individuals the agency has determined to be …	The proposal was revised as suggested in response to this comment.
			JV-433 Page 1, right footer: Add WIC §§ 224.2, 361.31 and CRC 5.481, 5.485 Page 1, item 4: Change "§ 366.1(*l*)" to "§ 366.1(m)." Page 2, item 10: This item duplicates item 11 on the JV-430. Should it be deleted from the JV-433?	The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment. The forum and committee have considered this comment but do not recommend the revision as there is value in having the finding on both forms.

	Commenter	Position	Comment	Forum and committee Response
			Page 2, item 10d: Suggested changes (see CRC 5.485(c)(3)): … been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers ~~service providers~~; and Page 4, item 18b: *Query* – Should this item also have an ICWA version of this finding (see WIC § 366.21(e)(8)), e.g.: By clear and convincing evidence, active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.	The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment.
			JV-435 Page 1, right footer: Add WIC § 224.2 and CRC 5.481. Page 2, item 6c(1): Add "or citizen" and "or citizenship." the agency … work with all of the tribes where the child may be a member or citizen or	The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment

	Commenter	Position	Comment	Forum and committee Response
			eligible for membership or citizenship to verify the child's status; or Page 2, item 6c(2): Add "or citizen" and "or citizenship." the agency is required to exercise due diligence to identify and work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify … Page 2, item 6c(2): Change "an" to "and." … the child's status ~~an~~ and provide notice in accordance … Page 4, item 11d: Suggested changes (see CRC 5.485(c)(3)): … been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers ~~service providers~~; and Page 4, items 15a & 15b: *Query* – Should	The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment. The forum and committee do not recommend this edit. The forum and committee note the

	Commenter	Position	Comment	Forum and committee Response
			"and developmental services" be inserted after "educational"? See suggested edits below. a. A limitation on the right of the parents to make educational and developmental-services decisions for the child is **not** necessary. The parents hold ~~educational~~ decision making rights and responsibilities in regard to the child's education and developmental services, including those described in rule 5.650(e) and (f) of the California Rules of Court. … b. A limitation on the right of the parents to make educational and developmental-services decisions for the child is necessary, and those rights are limited …. The ~~educational~~ decision making rights and responsibilities of the educational ~~representative~~ rights holder are described in rule 5.650(e) and (f) of the California Rules of Court. …	form references rule 5.650(e) and (f), which already includes "developmental services" as vesting with the educational rights holder.
			Page 5, item 19d: Change "representative" to "rights holder."	The forum and committee do not recommend this revision as the statute uses the term representative rather than rights holder.
			Page 6, item 24: Change "*boxes*" to "*box*" and change "*forms*" to "*form*."	The proposal was revised as suggested in response to this comment.

Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding (amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457) All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Forum and committee Response
			Page 6, item 25: Change "*box*" to "*boxes"* and change "*form"* to "*forms*."	The proposal was revised as suggested in response to this comment.
			JV-437 Page 1, right footer: Add WIC § 361.31 and CRC 5.485. Page 1, item 4: Change "§ 366.1(*l*)" to "§ 366.1(m)."	The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment.
			JV-438 Page 1, right footer: Add WIC § 361.31 and CRC 5.485. Page 1, item 3d: Suggested changes (see CRC 5.485(c)(3)): … been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers ~~service providers~~; and Page 1, item 7: Change "§ 366.1(*l*)" to "§ 366.1(m)."	The proposal was revised as suggested in response to these comments.

 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	Commenter	Position	Comment	Forum and committee Response
			Page 2, item 13: *Query* – Should this item be deleted? It seems duplicative of item 14, though with less detail. Page 4, item 19b: *Query* – Should this item also have an ICWA version of this finding (see WIC § 366.21(f)(1)(A)), e.g.: By clear and convincing evidence, active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. Page 4, item 19c: Insert "be" before "an Indian child." … is or may be an Indian child …	
			JV-440 Page 1, right footer: Add WIC § 224.2 and CRC 5.481, 5.485. Page 2, item 6c(2): Change "an" to "and." … the child's status ~~an~~ and provide notice in accordance … Page 4, item 11d: Suggested changes (see CRC 5.485(c)(3)):	The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment.

	Commenter	Position	Comment	Forum and committee Response
			… been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers ~~service providers~~; and Page 4, items 15a & 15b: *Query* – Should "and developmental services" be inserted after "educational"? See suggested edits below. a. A limitation on the right of the parents to make educational and developmental-services decisions for the child is **not** necessary. The parents hold ~~educational~~ decision making rights and responsibilities in regard to the child's education and developmental services, including those described in rule 5.650(e) and (f) of the California Rules of Court. … b. A limitation on the right of the parents to make educational and developmental-services decisions for the child is necessary, and those rights are limited …. The ~~educational~~ decision making rights and responsibilities of the educational ~~representative~~ rights holder are	The forum and committee do not recommend this edit. The forum and committee note the form references rule 5.650(e) and (f), which already includes "developmental services" as vesting with the educational rights holder.

	Commenter	Position	Comment	Forum and committee Response
			described in rule 5.650(e) and (f) of the California Rules of Court. … Page 5, item 19d: Change "representative" to "rights holder." Page 6, item 24: Change "*boxes*" to "*box*" and change "*forms*" to "*form*." Page 6, item 25: Change "*box*" to "*boxes"* and change "*form"* to "*forms*."	 The forum and committee do not recommend this change as the statute uses the term representative rather than rights holder. The proposal was revised as suggested in response to this comment. The proposal was revised as suggested in response to this comment.
			JV-442 Page 1, right footer: Add WIC §§ 224.2, 361.31 and CRC 5.481, 5.485. Page 1, item 3d: Suggested changes (see CRC 5.485(c)(3)): … been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers ~~service providers~~; and	The proposal was revised as suggested in response to these comments.

Juvenile Law: Indian Child Welfare Act (ICWA) Inquiry and Family Finding (amend Cal. Rules of Court, rules 5.481, 5.668, 5.708 and 5.725; revise forms ICWA-005-INFO, ICWA-010(A), ICWA-020, JV-101(A), JV-320, JV-405, JV-410, JV-412, JV-415, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-446, JV-455, and JV-457) All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Forum and committee Response
			Page 1, item 7: Change "§ 366.1(*l*)" to "§ 366.1(m)." Page 2, item 13: *Query* – Should this item be deleted? It seems duplicative of item 14, though with less detail. Page 4, item 19c: Insert "be" before "an Indian child." … is or may be an Indian child …	
			JV-443 Page 1, right footer: Add WIC §§ 224.3, 361.31 and CRC 5.481, 5.485. Page 1, item 4: Change "§ 366.1(*l*)" to "§ 366.1(m)."	The proposal was revised as suggested in response to these comments.
			JV-446 Page 1, right footer: Add WIC §§ 224.2, 361.31 and CRC 5.481, 5.485. Page 3, item 13: Change "§ 366.1(*l*)" to "§ 366.1(m)." Page 3, items 16a & 17b: Change "item 45" to "item 46."	The proposal was revised as suggested in response to these comments.

 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	Commenter	Position	Comment	Forum and committee Response
			Page 4, item 18: *Query* – Should this item be deleted? It seems duplicative of item 24, though with less detail. Page 5, item 30: Change "item 28" to "item 29." Page 6, item 31: Change "item 29" to "item 30." Page 6, item 33a(2): Change "supportperson's" to "support person's." Page 8, items 41 & 42a: Change "item 36" to item "37." Page 8, item 43: Change "*box*" to "*boxes"* and change "*form"* to "*forms*."	
			JV-455 Page 1, right footer: Add WIC §§ 224.2, 361.31 and CRC 5.481, 5.485. Page 2, item 6c(1): Add "or citizen" and "or citizenship." the agency … work with all of the tribes where the child may be a member or citizen or	Except as noted below, the proposal was revised as suggested in response to these comments.

	Commenter	Position	Comment	Forum and committee Response
			eligible for membership or citizenship to verify the child's status; or Page 2, item 6.c.(2): Add "or citizen" and "or citizenship." the agency is required to exercise due diligence to identify and work with all of the tribes where the child may be a member or citizen or eligible for membership or citizenship to verify … Page 2, item 6c(2): Change "an" to "and." … the child's status ~~an~~ and provide notice in accordance … Page 4, items 15a & 15b: *Query* – Should "and developmental services" be inserted after "educational"? See suggested edits below. a. A limitation on the right of the parents to make educational and developmental-services decisions for the child is **not** necessary. The parents hold ~~educational~~ decision making rights and responsibilities in regard to the child's education and developmental services,	The forum and committee do not recommend this edit. The forum and committee note the form references rule 5.650(e) and (f), which already includes "developmental services" as vesting with the educational rights holder.

	Commenter	Position	Comment	Forum and committee Response
			including those described in rule 5.650(e) and (f) of the California Rules of Court. … b. A limitation on the right of the parents to make educational and developmental-services decisions for the child is necessary, and those rights are limited …. The ~~educational~~ decision making rights and responsibilities of the educational ~~representative~~ rights holder are described in rule 5.650(e) and (f) of the California Rules of Court. … Page 5, item 19d: Change "representative" to "rights holder." Page 6, item 24: Change "*boxes*" to "*box*" and change "*forms*" to "*form*." Page 6, item 25: Change "*box*" to "*boxes"* and change "*form"* to "*forms*."	The forum and committee do not recommend this change as the statute uses the term representative rather than rights holder.
			JV-457 Page 1, right footer: Add WIC §§ 224.2, 224.6, 361.31 and CRC 5.481, 5.485. Page 2, item 8: Change "§ 366.1(*l*)" to "§ 366.1(m)."	The proposal was revised as suggested in response to these comments.

	Commenter	Position	Comment	Forum and committee Response
			Page 3, item 16c: Insert "be" before "an Indian child." … is or may be an Indian child …	
			No additional Comments.	No response required.
11.	Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee, Joint Rules Subcommittee	AM	The JRS notes that the proposal is required to conform to a change of law.	No response required.

			The JRS also notes the following impact to court operations:
			• Impact on existing automated systems.
			  ○ May require updating case management system and tracking.
			• Results in additional training, which requires the commitment of staff time and court resources.
			  ○ Will require training for juvenile judges & clerks. Increases court staff workload.
			  ○ Will require updating self-help centers and presiding judge of juvenile court ensuring that self-help resources are updated and supplied.
				The forum and committee appreciate the feedback.

			Suggested modification(s):	No response required.

	Commenter	Position	Comment	Forum and committee Response
			Form JV-412 Sec.5a; Form ICWA-020 section 3.b	
			JV-412 sec 5 a.. Suggest add sentence: "The county agency is ordered to continue to inquire about child's possible Indian status and report inquiry efforts to the court." This advisement is included in all other forms and although may not be necessary at jurisdictional hearing, would be a consistent reminder at all proceedings that the ICWA inquiry is continuous and ongoing.	The proposal was revised in response to this comment with slightly revised language: "The agency has an affirmative and continuing duty of inquiry to determine whether the child is or may be an Indian child and report to the court on its inquiry efforts."
			Form ICWA Form ICWA-020 section 3. b. asks why a person believes a child may be a member of a tribe but does into provide a space for an answer. Allowing a space may result in leads the agency may consider in following up on possible tribal membership. For example, a person may say that a friend, relative, letter, family history once said something that led to the belief that a child had tribal membership.	The proposal was revised as suggested in response to this comment.
			Another possible source of inquiry could for the identity of a family historian. Some families have relatives who have interest in family ancestry, scrapbooking, etc., and may	The forum and committee considered whether this should be added to the form but concluded that as this question is not required by statute, would be best added into training for social workers and judicial officers.

	Commenter	Position	Comment	Forum and committee Response
			be sources of information about Indian heritage of the child.	

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: September 11, 2025

Rules Committee action requested [Choose from drop-down menu below]:
Recommend JC approval (has circulated for comment)

Title of proposal: Jury Instructions: Criminal Jury Instructions (2025 Supplement)

Proposed rules, forms, or standards (include amend/revise/adopt/approve)*:*
Additions of CALCRIM Nos. 1705, 1760, 1761, 1810, 1851, 2307, 2593, 3218, 3219, and 32202. Revisions to CALCRIM Nos. 202, 505, 508, 511, 520, 524, 525, 526, 571, 580, 581, 582, 590, 592, 593, 600, 603, 604, 810, 820, 830, 860, 862, 863, 875, 970, 982, 983, 1120, 1141, 1142, 1144, 1145, 1180, 1215, 1240, 1242, 1244, 1300, 1301, 1402, 1501, 1530, 1551, 1703, 1800, 1801, 2100, 2101, 2102, 2501, 2503, 2514, 2578, 2670, 2720, 2721, 2745, 2746, 2747, 2964, 3130, 3145, 3149, 3150, 3160, 3161, 3162, 3163, 3177, 3470, 3477, and 3516.

Committee or other entity submitting the proposal:
Advisory Committee on Criminal Jury Instructions

Staff contact (name, phone and email)*: Kara Portnow, 415-865-4691, 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*): October 22, 2024
Project description from annual agenda: Maintenance: Case Law and Legislation; Comments from Users, New Instructions and Expansion into New Areas, Technical Corrections

Out of Cycle/Early Implementation: *If requesting July 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)* 7/18/25
  ☒ approved by Office Director (or Designee) (*name*) Francine Byrne
  on (date) 7/18/25

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

REPORT TO THE JUDICIAL COUNCIL

Item No.: 25-128
For business meeting on October 24, 2025

Title
Jury Instructions: Criminal Jury Instructions (2025 Supplement)

Rules, Forms, Standards, or Statutes Affected
Judicial Council of California Criminal Jury Instructions

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

Report Type
Action Required

Effective Date
October 24, 2025

Date of Report
September 2, 2025

Contact
Kara Portnow, 415-865-4961
kara.portnow@jud.ca.gov

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Executive Summary

The Advisory Committee on Criminal Jury Instructions recommends approving for publication the new and revised criminal jury instructions prepared by the committee under rule 2.1050 of the California Rules of Court. These changes will, among other things, keep the instructions current with statutory and case authority. Once approved, the new and revised instructions will be published in the 2025 supplement of *Judicial Council of California Criminal Jury Instructions* (*CALCRIM*).

Recommendation

The Advisory Committee on Criminal Jury Instructions recommends that the Judicial Council, effective October 24, 2025, approve the following changes to the criminal jury instructions prepared by the committee:

1. Additions of CALCRIM Nos. 1705, 1760, 1761, 1810, 1851, 2307, 2593, 3218, 3219, and 3220; and

2. Revisions to CALCRIM Nos. 202, 505, 508, 511, 520, 524, 525, 526, 571, 580, 581, 582, 590, 592, 593, 600, 603, 604, 810, 820, 830, 860, 862, 863, 875, 970, 982, 983, 1120, 1141,

1142, 1144, 1145, 1180, 1215, 1240, 1242, 1244, 1300, 1301, 1402, 1501, 1530, 1551, 1703, 1800, 1801, 2100, 2101, 2102, 2501, 2503, 2514, 2578, 2670, 2720, 2721, 2745, 2746, 2747, 2964, 3130, 3145, 3149, 3150, 3160, 3161, 3162, 3163, 3177, 3470, 3477, and 3516.

The proposed new and revised jury instructions are attached at pages 12–385.

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.[1] 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 proposing twice a year to the council additions and other changes to *CALCRIM.* The council approved the last *CALCRIM* release at its February 2025 meeting.

Analysis/Rationale

The committee recommends revisions to 73 existing instructions and drafted 10 new 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. 520, *First or Second Degree Murder With Malice Aforethought*

In response to several commenters, the committee revised CALCRIM No. 520 in three areas. First, a committee member noted that although elements 2 and 3 both reference "dangerous to human life," only element 2 explains that this phrase means "the act or failure to act involved a high degree of probability that it would result in death." To clarify that the meaning of "dangerous to human life" is the same for both elements 2 and 3, the committee decided to remove the explanatory language from element 2 and create a standalone definition instead.

Second, *People v. Collins* (2025) 17 Cal.5th 293, 308–311 [328 Cal.Rptr.3d 641, 561 P.3d 801] reviewed implied malice murder liability based on parental failure to protect. The court noted that the parental duty to protect does not require a parent to place themselves in danger of death or great bodily harm. (*Id.* at p. 309.) The court further held that, although liability can arise without the parent's presence or participation, "liability for murder on a failure-to-protect theory is appropriately reserved for individuals who actually know to a substantial degree of certainty that a life-endangering act is occurring or is about to occur and failed to act in conscious disregard for life." (*Id.* at p. 310.) In response to this holding, the committee added the word

[1] 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."

DRAFT

"protect" in element 1B and optional language applicable to parental failure to protect cases. The committee also added *Collins* to the authority section.[2]

Third, a trial court judge requested that the committee draft an instruction for implied malice murder based on alcohol- or drug-impaired driving under the holding of *People v. Watson* (1981) 30 Cal.3d 290, 300–301 [637 P.2d 279, 179 Cal.Rptr. 43].[3] Instead of creating an entirely new instruction for this subset of cases, the committee added the following optional language: "If you find that the defendant drove a motor vehicle while impaired by (alcohol/ [and]drugs), you may consider that as a factor in deciding whether the defendant acted with conscious disregard for (human/ [or]fetal) life." The committee also added *Watson* to the authority section.

CALCRIM No. 600, *Attempted Murder*

Two recent cases considered the applicability of a kill zone instruction when the defendants had not been aware of the victims' presence. *People v. Hin* (2025) 17 Cal.5th 401, 458 [329 Cal.Rptr.3d 612, 563 P.3d 514] determined that a kill zone instruction was not warranted for two victims injured inside residences adjoining a carport where the shooting took place. *Hin* distinguished these facts from *People v. Vang* (2001) 87 Cal.App.4th 554 [104 Cal.Rptr.2d 704], where the defendant had used a high-powered weapon and had appeared to specifically target the adjacent building. (*Hin, supra,* 17 Cal.5th at p. 458.) Similar to *Hin*, *People v. Ibarra* (2024) 106 Cal.App.5th 1070, 1079 [327 Cal.Rptr.3d 478] held that the trial court erroneously gave a kill zone instruction for a person asleep inside a backyard shed, stating "it is not possible to intend to kill someone in the vicinity of a target if the attacker has no knowledge that the person is present." In reaching this conclusion, *Ibarra* noted that *People v. Adams* (2008) 169 Cal.App.4th 1009 [86 Cal.Rptr.3d 915] had reached a contrary conclusion but that *Adams* involved arson of a residence and the defendant had known the victim's family members were inside the residence at the time of the fire. (*Ibarra, supra,* 106 Cal.App.5th at pp. 1079–1080.) In response to these cases, the committee added *Hin*, *Ibarra*, *Vang*, and *Adams* to a new authority section entry entitled "Application of Kill Zone Theory When Shooter Unaware of Presence of Other People."

CALCRIM Nos. 1120 & 3516, *Continuous Sexual Abuse, Multiple Counts: Alternative Charges for One Event—Dual Conviction Prohibited*

Among other issues, *People v. Martinez* (2024) 105 Cal.App.5th 178, 181 [325 Cal.Rptr.3d 700] addressed which remedy to impose when a trial court failed to instruct that the charges of continuous sexual abuse of a minor and specified sex offenses were in the alternative and the jury subsequently returned verdicts on all counts. The court noted that "on this topic CALCRIM gives conflicting guidance" and encouraged the advisory committee to resolve the discrepancy

[2] In addition, the committee recommends adding *Collins* to the authority section of No. 526, *Implied Malice Murder: Aiding and Abetting.* In response to a public comment, the committee also proposes instructional language based on *Collins* to No. 526.

[3] *Watson* upheld a charge of implied malice murder where the defendant killed two people in a traffic collision, finding that the particular facts related to the defendant's alcohol-impaired driving "reasonably and readily support a conclusion that defendant acted wantonly and with a conscious disregard for human life." (*Id.* at pp. 300–301.)

DRAFT

between the use notes in CALCRIM No. 1120 and No. 3516 regarding when or if the court has a duty to give No. 3516 where a defendant is charged in the alternative with specified sex offenses and continuous sexual abuse for the same conduct.[4] (*Id.* at p. 185 & fn. 3.) In response, the committee updated the instructional duty section in CALCRIM No. 3516 to state that the court has a sua sponte duty to instruct in this circumstance and added a citation to *Martinez*. For CALCRIM No. 1120, the committee added *Martinez* to the related issues section. Separately in the authority section of No. 1120, the committee also added *People v. Canales* (2024) 106 Cal.App.5th 1230, 1245–1249 [327 Cal.Rptr.3d 678], which approved of this instruction.[5]

CALCRIM Nos. 1141, 1142, 1144, & 1145, *Distributing Obscene Matter Showing Sexual Conduct by a Minor; Distributing or Intending to Distribute Obscene Material; Using a Minor to Perform Prohibited Acts; Possession of Matter Depicting Minor Engaged in Sexual Conduct*

Senate Bill No. 1381 (Stats. 2024, ch. 929) and Assembly Bill No. 1831 (Stats. 2024, ch. 926) amended several child pornography statutes to add "digitally altered or artificial-intelligence-generated matter" to the types of prohibited matter. For CALCRIM No. 1141, the committee added these new terms to element 3, as well as "knowingly" and "in California" to alternatives 1A and 1B. The committee also placed brackets around "personally" in element 3 and added bench notes explaining to give that word as well as the newly added types of matter for a charge under Penal Code section 311.2(b). For CALCRIM No. 1142, the committee added "knowingly" to alternatives 1A and 1B and substituted the term "matter" in place of "material" throughout to be more consistent with the statutory language.

For CALCRIM No. 1144, the committee recommends several clarifying changes including new directional use notes, minor revisions to the order and wording of elements, new explanatory bench notes, and updates to the authority section. Finally, instead of adding in "digitally altered or artificial-intelligence-generated matter," the committee created an insert option for the definition of matter. For CALCRIM No. 1145, the committee added the bracketed sentence: "Matter includes digitally altered and artificial intelligence–generated data." For all four of these instructions, the committee added "As used here" as an optional phrase to precede the definition of matter and a bench note describing when to give this phrase.

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[4] Specifically, the Related Issues section of CALCRIM No. 1120 states that the court has a sua sponte duty to give CALCRIM No. 3516 in cases where "continuous sexual abuse and specific sexual offenses pertaining to the same victim over the same time period" are charged. Meanwhile, a bench note in CALCRIM No. 3516 currently states: "Because the law is unclear in this area, the court must decide whether to give this instruction if the defendant is charged with specific sexual offenses and, in the alternative, with continuous sexual abuse under Penal Code section 288.5. If the court decides not to so instruct, and the jury convicts the defendant of both continuous sexual abuse and one or more specific sexual offenses that occurred during the same period, the court must then decide which conviction to dismiss."

[5] *Canales* also extensively discussed the use of the terms "general intent" and "specific intent" in CALCRIM No. 252, *Union of Act and Intent: General and Specific Intent Together*, and suggested that the committee eliminate these terms from juror consideration. (*Id.* at pp. 1251–1252.) A larger revision proposal based on this part of the opinion is still pending with the committee.

CALCRIM No. 1240, *Felony False Imprisonment*

A committee member suggested a technical revision to add Penal Code section 236, which defines false imprisonment as "the unlawful violation of the personal liberty of another" and is referenced in the title, to the instruction's first sentence.[6] In reviewing this proposal, the committee further decided to add the elements of fraud and deceit, in accordance with the requirements of Penal Code section 237, which designates false imprisonment punishable as a felony when committed "by violence, menace, fraud, or deceit." The committee also updated the authority section with cases that discuss fraud and deceit, including *People v. Dominguez* (2010) 180 Cal.App.4th 1351, 1359–1360 [103 Cal.Rptr.3d 864], which found substantial evidence of fraud or deceit when the defendant, to entice the minor victims to leave with him, told them that he would take them to a restaurant. Finally, the committee removed the paragraph in the commentary that discusses why the instruction only includes the elements of violence or menace.

CALCRIM No. 1301, *Stalking*

In examining a Colorado stalking statute, *Counterman v. Colorado* (2023) 600 U.S. 66, 69–71 [143 S.Ct. 2106, 216 L.Ed.2d 775] held that the First Amendment requires proof that "the defendant consciously disregarded a substantial risk that his communications would be viewed as threatening violence." The following year, *People v. Obermueller* (2024) 104 Cal.App.5th 207, 220–221 [324 Cal.Rptr.3d 544] reviewed California's stalking statute (Penal Code section 646.9) and determined that direct contact is not required to violate the statute and the defendant need only have "consciously disregarded a substantial risk that [the defendant's] communications would be viewed as threatening harm." Later, *People v. Planchard* (2025) 109 Cal.App.5th 157, 166 [330 Cal.Rptr.3d 277] noted that, although the victim must become aware of the stalking conduct, "there is no requirement that the defendant himself or herself must make the victim aware of the conduct to constitute 'harassing' for purposes of the stalking statute."

Planchard then held that "it is sufficient that the nature of the conduct makes it reasonably foreseeable that the victim would become aware of it." (*Id.* at p. 169.) Finally, *People v. Tafoya* (2025) 109 Cal.App.5th 868, 892–895 [330 Cal.Rptr.3d 845] found that a defendant's public posts on Facebook were not protected speech and were part of a course of conduct that constituted a credible threat within the meaning of the statute. In response, the committee added optional instructional language to convey the conscious disregard and reasonably foreseeable requirements articulated in *Obermueller* and *Planchard*. The committee also added a bench note that explains this language should be given when the defendant has not conveyed the threat directly to the victim. Finally, the committee added *Counterman*, *Obermueller*, *Planchard*, and *Tafoya* to the authority section.[7]

DRAFT

[6] The committee also made a related technical revision to CALCRIM No. 1242, *Misdemeanor False Imprisonment*, by removing Penal Code section 237 from the title and replacing it with Penal Code section 236 in the first sentence.

[7] Related to these revisions, the committee added *Counterman* to the authority section of CALCRIM No. 1300, *Criminal Threats*. This instruction contains the great bodily injury definition, which is also being updated based on a separate proposal discussed later in the section about CALCRIM No. 3160, *Great Bodily Injury*.

New CALCRIM No. 1705, *Unlawful Entry of a Vehicle*
Senate Bill No. 905 (Stats. 2024, ch. 170) added Penal Code section 465 to prohibit forcible entry of a vehicle. Unlike auto burglary, which is prohibited under Penal Code section 459, this new statute does not require proof that the vehicle had been locked at the time of entry. The committee developed a new instruction based on the elements of this offense.

New CALCRIM No. 1760, *Automotive Property Theft for Resale*
Senate Bill No. 905 (Stats. 2024, ch. 170) added Penal Code section 496.5 to prohibit automative property theft for resale. The committee drafted a new instruction for this offense, modeled on CALCRIM No. 1750, *Receiving Stolen Property*. Although this new statute uses the term "unlawfully," the committee was concerned about including that particular word in the instruction itself because "unlawfully" could be interpreted differently among jurors. Instead, the committee decided to express the "unlawfully" requirement as knowledge that the property had been stolen. This requirement is set forth in element 2, which states, "When the defendant possessed the property, the defendant knew that the property had been stolen." The committee also included a commentary to explain this approach.

New CALCRIM No. 1761, *Unlawful Deprivation of Retail Business Opportunity*
Assembly Bill No. 2943 (Stats. 2024, ch. 168) added Penal Code section 496.6 to prohibit the unlawful deprivation of a retail business opportunity. The statutory language appears to use "property" and "merchandise" interchangeably, and the committee debated how to use both terms in a way that would be consistent for the jury. The committee ultimately decided to use the broader term "property" throughout the elements and to use "merchandise" in the definition of "property" for the jury. Similar to Penal Code section 496.5, this statute also uses the term "unlawfully" in place of an express knowledge element about the items being stolen. Similar to CALCRIM No. 1760, the committee included a commentary to explain the approach of adding a knowledge element to express the "unlawfully" requirement.

CALCRIM No. 1801, *Grand and Petty Theft*
Section 8 of Proposition 36[8] added Penal Code section 490.3 to authorize aggregation of the value of stolen property or merchandise into a single count or charge for any case involving theft or shoplifting. The committee added this new code section to the instruction and inserted optional language related to aggregation. The committee also updated a Related Issues section to include discussion of this development in the law.

New CALCRIM No. 1810, *Unlawful Diversion of Construction Funds*
A district attorney requested that the committee draft an instruction for Penal Code section 484b, which prohibits (1) willful failure to complete improvements for which funds were provided or willful failure to pay for services/labor/materials/equipment provided incident to such construction, and (2) wrongful diversion of funds to a use other than that for which the funds were received. The commenter explained that, according to the Contractors State License Board

[8] The complete text of Prop. 36 can be found at *https://vig.cdn.sos.ca.gov/2024/general/pdf/prop36-text-proposed-laws.pdf*.

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(the principal agency for investigating and referring cases of contracting fraud), this offense arises frequently in contracting fraud cases and having a pattern jury instruction on this offense would be helpful to attorneys on both sides. In drafting the instruction, the committee proposed noting in commentary a split in authority among the cases regarding the role of causation. During the comment period, one commenter suggested that the instruction include a bracketed element for causation. The committee agreed and added a new bracketed element 4. The committee also changed the commentary to a bench note that discusses the split in authority.

New CALCRIM No. 1851, *Petty Theft or Shoplifting With Prior Convictions*

Section 9 of Proposition 36 added Penal Code section 666.1, which created a wobbler offense[9] for petty theft or shoplifting when the person has two or more prior convictions for specified theft-related offenses. A second or subsequent conviction of this section is punishable in state prison. The committee drafted this new instruction based on CALCRIM No. 1850, *Petty Theft With Prior Conviction*, to set forth the elements of the prior conviction findings. The committee also made related revisions to the bench notes in CALCRIM No. 1800, *Theft by Larceny*, and CALCRIM No. 1703, *Shoplifting*.

New CALCRIM No. 2307, *Possession of Hard Drug With Prior Controlled Substance Convictions*

Section 7, Article 8, of Proposition 36 enacted the Treatment-Mandated Felony Act. Codified in Health and Safety Code section 11395, this act created a new offense for possession of a "hard drug"[10] when the possessor has two or more prior drug-related convictions. Initially modeled on CALCRIM No. 2304, *Simple Possession of Controlled Substance*, this new instruction sets forth the elements of this offense but without the use of the term "hard drug" in the elements. Unlike CALCRIM No. 2304, which uses the relatively well-known and commonly understood term "controlled substance" in its elements, this new instruction does not refer the jury to the term "hard drug" because the committee was concerned that its use would require inserting the complicated statutory definition of this term for the jury.[11] Instead, certain elements contain an insert option for the specific type of qualifying substance at issue in the case. In this way, the instruction avoids requiring the jury to grapple with the unfamiliar term "hard drug" and instead simply determine whether the defendant possessed the specified substance. In response to suggestions received during the comment period, the committee reworded elements 3 and 5 as well as the title.

DRAFT

[9] A wobbler offense is a crime that can be charged either as a misdemeanor or felony.

[10] Defined in Health & Saf. Code, § 11395(e).

[11] A hard drug is a specified type of controlled substance, including fentanyl, heroin, cocaine, cocaine base, methamphetamine, or phencyclidine, and the analogs of any of these substances. This term does not include "cannabis, cannabis products, peyote, lysergic acid diethylamide (LSD), other psychedelic drugs, including mescaline and psilocybin (mushrooms), any other substance listed in subdivisions (d) and (e) of Section 11054, or, with the exception of methamphetamine, any other substance listed in subdivision (d) of Section 11055." See Health & Saf. Code, § 11395(e).

New CALCRIM No. 2593, *Purchase, Possession, or Use of Tear Gas or Tear Gas Weapon*
After conducting a jury trial in which the defendant was charged under Penal Code section 22810(g), a trial court judge requested that the committee draft an instruction for this offense. Although Penal Code section 22810 covers several types of prohibited conduct, the committee decided to include only subsections (a), (e)(1), and (g) because they are likely the most common ways that the statute is violated.[12] In drafting the new instruction, the committee used the definition of tear gas and tear gas weapon that appears in CALCRIM No. 2745, *Possession or Manufacture of Weapon in Penal Institution*.

CALCRIM No. 3160, *Great Bodily Injury* (and 46 other instructions that define great bodily injury)
Section 13 of Proposition 36 added subdivision (f)(2) to Penal Code section 12022.7. This new subdivision provides that "a person who sells, furnishes, administers, or gives away a controlled substance is deemed to have personally inflicted great bodily injury when the person to whom the substance was sold, furnished, administered, or given suffers a significant or substantial physical injury from using the substance." In response, the committee added the following optional language to this instruction: "A person inflicts great bodily injury if the person sells, furnishes, administers, or gives a controlled substance to another person who uses the substance and, as a result, suffers a significant or substantial physical injury." The committee also removed the related issue note that discusses the holding in *People v. Ollo* (2021) 11 Cal.5th 682 [279 Cal.Rptr.3d 668, 487 P.3d 981], which held that "the act of furnishing is not by itself sufficient to establish personal infliction" and instead, "fact finders and courts must examine the circumstances of the underlying offense and the defendant's role in causing the injury that followed." (*Id.* at p. 685.)

Separately, this instruction—along with 46 other CALCRIM instructions[13]—defines "great bodily injury" as: "significant or substantial physical injury. It is an injury that is greater than minor or moderate harm." Five years ago, *People v. Medellin* (2020) 45 Cal.App.5th 519, 531–532 [258 Cal.Rptr.3d 867] reviewed this definition in the context of a prosecutor's erroneous closing argument that an injury merely greater than minor harm is sufficient to constitute great bodily injury. *Medellin* pointed out that the "or" in the definition's phrase "minor or moderate harm" can create an ambiguity for the jury and suggested modifying this language. (*Id.* at pp. 533–535.) However, a month after *Medellin*, *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] upheld this definition in a case where the prosecutor's closing argument did not deviate from the legal definition and instructions.

In the immediate aftermath of *Medellin* and *Quinonez*, the committee decided not to change the great bodily injury definition and instead added a bench note to highlight the possible issue of

[12] Subsection (b) prohibits possession by a person addicted to a narcotic drug; subsection (c) prohibits sale or furnishing to a minor; and subsection (d) prohibits a minor to purchase, possess, or use.

[13] These other instructions are Nos. 505, 508, 511, 524, 525, 571, 580, 581, 582, 590, 592, 604, 810, 820, 830, 860, 862, 863, 875, 970, 982, 983, 1300, 1402, 1501, 1530, 1551, 2501, 2503, 2514, 2578, 2720, 2721, 2745, 2746, 2747, 2964, 3130, 3145, 3149, 3150, 3161, 3162, 3163, 3177, and 3477.

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error if a prosecutor improperly misstates the law.[14] However, two commenters recently prompted the committee to revisit this initial response, arguing that the definition should be revised to remove any possible ambiguity. In response, the committee has removed "minor or" from the great bodily injury definition so that the second sentence would simply read "It is an injury that is greater than moderate harm." Likewise, the committee also removed the related bench note that discusses *Medellin* and *Quinonez*. The committee made conforming changes to the 46 other instructions that contain the great bodily injury definition.

New CALCRIM No. 3218, *Value of Stolen Property Sold, Exchanged, or Returned*

Senate Bill No. 1416 (Stats. 2024, ch. 174) added Penal Code section 12022.10. This statute sets forth a sentencing enhancement when the convicted person sold, exchanged, or returned for value stolen property and the value of that stolen property exceeded specified amounts. The statute also includes when a person attempted to sell, exchange, or return for value stolen property or acted in concert with another person. The committee drafted a new instruction based on the statutory language. For plain-language purposes, the committee used the phrase "acted together" to describe acting in concert for jurors. During the comment period, one commenter suggested adding a sentence that explains the prosecutor does not need to prove that the defendant committed the underlying act of shoplifting, theft, or burglary. The committee agreed with this suggestion and made this change in the draft.

New CALCRIM No. 3219, *Acting in Concert to Take, Damage, or Destroy Property*

Section 12 of Proposition 36 added Penal Code section 12022.65. This new statute sets forth a sentencing enhancement for acting in concert with two or more persons to take, damage, or destroy property. The committee drafted a new instruction based on the statutory language. The committee used the phrase "acting together" to describe for jurors in plain language "acting in concert."

CALCRIM No. 3220, *Amount of Loss*

This instruction is based on Penal Code section 12022.6, which provides a sentencing enhancement based on the amount of loss. The statute previously sunset in 2018 and, as a result, the Judicial Council revoked the instruction in 2021. Section 11 of Proposition 36 reenacted this statute but with several changes, including different threshold amounts and the addition of property values or loss for felony violations of Penal Code section 496 (possession of stolen property). Using the previously revoked instruction as a template, the committee recommends restoring CALCRIM No. 3220 and has revised it to update the provisions to conform with the new statutory requirements, adding Alternative A for taking, damaging, or destroying property and Alternative B for Penal Code section 496 violations. The committee also included a bench note explaining which options apply to each alternative and a bench note that summarizes the statutory history.

[14] This bench note was added to all instructions that contain the great bodily injury definition.

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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 additions and revisions to *CALCRIM* circulated for public comment from June 2 through 30, 2025. The committee received responses from six commenters: the Office of the State Public Defender (OSPD), the Orange County Bar Association (OCBA), the Contractors State License Board, the Riverside District Attorney's Office, the San Francisco District Attorney's Office, and the San Diego District Attorney's Office.

OPSD requested more expansive language for the great bodily injury definition as well as a new related bench note specifically for CALCRIM Nos. 3160–3164. The committee did not agree with these suggestions, noting that the revised definition comports with California Supreme Court authority and the related bench note addition is unnecessary. For Nos. 520 and 526, OSPD requested several changes related to the "proposed parental duty to protect" language. Although the committee disagreed with several of these suggestions, the committee expanded the parental duty to protect bench note in No. 520 and added instructional language to No. 526 based on *Collins*.

The San Diego District Attorney's Office suggested that the new language in No. 520 based on *Watson* include an admonition about voluntary intoxication. Instead, the committee added a reference to CALCRIM No. 3426, *Voluntary Intoxication*, to the bench notes.

The Contractors State License Board, the Riverside District Attorney's Office, and the San Francisco District Attorney's Office submitted a joint comment about proposed new CALCRIM No. 1810, thanking the advisory committee for proposing this new instruction and requesting additional language. The committee agreed with their suggestion to add a definition of "willfully" but disagreed about expanding element 3. Meanwhile, OCBA disagreed with the proposal for this new instruction based on the split in authority about causation. OCBA recommended that, at a minimum, this instruction contain an optional causation element. In response, the committee added a new causation element and a bench note that describes the split in authority.

For proposed new CALCRIM No. 2307, two commenters suggested important revisions. The San Diego District Attorney's Office requested that element 3 be reworded. Meanwhile, OCBA pointed out that element 5 should be more specific and also suggested changing the title. The committee made changes in response to all these comments.[15]

[15] OCBA made two additional comments: for CALCRIM No. 1142, OCBA pointed out additional conforming changes for "material" to "matter"; for new CALCRIM No. 3218, OCBA suggested adding language to the instruction about the underlying acts of theft. The committee made changes in response to both of these comments.

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The text of all comments received and the committee's responses are included in a chart of comments attached at pages 386–415.

Alternatives considered

The proposed changes are necessary to ensure that the instructions remain clear, accurate, and complete; therefore, other than language and phrasing choices, 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 new and revised *CALCRIM* instructions at pages 12–385
2. Chart of comments, at pages 386–415

DRAFT

CALCRIM Proposed Changes: Table of Contents

Instruction Number	Instruction Title
202	Note-Taking and Reading Back of Testimony
505, 508, 511	Justifiable Homicide: Self-Defense or Defense of Another; Justifiable Homicide: Citizen Arrest (Non-Peace Officer); Excusable Homicide: Accident in the Heat of Passion
520	First or Second Degree Murder With Malice Aforethought
524 & 525	Second Degree Murder: Peace Officer; Second Degree Murder: Discharge From Motor Vehicle
526	Implied Malice Murder: Aiding and Abetting
571, 580, 581, 582	Voluntary Manslaughter: Imperfect Self-Defense or Imperfect Defense of Another—Lesser Included Offense; Involuntary Manslaughter: Lesser Included Offense; Involuntary Manslaughter: Murder Not Charged; Involuntary Manslaughter: Failure to Perform Legal Duty—Murder Not Charged
590, 592, 593	Gross Vehicular Manslaughter While Intoxicated; Gross Vehicular Manslaughter; Misdemeanor Vehicular Manslaughter
600	Attempted Murder
603	Attempted Voluntary Manslaughter: Imperfect Self-Defense—Lesser Included Offense
604	Attempted Voluntary Manslaughter: Imperfect Self-Defense—Lesser Included Offense
810, 820, 830, 860, 862, 863	Torture; Assault Causing Death of Child; Abuse of Elder or Dependent Adult Likely to Produce Great Bodily Harm or Death; Assault on Firefighter or Peace Officer With Deadly Weapon or Force Likely to Produce Great Bodily Injury; Assault on Custodial Officer With Deadly Weapon or Force Likely to Produce Great Bodily Injury; Assault on Transportation Personnel or Passenger With Deadly Weapon or Force Likely to Produce Great Bodily Injury
875	Assault With Deadly Weapon or Force Likely to Produce Great Bodily Injury
970, 982, 983	Shooting Firearm or BB Device in Grossly Negligent Manner; Brandishing Firearm or Deadly Weapon to Resist Arrest; Brandishing Firearm or Deadly Weapon: Misdemeanor
1120	Continuous Sexual Abuse
1141, 1142, 1144, 1145	Distributing Obscene Matter Showing Sexual Conduct by a Minor; Distributing or Intending to Distribute Obscene Material; Using a Minor

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Instruction Number	Instruction Title
	to Perform Prohibited Acts; Possession of Matter Depicting Minor Engaged in Sexual Conduct
1180	Incest
1215	Simple Kidnapping
1240 & 1242	Felony False Imprisonment; Misdemeanor False Imprisonment
1244	Causing Minor to Engage in Commercial Sex Act
1300 & 1301	Criminal Threat; Stalking
1402	Gang-Related Firearm Enhancement
1501, 1530, 1551	Arson: Great Bodily Injury; Unlawfully Causing a Fire: Great Bodily Injury; Arson Enhancements
1703	Shoplifting
NEW 1705	Unlawful Entry of a Vehicle
NEW 1760	Automotive Property Theft For Resale
NEW 1761	Unlawful Deprivation of Retail Business Opportunity
1800	Theft by Larceny
1801	Grand and Petty Theft
NEW 1810	Unlawful Diversion of Construction Funds
NEW 1851	Petty Theft or Shoplifting With Prior Convictions
2100, 2101, 2102	Driving a Vehicle or Operating a Vessel Under the Influence Causing Injury; Driving With 0.08 Percent Blood Alcohol Causing Injury; Driving With 0.04 Percent Blood Alcohol Causing Injury With a Passenger for Hire
NEW 2307	Possession of Hard Drug With Prior Convictions
2501, 2503, 2514, 2578	Carrying Concealed Explosive or Dirk or Dagger; Possession of Deadly Weapon With Intent to Assault; Possession of Firearm by Person Prohibited by Statute: Self-Defense; Explosion of Explosive or Destructive Device Causing Death, Mayhem, or Great Bodily Injury

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Instruction Number	Instruction Title
NEW 2593	Purchase, Possession, or Use of Tear Gas or Tear Gas Weapon
2670	Lawful Performance: Peace Officer
2720, 2721, 2745, 2746, 2747, 2964	Assault by Prisoner Serving Life Sentence; Assault by Prisoner; Possession or Manufacture of Weapon in Penal Institution; Possession of Firearm, Deadly Weapon, or Explosive in a Jail or County Road Camp; Bringing or Sending Firearm, Deadly Weapon, or Explosive Into Penal Institution; Purchasing Alcoholic Beverage for Person Under 21: Resulting in Death or Great Bodily Injury
3130, 3145, 3149, 3150	Personally Armed With Deadly Weapon; Personally Used Deadly Weapon; Personally Used Firearm: Intentional Discharge Causing Injury or Death; Personally Used Firearm: Intentional Discharge and Discharge Causing Injury or Death—Both Charged
3160, 3161, 3162, 3163	Great Bodily Injury; Great Bodily Injury: Causing Victim to Become Comatose or Paralyzed; Great Bodily Injury: Age of Victim; Great Bodily Injury: Domestic Violence
3177	Sex Offenses: Sentencing Factors—Torture
NEW 3218	Value of Stolen Property Sold, Exchanged, or Returned
NEW 3219	Acting in Concert to Take, Damage, or Destroy Property
RESTORED AND REVISED 3220	Amount of Loss
3470	Right to Self-Defense or Defense of Another (Non-Homicide)
3477	Presumption That Resident Was Reasonably Afraid of Death or Great Bodily Injury
3516	Multiple Counts: Alternative Charges for One Event—Dual Conviction Prohibited

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202. Note-Taking and Reading Back of Testimony

[You have been given notebooks and may have taken notes during the trial. You may use your notes during deliberations.] Your notes are for your own individual use to help you remember what happened during the trial. Please keep in mind that your notes may be inaccurate or incomplete.

If there is a disagreement about the testimony [and stipulations] at trial, you may ask that the (court reporter's record be read to/court's recording be played for) you. It is the record that must guide your deliberations, not your notes. You must accept the (court reporter's record-/court's recording) as accurate. [Do not ask the court reporter questions during the readback and do not discuss the case in the presence of the court reporter.]

Please do not remove your notes from the jury room.

At the end of the trial, your notes will be (collected and destroyed/collected and retained by the court but not as a part of the case record/_____<*specify other disposition*>**).**

New January 2006; Revised June 2007, April 2008, August 2009, February 2012, March 2019, September 2020, March 2021, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct the members of the jury that they may take notes. California Rules of Court, ~~R~~rule 2.1031.

The court may specify its preferred disposition of the notes after trial. No statute or rule of court requires any particular disposition.

If the jury requests transcripts, the court should remind the jury of the right to request readback and to advise the court whether there is any testimony they want read. (See *People v. Triplett* (2020) 48 Cal.App.5th 655, 662 [267 Cal.Rptr.3d 675].)

AUTHORITY

- Jurors' Use of Notes. California Rules of Court, ~~R~~rule 2.1031.
- Juror Deliberations Must Be Private and Confidential. *People v. Oliver* (1987) 196 Cal.App.3d 423, 429 [241 Cal.Rptr. 804].

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SECONDARY SOURCES

6 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 20~~12~~24) Criminal Judgment, § ~~21~~19.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 83, *Evidence*, § 83.05[1], Ch. 85, *Submission to Jury and Verdict*, § 85.05[2], [3], Ch. 87, *Death Penalty*, §§ 87.20, 87.24 (Matthew Bender).

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505. Justifiable Homicide: Self-Defense or Defense of Another

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The defendant is not guilty of (murder/ [or] manslaughter/attempted murder/ [or] attempted voluntary manslaughter) if (he/she) was justified in (killing/attempting to kill) someone in (self-defense/ [or] defense of another). The defendant acted in lawful (self-defense/ [or] defense of another) if:

1. **The defendant reasonably believed that (he/she/ [or] someone else/ [or] _____ <*insert name or description of third party*>) was in imminent danger of being killed or suffering great bodily injury [or was in imminent danger of being a victim of (_____ <*insert inherently forcible and atrocious crime such as rape or mayhem*>/ <*insert noninherently forcible and atrocious crime such as robbery*> under circumstances in which (he/she) reasonably believed that (he/she) would suffer great bodily injury or death)];**

2. **The defendant reasonably believed that the immediate use of deadly force was necessary to defend against that danger;**

AND

3. **The defendant used no more force than was reasonably necessary to defend against that danger.**

Belief in future harm is not sufficient, no matter how great or how likely the harm is believed to be. The defendant must have believed there was imminent danger of death or great bodily injury to (himself/herself/ [or] someone else). Defendant's belief must have been reasonable and (he/she) must have acted only because of that belief. The defendant is only entitled to use that amount of force that a reasonable person would believe is necessary in the same situation. If the defendant used more force than was reasonable, the [attempted] killing was not justified.

<The following definition may be given if requested.>
[Danger is *imminent* if, when the defendant used [deadly] force, the danger actually existed or the defendant reasonably believed it existed. The danger must seem immediate and present, so that it must be instantly dealt with. It may not be merely prospective or in the near future.]

When deciding whether the defendant's beliefs were reasonable, consider all the circumstances as they were known to and appeared to the defendant and

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consider what a reasonable person in a similar situation with similar knowledge would have believed. If the defendant's beliefs were reasonable, the danger does not need to have actually existed.

[The defendant's belief that (he/she/ [or] someone else) was threatened may be reasonable even if (he/she) relied on information that was not true. However, the defendant must actually and reasonably have believed that the information was true.]

[If you find that _____*<insert name of decedent/victim>*** threatened or harmed the defendant [or others] in the past, you may consider that information in deciding whether the defendant's conduct and beliefs were reasonable.]**

[If you find that the defendant knew that _____*<insert name of decedent/victim>*** had threatened or harmed others in the past, you may consider that information in deciding whether the defendant's conduct and beliefs were reasonable.]**

[Someone who has been threatened or harmed by a person in the past, is justified in acting more quickly or taking greater self-defense measures against that person.]

[If you find that the defendant received a threat from someone else that (he/she) reasonably associated with _____*<insert name of decedent/victim>*****, you may consider that threat in deciding whether the defendant was justified in acting in (self-defense/ [or] defense of another).]**

[A defendant is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself and, if reasonably necessary, to pursue an assailant until the danger of (death/great bodily injury/_____ *<insert forcible and atrocious crime>***) has passed. This is so even if safety could have been achieved by retreating.]**

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

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

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New January 2006; Revised February 2012, August 2012, September 2020, March 2022, September 2022, February 2025, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on self-defense when: "it appears that the defendant is relying on such a defense, or if there is substantial evidence supportive of such a defense and the defense is not inconsistent with the defendant's theory of the case." (*People v. Breverman* (1998) 19 Cal.4th 142, 157 [77 Cal.Rtpr.2d 870, 960 P.2d 1094] [addressing duty to instruct on voluntary manslaughter as lesser included offense, but also discussing duty to instruct on defenses generally]; see also *People v. Lemus* (1988) 203 Cal.App.3d 470, 478 [249 Cal.Rptr. 897] [if substantial evidence of self-defense exists, court must instruct sua sponte and let jury decide credibility of witnesses].)

If there is substantial evidence of self-defense that is inconsistent with the defendant's testimony, the court must ascertain whether the defendant wants an instruction on self-defense. (*People v. Breverman, supra,* 19 Cal.4th at p. 156.) The court is then required to give the instruction if the defendant so requests. (*People v. Elize* (1999) 71 Cal.App.4th 605, 611–615 [84 Cal.Rptr.2d 35].)

On defense request and when supported by sufficient evidence, the court must instruct that the jury may consider the effect of "antecedent threats and assaults against the defendant on the reasonableness of defendant's conduct." (*People v. Garvin* (2003) 110 Cal.App.4th 484, 488 [1 Cal.Rptr.3d 774].) The court must also instruct that the jury may consider previous threats or assaults by the aggressor against someone else or threats received by the defendant from a third party that the defendant reasonably associated with the aggressor. (See *People v. Pena* (1984) 151 Cal.App.3d 462, 475 [198 Cal.Rptr. 819]; *People v. Minifie* (1996) 13 Cal.4th 1055, 1065, 1068 [56 Cal.Rptr.2d 133, 920 P.2d 1337].)

Forcible and atrocious crimes are generally those crimes whose character and manner reasonably create a fear of death or serious bodily harm. (*People v. Ceballos* (1974) 12 Cal.3d 470, 479 [116 Cal.Rptr. 233, 526 P.2d 241].) In *Ceballos*, the court identified murder, mayhem, rape, and robbery as examples of forcible and atrocious crimes. (*Id.* at p. 478.) However, as noted in *People v. Morales* (2021) 69 Cal.App.5th 978, 992–993 [284 Cal.Rptr.3d 693], *Ceballos* involved a burglary, not a robbery, and contemplated the traditional common law robbery, which, unlike the modern understanding of robbery in California, did not include situations where very little force or threat of force is involved. *Morales* concluded that "[a] robbery therefore cannot trigger the right to use deadly force in self-defense unless the circumstances of the robbery gave rise to a reasonable belief that the victim would suffer great bodily injury or death." (*Id.* at p. 992.)

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~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

Related Instructions

CALCRIM Nos. 506–511, Justifiable and Excusable Homicides.

CALCRIM Nos. 3470–3477, Defense Instructions: Defense of Self, Another, Property.

CALCRIM No. 571, *Voluntary Manslaughter: Imperfect Self-Defense or Imperfect Defense of Another–Lesser Included Offense*.

AUTHORITY

- Justifiable Homicide. Pen. Code, §§ 197–199.
- Fear. Pen. Code, § 198.
- Lawful Resistance. Pen. Code, §§ 692–694.
- Burden of Proof. Pen. Code, § 189.5; *People v. Banks* (1976) 67 Cal.App.3d 379, 383–384 [137 Cal.Rptr. 652].
- Elements. *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082 [56 Cal.Rptr.2d 142, 921 P.2d 1].
- Forcible and Atrocious Crimes. *People v. Ceballos*, *supra*, 12 Cal.3d at pp. 478–479; *People v. Morales*, *supra*, 69 Cal.App.5th at pp. 992–993.
- Imminence. *People v. Aris* (1989) 215 Cal.App.3d 1178, 1187 [264 Cal.Rptr. 167], overruled on other grounds in *People v. Humphrey*, *supra*, 13 Cal.4th at p. 1089.
- No Duty to Retreat. *People v. Hughes* (1951) 107 Cal.App.2d 487, 493 [237 P.2d 64]; *People v. Hatchett* (1942) 56 Cal.App.2d 20, 22 [132 P.2d 51].
- Reasonable Belief. *People v. Humphrey*, *supra*, 13 Cal.4th at p. 1082; *People v. Clark* (1982) 130 Cal.App.3d 371, 377 [181 Cal.Rptr. 682].
- Must Act Under Influence of Fear Alone. Pen. Code, § 198.
- This Instruction Upheld. *People v. Lopez* (2011) 199 Cal.App.4th 1297, 1306 [132 Cal.Rptr.3d 248]; *People v. Genovese* (2008) 168 Cal.App.4th 817, 832 [85 Cal.Rptr.3d 664].

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COMMENTARY

Penal Code section 197, subdivision 1 provides that self-defense may be used in response to threats of death or great bodily injury, or to resist the commission of a felony. (Pen. Code, § 197, subd. 1.) However, in *People v. Ceballos, supra,* 12 Cal.3d at pp. 477–479, the court held that although the latter part of section 197 appears to apply when a person resists the commission of any felony, it should be read in light of common law principles that require the felony to be: "some atrocious crime attempted to be committed by force." (*Id.* at p. 478.) This instruction is therefore written to provide that self-defense may be used in response to threats of great bodily injury or death or to resist the commission of forcible and atrocious crimes.

RELATED ISSUES

Imperfect Self-Defense

Most courts hold that an instruction on imperfect self-defense is required in every case in which a court instructs on perfect self-defense. If there is substantial evidence of a defendant's belief in the need for self-defense, there will *always* be substantial evidence to support an imperfect self-defense instruction because the reasonableness of that belief will always be at issue. (*People v. Ceja* (1994) 26 Cal.App.4th 78, 85–86 [31 Cal.Rptr.2d 475], overruled on other grounds in *People v. Blakeley* (2000) 23 Cal.4th 82, 91 [96 Cal.Rptr.2d 451, 999 P.2d 675]; *People v. De Leon* (1992) 10 Cal.App.4th 815, 824 [12 Cal.Rptr.2d 825].) The court in *People v. Rodriguez* disagreed, however, and found that an imperfect self-defense instruction was not required sua sponte on the facts of the case where defendant's version of the crime "could only lead to an acquittal based on justifiable homicide," and when the prosecutor's version could only lead to a conviction of first degree murder. (*People v. Rodriguez* (1992) 53 Cal.App.4th 1250, 1275 [62 Cal.Rptr.2d 345]; see also *People v. Williams* (1997) 4 Cal.4th 354, 362 [14 Cal.Rptr.2d 441, 841 P.2d 961] [in rape prosecution, no mistake-of-fact instruction was required when two sides gave wholly divergent accounts with no middle ground to support a mistake-of-fact instruction].)

No Defense for Initial Aggressor

An aggressor whose victim fights back in self-defense may not invoke the doctrine of self-defense against the victim's legally justified acts. (*In re Christian S.* (1994) 7 Cal.4th 768, 773, fn. 1 [30 Cal.Rptr.2d 33, 872 P.2d 574].) If the aggressor attempts to break off the fight and communicates this to the victim, but the victim continues to attack, the aggressor may use self-defense against the victim to the same extent as if he or she had not been the initial aggressor. (Pen. Code, § 197, subd. 3; *People v. Trevino* (1988) 200 Cal.App.3d 874, 879 [246 Cal.Rptr. 357];

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see CALCRIM No. 3471, *Right to Self-Defense: Mutual Combat or Initial Aggressor*.) In addition, if the victim responds with a sudden escalation of force, the aggressor may legally defend against the use of force. (*People v. Quach* (2004) 116 Cal.App.4th 294, 301–302 [10 Cal.Rptr.3d 196]; see CALCRIM No. 3471, *Right to Self-Defense: Mutual Combat or Initial Aggressor*.)

Transferred Intent Applies

"[T]he doctrine of self-defense is available to insulate one from criminal responsibility where his act, justifiably in self-defense, inadvertently results in the injury of an innocent bystander." (*People v. Mathews* (1979) 91 Cal.App.3d 1018, 1024 [154 Cal.Rptr. 628]; see also *People v. Curtis* (1994) 30 Cal.App.4th 1337, 1357 [37 Cal.Rptr.2d 304].) There is no sua sponte duty to instruct on this principle, although such an instruction must be given on request when substantial evidence supports it. (*People v. Mathews*, *supra*, 91 Cal.App.3d at p. 1025; see also CALCRIM No. 562, *Transferred Intent*.)

Reasonable Person Standard Not Modified by Evidence of Mental Impairment

In *People v. Jefferson* (2004) 119 Cal.App.4th 508, 519 [14 Cal.Rptr.3d 473], the court rejected the argument that the reasonable person standard for self-defense should be the standard of a mentally ill person like the defendant. "The common law does not take account of a person's mental capacity when determining whether he has acted as the reasonable person would have acted. The law holds 'the mentally deranged or insane defendant accountable for his negligence as if the person were a normal, prudent person.' (Prosser & Keeton, Torts (5th ed. 1984) § 32, p. 177.)" (*Ibid.*; see also Rest.2d Torts, § 283B.)

Reasonable Person Standard and Physical Limitations

A defendant's physical limitations are relevant when deciding the reasonable person standard for self-defense. (*People v. Horn* (2021) 63 Cal.App.5th 672, 686 [277 Cal.Rptr.3d 901].) See also CALCRIM No. 3429, *Reasonable Person Standard for Physically Disabled Person*.

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 20~~1~~24) Defenses, §§ ~~6~~73–93~~85~~.

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications*, §§ 73.11, 73.12 (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).

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508. Justifiable Homicide: Citizen Arrest (Non-Peace Officer)

The defendant is not guilty of (murder/ [or] manslaughter/attempted murder/ [or] attempted voluntary manslaughter) if (he/she) (killed/attempted to kill) someone while trying to arrest him or her for a violent felony. Such (a/an) [attempted] killing is justified, and therefore not unlawful, if:

1. **The defendant committed the [attempted] killing while lawfully trying to arrest or detain _____** *<insert name of decedent>* **for committing (the crime of _____***<insert forcible and atrocious crime, i.e., felony that threatened death or great bodily injury>*/**_____***<insert crime decedent was suspected of committing, e.g., burglary>***, and that crime threatened the defendant or others with death or great bodily injury);**

2. **_____** *<insert name of decedent>* **actually committed (the crime of _____***<insert forcible and atrocious crime, i.e., felony that threatened death or great bodily injury>*/**_____***<insert crime decedent was suspected of committing, e.g., burglary>* **, and that crime threatened the defendant or others with death or great bodily injury);**

3. **The defendant *had reason to believe* that _____ <***insert name of decedent***> had committed (the crime of _____***<insert forcible and atrocious crime, i.e., felony that threatened death or great bodily injury>*/**_____***<insert crime decedent was suspected of committing, e.g.,* **burglary**> **, and that crime threatened the defendant or others with death or great bodily injury);**

[4. The defendant *had reason to believe* that _____ <*ins**ert name of decedent***> **posed a threat of death or great bodily injury, either to the defendant or to others];**

AND

5. **The [attempted] killing was necessary to prevent _____*'s*** *<insert name of dece****dent***> **escape.**

A person has *reason to believe* that someone [poses a threat of death or great bodily injury or] committed (the crime of _____*<insert forcible and atrocious crime, i.e., felony that threatened death or great bodily injury>*/**_____***<insert crime decedent was suspected of committing, e.g.,***

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burglary> **, and that crime threatened the defendant or others with death or great bodily injury) when facts known to the person would persuade someone of reasonable caution to have (that/those) belief[s].**

Great bodily injury **means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

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

New January 2006; Revised April 2011, February 2012, September 2020, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on justifiable homicide when "it appears that the defendant is relying on such a defense, or if there is substantial evidence supportive of such a defense and the defense is not inconsistent with the defendant's theory of the case." (See *People v. Breverman* (1998) 19 Cal.4th 142, 156 [77 Cal.Rptr.2d 870, 960 P.2d 1094] [addressing sua sponte duty to instruct on self-defense].)

It is unclear whether the defendant must always have probable cause to believe that the victim poses a threat of future harm or if it is sufficient if the defendant knows that the victim committed a forcible and atrocious crime. In *Tennessee v. Garner* (1985) 471 U.S. 1, 3, 11 [105 S.Ct. 1694, 85 L.Ed.2d 1], the Supreme Court held that, under the Fourth Amendment, deadly force may not be used by a law enforcement officer to prevent the escape of an apparently unarmed suspected felon unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others. "*Garner* necessarily limits the scope of justification for homicide under section 197, subdivision 4, and other similar statutes from the date of that decision." (*People v. Martin* (1985) 168 Cal.App.3d 1111, 1124 [214 Cal.Rptr. 873].) In a footnote, *Garner*, *supra*, 471 U.S. 1, 16, fn. 15, noted that California law permits a killing in either situation, that is either when the suspect has committed an atrocious crime or when the suspect poses a threat of future harm. (See also *Long Beach Police Officers Assn v. City of Long Beach* (1976) 61 Cal.App.3d 364, 371–375 [132 Cal.Rptr. 348] [also stating the rule as "either" but quoting police regulations, which require that the officer always believe there is a risk of future harm].) The committee has provided both options. See *People v.*

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Ceballos (1974) 12 Cal.3d 470, 478–479 [116 Cal.Rptr. 233, 526 P.2d 241]. The court should review relevant case law before giving bracketed element 4.

The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)

Related Instructions

CALCRIM No. 507, *Justifiable Homicide: By Public Officer*.

CALCRIM No. 509, *Justifiable Homicide: Non-Peace Officer Preserving the Peace*.

AUTHORITY

- Justifiable Homicide to Preserve the Peace. Pen. Code, §§ 197, subd. 4, 199.
- Lawful Resistance to Commission of Offense. Pen. Code, §§ 692–694.
- Private Persons, Authority to Arrest. Pen. Code, § 837.
- Burden of Proof. Pen. Code, § 189.5; *People v. Frye* (1992) 7 Cal.App.4th 1148, 1154–1155 [10 Cal.Rptr.2d 217].
- Felony Must Threaten Death or Great Bodily Injury. *People v. Piorkowski* (1974) 41 Cal.App.3d 324, 328–329 [115 Cal.Rptr. 830].

RELATED ISSUES

Felony Must Actually Be Committed

A private citizen may use deadly force to apprehend a fleeing felon only if the suspect in fact committed the felony and the person using deadly force had reasonable cause to believe so. (*People v. Lillard* (1912) 18 Cal.App. 343, 345 [123 P. 221].)

Felony Committed Must Threaten Death or Great Bodily Injury

Deadly force is permissible to apprehend a felon if "the felony committed is one which threatens death or great bodily injury. . . ." (*People v. Piorkowski, supra,* (1974) 41 Cal.App.3d 324, at pp. 328–329 [115 Cal.Rptr. 830]).

SECONDARY SOURCES

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1 Witkin & Epstein, California Criminal Law (54th ed. 20124) Defenses, §§ 908–96105.

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications*, § 73.15[1], [3] (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).

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511. Excusable Homicide: Accident in the Heat of Passion

The defendant is not guilty of (murder/ [or] manslaughter) if (he/she) killed someone by accident while acting in the heat of passion. Such a killing is excused, and therefore not unlawful, if, at the time of the killing:

1. **The defendant acted in the heat of passion;**

2. **The defendant was (suddenly provoked by** _____<*insert name of decedent*>/ **[or] suddenly drawn into combat by** _____<*insert name of decedent*>**);**

3. **The defendant did not take undue advantage of** _____<*insert name of decedent*>**;**

4. **The defendant did not use a dangerous weapon;**

5. **The defendant did not kill** _____<*insert name of decedent*> **in a cruel or unusual way;**

6. **The defendant did not intend to kill** _____<*insert name of decedent*> **and did not act with conscious disregard of the danger to human life;**

AND

7. **The defendant did not act with criminal negligence.**

A person acts *in the heat of passion* when he or she is provoked into doing a rash act under the influence of intense emotion that obscures his or her reasoning or judgment. The provocation must be sufficient to 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 the killing to be excused on this basis, 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

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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 judgment.

[A *dangerous weapon* is any object, instrument, or weapon [that is inherently deadly or dangerous or one] that is used in such a way that it is capable of causing and likely to cause death or great bodily injury.]

[An object is *inherently deadly* if it is deadly or dangerous in the ordinary use for which it was designed.]

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

***Criminal negligence* involves more than ordinary carelessness, inattention, or mistake in judgment. A person acts with *criminal negligence* when:**

1. **He or she acts in a way that creates a high risk of death or great bodily injury;**

AND

2. **A reasonable person would have known that acting in that way would create such a risk.**

In other words, a person acts with criminal negligence when the way he or she acts is so different from how an ordinarily careful person would act in the same situation that his or her act amounts to disregard for human life or indifference to the consequences of that act.

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 April 2011, September 2019, September 2020, March 2022, October 2025

DRAFT

BENCH NOTES

Instructional Duty

The trial court has a **sua sponte** duty to instruct on accident and heat of passion that excuses homicide when there is evidence supporting the defense. (*People v. Hampton* (1929) 96 Cal.App. 157, 159–160 [273 P. 854] [court erred in refusing defendant's requested instruction].)

Give the bracketed phrase "that is inherently deadly or one" and give the bracketed definition of *inherently deadly* only if the object is a deadly weapon as a matter of law. (*People v. Stutelberg* (2018) 29 Cal.App.5th 314, 317-318 [240 Cal.Rptr.3d 156].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

Related Instructions

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

CALCRIM No. 3471, *Right to Self-Defense: Mutual Combat or Initial Aggressor.*

CALCRIM No. 570, *Voluntary Manslaughter: Heat of Passion –Lesser Included Offense.*

AUTHORITY

- Excusable Homicide if Committed in Heat of Passion. Pen. Code, § 195, subd. 2.
- Burden of Proof. Pen. Code, § 189.5; *People v. Frye* (1992) 7 Cal.App.4th 1148, 1154–1155 [10 Cal.Rptr.2d 217].
- "Deadly Weapon" Defined. See *People v. Aguilar* (1997) 16 Cal.4th 1023, 1028–1029 [68 Cal.Rptr.2d 655, 945 P.2d 1204].
- "Inherently Deadly" Defined. *People v. Perez* (2018) 4 Cal.5th 1055, 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42]; *People v. Aguilar*, *supra*, ~~(1997)~~ 16 Cal.4th ~~1023,~~at pp. 1028–1029 ~~[68 Cal.Rptr.2d 655, 945 P.2d 1204]~~.
- Examples of Noninherently Deadly Weapon. *People v. Aledamat* (2019) 8 Cal.5th 1, 6 [251 Cal.Rptr.3d 371, 447 P.3d 277] [box cutter]; *People v. Perez*,

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supra, (2018) 4 Cal.5th 1055, at p. 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42] [vehicle]; *People v. McCoy* (1944) 25 Cal.2d 177, 188 [153 P.2d 315] [knife].

RELATED ISSUES

Distinguished From Voluntary Manslaughter

Under Penal Code section 195, subd. 2, a homicide is "excusable," "in the heat of passion" if done "by accident," or on "sudden . . . provocation . . . or . . . combat." (Pen. Code, § 195, subd. 2.) Thus, unlike voluntary manslaughter, the killing must have been committed without criminal intent, that is, accidentally. (See *People v. Cooley* (1962) 211 Cal.App.2d 173, 204 [27 Cal.Rptr. 543], disapproved on other grounds in *People v. Lew* (1968) 68 Cal.2d 774, 778, fn. 1 [69 Cal.Rptr. 102, 441 P.2d 942]; Pen. Code, § 195, subd. 1 [act must be without criminal intent]; Pen. Code, § 26, subd. 5 [accident requires absence of "evil design [or] intent"].) The killing must also be on "sudden" provocation, eliminating the possibility of provocation over time, which may be considered in cases of voluntary manslaughter. (See Bench Notes to CALCRIM No. 570, *Voluntary Manslaughter: Heat of Passion–Lesser Included Offense*.)

Distinguished From Involuntary Manslaughter

Involuntary manslaughter requires a finding of gross or criminal negligence. (See Bench Notes to CALCRIM No. 581, *Involuntary Manslaughter: Murder Not Charged*; Pen. Code, § 26, subd. 5 [accident requires no "culpable negligence"].)

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (45th ed. 20241) Defenses, § 27492.

1 Witkin & Epstein, California Criminal Law (45th ed. 20121) Crimes Against the Person, § 124230.

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[1][b], [g], 142.02[2][a] (Matthew Bender).

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

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/protect/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);**

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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.

An (act/[or] failure to act) is *dangerous to human life* if it involved a high degree of probability that it would result in death.

<Applicable only to driving under the influence cases.>
[If you find that the defendant drove a motor vehicle while impaired by (alcohol/[and] drugs), you may consider that as a factor in deciding whether the defendant acted with conscious disregard for (human/[or] fetal) life.]

[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

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***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 in parental duty to protect cases.>
[A parent has a legal duty to protect (his/her) child when the parent knows to a substantial degree of certainty that a life-endangering act has occurred or is about to occur. This duty to protect does not require a parent to place (him/her)self in danger of death or great bodily harm.]

<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*>**.]**

New January 2006; Revised August 2009, October 2010, February 2013, August 2013, September 2017, March 2019, September 2019, March 2021, March 2024, September 2024, October 2025*
** 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

DRAFT

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 implied malice second degree murder based on driving while impaired by alcohol or drugs, see CALCRIM No. 3426, *Voluntary Intoxication*.

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. In selecting the term to include in element 1B, insert the applicable legal duty or duties. Review the legal duty 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].

DRAFT

- Causation. *People v. Carney*, *supra*, 14 Cal.5th at pp. 1137–1139 [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. Sedeno* (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].
- Parental Duty to Protect. *People v. Collins* (2025) 17 Cal.5th 293, 308–310 [328 Cal.Rptr.3d 641, 561 P.3d 801].
- Implied Malice Murder Based on DUI. *People v. Watson* (1981) 30 Cal.3d 290, 300–301 [637 P.2d 279, 179 Cal.Rptr. 43].

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

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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*, 32 Cal.4th at p. 868 ["[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*.

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SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 20~~12~~24) Crimes Against the Person, §§ 1~~96~~–~~8101~~, 18~~112~~–~~11319~~.

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).

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524. Second Degree Murder: Peace Officer (Pen. Code, § 190(b), (c))

If you find the defendant guilty of second degree murder [as charged in Count __], you must then decide whether the People have proved the additional allegation that (he/she) murdered a peace officer.

To prove this allegation the People must prove that:

1. **_____** *<insert officer's name, excluding title>* **was a peace officer lawfully performing (his/her) duties as a peace officer;**

[AND]

2. **When the defendant killed _____** *<insert officer's name, excluding title>***, the defendant knew, or reasonably should have known, that _____** *<insert officer's name, excluding title>* **was a peace officer who was performing (his/her) duties(;/.)**

<Give element 3 when defendant charged with Pen. Code, § 190(c)>
[AND

3. **The defendant (intended to kill the peace officer/ [or] intended to inflict great bodily injury on the peace officer/ [or] personally used a (deadly or dangerous weapon/ [or] firearm) in the commission of the offense).]**

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[A *deadly or dangerous weapon* is any object, instrument, or weapon [that is inherently deadly or dangerous or one] that is used in such a way that it is capable of causing and likely to cause death or great bodily injury.]

[An object is *inherently deadly* if it is deadly or dangerous in the ordinary use for which it was designed.]

[A *firearm* is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.]

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[Someone *personally uses* a (deadly weapon/ [or] firearm) if he or she intentionally does any of the following:

1. **Displays the weapon in a menacing manner;**

2. **Hits someone with the weapon;**

OR

3. **Fires the weapon.]**

[The People allege that the defendant _____ *<insert all of the factors from element 3 when multiple factors are alleged>***. You may not find the defendant guilty unless you all agree that the People have proved at least one of these alleged facts and you all agree on which fact or facts were proved. You do not need to specify the fact or facts in your verdict.]**

[A person who is employed as a police officer by _____ *<insert name of agency that employs police officer>* **is a *peace officer*.]**

[A person employed by _____ *<insert name of agency that employs peace officer, e.g., "the Department of Fish and Wildlife">* **is a *peace officer* if** _____*<insert description of facts necessary to make employee a peace officer, e.g, "designated by the director of the agency as a peace officer">***.]**

[The duties of (a/an) _____ *<insert title of peace officer>* **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).]

New January 2006; Revised August 2009, February 2013, September 2019, September 2020, March 2022, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction defining the elements of the sentencing enhancement. (See *People v. Marshall* (2000) 83 Cal.App.4th 186,

DRAFT

193–195 [99 Cal.Rptr.2d 441]; *Apprendi v. New Jersey* (2000) 530 U.S. 466, 475–476, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)

If the defendant is charged under Penal Code section 190(b), give only elements 1 and 2. If the defendant is charged under Penal Code section 190(c), give all three elements, specifying the appropriate factors in element 3, and give the appropriate definitions, which follow in brackets. Give the bracketed unanimity instruction if the prosecution alleges more than one factor in element 3.

In order to be "engaged in the performance of his or her duties," a peace officer must be acting lawfully. (*People v. Gonzalez* (1990) 51 Cal.3d 1179, 1217 [275 Cal.Rptr. 729, 800 P.2d 1159].) "[D]isputed facts bearing on the issue of legal cause must be submitted to the jury considering an engaged-in-duty element." *(Ibid.)* If excessive force is an issue, the court has a **sua sponte** duty to instruct the jury that the defendant is not guilty of the offense charged, or any lesser included offense in which lawful performance is an element, if the defendant used reasonable force in response to excessive force. (*People v. Olguin* (1981) 119 Cal.App.3d 39, 46–47 [173 Cal.Rptr. 663].) On request, the court must instruct that the prosecution has the burden of proving the lawfulness of the arrest beyond a reasonable doubt. (*People v. Castain* (1981) 122 Cal.App.3d 138, 145 [175 Cal.Rptr. 651].) If lawful performance is an issue, give the bracketed paragraph on lawful performance and the appropriate portions of CALCRIM No. 2670, *Lawful Performance: Peace Officer*.

The jury must determine whether the alleged victim is a peace officer. (*People v. Brown* (1988) 46 Cal.3d 432, 444–445 [250 Cal.Rptr. 604, 758 P.2d 1135].) The court may instruct the jury on the appropriate definition of "peace officer" from the statute (e.g., "a Garden Grove Regular Police Officer and a Garden Grove Reserve Police Officer are peace officers"). *(Ibid.)* However, the court may not instruct the jury that the alleged victim was a peace officer as a matter of law (e.g., "Officer Reed was a peace officer"). *(Ibid.)* If the alleged victim is a police officer, give the bracketed sentence that begins with "A person employed as a police officer." If the alleged victim is another type of peace officer, give the bracketed sentence that begins with "A person employed by."

"Peace officer," as used in this statute, means "as defined in subdivision (a) of Section 830.1, subdivision (a), (b), or (c) of Section 830.2, subdivision (a) of Section 830.33, or Section 830.5." (Pen. Code, § 190(b) & (c).)

The court may give the bracketed sentence that begins, "The duties of a _____ <*insert title . . . .*> include," on request. The court may insert a description of the officer's duties such as "the correct service of a facially valid search warrant." (*People v. Gonzalez* (1990) 51 Cal.3d 1179, 1222 [275 Cal.Rptr. 729, 800 P.2d 1159].)

Give the bracketed phrase "that is inherently deadly or one" and give the

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bracketed definition of *inherently deadly* only if the object is a deadly weapon as a matter of law. (*People v. Stutelberg* (2018) 29 Cal.App.5th 314, 317-318 [240 Cal.Rptr.3d 156].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Second Degree Murder of a Peace Officer. Pen. Code, § 190(b) & (c).
- Personally Used Deadly or Dangerous Weapon. Pen. Code, § 12022.
- Personally Used Firearm. Pen. Code, § 12022.5.
- Personal Use. Pen. Code, § 1203.06(b)(2).
- "Inherently Deadly" Defined. *People v. Perez* (2018) 4 Cal.5th 1055, 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42]; *People v. Aguilar* (1997) 16 Cal.4th 1023, 1028–1029 [68 Cal.Rptr.2d 655, 945 P.2d 1204].
- Examples of Noninherently Deadly Weapon. *People v. Aledamat* (2019) 8 Cal.5th 1, 6 [251 Cal.Rptr.3d 371, 447 P.3d 277] [box cutter]; *People v. Perez* (2018) 4 Cal.5th 1055, 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42] [vehicle]; *People v. McCoy* (1944) 25 Cal.2d 177, 188 [153 P.2d 315] [knife].

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 20~~12~~24) Crimes Against the Person, § ~~186~~91.

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications*, § 73.15[2] (Matthew Bender).

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 87, *Death Penalty*, § 87.13[7] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.01[4][c] (Matthew Bender).

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525. Second Degree Murder: Discharge From Motor Vehicle (Pen. Code, § 190(d))

If you find the defendant guilty of second degree murder [as charged in Count __], you must then decide whether the People have proved the additional allegation that the murder was committed by shooting a firearm from a motor vehicle.

To prove this allegation, the People must prove that:

1. **(The defendant/_____** *<insert name or description of principal if not defendant>***) killed a person by shooting a firearm from a motor vehicle;**

2. **(The defendant/_____** *<insert name or description of principal if not defendant>***) intentionally shot at a person who was outside the vehicle;**

AND

3. **When (the defendant/_____** *<insert name or description of principal if not defendant>***) shot a firearm, (the defendant/_____** *<insert name or description of principal if not defendant>***) intended to inflict great bodily injury on the person outside the vehicle.**

[A *firearm* is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.]

[A *motor vehicle* includes (a/an) (passenger vehicle/motorcycle/motor scooter/bus/school bus/commercial vehicle/truck tractor and trailer/_____ *<insert other type of motor vehicle>***).]**

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[The term[s] (*great bodily injury[,]/ firearm[,]/* [and] *motor vehicle)* (is/are) defined in another instruction to which you should refer.]

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[The People must prove that the defendant intended that the person shot at suffer great bodily injury when (he/she/_____ <*insert name or description of principal if not defendant*>) shot from the vehicle. However, the People do not have to prove that the defendant intended to injure the specific person who was actually killed.]

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.

New January 2006; Revised September 2020, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the sentencing enhancement. (See *People v. Marshall* (2000) 83 Cal.App.4th 186, 193–195 [99 Cal.Rptr.2d 441]; *Apprendi v. New Jersey* (2000) 530 U.S. 466, 475–476, 490 [120 S.Ct. 2348, 147 L.Ed. 2d. 435].)

The statute does not specify whether the defendant must personally intend to inflict great bodily injury or whether accomplice liability may be based on a principal who intended to inflict great bodily injury even if the defendant did not. The instruction has been drafted to provide the court with both alternatives in element 3.

Give the relevant bracketed definitions unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere.

Give the bracketed paragraph that begins with "The People must prove that the defendant intended," if the evidence shows that the person killed was not the person the defendant intended to harm when shooting from the vehicle. (*People v. Sanchez* (2001) 26 Cal.4th 834, 851, fn. 10 [111 Cal.Rptr.2d 129, 29 P.3d 209].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

DRAFT

- Second Degree Murder, Discharge From Vehicle. Pen. Code, § 190(d).

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (4<u>5</u>th ed. 20<u>12</u>24) Crimes Against the Person, § 1<u>91</u>86.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.01[1][a], [2][a][vii], [4][c] (Matthew Bender).

526–539. Reserved for Future Use

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526. Implied Malice Murder: Aiding and Abetting

To prove that the defendant is guilty of aiding and abetting murder by acting with implied malice, the People must prove that:

1. **The perpetrator committed [an] act[s] that (was/were) dangerous to human life;**

2. **The perpetrator's act[s] caused the death of (another person/ [or] a fetus);**

3. **The defendant knew that the perpetrator intended to commit the act[s] that (was/were) dangerous to human life;**

4. **Before or during the commission of the perpetrator's act[s], the defendant intended to aid and abet the perpetrator in committing the act[s] that (was/were) dangerous to human life;**

5. **Before or during the commission of the perpetrator's act[s], the defendant knew the perpetrator's act[s] (was/were) dangerous to human life, and the defendant deliberately acted with conscious disregard for human life;**

AND

6. **By words or conduct, the defendant did in fact aid and abet the perpetrator's commission of the act[s].**

<Give in parental duty to protect cases.>
[For murder liability to attach to a parent as an aider and abettor based on failure to protect, the parent must knowingly fail to protect the child from the life-endangering act for the purpose of facilitating that life-endangering act and the failure to act must actually assist in the commission of the life-endangering act.]

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.

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.

An act is *dangerous to human life* if there is a high degree of probability that the act will result in death.

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[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.]

[It is not necessary that the perpetrator or 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 causes death if the death is the direct, natural, and probable consequence of the act and the death would not have happened without the 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.]

[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.]

New September 2023; Revised October 2025

BENCH NOTES

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Instructional Duty

The court has a **sua sponte** duty to instruct on aiding and abetting when the prosecution relies on it as a theory of culpability. (*People v. Beeman* (1984) 35 Cal.3d 547, 560–561 [199 Cal.Rptr. 60, 674 P.2d 1318].)

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 evidence that the defendant withdrew from participation in the crime, the court has a **sua sponte** duty to give the bracketed portion regarding withdrawal. (*People v. Norton* (1958) 161 Cal.App.2d 399, 403 [327 P.2d 87]; *People v. Ross* (1979) 92 Cal.App.3d 391, 404–405 [154 Cal.Rptr. 783].)

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 modify this instruction, consistent with the language in CALCRIM No. 520, *First or Second Degree Murder With Malice Aforethought*.

Related Instructions

Give CALCRIM No. 520, *Murder: First or Second Degree Murder With Malice Aforethought* and CALCRIM No. 400, *Aiding and Abetting: General Principles*, before this instruction. Note that Penal Code section 30 uses "principal" but that CALCRIM Nos. 400 and 526 substitute "perpetrator" for clarity.

AUTHORITY

- Instructional Requirements. *People v. Reyes* (2023) 14 Cal.5th 981, 992 [309 Cal.Rptr.3d 832, 531 P.3d 357].
- Aiding and Abetting Liability for Implied Malice Murder. *People v. Reyes*, *supra*, 14 Cal.5th at pp. 990–991; *People v. Gentile* (2020) 10 Cal.5th 830, 850–851 [272 Cal.Rptr.3d 814, 477 P.3d 539].
- Presence or Knowledge Insufficient. *People v. Boyd* (1990) 222 Cal.App.3d 541, 557 fn.14 [271 Cal.Rptr. 738]; *In re Michael T.*, *supra*, 84 Cal.App.3d at p. 911.
- "Dangerous to Human Life" Defined. *People v. Reyes*, *supra*, 14 Cal.5th at p. 989.
- "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].
- Withdrawal. *People v. Norton*, *supra*, 161 Cal.App.2d at p. 403; *People v. Ross* (1979) 92 Cal.App.3d 391, 404–405 [154 Cal.Rptr. 783].

DRAFT

- Parental Duty to Protect. *People v. Collins* (2025) 17 Cal.5th 293, 308–310 [328 Cal.Rptr.3d 641, 561 P.3d 801].

COMMENTARY

In recognizing that Penal Code section 188(a)(3) bars imputed malice, and therefore bars conviction of second degree murder under a natural and probable consequences theory, the California Supreme Court further held that: "an aider and abettor who does not expressly intend to aid a killing can still be convicted of second degree murder if the person knows that his or her conduct endangers the life of another and acts with conscious disregard for life." (*People v. Gentile, supra,* 10 Cal.5th at pp. 850–851.) Unlike imputed malice, which involves vicarious liability, implied malice involves the concept of natural and probable consequences, which is still permissible because implied malice "is based upon the natural and probable consequences of a defendant's *own* act committed with knowledge of and disregard for the risk of death the act carries." (*People v. Vargas, supra,* 84 Cal.App.5th at p. 953 fn. 6.) Therefore, aiding and abetting implied malice murder remains a valid theory of liability, notwithstanding the statutory changes effected by Senate Bill 1437 (Stats. 2018, ch. 1015) and Senate Bill 775 (Stats. 2021, ch. 551). (See *People v. Reyes, supra,* 14 Cal.5th at pp. 990–991.)

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571. Voluntary Manslaughter: Imperfect Self-Defense or Imperfect Defense of Another—Lesser Included Offense (Pen. Code, § 192)

A killing that would otherwise be murder is reduced to voluntary manslaughter if the defendant killed a person because (he/she) acted in (imperfect self-defense/ [or] imperfect defense of another).

If you conclude the defendant acted in complete (self-defense/ [or] defense of another), (his/her) action was lawful and you must find (him/her) not guilty of any crime. The difference between complete (self-defense/ [or] defense of another) and (imperfect self-defense/ [or] imperfect defense of another) depends on whether the defendant's belief in the need to use deadly force was reasonable.

The defendant acted in (imperfect self-defense/ [or] imperfect defense of another) if:

1. **The defendant actually believed that (he/she/ [or] someone else/_____ <*insert name of third party*>) was in imminent danger of being killed or suffering great bodily injury;**

AND

2. **The defendant actually believed that the immediate use of deadly force was necessary to defend against the danger;**

BUT

3. **At least one of those beliefs was unreasonable.**

Belief in future harm is not sufficient, no matter how great or how likely the harm is believed to be.

In evaluating the defendant's beliefs, consider all the circumstances as they were known and appeared to the defendant.

<The following definition may be given if requested.>
[Danger is *imminent* if, when the defendant used [deadly] force, the danger actually existed or the defendant actually believed it existed. The danger must seem immediate and present, so that it must be instantly dealt with. It may not be merely prospective or in the near future.]

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[Imperfect self-defense does not apply when the defendant, through (his/her) own wrongful conduct, has created circumstances that justify (his/her) adversary's use of force.]

[If you find that _____<*insert name of decedent/victim*>**threatened or harmed the defendant [or others] in the past, you may consider that information in evaluating the defendant's beliefs.]**

[If you find that the defendant knew that _____<*insert name of decedent/victim*>**had threatened or harmed others in the past, you may consider that information in evaluating the defendant's beliefs.]**

[If you find that the defendant received a threat from someone else that (he/she) associated with _____<*insert name of decedent/victim*>**, you may consider that threat in evaluating the defendant's beliefs.]**

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

The People have the burden of proving beyond a reasonable doubt that the defendant was not acting in (imperfect self-defense/ [or] imperfect defense of another). If the People have not met this burden, you must find the defendant not guilty of murder.

New January 2006; Revised August 2012, February 2015, September 2020, March 2022, September 2022, March 2024, February 2025, October 2025*
** Denotes changes only to bench notes and other commentaries.*

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].)

See discussion of imperfect self-defense in Related Issues section of CALCRIM No. 505, *Justifiable Homicide: Self-Defense or Defense of Another*.

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than~~

DRAFT

~~minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

Related Instructions

CALCRIM No. 505, *Justifiable Homicide: Self-Defense or Defense of Another*.

CALCRIM No. 3470, *Right to Self-Defense or Defense of Another (Non-Homicide)*.

CALCRIM No. 3471, *Right to Self-Defense: Mutual Combat or Initial Aggressor*.

CALCRIM No. 3472, *Right to Self-Defense: May Not Be Contrived*.

AUTHORITY

- Elements. Pen. Code, § 192(a).
- "Imperfect Self-Defense" Defined. *People v. Flannel* (1979) 25 Cal.3d 668, 680–683 [160 Cal.Rptr. 84, 603 P.2d 1]; *People v. Barton*, *supra*, 12 Cal.4th at p. 201; *In re Christian S.* (1994) 7 Cal.4th 768, 773 [30 Cal.Rptr.2d 33, 872 P.2d 574]; see *People v. Uriarte* (1990) 223 Cal.App.3d 192, 197–198 [272 Cal.Rptr. 693] [insufficient evidence to support defense of another person].
- Imperfect Defense of Others. *People v. Randle* (2005) 35 Cal.4th 987, 995-1000 [28 Cal.Rptr.3d 725, 111 P.3d 987], overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172 [91 Cal.Rptr.3d 106, 203 P.3d 425].
- Availability of Imperfect Self-Defense. *People v. Enraca* (2012) 53 Cal.4th 735, 761 [137 Cal.Rptr.3d 117, 269 P.3d 543] [not available]; *People v. Vasquez* (2006) 136 Cal.App.4th 1176, 1179–1180 [39 Cal.Rptr.3d 433] [available].
- Imperfect Self-Defense Does Not Apply When Defendant's Belief in Need for Self-Defense Is Entirely Delusional. *People v. Elmore* (2014) 59 Cal.4th 121, 145 [172 Cal.Rptr.3d 413, 325 P.3d 951].
- This Instruction Upheld. *People v. Lopez* (2011) 199 Cal.App.4th 1297, 1306 [132 Cal.Rptr.3d 248]; *People v. Genovese* (2008) 168 Cal.App.4th 817, 832 [85 Cal.Rptr.3d 664].
- Defendant Relying on Imperfect Self-Defense Must Actually, Although Not Reasonably, Associate Threat With Victim. *People v. Minifie* (1996) 13 Cal.4th 1055, 1069 [56 Cal.Rptr.2d 133, 920 P.2d 1337] [in dicta].

DRAFT

LESSER INCLUDED OFFENSES

- Attempted Voluntary Manslaughter. *People v. Van Ronk* (1985) 171 Cal.App.3d 818, 822 [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

Intimate Partner Battering and Its Effects

Evidence relating to intimate partner battering (formerly "battered women's syndrome") and its effects may be considered by the jury when deciding if the defendant actually feared the batterer and if that fear was reasonable. (See *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082–1089 [56 Cal.Rptr.2d 142, 921 P.2d 1]; see also *In re Walker* (2007) 147 Cal.App.4th 533, 536, fn.1 [54 Cal.Rptr.3d 411].)

Blakeley *Not Retroactive*

The decision in *Blakeley*—that one who, acting with conscious disregard for life, unintentionally kills in imperfect self-defense is guilty of voluntary manslaughter—may not be applied to defendants whose offense occurred prior to *Blakeley*'s June 2, 2000, date of decision. (*People v. Blakeley* (2000) 23 Cal.4th 82, 91–93 [96 Cal.Rptr.2d 451, 999 P.2d 675].) If a defendant asserts a killing was done in an honest but mistaken belief in the need to act in self-defense and the offense occurred prior to June 2, 2000, the jury must be instructed that an unintentional killing in imperfect self-defense is involuntary manslaughter. (*People v. Johnson* (2002) 98 Cal.App.4th 566, 576–577 [119 Cal.Rptr.2d 802]; *People v. Blakeley, supra,* 23 Cal.4th at p. 93.)

Inapplicable to Felony Murder

Imperfect self-defense does not apply to felony murder. "Because malice is irrelevant in first and second degree felony murder prosecutions, a claim of imperfect self-defense, offered to negate malice, is likewise irrelevant." (See *People v. Tabios* (1998) 67 Cal.App.4th 1, 6–9 [78 Cal.Rptr.2d 753]; see also *People v. Anderson* (1991) 233 Cal.App.3d 1646, 1666 [285 Cal.Rptr. 523]; *People v. Loustaunau* (1986) 181 Cal.App.3d 163, 170 [226 Cal.Rptr. 216].)

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

DRAFT

Penal Code section 187, it has "left untouched the provisions of section 192, defining manslaughter [as] the 'unlawful killing of a human being.' " (37 Cal.App.3d at p. 355.)

See also the Related Issues section to CALCRIM No. 505, *Justifiable Homicide: Self-Defense or Defense of Another*.

Reasonable Person Standard Not Modified by Evidence of Mental Impairment

In *People v. Jefferson* (2004) 119 Cal.App.4th 508, 519 [14 Cal.Rptr.3d 473], the court rejected the argument that the reasonable person standard for self-defense should be the standard of a mentally ill person like the defendant. "The common law does not take account of a person's mental capacity when determining whether he has acted as the reasonable person would have acted. The law holds 'the mentally deranged or insane defendant accountable for his negligence as if the person were a normal, prudent person.' (Prosser & Keeton, Torts (5th ed. 1984) § 32, p. 177.)" (*Ibid.*; see also Rest.2d Torts, § 283B.)

Reasonable Person Standard and Physical Limitations

A defendant's physical limitations are relevant when deciding the reasonable person standard for self-defense. (*People v. Horn* (2021) 63 Cal.App.5th 672, 686 [277 Cal.Rptr.3d 901].) See also CALCRIM No. 3429, *Reasonable Person Standard for Physically Disabled Person*.

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 20~~12~~24) Crimes Against the Person, §§ ~~12~~42–~~12~~44.

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications*, § 73.11[1][c], [2][a] (Matthew Bender).

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][d.1], [e], 142.02[1][a], [e], [f], [2][a], [3][c] (Matthew Bender).

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580. Involuntary Manslaughter: Lesser Included Offense (Pen. Code, § 192(b))

When a person commits an unlawful killing but does not intend to kill and does not act with conscious disregard for human life, then the crime is involuntary manslaughter.

The difference between other homicide offenses and involuntary manslaughter depends on whether the person was aware of the risk to life that his or her actions created and consciously disregarded that risk. An unlawful killing caused by a willful act done with full knowledge and awareness that the person is endangering the life of another, and done in conscious disregard of that risk, is voluntary manslaughter or murder. An unlawful killing resulting from a willful act committed without intent to kill and without conscious disregard of the risk to human life is involuntary manslaughter.

The defendant committed involuntary manslaughter if:

1. **The defendant committed (a crime/ [or] a lawful act in an unlawful manner);**

2. **The defendant committed the (crime/ [or] act) with criminal negligence;**

AND

3. **The defendant's acts caused the death of another person.**

[The People allege that the defendant committed the following crime[s]: _____ *<insert misdemeanor[s]/infraction[s])/noninherently dangerous (felony/felonies)/inherently dangerous assaultive (felony/felonies)>***.**

Instruction[s] __ tell[s] you what the People must prove in order to prove that the defendant committed _____ *<insert misdemeanor[s]/infraction[s])/ noninherently dangerous (felony/felonies)/inherently dangerous assaultive (felony/felonies)>***.]**

[The People [also] allege that the defendant committed the following lawful act[s] with criminal negligence: _____ *<insert act[s] alleged>***.]**

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Criminal negligence **involves more than ordinary carelessness, inattention, or mistake in judgment. A person acts with criminal negligence when:**

1. **He or she acts in a reckless way that creates a high risk of death or great bodily injury;**

AND

2. **A reasonable person would have known that acting in that way would create such a risk.**

In other words, a person acts with criminal negligence when the way he or she acts is so different from the way an ordinarily careful person would act in the same situation that his or her act amounts to disregard for human life or indifference to the consequences of that act.

[An act causes death if the death is the direct, natural, and probable consequence of the act and the death would not have happened without the 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 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.]

Great bodily injury **means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

[The People allege that the defendant committed the following (crime[s]/ [and] lawful act[s] with criminal negligence): _____ *<insert alleged predicate acts when multiple acts alleged>***. You may not find the defendant guilty unless all of you agree that the People have proved that the defendant committed at least one of these alleged acts and you all agree that the same act or acts were proved.]**

In order to prove murder or voluntary manslaughter, the People have the burden of proving beyond a reasonable doubt that the defendant acted with intent to kill or with conscious disregard for human life. If the People have not met either of these burdens, you must find the defendant not guilty of murder and not guilty of voluntary manslaughter.

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New January 2006; Revised April 2011, February 2013, September 2018, September 2020, September 2022, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on involuntary manslaughter as a lesser included offense of murder when there is sufficient evidence that the defendant lacked malice. (*People v. Glenn* (1991) 229 Cal.App.3d 1461, 1465–1467 [280 Cal.Rptr. 609], overruled in part in *People v. Blakeley* (2000) 23 Cal.4th 82, 91 [96 Cal.Rptr.2d 451, 999 P.2d 675].)

When instructing on involuntary manslaughter as a lesser offense, the court has a **sua sponte** duty to instruct on both theories of involuntary manslaughter (misdemeanor/infraction/noninherently dangerous felony/inherently dangerous assaultive felony and lawful act committed without due caution and circumspection) if both theories are supported by the evidence. (*People v. Lee* (1999) 20 Cal.4th 47, 61 [82 Cal.Rptr.2d 625, 971 P.2d 1001].) In element 2, instruct on either or both of theories of involuntary manslaughter as appropriate.

The court has a **sua sponte** duty to specify the predicate misdemeanor, infraction, or noninherently dangerous felony alleged and to instruct on the elements of the predicate offense(s). (*People v. Milham* (1984) 159 Cal.App.3d 487, 506 [205 Cal.Rptr. 688]; *People v. Ellis* (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409]; *People v. Burroughs* (1984) 35 Cal.3d 824, 835 [201 Cal.Rptr. 319, 678 P.2d 894], disapproved on other grounds in *People v. Blakeley*, *supra*, 23 Cal.4th at p. 89.)

The court has a **sua sponte** duty to instruct on involuntary manslaughter based on the commission of an inherently dangerous assaultive felony and to instruct on the elements of the predicate offense(s). (*People v. Brothers* (2015) 236 Cal.App.4th 24, 33–34 [186 Cal.Rptr.3d 98]; see also *People v. Bryant* (2013) 56 Cal.4th 959, 964 [157 Cal.Rptr.3d 522, 301 P.3d 1136].)

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 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].) See also CALCRIM No. 620, *Causation: Special Issues*.

In cases involving vehicular manslaughter (Pen. Code, § 192(c)), there is a split in authority on whether there is a **sua sponte** duty to give a unanimity instruction

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when multiple predicate offenses are alleged. (*People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30], overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481 [76 Cal.Rptr.2d 180, 957 P.2d 869]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438]; *People v. Leffel* (1988) 203 Cal.App.3d 575, 586–587 [249 Cal.Rptr. 906].) A unanimity instruction is included in a bracketed paragraph, should the court determine that such an instruction is appropriate.

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- "Involuntary Manslaughter" Defined. Pen. Code, § 192(b).
- Due Caution and Circumspection. *People v. Penny* (1955) 44 Cal.2d 861, 879–880 [285 P.2d 926]; *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 440 [8 Cal.Rptr. 863].
- Criminal Negligence Requirement; This Instruction Upheld. *People v. Butler* (2010) 187 Cal.App.4th 998, 1014 [114 Cal.Rptr.3d 696].
- Unlawful Act Not Amounting to a Felony. *People v. Thompson* (2000) 79 Cal.App.4th 40, 53 [93 Cal.Rptr.2d 803].
- Unlawful Act Must Be Dangerous Under the Circumstances of Its Commission. *People v. Wells* (1996) 12 Cal.4th 979, 982 [50 Cal.Rptr.2d 699, 911 P.2d 1374]; *People v. Cox* (2000) 23 Cal.4th 665, 674 [97 Cal.Rptr.2d 647, 2 P.3d 1189].
- Proximate Cause. *People v. Roberts* (1992) 2 Cal.4th 271, 315–321 [6 Cal.Rptr.2d 276, 826 P.2d 274]; *People v. Rodriguez*, *supra*, 186 Cal.App.2d at p. 440.
- Lack of Due Caution and Circumspection Contrasted With Conscious Disregard of Life. *People v. Watson* (1981) 30 Cal.3d 290, 296–297 [179 Cal.Rptr. 43, 637 P.2d 279]; *People v. Evers* (1992) 10 Cal.App.4th 588, 596 [12 Cal.Rptr.2d 637].
- Inherently Dangerous Assaultive Felonies. *People v. Bryant*, *supra*, 56 Cal.4th at p. 964; *People v. Brothers*, *supra*, 236 Cal.App.4th at pp. 33-34.

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LESSER INCLUDED OFFENSES

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

There is no crime of attempted involuntary manslaughter. (*People v. Johnson* (1996) 51 Cal.App.4th 1329, 1332 [59 Cal.Rptr.2d 798]; *People v. Broussard* (1977) 76 Cal.App.3d 193, 197 [142 Cal.Rptr. 664].)

Aggravated assault is not a lesser included offense of involuntary manslaughter. (*People v. Murray* (2008) 167 Cal.App.4th 1133, 1140 [84 Cal.Rptr.3d 676].)

RELATED ISSUES

Imperfect Self-Defense and Involuntary Manslaughter

Imperfect self-defense is a "mitigating circumstance" that "reduce[s] an intentional, unlawful killing from murder to voluntary manslaughter by *negating the element of malice* that otherwise inheres in such a homicide." (*People v. Rios* (2000) 23 Cal.4th 450, 461 [97 Cal.Rptr.2d 512, 2 P.3d 1066] [citations omitted, emphasis in original].) However, evidence of imperfect self-defense may support a finding of *involuntary* manslaughter, where the evidence demonstrates *the absence of* (as opposed to *the negation of*) the elements of malice. (*People v. Blakeley*, *supra*, 23 Cal.4th at p. 91 [discussing dissenting opinion of Mosk, J.].) Nevertheless, a court should not instruct on involuntary manslaughter unless there is evidence supporting the statutory elements of that crime.

See also the Related Issues section to CALCRIM No. 581, *Involuntary Manslaughter: Murder Not Charged*.

SECONDARY SOURCES

4 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 20~~12~~24) Crimes Against the Person, §§ ~~246~~147–~~260~~161.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.02[2][a][i] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, §§ 140.02[4], 140.04, Ch. 142, *Crimes Against the Person*, §§ 142.01[3][d.1], [e], 142.02[1][a], [b], [e], [f], [2][b], [3][c] (Matthew Bender).

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581. Involuntary Manslaughter: Murder Not Charged (Pen. Code, § 192(b))

The defendant is charged [in Count ____] with involuntary manslaughter [in violation of Penal Code section 192(b)].

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

1. **The defendant committed (a crime/ [or] a lawful act in an unlawful manner);**
2. **The defendant committed the (crime/ [or] act) with criminal negligence;**

AND

3. **The defendant's acts caused the death of another person.**

[The People allege that the defendant committed the following crime[s]: _____ *<insert misdemeanor[s]/infraction[s])/noninherently dangerous (felony/felonies)>***.**

Instruction[s] __ tell[s] you what the People must prove in order to prove that the defendant committed _____ *<insert misdemeanor[s]/infraction[s])/ noninherently dangerous (felony/felonies)>***.]**

[The People [also] allege that the defendant committed the following lawful act[s] with criminal negligence: _____ *<insert act[s] alleged>***.]**

***Criminal negligence* involves more than ordinary carelessness, inattention, or mistake in judgment. A person acts with criminal negligence when:**

1. **He or she acts in a reckless way that creates a high risk of death or great bodily injury;**

AND

2. **A reasonable person would have known that acting in that way would create such a risk.**

DRAFT

In other words, a person acts with criminal negligence when the way he or she acts is so different from the way an ordinarily careful person would act in the same situation that his or her act amounts to disregard for human life or indifference to the consequences of that act.

[An act causes death if the death is the direct, natural, and probable consequence of the act and the death would not have happened without the 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 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.]

***Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

[The People allege that the defendant committed the following (crime[s]/ [and] lawful act[s] with criminal negligence): _____ <*insert alleged predicate acts when multiple acts alleged*>**. You may not find the defendant guilty unless all of you agree that the People have proved that the defendant committed at least one of these alleged acts and you all agree on which act (he/she) committed.]**

New January 2006; Revised April 2011, September 2020, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on the elements of the offense.

The court has a **sua sponte** duty to instruct on both theories of involuntary manslaughter (misdemeanor/infraction/noninherently dangerous felony and lawful act committed without due caution and circumspection) if both theories are supported by the evidence. (*People v. Lee* (1999) 20 Cal.4th 47, 61 [82 Cal.Rptr.2d 625, 971 P.2d 1001].) In element 1, instruct on either or both theories of involuntary manslaughter as appropriate.

The court has a **sua sponte** duty to specify the predicate misdemeanor, infraction or noninherently dangerous felony alleged and to instruct on the elements of the predicate offense(s). (*People v. Milham* (1984) 159 Cal.App.3d 487, 506 [205

DRAFT

Cal.Rptr. 688]; *People v. Ellis* (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409]; *People v. Burroughs* (1984) 35 Cal.3d 824, 835 [201 Cal.Rptr. 319, 678 P.2d 894], disapproved on other grounds in *People v. Blakeley* (2000) 23 Cal.4th 82, 89 [96 Cal.Rptr.2d 451, 999 P.2d 675].)

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 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].)

In cases involving vehicular manslaughter (Pen. Code, § 192(c)), there is a split in authority on whether there is a **sua sponte** duty to give a unanimity instruction when multiple predicate offenses are alleged. (*People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30], overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481 [76 Cal.Rptr.2d 180, 957 P.2d 869]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438]; *People v. Leffel* (1988) 203 Cal.App.3d 575, 586–587 [249 Cal.Rptr. 906].) A unanimity instruction is included in a bracketed paragraph for the court to use at its discretion.

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- "Involuntary Manslaughter" Defined. Pen. Code, § 192(b).
- Due Caution and Circumspection. *People v. Penny* (1955) 44 Cal.2d 861, 879–880 [285 P.2d 926]; *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 440 [8 Cal.Rptr. 863].
- Unlawful Act Not Amounting to a Felony. *People v. Thompson* (2000) 79 Cal.App.4th 40, 53 [93 Cal.Rptr.2d 803].
- Criminal Negligence Requirement. *People v. Butler* (2010) 187 Cal.App.4th 998, 1014 [114 Cal.Rptr.3d 696].

DRAFT

- Unlawful Act Must Be Dangerous Under the Circumstances of Its Commission. *People v. Wells* (1996) 12 Cal.4th 979, 982 [50 Cal.Rptr.2d 699, 911 P.2d 1374]; *People v. Cox* (2000) 23 Cal.4th 665, 674 [97 Cal.Rptr.2d 647, 2 P.3d 1189].
- Proximate Cause. *People v. Roberts* (1992) 2 Cal.4th 271, 315–321 [6 Cal.Rptr.2d 276, 826 P.2d 274]; *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 440 [8 Cal.Rptr. 863].
- Lack of Due Caution and Circumspection Contrasted With Conscious Disregard of Life. *People v. Watson* (1981) 30 Cal.3d 290, 296–297 [179 Cal.Rptr. 43, 637 P.2d 279]; *People v. Evers* (1992) 10 Cal.App.4th 588, 596 [12 Cal.Rptr.2d 637].

LESSER INCLUDED OFFENSES

There is no crime of attempted involuntary manslaughter. (*People v. Johnson* (1996) 51 Cal.App.4th 1329, 1332 [59 Cal.Rptr.2d 798].)

Aggravated assault is not a lesser included offense of involuntary manslaughter. (*People v. Murray* (2008) 167 Cal.App.4th 1133, 1140 [84 Cal.Rptr.3d 676].)

RELATED ISSUES

Due Caution and Circumspection

"The words lack of 'due caution and circumspection' have been heretofore held to be the equivalent of 'criminal negligence.'" (*People v. Penny* (1955) 44 Cal.2d 861, 879[285 P.2d 926].)

Felonies as Predicate "Unlawful Act"

"[T]he only logically permissible construction of section 192 is that an unintentional homicide committed in the course of a noninherently dangerous felony may properly support a conviction of involuntary manslaughter, if that felony is committed without due caution and circumspection." (*People v. Burroughs* (1984) 35 Cal.3d 824, 835 [201 Cal.Rptr. 319, 678 P.2d 894], disapproved on other grounds in *People v. Blakeley* (2000) 23 Cal.4th 82, 89 [96 Cal.Rptr.2d 451, 999 P.2d 675] [practicing medicine without a license cannot be predicate offense for second degree murder because not inherently dangerous but can be for involuntary manslaughter even though Penal Code section 192 specifies an "unlawful act, not amounting to a felony"].)

No Inherently Dangerous Requirement for Predicate Misdemeanor/Infraction

"[T]he offense which constitutes the 'unlawful act' need not be an inherently dangerous misdemeanor or infraction. Rather, to be an 'unlawful act' within the

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meaning of section 192(c)(1), the offense must be dangerous under the circumstances of its commission. An unlawful act committed with gross negligence would necessarily be so." (*People v. Wells* (1996) 12 Cal.4th 979, 982 [50 Cal.Rptr.2d 699, 911 P.2d 1374].)

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 (5~~4~~th ed. 2024~~12~~) Crimes Against the Person, §§ ~~225~~153, ~~2~~14746~~–~~161~~260~~.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.02[2][a][i] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, §§ 140.02[4], 140.04, Ch. 142, *Crimes Against the Person*, § 142.02[1][a], [b], [e], [f], [2][b], [3][c] (Matthew Bender).

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582. Involuntary Manslaughter: Failure to Perform Legal Duty—Murder Not Charged (Pen. Code, § 192(b))

The defendant is charged [in Count ____] with involuntary manslaughter [in violation of Penal Code section 192(b)] based on failure to perform a legal duty.

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

1. **The defendant had a legal duty to** _____ *<insert name of decedent>***;**

2. **The defendant failed to perform that legal duty;**

3. **The defendant's failure was criminally negligent;**

AND

4. **The defendant's failure caused the death of** _____ *<insert name of decedent>***.**

(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, not name>***.**

***Criminal negligence* involves more than ordinary carelessness, inattention, or mistake in judgment. A person acts with criminal negligence when:**

1. **He or she acts in a reckless way that creates a high risk of death or great bodily injury;**

AND

2. **A reasonable person would have known that acting in that way would create such a risk.**

In other words, a person acts with criminal negligence when the way he or she acts is so different from how an ordinarily careful person would act in the

DRAFT

same situation that his or her act amounts to disregard for human life or indifference to the consequences of that act.

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[An act causes death if the death is the direct, natural, and probable consequence of the act and the death would not have happened without the 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 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.]

New January 2006; Revised September 2020, October 2021, October 2025

BENCH NOTES

Instructional Duty

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

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

Legal Duty

The existence of a legal duty is a matter of law to be decided by the judge. (*Kentucky Fried Chicken v. Superior Court* (1997) 14 Cal.4th 814, 819 [59 Cal.Rtpr.2d 756, 927 P.2d 1260]; *Isaacs v. Huntington Memorial Hospital* (1985) 38 Cal.3d 112, 124 [211 Cal.Rptr. 356, 695 P.2d 653].) The court should instruct the jury if a legal duty exists. (See *People v. Burden* (1977) 72 Cal.App.3d 603, 614 [140 Cal.Rptr. 282] [proper instruction that parent has legal duty to furnish necessary clothing, food, and medical attention for his or her minor child].) In the

DRAFT

instruction on legal duty, the court should use generic terms to describe the relationship and duty owed. For example:

> A parent has a legal duty to care for a child.
>
> A paid caretaker has a legal duty to care for the person he or she was hired to care for.
>
> A person who has assumed responsibility for another person has a legal duty to care for that other person.

The court should not state "the defendant had a legal duty to the decedent." (See *People v. Brown* (1988) 46 Cal.3d 432, 444–445 [250 Cal.Rptr. 604, 758 P.2d 1135] [correct to state "a Garden Grove Regular Police Officer [is a] peace officer"; would be error to state "Officer Reed was a peace officer"].)

However, in a small number of cases where the legal duty to act is based on the defendant having created or increased risk to the victim, the existence of the legal duty may depend on facts in dispute. (See *People v. Oliver* (1989) 210 Cal.App.3d 138, 149 [258 Cal.Rptr. 138].) If there is a conflict in testimony over the facts necessary to establish that the defendant owed a legal duty to the victim, then the issue must be submitted to the jury. In such cases, the court should insert a section similar to the following:

> **The People must prove that the defendant had a legal duty to (help/rescue/warn/**_____ *<insert other required action[s]>***)** _____ *<insert name of decedent>***.**
>
> **In order to prove that the defendant had this legal duty, the People must prove that the defendant** _____ *<insert facts that establish legal duty>***.**
>
> **If you decide that the People have proved that the defendant** _____ *<insert facts that establish legal duty>***, then the defendant had a legal duty to (help/rescue/warn/**_____ *<insert other required action[s]>***)** _____ *<insert name of decedent>***.**
>
> **If you have a reasonable doubt whether the defendant** _____ *<insert facts that establish legal duty>***, then you must find (him/her) not guilty.**

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AUTHORITY

- Elements. Pen. Code, § 192(b); *People v. Oliver*, *supra*, ~~(1989)~~ 210 Cal.App.3d ~~138,~~at p. 146 ~~[258 Cal.Rptr. 138]~~.
- Criminal Negligence. *People v. Penny* (1955) 44 Cal.2d 861, 879–880 [285 P.2d 926]; *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 440 [8 Cal.Rptr. 863].
- Legal Duty. *People v. Heitzman* (1994) 9 Cal.4th 189, 198–199 [37 Cal.Rptr.2d 236, 886 P.2d 1229]; *People v. Oliver* (1989) 210 Cal.App.3d 138, 149 [258 Cal.Rptr. 138].
- Causation. *People v. Roberts* (1992) 2 Cal.4th 271, 315–321 [6 Cal.Rptr.2d 276, 826 P.2d 274].
- This Instruction Upheld. *People v. Skiff* (2021) 59 Cal.App.5th 571, 579–580 [273 Cal.Rptr.3d 572].

LESSER INCLUDED OFFENSES

Aggravated assault is not a lesser included offense of involuntary manslaughter. (*People v. Murray* (2008) 167 Cal.App.4th 1133, 1140 [84 Cal.Rptr.3d 676].)

RELATED ISSUES

Legal Duty to Aid

In *People v. Oliver*, *supra*, ~~(1989)~~ 210 Cal.App.3d ~~138,~~at p. 147 ~~[258 Cal.Rptr. 138]~~, the court explained the requirement of a legal duty to act as follows:

> A necessary element of negligence, whether criminal or civil, is a duty owed to the person injured and a breach of that duty. . . . Generally, one has no legal duty to rescue or render aid to another in peril, even if the other is in danger of losing his or her life, absent a special relationship which gives rise to such duty. . . . In California civil cases, courts have found a special relationship giving rise to an affirmative duty to act where some act or omission on the part of the defendant either created or increased the risk of injury to the plaintiff, or created a dependency relationship inducing reliance or preventing assistance from others. . . . Where, however, the defendant took no affirmative action which contributed to, increased, or changed the risk which would otherwise have existed, and did not voluntarily assume any responsibility to protect the person or induce a false sense of security, courts have refused to find a special relationship giving rise to a duty to act.

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Duty Based on Dependency/Voluntary Assumption of Responsibility

A legal duty to act exists when the defendant is a caretaker or has voluntarily assumed responsibility for the victim. (*Walker v. Superior Court* (1988) 47 Cal.3d 112,134–138 [253 Cal.Rptr. 1, 763 P.2d 852] [parent to child]; *People v. Montecino* (1944) 66 Cal.App.2d 85, 100 [152 P.2d 5] [contracted caretaker to dependent].)

Duty Based on Conduct Creating or Increasing Risk

A legal duty to act may also exist where the defendant's behavior created or substantially increased the risk of harm to the victim, either by creating the dangerous situation or by preventing others from rendering aid. (*People v. Oliver*, *supra*, (1989) 210 Cal.App.3d 138,at pp. 147–148 [258 Cal.Rptr. 138] [defendant had duty to act where she drove victim to her home knowing he was drunk, knowingly allowed him to use her bathroom to ingest additional drugs, and watched him collapse on the floor]; *Sea Horse Ranch, Inc. v. Superior Court* (1994) 24 Cal.App.4th 446, 456 [30 Cal.Rptr. 2d 681] [defendant had duty to prevent horses from running onto adjacent freeway creating risk].)

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (45th ed. 201224) Crimes Against the Person, §§ 258159–260161.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, §§ 140.03, 140.04, Ch. 142, *Crimes Against the Person*, § 142.02[2][b] (Matthew Bender).

583–589. Reserved for Future Use

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590. Gross Vehicular Manslaughter While Intoxicated (Pen. Code, § 191.5(a))

The defendant is charged [in Count __] with gross vehicular manslaughter while intoxicated [in violation of Penal Code section 191.5(a)].

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

1. **The defendant (drove under the influence of (an alcoholic beverage/ [or] a drug) [or under the combined influence of an alcoholic beverage and a drug]/drove while having a blood alcohol level of 0.08 or higher/drove under the influence of (an alcoholic beverage/ [or] a drug) [or under the combined influence of an alcoholic beverage and a drug] when under the age of 21/drove while having a blood alcohol level of 0.05 or higher when under the age of 21);**

2. **While driving that vehicle under the influence of (an alcoholic beverage/ [or] a drug) [or under the combined influence of an alcoholic beverage and a drug], the defendant also committed (a/an) (misdemeanor[,]/ [or] infraction[,]/ [or] otherwise lawful act that might cause death);**

3. **The defendant committed the (misdemeanor[,]/ [or] infraction[,]/ [or] otherwise lawful act that might cause death) with gross negligence;**

AND

4. **The defendant's grossly negligent conduct caused the death of another person.**

[The People allege that the defendant committed the following (misdemeanor[s]/ [and] infraction[s]): _____ *<insert misdemeanor[s] /infraction[s]>***.**

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Instruction[s] __ tell[s] you what the People must prove in order to prove that the defendant committed _____ *<insert misdemeanor[s]/infraction[s]>***.]**

[The People [also] allege that the defendant committed the following otherwise lawful act(s) that might cause death: _____ *<insert act[s] alleged>***.]**

Instruction[s] __ tell[s] you what the People must prove in order to prove that the defendant (drove under the influence of (an alcoholic beverage/ [or] a drug) [or under the combined influence of an alcoholic beverage and a drug]/drove while having a blood alcohol level of 0.08 or higher/drove under the influence of (an alcoholic beverage/ [or] a drug) [or under the combined influence of an alcoholic beverage and a drug] when under the age of 21/drove while having a blood alcohol level of 0.05 or higher when under the age of 21).

Gross negligence **involves more than ordinary carelessness, inattention, or mistake in judgment. A person acts with gross negligence when:**

1. **He or she acts in a reckless way that creates a high risk of death or great bodily injury;**

AND

2. **A reasonable person would have known that acting in that way would create such a risk.**

In other words, a person acts with gross negligence when the way he or she acts is so different from the way an ordinarily careful person would act in the same situation that his or her act amounts to disregard for human life or indifference to the consequences of that act.

The combination of driving a vehicle while under the influence of (an alcoholic beverage/ [and/or] a drug) and violating a traffic law is not enough by itself to establish gross negligence. In evaluating whether the defendant acted with gross negligence, consider the level of the defendant's intoxication, if any; the way the defendant drove; and any other relevant aspects of the defendant's conduct.

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[A person facing a sudden and unexpected emergency situation not caused by

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that person's own negligence is required only to use the same care and judgment that an ordinarily careful person would use in the same situation, even if it appears later that a different course of action would have been safer.]

[An act causes death if the death is the direct, natural, and probable consequence of the act and the death would not have happened without the 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 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.]

[The People allege that the defendant committed the following (misdemeanor[s][,]/ [and] infraction[s][,]/ [and] otherwise lawful act[s] that might cause death): _____ *<insert alleged predicate acts when multiple acts alleged>***. You may not find the defendant guilty unless all of you agree that the People have proved that the defendant committed at least one of these alleged (misdemeanors[,]/ [or] infractions[,]/ [or] otherwise lawful acts that might cause death) and you all agree on which (misdemeanor[,]/ [or] infraction[,]/ [or] otherwise lawful act that might cause death) the defendant committed.]**

[The People have the burden of proving beyond a reasonable doubt that the defendant committed gross vehicular manslaughter while intoxicated. If the People have not met this burden, you must find the defendant not guilty of that crime. You must consider whether the defendant is guilty of the lesser crime[s] of _____ *<insert lesser offense[s]>***.]**

New January 2006; Revised June 2007, September 2020, October 2025

BENCH NOTES

Instructional Duty

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

The court has a **sua sponte** duty to specify the predicate misdemeanor(s) or infraction(s) alleged and to instruct on the elements of the predicate offense(s). (*People v. Milham* (1984) 159 Cal.App.3d 487, 506 [205 Cal.Rptr. 688]; *People v.*

DRAFT

Ellis (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409].) In element 1, instruct on the particular "under the influence" offense charged. In element 2, instruct on either theory of vehicular manslaughter (misdemeanor/infraction or lawful act committed with negligence) as appropriate. The court **must** also give the appropriate instruction on the elements of the driving under the influence offense and the predicate misdemeanor or infraction.

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 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].)

The court has~~There is a split in authority over whether there is~~ a **sua sponte** duty to give a unanimity instruction when the prosecution presents evidence of multiple acts to prove a single count, ~~predicate offenses are alleged~~ if the prosecution has not elected the specific act relied upon to prove the charge and if the continuous course of conduct exception does not apply. (See *People v. Jennings* (2010) 50 Cal.4th 616, 679 [114 Cal.Rptr.3d 133, 237 P.3d 474]~~*People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30] [unanimity instruction required, overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481 [76 Cal.Rptr.2d 180 957 P.2d 869]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735] [unanimity instruction not required but preferable]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438] [unanimity instruction not required]; *People v. Leffel* (1988) 203 Cal.App.3d 575, 586–587 [249 Cal.Rptr. 906] [unanimity instruction not required, harmless error if was required]~~.) See the Bench Notes to CALCRIM No. 3500, *Unanimity*, for an extensive discussion of the sua sponte duty to instruct on unanimity. A unanimity instruction is included in a bracketed paragraph for the court to use at its discretion.

If there is sufficient evidence and the defendant requests it, the court should instruct on the imminent peril/sudden emergency doctrine. (*People v. Boulware* (1940) 41 Cal.App.2d 268, 269–270 [106 P.2d 436].) Give the bracketed sentence that begins with "A person facing a sudden and unexpected emergency."

If the defendant is charged with one or more prior conviction (see Pen. Code, § 191.5(d)), the court should also give CALCRIM No. 3100, *Prior Conviction: Nonbifurcated Trial*, unless the defendant has stipulated to the prior conviction or the court has granted a bifurcated trial. (See Bench Notes to CALCRIM No. 3100.)

DRAFT

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Gross Vehicular Manslaughter While Intoxicated. Pen. Code, § 191.5(a).
- Unlawful Act Dangerous Under the Circumstances of Its Commission. *People v. Wells* (1996) 12 Cal.4th 979, 982 [50 Cal.Rptr.2d 699, 911 P.2d 1374].
- Specifying Predicate Unlawful Act. *People v. Milham* (1984) 159 Cal.App.3d 487, 506 [205 Cal.Rptr. 688].
- Elements of the Predicate Unlawful Act. *People v. Ellis* (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409].
- ~~Unanimity Instruction. *People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30], overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481[76 Cal.Rptr.2d 180, 957 P.2d 869]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438]; *People v. Leffel* (1988) 203 Cal.App.3d 575, 586–587[249 Cal.Rptr. 906].~~
- Gross Negligence. *People v. Penny*, (1955) 44 Cal.2d 861, 879–880 [285 P.2d 926]; *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 440 [8 Cal.Rptr. 863].
- Gross Negligence—Overall Circumstances. *People v. Bennett* (1992) 54 Cal.3d 1032, 1039 [2 Cal.Rptr.2d 8, 819 P.2d 849].
- Causation. *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 440 [8 Cal.Rptr. 863].
- Imminent Peril/Sudden Emergency Doctrine. *People v. Boulware* (1940) 41 Cal.App.2d 268, 269 [106 P.2d 436].
- This Instruction Upheld. *People v. Hovda* (2009) 176 Cal.App.4th 1355, 1358 [98 Cal.Rptr.3d 499].

LESSER INCLUDED OFFENSES

- Vehicular Manslaughter With Gross Negligence Without Intoxication. Pen. Code, § 192(c)(1); *People v. Miranda* (1994) 21 Cal.App.4th 1464, 1466–1467

DRAFT

[26 Cal.Rptr.2d 610].

- Vehicular Manslaughter With Ordinary Negligence While Intoxicated. Pen. Code, § 191.5(b); *People v. Verlinde* (2002) 100 Cal.App.4th 1146, 1165–1166 [123 Cal.Rptr.2d 322].
- Vehicular Manslaughter With Ordinary Negligence Without Intoxication. Pen. Code, § 192(c)(2); *People v. Rodgers* (1949) 94 Cal.App.2d 166, 166 [210 P.2d 71].
- Injury to Someone While Driving Under the Influence of Alcohol or Drugs. Veh. Code, § 23153; *People v. Miranda* (1994) 21 Cal.App.4th 1464, 1466–1467 [26 Cal.Rptr.2d 610].

Gross vehicular manslaughter while intoxicated is *not* a lesser included offense of murder. (*People v. Sanchez* (2001) 24 Cal.4th 983, 992 [103 Cal.Rptr.2d 698, 16 P.3d 118].)

RELATED ISSUES

DUI Cannot Serve as Predicate Unlawful Act

The Vehicle Code driving-under-the-influence offense of the first element cannot do double duty as the predicate unlawful act for the second element. (*People v. Soledad* (1987) 190 Cal.App.3d 74, 81 [235 Cal.Rptr. 208].) "[T]he trial court erroneously omitted the 'unlawful act' element of vehicular manslaughter when instructing in . . . [the elements] by referring to Vehicle Code section 23152 rather than another 'unlawful act' as required by the statute." (*Id.* at p. 82.)

Predicate Act Need Not Be Inherently Dangerous

"[T]he offense which constitutes the 'unlawful act' need not be an inherently dangerous misdemeanor or infraction. Rather, to be an 'unlawful act' within the meaning of section 192(c)(1), the offense must be dangerous under the circumstances of its commission. An unlawful act committed with gross negligence would necessarily be so." (*People v. Wells* (1996) 12 Cal.4th 979, 982 [50 Cal.Rptr.2d 699, 911 P.2d 1374].)

Lawful Act in an Unlawful Manner: Negligence

The statute uses the phrase "lawful act which might produce death, in an unlawful manner." (Pen. Code, § 191.5.) "[C]ommitting a lawful act in an unlawful manner simply means to commit a lawful act with negligence, that is, without reasonable caution and care." (*People v. Thompson* (2000) 79 Cal.App.4th 40, 53 [93 Cal.Rptr.2d 803].) Because the instruction lists the negligence requirement as element 3, the phrase "in an unlawful manner" is omitted from element 2 as repetitive.

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SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 20~~1~~24) Crimes Against the Person, §§ 165~~263–272~~176.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.02[2][a][i] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, § 140.04, Ch. 142, *Crimes Against the Person*, § 142.02[2][c], [4], Ch. 145, *Narcotics and Alcohol Offenses*, §§ 145.02[4][c], 145.03[1][a] (Matthew Bender).

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592. Gross Vehicular Manslaughter (Pen. Code, § 192(c)(1))

<If gross vehicular manslaughter is a charged offense, give alternative A; if this instruction is being given as a lesser included offense, give alternative B.>

<Introductory Sentence: Alternative A—Charged Offense>
[The defendant is charged [in Count __] with gross vehicular manslaughter [in violation of Penal Code section 192(c)(1)].]

<Introductory Sentence: Alternative B—Lesser Included Offense>
[Gross vehicular manslaughter is a lesser crime than gross vehicular manslaughter while intoxicated.]

To prove that the defendant is guilty of gross vehicular manslaughter, the People must prove that:

1. **The defendant (drove a vehicle/operated a vessel);**

2. **While (driving that vehicle/operating that vessel), the defendant committed (a/an) (misdemeanor[,]/ [or] infraction[,]/ [or] otherwise lawful act that might cause death);**

3. **The defendant committed the (misdemeanor[,]/ [or] infraction[,]/ [or] otherwise lawful act that might cause death) with gross negligence;**

AND

4. **The defendant's grossly negligent conduct caused the death of another person.**

***Gross negligence* involves more than ordinary carelessness, inattention, or mistake in judgment. A person acts with gross negligence when:**

1. **He or she acts in a reckless way that creates a high risk of death or great bodily injury;**

AND

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2. A reasonable person would have known that acting in that way would create such a risk.

In other words, a person acts with gross negligence when the way he or she acts is so different from how an ordinarily careful person would act in the same situation that his or her act amounts to disregard for human life or indifference to the consequences of that act.

[*Gross negligence* may include, based on the totality of the circumstances, any of the following:

- **Participating in a sideshow; (and/or)**
- **Participating in a motor vehicle speed contest on a highway; (and/or)**
- **Speeding over 100 miles per hour.]**

[A *sideshow* is an event in which two or more persons block or impede traffic on a highway, for the purpose of performing motor vehicle stunts, motor vehicle speed contests, motor vehicle exhibitions of speed, or reckless driving, for spectators.]

[*Participating in a motor vehicle speed contest* includes a motor vehicle race against another vehicle, a clock, or another timing device.]

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[A person facing a sudden and unexpected emergency situation not caused by that person's own negligence is required only to use the same care and judgment that an ordinarily careful person would use in the same situation, even if it appears later that a different course of action would have been safer.]

[An act causes death if the death is the direct, natural, and probable consequence of the act and the death would not have happened without the 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 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.]

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[The People allege that the defendant committed the following (misdemeanor[s]/ [and] infraction[s]): _____ <*insert misdemeanor[s]/ infraction[s]*>**.**

Instruction[s] __ tell[s] you what the People must prove in order to prove that the defendant committed _____ <*insert misdemeanor[s]/infraction[s]*>**.]**

[The People [also] allege that the defendant committed the following otherwise lawful act(s) that might cause death: _____ <*insert act[s] alleged*>**.]**

[You may not find the defendant guilty unless all of you agree that the People have proved that the defendant committed at least one alleged (misdemeanor[,]/ [or] infraction[,]/ [or] otherwise lawful act that might cause death) and you all agree on which (misdemeanor[,]/ [or] infraction[,]/ [or] otherwise lawful act that might cause death) the defendant committed.]

[The People have the burden of proving beyond a reasonable doubt that the defendant committed gross vehicular manslaughter. If the People have not met this burden, you must find the defendant not guilty of that crime. You must consider whether the defendant is guilty of the lesser crime[s] of _____ <*insert lesser offense[s]*>**.]**

New January 2006; Revised February 2015, September 2020, September 2023, October 2025

BENCH NOTES

Instructional Duty

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

The court has a **sua sponte** duty to specify the predicate misdemeanor(s) or infraction(s) alleged and to instruct on the elements of the predicate offense(s). (*People v. Milham* (1984) 159 Cal.App.3d 487, 506 [205 Cal.Rptr. 688]; *People v. Ellis* (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409].) In element 2, instruct on either theory of vehicular manslaughter (misdemeanor/infraction or lawful act committed with negligence) as appropriate. The court **must** also give the appropriate instruction on the elements of the ~~the~~ predicate misdemeanor or infraction.

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.

DRAFT

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 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].)

The court has~~There is a split in authority over whether there is~~ a **sua sponte** duty to give a unanimity instruction when the prosecution presents evidence of multiple acts to prove a single count~~predicate offenses are alleged~~, if the prosecution has not elected the specific act relied upon to prove the charge and if the continuous course of conduct exception does not apply. (See *People v. Jennings* (2010) 50 Cal.4th 616, 679 [114 Cal.Rptr.3d 133, 237 P.3d 474]~~*People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30] [unanimity instruction required, overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481 [76 Cal.Rptr.2d 180, 957 P.2d 869]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735] [unanimity instruction not required but preferable]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438] [unanimity instruction not required]; *People v. Leffel* (1988) 203 Cal.App.3d 575, 586–587 [249 Cal.Rptr. 906] [unanimity instruction not required, harmless error if was required]~~.) See the Bench Notes to CALCRIM No. 3500, *Unanimity*, for an extensive discussion of the sua sponte duty to instruct on unanimity. A unanimity instruction is included in a bracketed paragraph for the court to use at its discretion.

If there is sufficient evidence and the defendant requests it, the court should instruct on the imminent peril/sudden emergency doctrine. (*People v. Boulware* (1940) 41 Cal.App.2d 268, 269–270 [106 P.2d 436].) Give the bracketed sentence that begins with "A person facing a sudden and unexpected emergency."

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Gross Vehicular Manslaughter. Pen. Code, § 192(c)(1).
- Gross Vehicular Manslaughter During Operation of a Vessel. Pen. Code, § 192.5(a).

DRAFT

- Unlawful Act Dangerous Under the Circumstances of Its Commission. *People v. Wells* (1996) 12 Cal.4th 979, 982 [50 Cal.Rptr.2d 699, 911 P.2d 1374].
- Specifying Predicate Unlawful Act. *People v. Milham, supra,* 159 Cal.App.3d at p. 506.
- Elements of Predicate Unlawful Act. *People v. Ellis, supra,* 69 Cal.App.4th at p. 1339.
- ~~Unanimity Instruction. *People v. Gary, supra,* 189 Cal.App.3d at p. 1218, overruled on other grounds in *People v. Flood, supra,* 18 Cal.4th at p. 481; *People v. Durkin, supra,* 205 Cal.App.3d Supp. at p. 13; *People v. Mitchell, supra,* 188 Cal.App.3d at p. 222 ; *People v. Leffel, supra,* 203 Cal.App.3d at pp. 586–587.~~
- Gross Negligence. *People v. Bennett* (1992) 54 Cal.3d 1032, 1036 [2 Cal.Rptr.2d 8, 819 P.2d 849].
- Examples of Gross Negligence. Pen. Code, § 192(e)(2).
- "Motor Vehicle Speed Contest" Defined. Veh. Code, § 23109(a).
- "Sideshow" Defined. Veh. Code, § 23109(i)(2)(A).
- Causation. *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 440 [8 Cal.Rptr. 863].
- Imminent Peril/Sudden Emergency Doctrine. *People v. Boulware, supra,* 41 Cal.App.2d at p. 269.

LESSER INCLUDED OFFENSES

- Vehicular Manslaughter With Ordinary Negligence. Pen. Code, § 192(c)(2); see *People v. Verlinde* (2002) 100 Cal.App.4th 1146, 1165–1166 [123 Cal.Rptr.2d 322].
- Manslaughter During Operation of a Vessel Without Gross Negligence. Pen. Code, § 192.5(b).

RELATED ISSUES

Predicate Act Need Not Be Inherently Dangerous

"[T]he offense which constitutes the 'unlawful act' need not be an inherently dangerous misdemeanor or infraction. Rather, to be an 'unlawful act' within the meaning of section 192(c)(1), the offense must be dangerous under the circumstances of its commission. An unlawful act committed with gross negligence would necessarily be so." (*People v. Wells, supra,* 12 Cal.4th at p.

DRAFT

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Lawful Act in an Unlawful Manner: Negligence

The statute uses the phrase "lawful act which might produce death, in an unlawful manner." (Pen. Code, § 192(c)(1).) "[C]ommitting a lawful act in an unlawful manner simply means to commit a lawful act with negligence, that is, without reasonable caution and care." (*People v. Thompson* (2000) 79 Cal.App.4th 40, 53 [93 Cal.Rptr.2d 803].) Because the instruction lists the negligence requirement as element 3, the phrase "in an unlawful manner" is omitted from element 2 as repetitive.

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 20~~1~~22~~4~~) Crimes Against the Person, §§ ~~262~~164–~~268~~174.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict,* § 85.02[2][a][i] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes,* § 140.04, Ch. 142, *Crimes Against the Person,* § 142.02[1][a], [2][c], [4] (Matthew Bender).

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593. Misdemeanor Vehicular Manslaughter (Pen. Code, § 192(c)(2))

<If misdemeanor vehicular manslaughter—ordinary negligence is a charged offense, give alternative A; if this instruction is being given as a lesser included offense, give alternative B.>

<Introductory Sentence: Alternative A—Charged Offense>
[The defendant is charged [in Count __] with vehicular manslaughter [in violation of Penal Code section 192(c)(2)].]

<Introductory Sentence: Alternative B—Lesser Included Offense>
[Vehicular manslaughter with ordinary negligence is a lesser crime than (gross vehicular manslaughter while intoxicated/ [and] gross vehicular manslaughter/ [and] vehicular manslaughter with ordinary negligence while intoxicated.)]

To prove that the defendant is guilty of vehicular manslaughter with ordinary negligence, the People must prove that:

1. **While (driving a vehicle/operating a vessel), the defendant committed (a misdemeanor[,]/ [or] an infraction/ [or] a lawful act in an unlawful manner);**

2. **The (misdemeanor[,]/ [or] infraction/ [or] otherwise lawful act) was dangerous to human life under the circumstances of its commission;**

3. **The defendant committed the (misdemeanor[,]/ [or] infraction/ [or] otherwise lawful act) with ordinary negligence;**

AND

4. **The (misdemeanor[,]/ [or] infraction/ [or] otherwise lawful act) caused the death of another person.**

[The People allege that the defendant committed the following (misdemeanor[s]/ [and] infraction[s]): _____ *<insert misdemeanor[s]/ infraction[s]>***.**

Instruction[s] __ tell[s] you what the People must prove in order to prove that the defendant committed _____ *<insert misdemeanor[s]/infraction[s]>***.]**

DRAFT

[The People [also] allege that the defendant committed the following otherwise lawful act[s] with ordinary negligence: _____ <*insert act[s] alleged*>**.]**

[The difference between this offense and the charged offense of gross vehicular manslaughter is the degree of negligence required. I have already defined gross negligence for you.]

***Ordinary negligence*[, on the other hand,] is the failure to use reasonable care to prevent reasonably foreseeable harm to oneself or someone else. A person is negligent if he or she (does something that a reasonably careful person would not do in the same situation/ [or] fails to do something that a reasonably careful person would do in the same situation).**

[A person facing a sudden and unexpected emergency situation not caused by that person's own negligence is required only to use the same care and judgment that an ordinarily careful person would use in the same situation, even if it appears later that a different course of action would have been safer.]

[An act causes death if the death is the direct, natural, and probable consequence of the act and the death would not have happened without the 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 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.]

[The People allege that the defendant committed the following (misdemeanor[s][,]/ [and] infraction[s][,]/ [and] lawful act[s] that might cause death): _____ <*insert alleged predicate acts when multiple acts alleged*>**. You may not find the defendant guilty unless all of you agree that the People have proved that the defendant committed at least one of these alleged (misdemeanors[,]/ [or] infractions[,]/ [or] otherwise lawful acts that might cause death) and you all agree on which (misdemeanor[,]/ [or] infraction[,]/ [or] otherwise lawful act that might cause death) the defendant committed.]**

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*New January 2006; Revised December 2008, October 2010, April 2011, October 2025**

** 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.

The court has a **sua sponte** duty to specify the predicate misdemeanor(s) or infraction(s) alleged and to instruct on the elements of the predicate offense(s). (*People v. Milham* (1984) 159 Cal.App.3d 487, 506 [205 Cal.Rptr. 688]; *People v. Ellis* (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409].) In element 2, instruct on either theory of vehicular manslaughter (misdemeanor/infraction or lawful act committed with negligence) as appropriate. The court **must** also give the appropriate instruction on the elements of the predicate misdemeanor or infraction.

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 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].)

The court has~~There is a split in authority over whether there is~~ a **sua sponte** duty to give a unanimity instruction when the prosecution presents evidence of multiple acts to prove a single count~~predicate offenses are alleged~~, if the prosecution has not elected the specific act relied upon to prove the charge and if the continuous course of conduct exception does not apply. (See *People v. Jennings* (2010) 50 Cal.4th 616, 679 [114 Cal.Rptr.3d 133, 237 P.3d 474]~~*People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30] [unanimity instruction required, overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481 [76 Cal.Rptr.2d 180, 957 P.2d 869]]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735] [unanimity instruction not required but preferable]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438] [unanimity instruction not required]; *People v. Leffel* (1988) 203 Cal.App.3d 575, 586–587 [249 Cal.Rptr. 906] [unanimity instruction not required, harmless error if was required]~~.) See the Bench Notes to CALCRIM No. 3500, *Unanimity*, for an extensive discussion of the sua sponte duty to instruct on unanimity. A unanimity

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instruction is included in a bracketed paragraph for the court to use at its discretion. In the definition of ordinary negligence, the court should use the entire phrase "harm to oneself or someone else" if the facts of the case show a failure by the defendant to prevent harm to him- or herself rather than solely harm to another.

If there is sufficient evidence and the defendant requests it, the court should instruct on the imminent peril/sudden emergency doctrine. (*People v. Boulware* (1940) 41 Cal.App.2d 268, 269–270 [106 P.2d 436].) Give the bracketed sentence that begins with "A person facing a sudden and unexpected emergency."

AUTHORITY

- Vehicular Manslaughter Without Gross Negligence. Pen. Code, § 192(c)(2).
- Vehicular Manslaughter During Operation of a Vessel Without Gross Negligence. Pen. Code, § 192.5(b).
- Unlawful Act Dangerous Under the Circumstances of Its Commission. *People v. Wells* (1996) 12 Cal.4th 979, 982 [50 Cal.Rptr.2d 699, 911 P.2d 1374].
- Specifying Predicate Unlawful Act. *People v. Milham* (1984) 159 Cal.App.3d 487, 506 [205 Cal.Rptr. 688].
- Elements of Predicate Unlawful Act. *People v. Ellis* (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409].
- ~~Unanimity Instruction. *People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30], overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481[76 Cal.Rptr.2d 180, 957 P.2d 869]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438]; *People v. Leffel* (1988) 203 Cal.App.3d 575, 586–587 [249 Cal.Rptr. 906].~~
- Ordinary Negligence. Pen. Code, § 7, subd. 2; Rest.2d Torts, § 282.
- Causation. *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 440 [8 Cal.Rptr. 863].
- Imminent Peril/Sudden Emergency Doctrine. *People v. Boulware* (1940) 41 Cal.App.2d 268, 269 [106 P.2d 436].
- Criminal Negligence Requirement. *People v. Butler* (2010) 187 Cal.App.4th 998, 1014 [114 Cal.Rptr.3d 696].

RELATED ISSUES

See the Related Issues section to CALCRIM No. 592, *Gross Vehicular*

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Manslaughter.

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (4<u>5</u>th ed. 20<u>24</u>~~12~~) Crimes Against the Person, §§ ~~263~~<u>165</u>–~~271~~<u>174</u>.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.02[2][a][i] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, § 140.04, Ch. 142, *Crimes Against the Person*, § 142.02[1][a], [2][c], [4] (Matthew Bender).

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600. Attempted Murder (Pen. Code, §§ 21a, 663, 664)

The defendant is charged [in Count __] with attempted murder.

To prove that the defendant is guilty of attempted murder, the People must prove that:

1. **The defendant took at least one direct but ineffective step toward killing (another person/ [or] a fetus);**

AND

2. **The defendant intended to kill (that/a) (person/ [or] fetus).**

A *direct step* requires more than merely planning or preparing to commit murder or obtaining or arranging for something needed to commit murder. A direct step is one that goes beyond planning or preparation and shows that a person is putting his or her plan into action. A direct step indicates a definite and unambiguous intent to kill. It is a direct movement toward the commission of the crime after preparations are made. It is an immediate step that puts the plan in motion so that the plan would have been completed if some circumstance outside the plan had not interrupted the attempt.

[A person who attempts to commit murder is guilty of attempted murder even if, after taking a direct step toward killing, he or she abandons further efforts to complete the crime, or his or her attempt fails or is interrupted by someone or something beyond his or her control. On the other hand, if a person freely and voluntarily abandons his or her plans before taking a direct step toward committing the murder, then that person is not guilty of attempted murder.]

[The defendant may be guilty of attempted murder even if you conclude that murder was actually completed.]

[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.]

<Give when kill zone theory applies; repeat the relevant paragraphs for each victim.>

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[A person may intend to kill a primary target and also [a] secondary target[s] within a zone of fatal harm or "kill zone." A "kill zone" is an area in which the defendant used lethal force that was designed and intended to kill everyone in the area around the primary target.

In order to convict the defendant of the attempted murder of _____ *<insert name or description of victim charged in attempted murder count[s] on concurrent-intent theory>***, the People must prove that the defendant not only intended to kill _____** *<insert name of primary target alleged>* **but also either intended to kill _____** *<insert name or description of victim charged in attempted murder count[s] on concurrent-intent theory>***, or intended to kill everyone within the kill zone.**

In determining whether the defendant intended to kill _____*<insert name or description of victim charged in attempted murder count[s] on concurrent-intent theory>***, the People must prove that (1) the only reasonable conclusion from the defendant's use of lethal force, is that the defendant intended to create a kill zone; and (2) _____***<insert name or description of victim charged in attempted murder count[s] on concurrent-intent theory>* was located within the kill zone.**

In determining whether the defendant intended to create a "kill zone" and the scope of such a zone, you should consider all of the circumstances including, but not limited to, the following:

- **[● The type of weapon used(;/.)]**
- **[● The number of shots fired(;/.)]**
- **[● The distance between the defendant and_____<***insert name or description of victim charged in attempted murder count[s] on concurrent-intent theory***>(;/.)]**
- **[● The distance between _____<***insert name or description of victim charged in attempted murder count[s] on concurrent-intent theory***> and the primary target.]**

If you have a reasonable doubt whether the defendant intended to kill _____ *<insert name or description of victim charged in attempted murder count[s] on concurrent-intent theory>* **or intended to kill _____** *<insert name or description of primary target alleged>* **by killing everyone in the kill zone, then you must find the defendant not guilty of the attempted murder of _____** *<insert name or description of victim charged in attempted murder count[s] on concurrent-intent theory>***.]**

New January 2006; Revised December 2008, August 2009, April 2011, August

DRAFT

2013, September 2019, April 2020, September 2023, March 2024, February 2025, October 2025**
** Denotes changes only to bench notes and other commentaries.*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on the elements of the crime of attempted murder when charged, or if not charged, when the evidence raises a question whether all the elements of the charged offense are present. (See *People v. Breverman* (1998) 19 Cal.4th 142, 154 [77 Cal.Rptr.2d 870, 960 P.2d 1094] [discussing duty to instruct on lesser included offenses in homicide generally].)

The second bracketed paragraph is provided for cases in which the prosecution theory is that the defendant created a "kill zone," harboring the specific and concurrent intent to kill others in the zone. (*People v. Bland* (2002) 28 Cal.4th 313, 331 [121 Cal.Rptr.2d 546, 48 P.3d 1107].) "The conclusion that transferred intent does not apply to attempted murder still permits a person who shoots at a group of people to be punished for the actions towards everyone in the group even if that person primarily targeted only one of them." (*Id.* at p. 329.)

The *Bland* court stated that a special instruction on this issue was not required. (*Id.* at p. 331, fn.6.) The bracketed language is provided for the court to use when substantial evidence exists that the defendant intended to kill a primary target; the defendant concurrently intended to achieve that goal by killing all others in the fatal zone created by the defendant; and the alleged attempted murder victim was in that zone. (See *People v. Mumin* (2023) 15 Cal.5th 176, 203 [312 Cal.Rptr.3d 255, 534 P.3d 1].) "The use or attempted use of force that merely *endangered* everyone in the area is insufficient to support a kill zone instruction." (*People v. Canizales* (2019) 7 Cal.5th 591, 608 [248 Cal.Rptr.3d 370, 442 P.3d 686], original italics.)

Give the next-to-last bracketed paragraph when the defendant has been charged only with attempt to commit murder, but the evidence at trial reveals that the murder was actually completed. (See Pen. Code, § 663.)

A verdict of attempted murder may not be based on the natural and probable consequences doctrine. (Pen. Code, § 188(a)(3); *People v. Sanchez* (2022) 75 Cal.App.5th 191, 196 [290 Cal.Rptr.3d 390].)

If the evidence supports a claim of accident during the course of lawful self-defense, give CALCRIM No. 510, *Excusable Homicide: Accident*, modified for a charge of attempted murder. (*People v. Villanueva* (2008) 169 Cal.App.4th 41, 54 [86 Cal.Rptr.3d 534].) If the evidence supports a claim of accident as to other, nonhomicide charges, give CALCRIM No. 3404, *Accident*.

DRAFT

Related Instructions

CALCRIM Nos. 3470–3477, Defense Instructions.

CALCRIM No. 601, *Attempted Murder: Deliberation and Premeditation.*

CALCRIM No. 602, *Attempted Murder: Peace Officer, Firefighter, Custodial Officer, or Custody Assistant.*

CALCRIM No. 603, *Attempted Voluntary Manslaughter: Heat of Passion—Lesser Included Offense*.

CALCRIM No. 604, *Attempted Voluntary Manslaughter: Imperfect Self-Defense—Lesser Included Offense*.

AUTHORITY

- "Attempt" Defined. Pen. Code, §§ 21a, 663, 664.
- "Murder" Defined. Pen. Code, § 187.
- Specific Intent to Kill Required. *People v. Guerra* (1985) 40 Cal.3d 377, 386 [220 Cal.Rptr. 374, 708 P.2d 1252].
- "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].
- Kill Zone Explained. *People v. Mumin*, *supra*, 15 Cal.5th at p. 193; *People v. Canizales*, *supra*, 7 Cal.5th at pp. 607–608; *People v. Stone* (2009) 46 Cal.4th 131, 137–138 [92 Cal.Rptr.3d 362, 205 P.3d 272].
- Application of Kill Zone Theory When Shooter Unaware of Presence of Other People. *People v. Hin* (2025) 17 Cal.5th 401, 458 [329 Cal.Rptr.3d 612, 563 P.3d 514] [did not apply]; *People v. Ibarra* (2024) 106 Cal.App.5th 1070, 1077–1080 [327 Cal.Rptr.3d 478] [did not apply]; *People v. Adams* (2008) 169 Cal.App.4th 1009, 1022–1023 [86 Cal.Rptr.3d 915] [applied]; *People v. Vang* (2001) 87 Cal.App.4th 554, 564 [104 Cal.Rptr.2d 704] [applied].
- This Instruction Correctly States the Law of Attempted Murder. *People v. Lawrence* (2009) 177 Cal.App.4th 547, 556–557 [99 Cal.Rptr.3d 324].

LESSER INCLUDED OFFENSES

Attempted voluntary manslaughter is a lesser included offense. (*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].)

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RELATED ISSUES

Specific Intent Required

"[T]he crime of attempted murder requires a specific intent to kill . . . ." (*People v. Guerra, supra,* 40 Cal.3d at p. 386.)

> In instructing upon the crime of attempt to commit murder, there should never be any reference whatsoever to implied malice. Nothing less than a specific intent to kill must be found before a defendant can be convicted of attempt to commit murder, and the instructions in this respect should be lean and unequivocal in explaining to the jury that only a specific intent to kill will do.

(*People v. Santascoy* (1984) 153 Cal.App.3d 909, 918 [200 Cal.Rptr. 709].)

Solicitation

Attempted solicitation of murder is a crime. (*People v. Saephanh* (2000) 80 Cal.App.4th 451, 460 [94 Cal.Rptr.2d 910].)

Single Bullet, Two Victims

A shooter who fires a single bullet at two victims who are both in his line of fire can be found to have acted with express malice toward both victims. (*People v. Smith*) (2005) 37 Cal.4th 733, 744 [37 Cal.Rptr.3d 163, 124 P.3d 730]. See also *People v. Perez* (2010) 50 Cal.4th 222, 225 [112 Cal.Rptr.3d 310, 234 P.3d 557].)

No Attempted Involuntary Manslaughter

"[T]here is no such crime as attempted involuntary manslaughter." (*People v. Johnson* (1996) 51 Cal.App.4th 1329, 1332 [59 Cal.Rptr.2d 798].)

Transferred and Concurrent Intent

"[T]he doctrine of transferred intent does not apply to attempted murder." (*People v. Bland, supra,* 28 Cal.4th at p. 331.) "[T]he defendant may be convicted of the attempted murders of any[one] within the kill zone, although on a concurrent, not transferred, intent theory." (*Ibid.*)

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 201~~2~~24) Elements, §§ 60~~56~~–7~~4~~1.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes,* § 140.02[3]; Ch. 141, *Conspiracy, Solicitation, and Attempt,* § 141.20; Ch. 142, *Crimes Against the Person,* § 142.01[3][e] (Matthew Bender).

DRAFT

603. Attempted Voluntary Manslaughter: Heat of Passion—Lesser Included Offense (Pen. Code, §§ 21a, 192, 664)

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

The defendant attempted to kill someone because of a sudden quarrel or in the heat of passion if:

1. **The defendant took at least one direct but ineffective step toward killing a person;**

2. **The defendant intended to kill that person;**

3. **The defendant attempted the killing because (he/she) was provoked;**

4. **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;**

AND

5. **The attempted killing was a rash act done under the influence of intense emotion that obscured the defendant's reasoning or 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 a sudden quarrel or heat of passion to reduce an attempted murder to attempted 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

DRAFT

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 judgment.

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

The People have the burden of proving beyond a reasonable doubt that the defendant attempted to kill someone and was not acting as a 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 attempted murder.

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*New January 2006; Revised August 2009, April 2010, April 2011, August 2015, October 2025**

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

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on attempted 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. (See *People v. Breverman* (1998) 19 Cal.4th 142, 153–163 [77 Cal.Rptr.2d 870, 960 P.2d 1094] [discussing charge of completed murder]; *People v. Barton* (1995) 12 Cal.4th 186, 201 [47 Cal.Rptr.2d 569, 906 P.2d 531] [same].)

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.*

CALCRIM No. 570, *Voluntary Manslaughter: Heat of Passion—Lesser Included Offense*.

CALCRIM No. 604, *Attempted Voluntary Manslaughter: Imperfect Self-Defense—Lesser Included Offense*.

AUTHORITY

- "Attempt" Defined. Pen. Code, §§ 21a, 664.

DRAFT

- "Manslaughter" Defined. Pen. Code, § 192.
- 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].
- Gender Identity and Sexual Orientation Not Proper Basis for Finding Provocation Objectively Reasonable. Pen. Code, § 192(f)~~, amended effective January 1, 2015~~; see also *People v. Martinez* (2024) 106 Cal.App.5th 892, 903–905 [327 Cal.Rptr.3d 395] [victim's alleged unwanted romantic advances were not forcible acts as they did not overpower defendants' will to resist].

RELATED ISSUES

Specific Intent to Kill Required

> An attempt to commit a crime requires an intention to commit the crime and an overt act towards its completion. Where a person intends to kill another person and makes an unsuccessful attempt to do so, his intention may be accompanied by any of the aggravating or mitigating circumstances which can accompany the completed crimes. In other words, the intent to kill may have been formed after premeditation or deliberation, it may have been formed upon a sudden explosion of violence, or it may have been brought about by a heat of passion or an unreasonable but good faith belief in the necessity of self-defense.

(*People v. Van Ronk* (1985) 171 Cal.App.3d 818, 824 [217 Cal.Rptr. 581] [citation omitted].)

No Attempted Involuntary Manslaughter

There is no crime of attempted *involuntary* manslaughter. (*People v. Johnson* (1996) 51 Cal.App.4th 1329, 1332 [59 Cal.Rptr.2d 798].)

See the Related Issues section to CALCRIM No. 570, *Voluntary Manslaughter: Heat of Passion—Lesser Included Offense*.

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 2024~~12~~) Crimes Against the Person § ~~2~~124.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 141, *Conspiracy, Solicitation, and Attempt,* §§ 141.20[2], 141.21; Ch. 142, *Crimes Against the Person,* §§ 142.01[3][e], 142.02[2][a] (Matthew Bender).

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604. Attempted Voluntary Manslaughter: Imperfect Self-Defense—Lesser Included Offense (Pen. Code, §§ 21a, 192, 664)

An attempted killing that would otherwise be attempted murder is reduced to attempted voluntary manslaughter if the defendant attempted to kill a person because (he/she) acted in imperfect (self-defense/ [or] defense of another).

If you conclude the defendant acted in complete (self-defense/ [or] defense of another), (his/her) action was lawful and you must find (him/her) not guilty of any crime. The difference between complete (self-defense/ [or] defense of another) and imperfect (self-defense/ [or] defense of another) depends on whether the defendant's belief in the need to use deadly force was reasonable.

The defendant acted in imperfect (self-defense/ [or] defense of another) if:

1. **The defendant took at least one direct but ineffective step toward killing a person.**

2. **The defendant intended to kill when (he/she) acted.**

3. **The defendant believed that (he/she/ [or] someone else/_____ <*insert name of third party*>) was in imminent danger of being killed or suffering great bodily injury.**

AND

4. **The defendant believed that the immediate use of deadly force was necessary to defend against the danger.**

BUT

5. **At least one of the defendant's beliefs was unreasonable.**

[Imperfect self-defense does not apply when the defendant, through (his/her) own wrongful conduct, has created circumstances that justify (his/her) adversary's use of force.]

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

DRAFT

Belief in future harm is not sufficient, no matter how great or how likely the harm is believed to be. The defendant must have actually believed there was imminent danger of death or great bodily injury to (himself/herself/ [or] someone else).

In evaluating the defendant's beliefs, consider all the circumstances as they were known and appeared to the defendant.

[If you find that _____<*insert name or description of alleged victim*>**threatened or harmed the defendant [or others] in the past, you may consider that information in evaluating the defendant's beliefs.]**

[If you find that the defendant knew that _____<*insert name or description of alleged victim*> **had threatened or harmed others in the past, you may consider that information in evaluating the defendant's beliefs.]**

[If you find that the defendant received a threat from someone else that (he/she) reasonably associated with _____<*insert name or description of alleged victim*>**, you may consider that threat in evaluating the defendant's beliefs.]**

The People have the burden of proving beyond a reasonable doubt that the defendant was not acting in imperfect self-defense. If the People have not met this burden, you must find the defendant not guilty of attempted murder.

New January 2006; Revised August 2009, October 2010, February 2012, February 2013, September 2020, September 2023, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on attempted 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. (See *People v. Breverman* (1998) 19 Cal.4th 142, 153–163 [77 Cal.Rptr.2d 870, 960 P.2d 1094] [discussing charge of completed murder]; *People v. Barton* (1995) 12 Cal.4th 186, 201 [47 Cal.Rptr.2d 569, 906 P.2d 531] [same].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86]~~

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~~[upholding instructions containing great bodily injury definition as written].)~~

Perfect Self-Defense

Most courts hold that an instruction on imperfect self-defense **is required** in every case in which a court instructs on perfect self-defense. If there is substantial evidence of a defendant's belief in the need for self-defense, there will *always* be substantial evidence to support an imperfect self-defense instruction because the reasonableness of that belief will always be at issue. (See *People v. Ceja* (1994) 26 Cal.App.4th 78, 85–86 [31 Cal.Rptr.2d 475], overruled in part in *People v. Blakeley* (2000) 23 Cal.4th 82, 91 [96 Cal.Rptr.2d 451, 999 P.2d 675]; see also *People v. De Leon* (1992) 10 Cal.App.4th 815, 824 [12 Cal.Rptr.2d 825].) The court in *People v. Rodriguez* disagreed, however, and found that an imperfect self-defense instruction was not required sua sponte on the facts of the case where the defendant's version of the crime "could only lead to an acquittal based on justifiable homicide," and when the prosecutor's version of the crime could only lead to a conviction of first degree murder. (*People v. Rodriguez* (1997) 53 Cal.App.4th 1250, 1275 [62 Cal.Rptr.2d 345]; see also *People v. Williams* (1992) 4 Cal.4th 354, 362 [14 Cal.Rptr.2d 441, 841 P.2d 961] [in a rape prosecution, the court was not required to give a mistake-of-fact instruction where the two sides gave wholly divergent accounts with no middle ground to support a mistake-of-fact instruction].)

In evaluating whether the defendant actually believed in the need for self-defense, the jury may consider the effect of antecedent threats and assaults against the defendant, including threats received by the defendant from a third party that the defendant reasonably associated with the aggressor. (*People v. Minifie* (1996) 13 Cal.4th 1055, 1065, 1069 [56 Cal.Rptr.2d 133, 920 P.2d 1337].) If there is sufficient evidence, the court should give the bracketed paragraphs on prior threats or assaults on request.

Related Instructions

CALCRIM Nos. 3470–3477, *Defense Instructions.*

CALCRIM No. 571, *Voluntary Manslaughter: Imperfect Self-Defense—Lesser Included Offense.*

CALCRIM No. 603, *Attempted Voluntary Manslaughter: Heat of Passion—Lesser Included Offense.*

AUTHORITY

- Attempt Defined. Pen. Code, §§ 21a, 664.
- Manslaughter Defined. Pen. Code, § 192.
- Attempted Voluntary Manslaughter. *People v. Van Ronk* (1985) 171

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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].

- "Imperfect Self-Defense" Defined. *People v. Flannel* (1979) 25 Cal.3d 668, 680–683 [160 Cal.Rptr. 84, 603 P.2d 1]; *People v. Barton*, *supra*, 12 Cal.4th at p. 201; *In re Christian S.* (1994) 7 Cal.4th 768, 773 [30 Cal.Rptr.2d 33, 872 P.2d 574]; see *People v. Uriarte* (1990) 223 Cal.App.3d 192, 197–198 [272 Cal.Rptr. 693] [insufficient evidence to support defense of another person].
- Availability of Imperfect Self-Defense. *People v. Enraca* (2012) 53 Cal.4th 735, 761 [137 Cal.Rptr.3d 117, 269 P.3d 543] [not available]; *People v. Vasquez* (2006) 136 Cal.App.4th 1176, 1179–1180 [39 Cal.Rptr.3d 433] [available].
- This Instruction Upheld. *People v. Lopez* (2011) 199 Cal.App.4th 1297, 1307 [132 Cal.Rptr.3d 248].

RELATED ISSUES

See the Related Issues section to CALCRIM No. 603, *Attempted Voluntary Manslaughter: Heat of Passion—Lesser Included Offense* and CALCRIM No. 571, *Voluntary Manslaughter: Imperfect Self-Defense—Lesser Included Offense*.

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 2024~~12~~) Crimes Against the Person, § ~~2~~124.

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications,* § 73.11 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 141, *Conspiracy, Solicitation, and Attempt,* §§ 141.20[2], 141.21; Ch. 142, *Crimes Against the Person,* §§ 142.01[3][e], 142.02[2][a] (Matthew Bender).

605–619. Reserved for Future Use

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810. Torture (Pen. Code, § 206)

The defendant is charged [in Count ____] with torture [in violation of Penal Code section 206].

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

1. **The defendant inflicted great bodily injury on someone else;**

AND

2. **When inflicting the injury, the defendant intended to cause cruel or extreme pain and suffering for the purpose of revenge, extortion, persuasion, or for any sadistic purpose.**

Great bodily injury **means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

[It is not required that a victim actually suffer pain.]

[Someone acts for the purpose of *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 acts for the purpose of *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 an officer does in his or her official capacity using the authority of his or her public office.]

[Someone acts with a *sadistic purpose* if he or she intends to inflict pain on someone else in order to experience pleasure himself or herself.]

New January 2006; Revised September 2020, October 2025

BENCH NOTES

Instructional Duty

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

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Unlike murder by torture, the crime of torture does not require that the intent to cause pain be premeditated or that any cruel or extreme pain be prolonged. (*People v. Pre* (2004) 117 Cal.App.4th 413, 419–420 [11 Cal.Rptr.3d 739]; *People v. Aguilar* (1997) 58 Cal.App.4th 1196, 1204–1205 [68 Cal.Rptr.2d 619]; *People v. Vital* (1996) 45 Cal.App.4th 441, 444 [52 Cal.Rptr.2d 676].) Torture as defined in section 206 of the Penal Code focuses on the mental state of the perpetrator and not the actual pain inflicted. (*People v. Hale* (1999) 75 Cal.App.4th 94, 108 [88 Cal.Rptr.2d 904].) Give the first bracketed paragraph on request if there is no proof that the alleged victim actually suffered pain. (See Pen. Code, § 206.)

"Extortion" need not be defined for purposes of torture. (*People v. Barrera* (1993) 14 Cal.App.4th 1555, 1564 [18 Cal.Rptr.2d 395]; but see *People v. Hill* (1983) 141 Cal.App.3d 661, 668 [190 Cal.Rptr. 628] [term should be defined for kidnapping under Pen. Code, § 209].) Nevertheless, either of the bracketed definitions of extortion, and the related definition of "official act," may be given on request if any of these issues are raised in the case. (See Pen. Code, § 518 [defining "extortion"]; *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 of the term].) It appears that this type of extortion would rarely occur in the context of torture, so it is excluded from this instruction.

"Sadistic purpose" may be defined on request. (See *People v. Barrera*, *supra*, 14 Cal.App.4th at p. 1564; *People v. Raley* (1992) 2 Cal.4th 870, 899–901 [8 Cal.Rptr.2d 678, 830 P.2d 712] [approving use of phrase in torture-murder and special circumstances torture-murder instructions].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

Related Instructions

First degree murder by torture defines torture differently for the purposes of murder. See CALCRIM No. 521, *Murder: Degrees*.

AUTHORITY

- Elements. Pen. Code, § 206.

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- "Extortion" Defined. Pen. Code, § 518.
- "Great Bodily Injury" Defined. Pen. Code, § 12022.7(f); see, e.g., *People v. Hale*, *supra*, (1999) 75 Cal.App.4th 94, at p. 108 [88 Cal.Rptr.2d 904] [broken and smashed teeth, split lip, and facial cut sufficient evidence of great bodily injury].
- Cruel Pain Equivalent to Extreme or Severe Pain. *People v. Aguilar*, *supra*, (1997) 58 Cal.App.4th 1196, at p. 1202 [68 Cal.Rptr.2d 619].
- Intent. *People v. Pre*, *supra*, (2004) 117 Cal.App.4th 413, at pp. 419–420 [11 Cal.Rptr.3d 739]; *People v. Hale*, *supra*, (1999) 75 Cal.App.4th 94, at pp. 106–107 [88 Cal.Rptr.2d 904]; *People v. Jung* (1999) 71 Cal.App.4th 1036, 1042–1043 [84 Cal.Rptr.2d 5]; see *People v. Aguilar*, *supra*, (1997) 58 Cal.App.4th 1196, at pp. 1204–1206 [68 Cal.Rptr.2d 619] [neither premeditation nor intent to inflict prolonged pain are elements of torture].
- "Sadistic Purpose" Defined. *People v. Raley* (1992) 2 Cal.4th 870, 899–901 [8 Cal.Rptr.2d 678, 830 P.2d 712]; *People v. Aguilar*, *supra*, (1997) 58 Cal.App.4th 1196, at pp. 1202–1204 [68 Cal.Rptr.2d 619]; see *People v. Healy* (1993) 14 Cal.App.4th 1137, 1142 [18 Cal.Rptr.2d 274] [sexual element not required].

LESSER INCLUDED OFFENSES

In *People v. Martinez* (2005) 125 Cal.App.4th 1035, 1042–1046 [23 Cal.Rptr.3d 508], the court held that none of the following offenses were lesser included offenses to torture: assault with a deadly weapon (Pen. Code, § 245(a)(1)); corporal injury on a cohabitant (Pen. Code, § 273.5); forcible rape (Pen. Code, § 261(a)(2)); forcible oral copulation (Pen. Code, § 287(c)); criminal threats (Pen. Code, § 422); dissuading a witness by force or threats (Pen. Code, § 136.1(c)(1)); false imprisonment by violence. (Pen. Code, § 236.)

The court did not decide whether assault with force likely to cause great bodily injury is a lesser included offense to torture. (*Id.* at p. 1043–1044.)

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (45th ed. 2024) Crimes Against the Person, §§ 271–274.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.15 (Matthew Bender).

811–819. Reserved for Future Use

DRAFT

820. Assault Causing Death of Child (Pen. Code, § 273ab(a))

The defendant is charged [in Count __] with killing a child under the age of 8 by assaulting the child with force likely to produce great bodily injury [in violation of Penal Code section 273ab(a)].

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

1. **The defendant had care or custody of a child who was under the age of 8;**

2. **The defendant did an act that by its nature would directly and probably result in the application of force to the child;**

3. **The defendant did that act willfully;**

4. **The force used was likely to produce great bodily injury;**

5. **When the defendant acted, (he/she) was aware of facts that would lead a reasonable person to realize that (his/her) act by its nature would directly and probably result in great bodily injury to the child;**

6. **When the defendant acted, (he/she) had the present ability to apply force likely to produce great bodily injury to the child;**

[AND]

7. **The defendant's act caused the child's death(;/.)**

<Give element 8 when instructing on parental right to discipline>
[AND

8. **When the defendant acted, (he/she) was not 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.

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Great bodily injury **means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

An act *causes death* if:

1. **The death was the natural and probable consequence of the act;**

2. **The act was a direct and substantial factor in causing the death;**

AND

3. **The death would not have happened without the 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.

A *substantial factor* is more than a trivial or remote factor. However, it does not need to be the only factor that caused the death.

[Under the law, a person becomes one year older as soon as the first minute of his or her birthday has begun.]

New January 2006; Revised February 2014, September 2020, October 2025

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, the court has a **sua sponte** duty to instruct on the defense of disciplining a child. (*People v. Whitehurst* (1992) 9 Cal.App.4th 1045, 1049 [12 Cal.Rptr.2d 33].) Give bracketed element 8 and CALCRIM No. 3405, Parental Right to Punish a Child.

Give the bracketed paragraph about calculating age if requested. (Fam. Code, § 6500; *In re Harris* (1993) 5 Cal.4th 813, 849–850 [21 Cal.Rptr.2d 373, 855 P.2d 391].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to~~

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~~prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

Related Instructions

CALCRIM No. 875, *Assault With Deadly Weapon or Force Likely to Produce Great Bodily Injury*.

AUTHORITY

- Elements. Pen. Code, § 273ab(a); see *People v. Malfavon* (2002) 102 Cal.App.4th 727, 735 [125 Cal.Rptr.2d 618] [sometimes called "child abuse homicide"].
- "Great Bodily Injury" Defined. Pen. Code, § 12022.7(f); *People v. Albritton* (1998) 67 Cal.App.4th 647, 658 [79 Cal.Rptr.2d 169].
- "Willful" Defined. Pen. Code, § 7, subd. 1; see *People v. Lara* (1996) 44 Cal.App.4th 102, 107 [51 Cal.Rptr.2d 402].
- Force Likely to Produce Great Bodily Injury. *People v. Preller* (1997) 54 Cal.App.4th 93, 97–98 [62 Cal.Rptr.2d 507] [need not prove that reasonable person would believe force would be likely to result in child's death].
- General Intent Crime. *People v. Albritton*, *supra*, ~~(1998)~~ 67 Cal.App.4th ~~647,~~at pp. 658–659 ~~[79 Cal.Rptr.2d 169]~~.
- Mental State for Assault. *People v. Williams* (2001) 26 Cal.4th 779, 790 [111 Cal.Rptr.2d 114, 29 P.3d 197].

LESSER INCLUDED OFFENSES

- Attempted Assault on Child With Force Likely to Produce Great Bodily Injury. Pen. Code, §§ 664, 273ab(b).
- Assault. Pen. Code, § 240.
- Assault With Force Likely to Produce Great Bodily Injury. Pen. Code, § 245(a)(1); *People v. Basuta* (2001) 94 Cal.App.4th 370, 392 [114 Cal.Rptr.2d 285].

Involuntary manslaughter is not a lesser included offense of Penal Code section 273ab. (*People v. Stewart* (2000) 77 Cal.App.4th 785, 796 [91 Cal.Rptr.2d 888]; *Orlina v. Superior Court* (1999) 73 Cal.App.4th 258, 261–262 [86 Cal.Rptr.2d 384].)

Neither murder nor child abuse homicide is a necessarily included offense within the other. (*People v. Malfavon*, *supra*, ~~(2002)~~ 102 Cal.App.4th ~~727,~~at pp. 743–744 ~~[125 Cal.Rptr.2d 618]~~.)

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RELATED ISSUES

Care or Custody

"The terms 'care or custody' do not imply a familial relationship but only a willingness to assume duties correspondent to the role of a caregiver." (*People v. Cochran* (1998) 62 Cal.App.4th 826, 832 [73 Cal.Rptr.2d 257].)

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 20~~1~~12~~42~~) Crimes Against the Person, § 21~~115~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, §§ 142.13[2A], 142.23[7] (Matthew Bender).

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830. Abuse of Elder or Dependent Adult Likely to Produce Great Bodily Harm or Death (Pen. Code, § 368(b)(1))

The defendant is charged [in Count __] with (elder/dependent adult) abuse likely to produce great bodily harm or death [in violation of Penal Code section 368(b)(1)].

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

<Alternative A—inflicted pain>

[1. The defendant willfully inflicted unjustifiable physical pain or mental suffering on _____ *<insert name or description of elder or dependent adult>***;]**

<Alternative B—caused or permitted to suffer pain>

[1. The defendant willfully caused or permitted _____ *<insert name or description of elder or dependent adult>* **to suffer unjustifiable physical pain or mental suffering;]**

<Alternative C—while having custody, caused or permitted to be injured>

[1. The defendant, while having care or custody of _____ *<insert name or description of elder or dependent adult>* **willfully caused or permitted (his/her) person or health to be injured;]**

<Alternative D—while having custody, caused or permitted to be placed in danger>

[1. The defendant, while having care or custody of _____ *<insert name or description of elder or dependent adult>* **willfully caused or permitted (him/her) to be placed in a situation where (his/her) person or health was endangered;]**

2. The defendant (inflicted suffering on _____ *<insert name or description of elder or dependent adult>*/ **[or] caused or permitted _____** *<insert name of elder or dependent adult>* **to (suffer/ [or] be injured/ [or] be endangered)) under circumstances or conditions likely to produce great bodily harm or death;**

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3. _____ *<insert name or description of elder or dependent adult>* **(is/was) (an elder/a dependent adult)(;/.)**

[AND]

4. **When the defendant acted, (he/she) knew or reasonably should have known that** _____ *<insert name or description of elder or dependent adult>* **was (an elder/a dependent adult)(;/.)**

<Give element 5 when giving alternative 1B and it is alleged the defendant permitted the suffering.>
[AND]

[5. The defendant had a legal duty to supervise and control the conduct of the person[s] who caused or inflicted unjustifiable physical pain or mental suffering on _____ *<insert name or description of elder or dependent adult>***, but failed to supervise or control that conduct(;/.)]**

<Give element 6 when giving alternative 1B, 1C, or 1D.>
[AND

6. **The defendant was criminally negligent when (he/she) caused or permitted** _____ *<insert name or description of elder or dependent adult>* **to (suffer/ [or] be injured/ [or] be endangered).]**

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

***Great bodily harm* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

[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).]

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[*Unjustifiable* physical pain or mental suffering is pain or suffering that is not reasonably necessary or is excessive under the circumstances.]

[A person who does not have care or custody of (an elder/a dependent adult) may still have a *legal duty to supervise and control the conduct of a third person* who can inflict abuse on the (elder/dependent adult) if the person has a special relationship with the third person. A special relationship is created, for example, when (1) a person takes charge of a third person whom (he/she) knows or should know is likely to cause bodily harm to others if not controlled, and (2) the person has the ability to control the third person's conduct.]

[*Criminal negligence* involves more than ordinary carelessness, inattention, or mistake in judgment. A person acts with criminal negligence when:

1. **He or she acts in a reckless way that creates a high risk of death or great bodily harm;**

AND

2. **A reasonable person would have known that acting in that way would create such a risk.**

In other words, a person acts with criminal negligence when the way he or she acts is so different from the way an ordinarily careful person would act in the same situation that his or her act amounts to disregard for human life or indifference to the consequences of that act.]

[(An elder/A dependent adult) does not need to actually suffer great bodily harm. But if (an elder/a dependent adult) does suffer great bodily harm, you may consider that fact, along with all the other evidence, in deciding whether the defendant committed the offense.]

[Under the law, a person becomes one year older as soon as the first minute of his or her birthday has begun.]

New January 2006; Revised March 2017, October 2025

BENCH NOTES

Instructional Duty

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

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Give element 1A if it is alleged that the defendant directly inflicted unjustifiable physical pain or mental suffering. Give element 1B if it is alleged that the defendant caused or permitted an elder or dependent adult to suffer. If it is alleged that the defendant had care or custody of an elder or dependent adult and that the defendant caused or permitted the elder's or dependent adult's person or health to be injured, give element 1C. Finally, give element 1D if it is alleged that the defendant had care or custody of an elder or dependent adult and that the defendant endangered the elder's or dependent adult's person or health. (See Pen. Code, § 368(b)(1).)

Give bracketed element 5 if it is alleged under element 1B that the defendant *permitted* an elder or dependent adult to suffer unjustifiable pain or mental suffering. (See *People v. Heitzman* (1994) 9 Cal.4th 189, 212 [37 Cal.Rptr.2d 236, 886 P.2d 1229].) If element 5 is given, also give the bracketed paragraph defining who has a "legal duty to control the conduct of a third person."

Give bracketed element 6 regarding criminal negligence, and the bracketed definition of "criminally negligent," if element 1B, 1C, or 1D is given alleging that the defendant committed any indirect act. (*People v. Manis* (1992) 10 Cal.App.4th 110, 114 [12 Cal.Rptr.2d 619], disapproved on other grounds by *People v. Heitzman* (1994) 9 Cal.4th 189, 212 [37 Cal.Rptr.2d 236, 886 P.2d 1229]; *People v. Superior Court (Holvey)* (1988) 205 Cal.App.3d 51, 60 [252 Cal.Rptr. 335], disapproved on other grounds by *People v. Heitzman*, *supra*, ~~(1994)~~ 9 Cal.4th ~~189,~~at p. 212 ~~[37 Cal.Rptr.2d 236, 886 P.2d 1229]~~; see *People v. Valdez* (2002) 27 Cal.4th 778, 788, 789 [118 Cal.Rptr.2d 3, 42 P.3d 511]; *People v. Peabody* (1975) 46 Cal.App.3d 43, 48–49 [119 Cal.Rptr. 780] [latter two cases in context of parallel child abuse statute].)

Give the bracketed definition of "elder" or "dependent adult" depending on the status of the alleged victim. (See Pen. Code, § 368(g) & (h).)

Give on request the bracketed definition of "unjustifiable" physical pain or mental suffering if there is a question about the necessity for or the degree of pain or suffering. (See *People v. Curtiss* (1931) 116 Cal.App. Supp. 771, 779–780 [300 P. 801].)

If there is a question whether an elder or dependent adult suffered great bodily harm, give on request the bracketed paragraph stating that a person "does not need to actually suffer great bodily harm." (See *People v. Cortes* (1999) 71 Cal.App.4th 62, 80 [83 Cal.Rptr.2d 519]; *People v. Jaramillo* (1979) 98 Cal.App.3d 830, 835 [159 Cal.Rptr. 771] [in context of parallel child abuse statute].)

If a victim actually suffers great bodily injury or dies, the defendant's sentence may be enhanced based on the victim's age. (See Pen. Code, § 368(b)(2) & (3); see *People v. Adams* (2001) 93 Cal.App.4th 1192, 1198 [113 Cal.Rptr.2d 722].)

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Give CALCRIM No. 3162, *Great Bodily Injury: Age of Victim*, or any other appropriate instructions on enhancements. (See series 3100-3399.)

Give the bracketed paragraph about calculating age if requested. (Fam. Code, § 6500; *In re Harris* (1993) 5 Cal.4th 813, 849–850 [21 Cal.Rptr.2d 373, 855 P.2d 391].)

AUTHORITY

- Elements. Pen. Code, § 368(b)(1).
- "Great Bodily Harm or Injury" Defined. Pen. Code, §§ 368(b)(2), 12022.7(f); see *People v. Cortes*, *supra*, (1999) 71 Cal.App.4th 62, at p. 80 [83 Cal.Rptr.2d 519] [in context of parallel child abuse statute].
- Sentence Enhancements. Pen. Code, § 368(b)(2) & (3); see *People v. Adams*, *supra*, (2001) 93 Cal.App.4th 1192, at p. 1198 [113 Cal.Rptr.2d 722].
- "Willful" Defined. Pen. Code, § 7, subd. 1; see *People v. Lara* (1996) 44 Cal.App.4th 102, 107 [51 Cal.Rptr.2d 402]; *People v. Vargas* (1988) 204 Cal.App.3d 1455, 1462, 1468–1469 [251 Cal.Rptr. 904].
- Criminal Negligence Required for Indirect Conduct. *People v. Manis*, *supra*, (1992) 10 Cal.App.4th 110, at p. 114 [12 Cal.Rptr.2d 619]; *People v. Superior Court (Holvey)* (1988) 205 Cal.App.3d 51, 60 [252 Cal.Rptr. 335]; see *People v. Valdez*, *supra*, (2002) 27 Cal.4th 778, at pp. 788–789 [118 Cal.Rptr.2d 3, 42 P.3d 511]; *People v. Peabody*, *supra*, (1975) 46 Cal.App.3d 43, at p. 47, pp. 48–49 [119 Cal.Rptr. 780] [in context of parallel child abuse statute].
- Duty to Control Conduct of Person Inflicting Abuse. *People v. Heitzman*, *supra*, (1994) 9 Cal.4th 189, at p. 212 [37 Cal.Rptr.2d 236, 886 P.2d 1229].
- General Criminal Intent Required for Direct Infliction of Pain or Suffering. See *People v. Sargent* (1999) 19 Cal.4th 1206, 1224 [81 Cal.Rptr.2d 835, 970 P.2d 409] [in context of parallel child abuse statute].\

COMMENTARY

Any violation of Penal Code section 368(b)(1) must be willful. (See *People v. Smith* (1984) 35 Cal.3d 798, 806 [201 Cal.Rptr. 311, 678 P.2d 886]; *People v. Cortes*, *supra*, (1999) 71 Cal.App.4th 62, at p. 80 [83 Cal.Rptr.2d 519] [both in context of parallel child abuse statute]; but see *People v. Valdez*, *supra*, (2002) 27 Cal.4th 778, at p. 789 [118 Cal.Rptr.2d 3, 42 P.3d 511] [the prong punishing a *direct infliction* of unjustifiable physical pain or mental suffering does not expressly require that the conduct be willful].) Following *Smith* and *Cortes*, the

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committee has included "willfully" in element 1A regarding direct infliction of abuse until there is further guidance from the courts.

LESSER INCLUDED OFFENSES

- Attempted Abuse of Elder or Dependent Adult. Pen. Code, §§ 664, 368(b)(1).
- Misdemeanor Abuse of Elder or Dependent Adult. Pen. Code, § 368(c).

RELATED ISSUES

Care or Custody

"The terms 'care or custody' do not imply a familial relationship but only a willingness to assume duties correspondent to the role of a caregiver." (See *People v. Toney* (1999) 76 Cal.App.4th 618, 621–622 [90 Cal.Rptr.2d 578] [quoting *People v. Cochran* (1998) 62 Cal.App.4th 826, 832 [73 Cal.Rptr.2d 257]; both in context of parallel child abuse statute].)

Unanimity

The court has a **sua sponte** duty to instruct on unanimity when the prosecution has presented evidence of multiple acts to prove a single count. (*People v. Russo* (2001) 25 Cal.4th 1124, 1132 [108 Cal.Rptr.2d 436, 25 P.3d 641].) However, the court does not have to instruct on unanimity if the offense constitutes a "continuous course of conduct." (*People v. Napoles* (2002) 104 Cal.App.4th 108, 115–116 [127 Cal.Rptr.2d 777].) Elder abuse may be a continuous course of conduct or a single, isolated incident. (*People v. Rae* (2002) 102 Cal.App.4th 116, 123 [125 Cal.Rptr.2d 312].) The court should carefully examine the statute charged, the pleadings, and the evidence presented to determine whether the offense constitutes a continuous course of conduct. (*People v. Napoles, supra,* 104 Cal.App.4th at pp. 115–116.) See generally CALCRIM No. 3500, *Unanimity*.

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 2024~~12~~) Sex Offenses and Crimes Against Decency, §§ 231–~~179-187~~239.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, §§ 142.11[1][f], 142.13[5] (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and Procedure § 12:17 (The Rutter Group).

DRAFT

860. Assault on Firefighter or Peace Officer With Deadly Weapon or Force Likely to Produce Great Bodily Injury (Pen. Code, §§ 240, 245(c) & (d))

The defendant is charged [in Count __] with assault with (force likely to produce great bodily injury/a deadly weapon/a firearm/a semiautomatic firearm/a machine gun/an assault weapon/a .50 BMG rifle) on a (firefighter/peace officer) [in violation of Penal Code section 245].

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

<Alternative 1A—force with weapon>

[1A. The defendant did an act with (a deadly weapon/a firearm/a semiautomatic firearm/a machine gun/an assault weapon/a .50 BMG rifle) that by its nature would directly and probably result in the application of force to a person;]

[OR]

<Alternative 1B—force without weapon>

[1Bi. The defendant did an act that by its nature would directly and probably result in the application of force to a person, and

1Bii. The force used was likely to produce great bodily injury;]

2. The defendant did that act willfully;

3. When the defendant acted, (he/she) was aware of facts that would lead a reasonable person to realize that (his/her) act by its nature would directly and probably result in the application of force to someone;

4. When the defendant acted, (he/she) had the present ability to apply force (likely to produce great bodily injury/with a deadly weapon/with a firearm/with a semiautomatic firearm/with a machine gun/with an assault weapon/with a .50 BMG rifle) to a person;

5. When the defendant acted, the person assaulted was lawfully performing (his/her) duties as a (firefighter/peace officer);

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[AND]

6. **When the defendant acted, (he/she) knew, or reasonably should have known, that the person assaulted was a (firefighter/peace officer) who was performing (his/her) duties(;/.)**

<Give element 7 when instructing on self-defense or defense of another.>
[AND

7. **The defendant did not act (in self-defense/ [or] in defense of someone else).]**

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 terms *application of force* and *apply force* mean to touch in a harmful or offensive manner. The slightest touching can be enough 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).]

[The People are not required to prove that the defendant actually touched someone.]

The People are not required to prove that the defendant actually intended to use force against someone when (he/she) acted.

No one needs to actually have been injured by defendant's act. But if someone was injured, you may consider that fact, along with all the other evidence, in deciding whether the defendant committed an assault[, and if so, what kind of assault it was].

[Voluntary intoxication is not a defense to assault.]

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

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[A *deadly weapon* is any object, instrument, or weapon [that is inherently deadly or one] that is used in such a way that it is capable of causing and likely to cause death or great bodily injury.]

[An object is *inherently deadly* if it is deadly or dangerous in the ordinary use for which it is designed.]

[In deciding whether an object is a deadly weapon, consider all the surrounding circumstances.]

[A *firearm* is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.]

[A *semiautomatic firearm* extracts a fired cartridge and chambers a fresh cartridge with each single pull of the trigger.]

[A *machine gun* is any weapon that (shoots/is designed to shoot/ [or] can readily be restored to shoot) automatically more than one shot by a single function of the trigger and without manual reloading.]

[An *assault weapon* includes _____ *<insert names of appropriate designated assault weapons listed in Pen. Code, § 30510 and further defined by Pen. Code, § 30515>***.]**

[A *.50 BMG rifle* is a center fire rifle that can fire a .50 BMG cartridge [and that is not an assault weapon or a machine gun]. A *.50 BMG cartridge* is a cartridge that is designed and intended to be fired from a center fire rifle and that has all three of the following characteristics:

1. **The overall length is 5.54 inches from the base of the cartridge to the tip of the bullet;**

2. **The bullet diameter for the cartridge is from .510 to, and including, .511 inch;**

AND

3. **The case base diameter for the cartridge is from .800 inch to, and including, .804 inch.]**

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[The term[s] (*great bodily injury[,]/ deadly weapon[,]/ firearm[,]/ machine gun[,]/assault weapon[,]/* [and] *.50 BMG rifle)* is/are) defined in another instruction to which you should refer.]

[A person who is employed as a police officer by _____ <*insert name of agency that employs police officer*> **is a *peace officer*.]**

[A person employed by _____ <*insert name of agency that employs peace officer, e.g., "the Department of Fish and Wildlife"*> **is a *peace officer* if** _____ <*insert description of facts necessary to make employee a peace officer, e.g, "designated by the director of the agency as a peace officer"*>**.]**

[The duties of a _____ <*insert title of officer*> **include** _____ <*insert job duties*>**.]**

[A *firefighter* includes anyone who is an officer, employee, or member of a (governmentally operated (fire department/fire protection or firefighting agency) in this state/federal fire department/federal fire protection or firefighting agency), whether or not he or she is paid for his or her services.]

New January 2006; Revised April 2011, February 2012, February 2013, September 2019, April 2020, September 2020, March 2022, February 2025, October 2025

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 7 and any appropriate defense instructions. (See CALCRIM Nos. 3470–3477.)

In addition, the court has a **sua sponte** duty to instruct on defendant's reliance on self-defense as it relates to the use of excessive force. (*People v. White* (1980) 101 Cal.App.3d 161, 167–168 [161 Cal.Rptr. 541].) If excessive force is an issue, the court has a **sua sponte** duty to instruct the jury that the defendant is not guilty of the offense charged, or any lesser included offense in which lawful performance is an element, if the defendant used reasonable force in response to excessive force. (*People v. Olguin* (1981) 119 Cal.App.3d 39, 46–47 [173 Cal.Rptr. 663].) On request, the court must instruct that the prosecution has the burden of proving the lawfulness of the arrest beyond a reasonable doubt. (*People v. Castain* (1981) 122 Cal.App.3d 138, 145 [175 Cal.Rptr. 651].) If lawful performance is an issue, give

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the appropriate portions of CALCRIM No. 2670, *Lawful Performance: Peace Officer*. In addition, give CALCRIM No. 2672, *Lawful Performance: Resisting Unlawful Arrest With Force*, if requested.

Give element 1A if it is alleged the assault was committed with a deadly weapon, a firearm, a semiautomatic firearm, a machine gun, an assault weapon, or .50 BMG rifle. Give element 1B if it is alleged that the assault was committed with force likely to produce great bodily injury. (See Pen. Code, § 245(c) & (d).)

Give the relevant bracketed definitions unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere.

Give the bracketed paragraph on indirect touching if relevant.

Give the bracketed phrase "that is inherently deadly or one" and give the bracketed definition of *inherently deadly* only if the object is a deadly weapon as a matter of law. (*People v. Stutelberg* (2018) 29 Cal.App.5th 314, 317–318 [240 Cal.Rptr.3d 156].)

Give the bracketed portion that begins with "In deciding whether" if the object is not a weapon as a matter of law and is capable of innocent uses. (*People v. Aguilar* (1997) 16 Cal.4th 1023, 1028–1029 [68 Cal.Rptr.2d 655, 945 P.2d 1204]; *People v. Godwin* (1996) 50 Cal.App.4th 1562, 1573–1574 [58 Cal.Rptr.2d 545].)

If determining whether the item is an inherently deadly weapon requires resolution of a factual issue, give both bracketed instructions.

The jury must determine whether the alleged victim is a peace officer. (*People v. Brown* (1988) 46 Cal.3d 432, 444–445 [250 Cal.Rptr. 604, 758 P.2d 1135].) The court may instruct the jury on the appropriate definition of "peace officer" from the statute (e.g., "a Garden Grove Regular Police Officer and a Garden Grove Reserve Police Officer are peace officers"). *(Ibid.)* However, the court may not instruct the jury that the alleged victim was a peace officer as a matter of law (e.g., "Officer Reed was a peace officer"). *(Ibid.)* If the alleged victim is a police officer, give the bracketed sentence that begins with "A person employed as a police officer." If the alleged victim is another type of peace officer, give the bracketed sentence that begins with "A person employed by."

The court may give the bracketed sentence that begins, "The duties of a _____ <*insert title . . . .*> include," on request. The court may insert a description of the officer's duties such as "the correct service of a facially valid search warrant." (*People v. Gonzalez* (1990) 51 Cal.3d 1179, 1222 [275 Cal.Rptr. 729, 800 P.2d 1159].)

Do not give an attempt instruction in conjunction with this instruction. There is no crime of "attempted assault" in California. (*In re James M.* (1973) 9 Cal.3d 517, 519, 521–522 [108 Cal.Rptr. 89, 510 P.2d 33].)

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~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Elements. Pen. Code, §§ 240, 245(c) & (d)(1)–(3).
- "Assault Weapon" Defined. Pen. Code, §§ 30510, 30515.
- "Firearm" Defined. Pen. Code, § 16520.
- "Machine Gun" Defined. Pen. Code, § 16880.
- "Semiautomatic Pistol" Defined. Pen. Code, § 17140.
- ".50 BMG Rifle" Defined. Pen. Code, § 30530.
- "Peace Officer" Defined. Pen. Code, § 830 et seq.
- "Firefighter" Defined. Pen. Code, § 245.1.
- "Willful" Defined. Pen. Code, § 7(1); *People v. Lara* (1996) 44 Cal.App.4th 102, 107 [51 Cal.Rptr.2d 402].
- "Deadly Weapon" Defined. *People v. Brown* (2012) 210 Cal.App.4th 1, 6–8 [147 Cal.Rptr.3d 848]; *People v. Aguilar* (1997) 16 Cal.4th 1023, 1028–1029 [68 Cal.Rptr.2d 655, 945 P.2d 1204].
- Mental State for Assault. *People v. Williams* (2001) 26 Cal.4th 779, 790 [111 Cal.Rptr.2d 114, 29 P.3d 197].
- 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]].
- "Inherently Deadly" Defined. *People v. Perez* (2018) 4 Cal.5th 1055, 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42]; *People v. Aguilar*, *supra*, 16 Cal.4th at pp. 1028–1029.
- Examples of Noninherently Deadly Weapon. *People v. Aledamat* (2019) 8 Cal.5th 1, 6 [251 Cal.Rptr.3d 371, 447 P.3d 277] [box cutter]; *People v. Perez*, *supra*, 4 Cal.5th at p. 1065 [vehicle]; *People v. McCoy* (1944) 25 Cal.2d 177, 188 [153 P.2d 315] [knife].

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LESSER INCLUDED OFFENSES

- Assault. Pen. Code, § 240.
- Assault With a Deadly Weapon. Pen. Code, § 245.
- Assault on a Peace Officer. Pen. Code, § 241(b).

RELATED ISSUES

See the Related Issues section in CALCRIM No. 2670, *Lawful Performance: Peace Officer*.

See the Authority section in CALCRIM No. 960, *Simple Battery*, regarding indirect touching.

Dual Convictions Prohibited

Penal Code section 245(c) describes a single offense. (*In re C.D.* (2017) 18 Cal.App.5th 1021, 1029 [227 Cal.Rptr.3d 360] ["Aggravated assault against a peace officer under section 245, subdivision (c), remains a single offense, and multiple violations of the statute cannot be found when they are based on the same act or course of conduct"].) See CALCRIM No. 3516, *Multiple Counts: Alternative Charges For One Event—Dual Conviction Prohibited*.

If both theories of assault are included in the case, the jury must unanimously agree which theory or theories are the basis for the verdict.

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 202~~4~~412) Crimes Against the Person, § 245~~69~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.11; Ch. 144, *Crimes Against Order*, § 144.01[1][j] (Matthew Bender).

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862. Assault on Custodial Officer With Deadly Weapon or Force Likely to Produce Great Bodily Injury (Pen. Code, §§ 240, 245, 245.3)

The defendant is charged [in Count __] with assault with (force likely to produce great bodily injury/a deadly weapon) on a custodial officer [in violation of Penal Code section 245.3].

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

<Alternative 1A—force with weapon>

[1. The defendant willfully did an act with a deadly weapon that by its nature would directly and probably result in the application of force to a person;]

<Alternative 1B—force without weapon>

[1A. The defendant did an act that by its nature would directly and probably result in the application of force to a person, and

1B. The force used was likely to produce great bodily injury;]

2. The defendant did that act willfully;

3. When the defendant acted, (he/she) was aware of facts that would lead a reasonable person to realize that (his/her) act by its nature would directly and probably result in the application of force to someone;

4. When the defendant acted, (he/she) had the present ability to apply force (likely to produce great bodily injury/with a deadly weapon) to a person;

5. When the defendant acted, the person assaulted was lawfully performing (his/her) duties as a custodial officer;

[AND]

6. When the defendant acted, (he/she) knew, or reasonably should have known, both that the person assaulted was a custodial officer and that (he/she) was performing (his/her) duties as a custodial officer(;/.)

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<Give element 7 when instructing on self-defense or defense of another.>
[AND

7. The defendant did not act (in self-defense/ [or] in defense of someone else).]

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 terms *application of force* and *apply force* mean to touch in a harmful or offensive manner. The slightest touching can be enough 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).]

[The People are not required to prove that the defendant actually touched someone.]

The People are not required to prove that the defendant actually intended to use force against someone when (he/she) acted.

No one needs to actually have been injured by defendant's act. But if someone was injured, you may consider that fact, along with all the other evidence, in deciding whether the defendant committed an assault[, and if so, what kind of assault it was].

[Voluntary intoxication is not a defense to assault.]

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[A *deadly weapon* is any object, instrument, or weapon [that is inherently deadly or one] that is used in such a way that it is capable of causing and likely to cause death or great bodily injury.]

[An object is *inherently deadly* if it is deadly or dangerous in the ordinary use for which it was designed.]

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[In deciding whether an object is a deadly weapon, consider all the surrounding circumstances.]

[The term[s] (*great bodily injury/ [and] deadly weapon)* (is/are) defined in another instruction to which you should refer.]

A *custodial officer* is someone who works for a law enforcement agency of a city or county, is responsible for maintaining custody of prisoners, and helps operate a local detention facility. [A (county jail/city jail/_____ <*insert other detention facility*>) is a local detention facility.] [A custodial officer is not a peace officer.]

New January 2006; Revised April 2011, February 2013, September 2019, September 2020, March 2022, February 2025, October 2025

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 7 and any appropriate defense instructions. (See CALCRIM Nos. 3470–3477.)

In addition, the court has a **sua sponte** duty to instruct on defendant's reliance on self-defense as it relates to the use of excessive force. (*People v. White* (1980) 101 Cal.App.3d 161, 167–168 [161 Cal.Rptr. 541].) If excessive force is an issue, the court has a **sua sponte** duty to instruct the jury that the defendant is not guilty of the offense charged, or any lesser included offense in which lawful performance is an element, if the defendant used reasonable force in response to excessive force. (*People v. Olguin* (1981) 119 Cal.App.3d 39, 46–47 [173 Cal.Rptr. 663].) If lawful performance is an issue, give the appropriate portions of CALCRIM No. 2671, *Lawful Performance: Custodial Officer*.

Give element 1A if it is alleged the assault was committed with a deadly weapon. Give element 1B if it is alleged that the assault was committed with force likely to produce great bodily injury. (See Pen. Code, § 245.3.)

Give the relevant bracketed definitions unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere.

Give the bracketed paragraph on indirect touching if relevant.

Give the bracketed phrase "that is inherently deadly or one" and give the bracketed definition of *inherently deadly* only if the object is a deadly weapon as a

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matter of law. (*People v. Stutelberg* (2018) 29 Cal.App.5th 314, 317–318 [240 Cal.Rptr.3d 156].)

Give the bracketed portion that begins with "In deciding whether" if the object is not a weapon as a matter of law and is capable of innocent uses. (*People v. Aguilar* (1997) 16 Cal.4th 1023, 1028–1029 [68 Cal.Rptr.2d 655, 945 P.2d 1204]; *People v. Godwin* (1996) 50 Cal.App.4th 1562, 1573–1574 [58 Cal.Rptr.2d 545].)

If determining whether the item is an inherently deadly weapon requires resolution of a factual issue, give both bracketed instructions.

In the bracketed definition of "local detention facility," do not insert the name of a specific detention facility. Instead, insert a description of the type of detention facility at issue in the case. (See *People v. Flood* (1998) 18 Cal.4th 470, 482 [76 Cal.Rptr.2d 180, 957 P.2d 869] [jury must determine if alleged victim is a peace officer]; see Penal Code section 6031.4 [defining local detention facility].)

Do not give an attempt instruction in conjunction with this instruction. There is no crime of "attempted assault" in California. (*In re James M.* (1973) 9 Cal.3d 517, 519, 521–522 [108 Cal.Rptr. 89, 510 P.2d 33].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Elements. Pen. Code, §§ 240, 245, 245.3.
- "Custodial Officer" Defined. Pen. Code, § 831.
- "Local Detention Facility" Defined. Pen. Code, § 6031.4.
- "Willful" Defined. Pen. Code, § 7(1); *People v. Lara* (1996) 44 Cal.App.4th 102, 107 [51 Cal.Rptr.2d 402].
- "Deadly Weapon" Defined. *People v. Brown* (2012) 210 Cal.App.4th 1, 6–8 [147 Cal.Rptr.3d 848]; *People v. Aguilar, supra,* 16 Cal.4th at pp. 1028–1029.
- Mental State for Assault. *People v. Williams* (2001) 26 Cal.4th 779, 790 [111 Cal.Rptr.2d 114, 29 P.3d 197].
- 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]].

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- "Inherently Deadly" Defined. *People v. Perez* (2018) 4 Cal.5th 1055, 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42]; *People v. Aguilar, supra,* 16 Cal.4th at pp. 1028–1029.
- Examples of Noninherently Deadly Weapon. *People v. Aledamat* (2019) 8 Cal.5th 1, 6 [251 Cal.Rptr.3d 371, 447 P.3d 277] [box cutter]; *People v. Perez, supra,* 4 Cal.5th at p. 1065 [vehicle]; *People v. McCoy* (1944) 25 Cal.2d 177, 188 [153 P.2d 315] [knife].

RELATED ISSUES

See the Authority section in CALCRIM No. 960, *Simple Battery*, regarding indirect touching.

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 2024~~12~~) Crimes Against the Person, §§ ~~72~~248–~~74~~250.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.11; Ch. 144, *Crimes Against Order*, § 144.01[1][j] (Matthew Bender).

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863. Assault on Transportation Personnel or Passenger With Deadly Weapon or Force Likely to Produce Great Bodily Injury (Pen. Code, §§ 240, 245, 245.2)

The defendant is charged [in Count __] with assault with (force likely to produce great bodily injury/a deadly weapon) on (a/an) (operator/driver/station agent/ticket agent/passenger) of (a/an) _____ *<insert name of vehicle or transportation entity specified in Pen. Code, § 245.2>* **[in violation of Penal Code section 245.2].**

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

<Alternative 1A—force with weapon>

[1. The defendant willfully did an act with a deadly weapon that by its nature would directly and probably result in the application of force to a person;]

<Alternative 1B—force without weapon>

[1A. The defendant did an act that by its nature would directly and probably result in the application of force to a person, and

1B. The force used was likely to produce great bodily injury;]

2. The defendant did that act willfully;

3. When the defendant acted, (he/she) was aware of facts that would lead a reasonable person to realize that (his/her) act by its nature would directly and probably result in the application of force to someone;

4. When the defendant acted, (he/she) had the present ability to apply force (likely to produce great bodily injury/with a deadly weapon) to a person;

<Alternative 5A—transportation personnel>

[5. When the defendant acted, the person assaulted was performing (his/her) duties as (a/an) (operator/driver/station agent/ticket agent) of (a/an) _____ *<insert name of vehicle or transportation entity specified in Pen. Code, § 245.2>***;]**

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<Alternative 5B—passenger>

[5. The person assaulted was a passenger of (a/an) _____ *<insert name of vehicle or transportation entity specified in Pen. Code, § 245.2>***;]**

[AND]

6. When the defendant acted, (he/she) knew, or reasonably should have known, [both] that the person assaulted was (a/an) (operator/driver/station agent/ticket agent/passenger) of (a/an) _____ *<insert name of vehicle or transportation entity specified in Pen. Code, § 245.2>* **[and that (he/she) was performing (his/her) duties](;/.)**

<Give element 7 when instructing on self-defense or defense of another.>
[AND

7. The defendant did not act (in self-defense/ [or] in defense of someone else).]

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 terms *application of force* and *apply force* mean to touch in a harmful or offensive manner. The slightest touching can be enough 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).]

[The People are not required to prove that the defendant actually touched someone.]

The People are not required to prove that the defendant actually intended to use force against someone when (he/she) acted.

No one needs to actually have been injured by defendant's act. But if someone was injured, you may consider that fact, along with all the other evidence, in

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deciding whether the defendant committed an assault[, and if so, what kind of assault it was].

[Voluntary intoxication is not a defense to assault.]

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[A *deadly weapon* is any object, instrument, or weapon [that is inherently deadly or one] that is used in such a way that it is capable of causing and likely to cause death or great bodily injury.]

[An object is *inherently deadly* if it is deadly or dangerous in the ordinary use for which it was designed.]

[In deciding whether an object is a deadly weapon, consider all the surrounding circumstances.]

[The term[s] (*great bodily injury*/ [and] *deadly weapon*) (is/are) defined in another instruction to which you should refer.]

New January 2006; Revised February 2013, September 2019, September 2020, March 2022, February 2025, October 2025

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 7 and any appropriate defense instructions. (See CALCRIM Nos. 3470–3477.)

Give element 1A if it is alleged the assault was committed with a deadly weapon. Give element 1B if it is alleged that the assault was committed with force likely to produce great bodily injury. (See Pen. Code, § 245.2.)

If the victim was an operator, driver, station agent, or ticket agent of an identified vehicle or transportation entity, give element 5A and the bracketed language in element 6. If the victim was a passenger, give element 5B and omit the bracketed language in element 6.

Give the bracketed paragraph on indirect touching if relevant.

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Give the relevant bracketed definitions unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere.

Give the bracketed phrase "that is inherently deadly or one" and give the bracketed definition of *inherently deadly* only if the object is a deadly weapon as a matter of law. (*People v. Stutelberg* (2018) 29 Cal.App.5th 314, 317–318 [240 Cal.Rptr.3d 156].)

Give the bracketed portion that begins with "In deciding whether" if the object is not a weapon as a matter of law and is capable of innocent uses. (*People v. Aguilar* (1997) 16 Cal.4th 1023, 1028–1029 [68 Cal.Rptr.2d 655, 945 P.2d 1204]; *People v. Godwin* (1996) 50 Cal.App.4th 1562, 1573–1574 [58 Cal.Rptr.2d 545].)

If determining whether the item is an inherently deadly weapon requires resolution of a factual issue, give both bracketed instructions.

Do not give an attempt instruction in conjunction with this instruction. There is no crime of "attempted assault" in California. (*In re James M.* (1973) 9 Cal.3d 517, 519, 521–522 [108 Cal.Rptr. 89, 510 P.2d 33].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Elements. Pen. Code, §§ 240, 245, 245.2.
- "Willful" Defined. Pen. Code, § 7(1); *People v. Lara* (1996) 44 Cal.App.4th 102, 107 [51 Cal.Rptr.2d 402].
- "Deadly Weapon" Defined. *People v. Brown* (2012) 210 Cal.App.4th 1, 6–8 [147 Cal.Rptr.3d 848]; *People v. Aguilar, supra,* 16 Cal.4th at pp. 1028–1029.
- Mental State for Assault. *People v. Williams* (2001) 26 Cal.4th 779, 790 [111 Cal.Rptr.2d 114, 29 P.3d 197].
- 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]].

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- "Inherently Deadly" Defined. *People v. Perez* (2018) 4 Cal.5th 1055, 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42]; *People v. Aguilar, supra,* 16 Cal.4th at pp. 1028–1029.
- Examples of Noninherently Deadly Weapon. *People v. Aledamat* (2019) 8 Cal.5th 1, 6 [251 Cal.Rptr.3d 371, 447 P.3d 277] [box cutter]; *People v. Perez, supra,* 4 Cal.5th at p. 1065 [vehicle]; *People v. McCoy* (1944) 25 Cal.2d 177, 188 [153 P.2d 315] [knife].

LESSER INCLUDED OFFENSES

- Assault. Pen. Code, § 240.

RELATED ISSUES

See the Authority section in CALCRIM No. 960, *Simple Battery*, regarding indirect touching.

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 202~~4~~4~~12~~) Crimes Against the Person, § ~~79~~255.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.11[3]; Ch. 144, *Crimes Against Order*, § 144.01[1][j] (Matthew Bender).

864–874. Reserved for Future Use

DRAFT

875. Assault With Deadly Weapon or Force Likely to Produce Great Bodily Injury (Pen. Code, §§ 240, 245(a)(1)–(4), (b))

The defendant is charged [in Count __] with assault with (force likely to produce great bodily injury/a deadly weapon other than a firearm/a firearm/a semiautomatic firearm/a machine gun/an assault weapon/a .50 BMG rifle) [in violation of Penal Code section 245].

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

<Alternative 1A—force with weapon>

[1. The defendant did an act with (a deadly weapon other than a firearm/a firearm/a semiautomatic firearm/a machine gun/an assault weapon/a .50 BMG rifle) that by its nature would directly and probably result in the application of force to a person;]

<Alternative 1B—force without weapon>

[1A. The defendant did an act that by its nature would directly and probably result in the application of force to a person, and

1B. The force used was likely to produce great bodily injury;]

2. The defendant did that act willfully;

3. When the defendant acted, (he/she) was aware of facts that would lead a reasonable person to realize that (his/her) act by its nature would directly and probably result in the application of force to someone;

[AND]

4. When the defendant acted, (he/she) had the present ability to apply force (likely to produce great bodily injury/with a deadly weapon other than a firearm/with a firearm/with a semiautomatic firearm/with a machine gun/with an assault weapon/with a .50 BMG rifle) to a person(;/.)

<Give element 5 when instructing on self-defense or defense of another>

[AND

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5. The defendant did not act (in self-defense/ [or] in defense of someone else).]

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 terms *application of force* and *apply force* mean to touch in a harmful or offensive manner. The slightest touching can be enough 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).]

[The People are not required to prove that the defendant actually touched someone.]

The People are not required to prove that the defendant actually intended to use force against someone when (he/she) acted.

No one needs to actually have been injured by defendant's act. But if someone was injured, you may consider that fact, along with all the other evidence, in deciding whether the defendant committed an assault[, and if so, what kind of assault it was].

[Voluntary intoxication is not a defense to assault.]

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[A *deadly weapon other than a firearm* is any object, instrument, or weapon [that is inherently deadly or one] that is used in such a way that it is capable of causing and likely to cause death or great bodily injury.]

[An object is *inherently deadly* if it is deadly or dangerous in the ordinary use for which it was designed.]

[In deciding whether an object is a deadly weapon, consider all the surrounding circumstances.]

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[A *firearm* is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.]

[A *semiautomatic pistol* extracts a fired cartridge and chambers a fresh cartridge with each single pull of the trigger.]

[A *machine gun* is any weapon that (shoots/is designed to shoot/ [or] can readily be restored to shoot) automatically more than one shot by a single function of the trigger and without manual reloading.]

[An *assault weapon* includes _____ *<insert names of appropriate designated assault weapons listed in Pen. Code, § 30510 or as defined by Pen. Code, § 30515>***.]**

[A *.50 BMG rifle* is a center fire rifle that can fire a .50 BMG cartridge [and that is not an assault weapon or a machine gun]. A *.50 BMG cartridge* is a cartridge that is designed and intended to be fired from a center fire rifle and that has all three of the following characteristics:

1. **The overall length is 5.54 inches from the base of the cartridge to the tip of the bullet;**

2. **The bullet diameter for the cartridge is from .510 to, and including, .511 inch;**

AND

3. **The case base diameter for the cartridge is from .800 inch to, and including, .804 inch.]**

[The term[s] (*great bodily injury[,]/ deadly weapon other than a firearm[,]/ firearm[,]/ machine gun[,]/assault weapon[,]/* [and] *.50 BMG rifle)* (is/are) defined in another instruction to which you should refer.]

New January 2006; Revised June 2007, August 2009, October 2010, February 2012, February 2013, August 2013, September 2019, September 2020, March 2022, February 2025, October 2025

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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 4 and any appropriate defense instructions. (See CALCRIM Nos. 3470–3477.)

Give element 1A if it is alleged the assault was committed with a deadly weapon other than a firearm, firearm, semiautomatic firearm, machine gun, an assault weapon, or .50 BMG rifle. Give element 1B if it is alleged that the assault was committed with force likely to produce great bodily injury. (See Pen. Code, § 245(a).)

Give the bracketed paragraph on indirect touching if relevant.

Give the relevant bracketed definitions unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere.

Give the bracketed phrase "that is inherently deadly or one" and give the bracketed definition of *inherently deadly* only if the object is a deadly weapon as a matter of law. (*People v. Stutelberg* (2018) 29 Cal.App.5th 314, 317–318 [240 Cal.Rptr.3d 156].)

Give the bracketed portion that begins with "In deciding whether" if the object is not a deadly weapon as a matter of law and is capable of innocent uses. (*People v. Aguilar* (1997) 16 Cal.4th 1023, 1028–1029 [68 Cal.Rptr.2d 655, 945 P.2d 1204]; *People v. Godwin* (1996) 50 Cal.App.4th 1562, 1573–1574 [58 Cal.Rptr.2d 545].)

If determining whether the item is an inherently deadly weapon requires resolution of a factual issue, give both bracketed instructions.

Do not give an attempt instruction in conjunction with this instruction. There is no crime of "attempted assault" in California. (*In re James M.* (1973) 9 Cal.3d 517, 519, 521–522 [108 Cal.Rptr. 89, 510 P.2d 33].)

If the charging document names more than one victim, modification of this instruction may be necessary to clarify that each victim must have been subject to the application of force. (*People v. Velasquez* (2012) 211 Cal.App.4th 1170, 1176–1177 [150 Cal.Rptr.3d 612].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor]~~

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~~with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Elements. Pen. Code, §§ 240, 245(a)(1)–(3) & (b).
- ~~To Have~~ Present Ability to Inflict Injury Requires Loaded~~,~~ Gun ~~Must Be Loaded~~ Unless Used as Club or Bludgeon or if Ammunition Is Readily Available and Able to Be Loaded Immediately. *People v. Rodriguez* (1999) 20 Cal.4th 1, 11, fn. 3 [82 Cal.Rptr.2d 413, 971 P.2d 618]; *People v. Lattin* (2024) 107 Cal.App.5th 596, 616 [328 Cal.Rptr.3d 241].
- This Instruction Affirmed. *People v. Golde* (2008) 163 Cal.App.4th 101, 122–123 [77 Cal.Rptr.3d 120].
- "Assault Weapon" Defined. Pen. Code, §§ 30510, 30515.
- "Semiautomatic Pistol" Defined. Pen. Code, § 17140.
- "Firearm" Defined. Pen. Code, § 16520.
- "Machine Gun" Defined. Pen. Code, § 16880.
- ".50 BMG Rifle" Defined. Pen. Code, § 30530.
- "Willful" Defined. Pen. Code, § 7, subd. 1; *People v. Lara* (1996) 44 Cal.App.4th 102, 107 [51 Cal.Rptr.2d 402].
- "Deadly Weapon" Defined. *People v. Brown* (2012) 210 Cal.App.4th 1, 6–8 [147 Cal.Rptr.3d 848]; *People v. Aguilar*, *supra*, 16 Cal.4th at pp. 1028–1029.
- Mental State for Assault. *People v. Williams* (2001) 26 Cal.4th 779, 790 [111 Cal.Rptr.2d 114, 29 P.3d 197].
- 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]].
- "Inherently Deadly" Defined. *People v. Perez* (2018) 4 Cal.5th 1055, 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42]; *People v. Aguilar*, *supra*, 16 Cal.4th at pp. 1028–1029.
- Examples of Noninherently Deadly Weapon. *People v. Aledamat* (2019) 8 Cal.5th 1, 6 [251 Cal.Rptr.3d 371, 447 P.3d 277] [box cutter]; *People v. Perez*, *supra*, 4 Cal.5th at p. 1065 [vehicle]; *People v. McCoy* (1944) 25 Cal.2d 177, 188 [153 P.2d 315] [knife].

LESSER INCLUDED OFFENSES

DRAFT

- Assault. Pen. Code, § 240.

Assault with a firearm is a lesser included offense of assault with a semiautomatic firearm. (*People v. Martinez* (2012) 208 Cal.App.4th 197, 199 [145 Cal.Rptr.3d 141].)

A misdemeanor brandishing of a weapon or firearm under Penal Code section 417 is not a lesser and necessarily included offense of assault with a deadly weapon. (*People v. Escarcega* (1974) 43 Cal.App.3d 391, 398 [117 Cal.Rptr. 595]; *People v. Steele* (2000) 83 Cal.App.4th 212, 218, 221 [99 Cal.Rptr.2d 458].)

RELATED ISSUES

See the Authority section in CALCRIM No. 960, *Simple Battery*, regarding indirect touching.

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 20~~1~~24) Crimes Against the Person, §§ ~~41~~215–216.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.11[3] (Matthew Bender).

DRAFT

970. Shooting Firearm or BB Device in Grossly Negligent Manner (Pen. Code, § 246.3)

The defendant is charged [in Count __] with shooting a (firearm/BB Device) in a grossly negligent manner [in violation of Penal Code section 246.3].

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

1. **The defendant intentionally shot a (firearm/BB device);**

2. **The defendant did the shooting with gross negligence;**

[AND]

3. **The shooting could have resulted in the injury or death of a person(;/.)**

<Give element 4 when instructing on self-defense or defense of another.>
[AND

4. **The defendant did not act (in self-defense/ [or] in defense of someone else).]**

***Gross negligence* involves more than ordinary carelessness, inattention, or mistake in judgment. A person acts with gross negligence when:**

1. **He or she acts in a reckless way that creates a high risk of death or great bodily injury.**

AND

2. **A reasonable person would have known that acting in that way would create such a risk.**

In other words, a person acts with gross negligence when the way he or she acts is so different from the way an ordinarily careful person would act in the same situation that his or her act amounts to disregard for human life or indifference to the consequences of that act.

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[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[A *firearm* is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.]

[A *BB device* is any instrument that expels a projectile, such as a BB or a pellet, through the force of air pressure, gas pressure, or spring action.]

[The term[s] (*great bodily injury*/ [and] *firearm)* (is/are) defined in another instruction to which you should refer.]

New January 2006; Revised June 2007, February 2012, September 2019, September 2020, October 2025

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 4 and any appropriate defense instructions. (See CALCRIM Nos. 3470–3477.)

Give the relevant bracketed definitions unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere.

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Elements. Pen. Code, § 246.3.

DRAFT

- Discharge Must be Intentional. *People v. Robertson* (2004) 34 Cal.4th 156, 167 [17 Cal.Rptr.3d 604, 95 P.3d 872]; *In re Jerry R.* (1994) 29 Cal.App.4th 1432, 1438 [35 Cal.Rptr.2d 155]; *People v. Alonzo* (1993) 13 Cal.App.4th 535, 538 [16 Cal.Rptr.2d 656].
- "Firearm" Defined. Pen. Code, § 16520.
- "BB Device" Defined. Pen. Code, § 246.3(c).
- "Willful" Defined. Pen. Code, § 7(1).
- "Gross Negligence" Defined. *People v. Alonzo, supra,* (1993) 13 Cal.App.4th 535, at p. 540 [16 Cal.Rptr.2d 656]; see *People v. Penny* (1955) 44 Cal.2d 861, 879–880 [285 P.2d 926].
- Actual Belief Weapon Not Loaded Negates Mental State. *People v. Robertson, supra,* (2004) 34 Cal.4th 156, at p. 167 [17 Cal.Rptr.3d 604, 95 P.3d 872]; *In re Jerry R., supra,* (1994) 29 Cal.App.4th 1432, at pp. 1438–1439, 1440 [35 Cal.Rptr.2d 155].

LESSER INCLUDED OFFENSES

Unlawful possession by a minor of a firearm capable of being concealed on the person (see Pen. Code, § 29610) is not a necessarily included offense of unlawfully discharging a firearm with gross negligence. (*In re Giovani M.* (2000) 81 Cal.App.4th 1061, 1066 [97 Cal.Rptr.2d 319].)

RELATED ISSUES

Actual Belief Weapon Not Loaded Negates Mental State

"A defendant who believed that the firearm he or she discharged was unloaded . . . would not be guilty of a violation of section 246.3." (*People v. Robertson, supra,* (2004) 34 Cal.4th 156, at p. 167 [17 Cal.Rptr.3d 604, 95 P.3d 872] [citing *In re Jerry R., supra,* (1994) 29 Cal.App.4th 1432, at pp. 1438–1439, p. 1440 [35 Cal.Rptr.2d 155]].)

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (45th ed. 2024) Crimes Against the Person, § 224.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.01[1][i] (Matthew Bender).

971–979. Reserved for Future Use

DRAFT

982. Brandishing Firearm or Deadly Weapon to Resist Arrest (Pen. Code, § 417.8)

The defendant is charged [in Count __] with brandishing a (firearm/deadly weapon) to resist arrest or detention [in violation of Penal Code section 417.8].

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

1. **The defendant drew or exhibited a (firearm/deadly weapon);**

   AND

2. **When the defendant drew or exhibited the (firearm/deadly weapon), (he/she) intended to resist arrest or to prevent a peace officer from arresting or detaining (him/her/someone else).**

[A *firearm* is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.]

[A *deadly weapon* is any object, instrument, or weapon [that is inherently deadly or one] that is used in such a way that it is capable of causing and likely to cause death or great bodily injury.]

[An object is *inherently deadly* if it is deadly or dangerous in the ordinary use for which it was designed.]

[In deciding whether an object is a deadly weapon, consider all the surrounding circumstances.]

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[The term[s] (*firearm*[,]/ *deadly weapon*[,]/ [and] *great bodily injury*) (is/are) defined in another instruction to which you should refer.]

[A person who is employed as a police officer by _____ *<insert name of agency that employs police officer>* **is a *peace officer*.]**

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[A person employed by _____ *<insert name of agency that employs peace officer, e.g., "the Department of Fish and Wildlife">* **is a *peace officer* if** _____ *<insert description of facts necessary to make employee a peace officer, e.g, "designated by the director of the agency as a peace officer">***.]**

New January 2006; Revised February 2012, February 2013, September 2019, September 2020, March 2022, October 2025

BENCH NOTES

Instructional Duty

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

Give the relevant bracketed definitions unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere.

Give the bracketed paragraph about the lack of any requirement that the firearm be loaded on request.

Give the bracketed phrase "that is inherently deadly or one" and give the bracketed definition of *inherently deadly* only if the object is a deadly weapon as a matter of law. (*People v. Stutelberg* (2018) 29 Cal.App.5th 314, 317-318 [240 Cal.Rptr.3d 156].)

Give the bracketed portion that begins with "In deciding whether" if the object is not a weapon as a matter of law and is capable of innocent uses. (*People v. Aguilar* (1997) 16 Cal.4th 1023, 1028–1029 [68 Cal.Rptr.2d 655, 945 P.2d 1204]; *People v. Godwin* (1996) 50 Cal.App.4th 1562, 1573–1574 [58 Cal.Rptr.2d 545].)

If determining whether the item is an inherently deadly weapon requires resolution of a factual issue, give both bracketed instructions.

The jury must determine whether the alleged victim is a peace officer. (*People v. Brown* (1988) 46 Cal.3d 432, 444–445 [250 Cal.Rptr. 604, 758 P.2d 1135].) The court may instruct the jury on the appropriate definition of "peace officer" from the statute (e.g., "a Garden Grove Regular Police Officer and a Garden Grove Reserve Police Officer are peace officers"). *(Ibid.)* However, the court may not instruct the jury that the alleged victim was a peace officer as a matter of law (e.g., "Officer Reed was a peace officer"). *(Ibid.)* If the alleged victim is a police officer, give the bracketed sentence that begins with "A person employed as a police officer." If the alleged victim is another type of peace officer, give the bracketed sentence that begins with "A person employed by."

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than~~

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~~minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

Related Instructions

CALCRIM No. 983, *Brandishing Firearm or Deadly Weapon: Misdemeanor*.

CALCRIM No. 981, *Brandishing Firearm in Presence of Peace Officer*.

CALCRIM No. 2653, *Taking Firearm or Weapon While Resisting Peace Officer or Public Officer*.

AUTHORITY

- Elements. Pen. Code, § 417.8.
- "Firearm" Defined. Pen. Code, § 16520; see *In re Jose A.* (1992) 5 Cal.App.4th 697, 702 [7 Cal.Rptr.2d 44] [pellet gun not a "firearm" within meaning of Pen. Code, § 417(a)].
- "Peace Officer" Defined. Pen. Code, § 830 et seq.
- "Deadly Weapon" Defined. *People v. Brown* (2012) 210 Cal.App.4th 1, 6–8 [147 Cal.Rptr.3d 848]; *People v. Aguilar*, *supra*, ~~(1997)~~ 16 Cal.4th ~~1023,~~at pp. 1028–1029 ~~[68 Cal.Rptr.2d 655, 945 P.2d 1204]~~ [hands and feet not deadly weapons]; see, e.g., *People v. Simons* (1996) 42 Cal.App.4th 1100, 1107 [50 Cal.Rptr.2d 351] [screwdriver was capable of being used as a deadly weapon and defendant intended to use it as one if need be]; *People v. Henderson* (1999) 76 Cal.App.4th 453, 469–470 [90 Cal.Rptr.2d 450] [pit bulls were deadly weapons under the circumstances].
- Lawful Performance of Duties Not an Element. *People v. Simons*, *supra*, ~~(1996)~~ 42 Cal.App.4th ~~1100,~~at pp. 1109–1110 ~~[50 Cal.Rptr.2d 351]~~.
- "Inherently Deadly" Defined. *People v. Perez* (2018) 4 Cal.5th 1055, 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42]; *People v. Aguilar*, *supra*, ~~(1997)~~ 16 Cal.4th ~~1023,~~at pp. 1028–1029 ~~[68 Cal.Rptr.2d 655, 945 P.2d 1204]~~.
- Examples of Noninherently Deadly Weapon. *People v. Aledamat* (2019) 8 Cal.5th 1, 6 [251 Cal.Rptr.3d 371, 447 P.3d 277] [box cutter]; *People v. Perez*, *supra*, ~~(2018)~~ 4 Cal.5th ~~1055,~~at p. 1065 ~~[232 Cal.Rptr.3d 51, 416 P.3d 42]~~ [vehicle]; *People v. McCoy* (1944) 25 Cal.2d 177, 188 [153 P.2d 315] [knife].

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LESSER INCLUDED OFFENSES

Resisting arrest by a peace officer engaged in the performance of his or her duties in violation of Penal Code section 148(a) is not a lesser included offense of Penal Code section 417.8. (*People v. Simons*, *supra*, ~~(1996)~~ 42 Cal.App.4th ~~1100,~~at pp. 1108–1110 ~~[50 Cal.Rptr.2d 351]~~.) Brandishing a deadly weapon in a rude, angry, or threatening manner in violation of Penal Code section 417(a)(1) is also not a lesser included offense of section 417.8. (*People v. Pruett* (1997) 57 Cal.App.4th 77, 88 [66 Cal.Rptr.2d 750].)

RELATED ISSUES

See the Related Issues section to CALCRIM No. 981, *Brandishing Firearm in Presence of Peace Officer*.

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 2024~~12~~) Crimes Against Public Peace and Welfare, §§ ~~87–109~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.01[1][e] (Matthew Bender).

DRAFT

983. Brandishing Firearm or Deadly Weapon: Misdemeanor (Pen. Code, § 417(a)(1) & (2))

The defendant is charged [in Count __] with brandishing a (firearm/deadly weapon) [in violation of Penal Code section 417(a)].

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

1. **The defendant drew or exhibited a (firearm/deadly weapon) in the presence of someone else;**

[AND]

<Alternative 2A—displayed in rude, angry, or threatening manner>
[2. The defendant did so in a rude, angry, or threatening manner(;/.)]

<Alternative 2B—used in fight>
[2. The defendant [unlawfully] used the (firearm/deadly weapon) in a fight or quarrel(;/.)]

<Give element 3 when instructing on self-defense or defense of another>
[AND

3. **The defendant did not act (in self-defense/ [or] in defense of someone else).]**

[A *firearm* is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.]

[A *deadly weapon* is any object, instrument, or weapon [that is inherently deadly or one] that is used in such a way that it is capable of causing and likely to cause death or great bodily injury.]

[An object is *inherently deadly* if it is deadly or dangerous in the ordinary use for which it was designed.]

[In deciding whether an object is a deadly weapon, consider all the surrounding circumstances.]

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[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[The term[s] (*firearm[,]/ deadly weapon[,]/* [and] *great bodily injury*) (is/are) defined in another instruction to which you should refer.]

[It is not required that the firearm be loaded.]

New January 2006; Revised October 2010, February 2012, February 2013, September 2019, September 2020, March 2022, October 2025

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 3 and any appropriate defense instructions. (See CALCRIM Nos. 3470–3477.)

If the prosecution alleges that the defendant displayed the weapon in a rude, angry, or threatening manner, give alternative 2A. If the prosecution alleges that the defendant used the weapon in a fight, give alternative 2B.

If the defendant is charged under Penal Code section 417(a)(2)(A), the court **must** also give CALCRIM No. 984, *Brandishing Firearm: Misdemeanor—Public Place*.

Give the bracketed definition of "firearm" or "deadly weapon" unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere.

Give the bracketed phrase "that is inherently deadly or one" and give the bracketed definition of *inherently deadly* only if the object is a deadly weapon as a matter of law. (*People v. Stutelberg* (2018) 29 Cal.App.5th 314, 317-318 [240 Cal.Rptr.3d 156].)

Give the bracketed portion that begins with "In deciding whether" if the object is not a weapon as a matter of law and is capable of innocent uses. (*People v. Aguilar* (1997) 16 Cal.4th 1023, 1028–1029 [68 Cal.Rptr.2d 655, 945 P.2d 1204]; *People v. Godwin* (1996) 50 Cal.App.4th 1562, 1573–1574 [58 Cal.Rptr.2d 545].)

If determining whether the item is an inherently deadly weapon requires resolution of a factual issue, give both bracketed instructions.

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On request, give the bracketed sentence stating that the firearm need not be loaded.

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Elements. Pen. Code, § 417(a)(1) & (2).
- "Firearm" Defined. Pen. Code, § 16520.
- "Deadly Weapon" Defined. *People v. Brown* (2012) 210 Cal.App.4th 1, 6–8 [147 Cal.Rptr.3d 848]; *People v. Aguilar*, *supra*, ~~(1997)~~ 16 Cal.4th ~~1023,~~at pp. 1028–1029 ~~[68 Cal.Rptr.2d 655, 945 P.2d 1204]~~.
- Victim's Awareness of Firearm Not a Required Element. *People v. McKinzie* (1986) 179 Cal.App.3d 789, 794 [224 Cal.Rptr. 891].
- Weapon Need Not Be Pointed Directly at Victim. *People v. Sanders* (1995) 11 Cal.4th 475, 542 [46 Cal.Rptr.2d 751, 905 P.2d 420].
- "Inherently Deadly" Defined. *People v. Perez* (2018) 4 Cal.5th 1055, 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42]; *People v. Aguilar*, *supra*, ~~(1997)~~ 16 Cal.4th ~~1023,~~at pp. 1028–1029 ~~[68 Cal.Rptr.2d 655, 945 P.2d 1204]~~.
- Examples of Noninherently Deadly Weapon. *People v. Aledamat* (2019) 8 Cal.5th 1, 6 [251 Cal.Rptr.3d 371, 447 P.3d 277] [box cutter]; *People v. Perez*, *supra*, ~~(2018)~~ 4 Cal.5th ~~1055,~~at p. 1065 ~~[232 Cal.Rptr.3d 51, 416 P.3d 42]~~ [vehicle]; *People v. McCoy* (1944) 25 Cal.2d 177, 188 [153 P.2d 315] [knife].

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 2024~~12~~) Crimes Against Public Peace and Welfare, §§ ~~43–76~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.01[1][e] (Matthew Bender).

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1120. Continuous Sexual Abuse (Pen. Code, § 288.5(a))

The defendant is charged [in Count __] with continuous sexual abuse of a child under the age of 14 years [in violation of Penal Code section 288.5(a)].

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

1. **The defendant (lived in the same home with/ [or] had recurring access to) a minor child;**

2. **The defendant engaged in three or more acts of (substantial sexual conduct/ [or] lewd or lascivious conduct) with the child;**

3. **Three or more months passed between the first and last acts;**

AND

4. **The child was under the age of 14 years at the time of the acts.**

[*Substantial sexual conduct* means oral copulation or masturbation of either the child or the perpetrator, or penetration of the child's or perpetrator's vagina or rectum by (the other person's penis/ [or] any foreign object).]

[*Oral copulation* is any contact, no matter how slight, between the mouth of one person and the sexual organ or anus of another person. Penetration is not required.]

[*Lewd or lascivious conduct* is any willful touching of a child accomplished with the intent to sexually arouse the perpetrator or the child. Contact with the child's bare skin or private parts is not required. Any part of the child's body or the clothes the child is wearing may be touched.] [*Lewd or lascivious conduct* [also] includes causing a child to touch his or her own body or someone else's body at the instigation of a perpetrator who has the required intent.]

[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.]

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You cannot convict the defendant unless all of you agree that (he/she) committed three or more acts over a period of at least three months, but you do not all need to agree on which three acts were committed.

[Actually arousing, appealing to, or gratifying the lust, passions, or sexual desires of the perpetrator or child is not required for lewd or lascivious conduct.]

[It is not a defense that the child may have consented to the act.]

[Under the law, a person becomes one year older as soon as the first minute of his or her birthday has begun.]

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*New January 2006; Revised February 2013, October 2025**
** 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.

If the court gives the definition of "lewd and lascivious conduct," the definition of "willfully" must also be given.

Give the bracketed sentence that begins, "Actually arousing, appealing to," on request. (*People v. McCurdy* (1923) 60 Cal.App. 499, 502 [213 P. 59].)

Give the bracketed paragraph that begins with "It is not a defense that the child," on request, if there is evidence that the minor consented to the act. (See *People v. Kemp* (1934) 139 Cal.App. 48, 51 [34 P.2d 502].)

Give the bracketed paragraph about calculating age if requested. (Fam. Code, § 6500; *In re Harris* (1993) 5 Cal.4th 813, 849–850 [21 Cal.Rptr.2d 373, 855 P.2d 391].)

AUTHORITY

- Elements. Pen. Code, § 288.5(a); *People v. Vasquez* (1996) 51 Cal.App.4th 1277, 1284–1285, 1287 [59 Cal.Rptr.2d 389].
- "Substantial Sexual Conduct" Defined. Pen. Code, § 1203.066(b).
- Unanimity on Specific Acts Not Required. Pen. Code, § 288.5(b); *People v. Adames* (1997) 54 Cal.App.4th 198, 208 [62 Cal.Rptr.2d 631].
- Actual Arousal Not Required. *People v. McCurdy, supra, ~~(1923)~~* 60 Cal.App. *~~499,~~*at p. 502 *~~[213 P. 59]~~*.

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- Any Touching of Child With Intent to Arouse. *People v. Martinez* (1995) 11 Cal.4th 434, 444, 452 [45 Cal.Rptr.2d 905, 903 P.2d 1037] [disapproving *People v. Wallace* (1992) 11 Cal.App.4th 568, 574–580 [14 Cal.Rptr.2d 67] and its progeny]; see *People v. Diaz* (1996) 41 Cal.App.4th 1424, 1427–1428 [49 Cal.Rptr.2d 252] [list of examples].
- Child Touching Own Body Parts at Defendant's Instigation. *People v. Meacham* (1984) 152 Cal.App.3d 142, 152–153 [199 Cal.Rptr. 586]; *People v. Austin* (1980) 111 Cal.App.3d 110, 114–115 [168 Cal.Rptr. 401].
- Minor's Consent Not a Defense. See *People v. Cardenas* (1994) 21 Cal.App.4th 927, 937, fn. 7 [26 Cal.Rptr.2d 567] [dicta in context of lewd or lascivious act].
- "Oral Copulation" Defined. *People v. Grim* (1992) 9 Cal.App.4th 1240, 1242–1243 [11 Cal.Rptr.2d 884]; see Pen. Code, § 288a(a).
- "Recurring Access" Is Commonly Understand Term Not Requiring Sua Sponte Definitional Instruction. *People v. Rodriguez* (2002) 28 Cal.4th 543, 550 [122 Cal.Rptr.2d 348, 49 P.3d 1085][disapproving *People v. Gohdes* (1997) 58 Cal.App.4th 1520, 1529 [68 Cal.Rptr.2d 719].
- Necessary Intent in Touching. *People v. Cuellar* (2012) 208 Cal.App.4th 1067, 1070–1072 [145 Cal.Rptr.3d 898].
- This Instruction Upheld. *People v. Canales* (2024) 106 Cal.App.5th 1230, 1245–1249 [327 Cal.Rptr.3d 678].

COMMENTARY

Penal Code section 288.5 does not require that the defendant reside with, or have access to, the child continuously for three consecutive months. It only requires that a period of at least three months passes between the first and last acts of molestation. (*People v. Vasquez*, *supra*, ~~(1996)~~ 51 Cal.App.4th ~~1277,~~at pp. 1284–1285, 1287~~ [59 Cal.Rptr.2d 389]~~.)

Section 288.5 validly defines a prohibited offense as a continuous course of conduct and does not unconstitutionally deprive a defendant of a unanimous jury verdict. (*People v. Avina* (1993) 14 Cal.App.4th 1303, 1309–1312 [18 Cal.Rptr.2d 511].)

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LESSER INCLUDED OFFENSES

- Simple Assault. Pen. Code, § 240.
- Simple Battery. Pen. Code, § 242.

Since a conviction under Penal Code section 288.5 could be based on a course of substantial sexual conduct without necessarily violating section 288 (lewd or lascivious conduct), the latter is not necessarily included within the former and no sua sponte instruction is required. (*People v. Avina*, *supra*, ~~(1993)~~ 14 Cal.App.4th ~~1303,~~at pp. 1313–1314 ~~[18 Cal.Rptr.2d 511]~~; see *People v. Palmer* (2001) 86 Cal.App.4th 440, 444–445 [103 Cal.Rptr.2d 301].)

RELATED ISSUES

Alternative Charges

Under Penal Code section 288.5(c), continuous sexual abuse and specific sexual offenses pertaining to the same victim over the same time period may only be charged in the alternative. In these circumstances, multiple convictions are precluded. (*People v. Johnson* (2002) 28 Cal.4th 240, 245, 248 [121 Cal.Rptr.2d 197, 47 P.3d 1064] [exception to general rule in Pen. Code, § 954 permitting joinder of related charges].) In such cases, the court has a **sua sponte** duty to give CALCRIM No. 3516, *Multiple Counts: Alternative Charges for One Event—Dual Conviction Prohibited*. (*People v. Martinez* (2024) 105 Cal.App.5th 178, 184 [325 Cal.Rptr.3d 700].) If a defendant is erroneously convicted of both continuous sexual abuse and specific sexual offenses and a greater aggregate sentence is imposed for the specific offenses, the appropriate remedy is to reverse the conviction for continuous sexual abuse. (*People v. Torres* (2002) 102 Cal.App.4th 1053, 1060 [126 Cal.Rptr.2d 92]; cf. *Martinez*, *supra*, 105 Cal.App.5th at pp. 187–188 [case remanded for trial court to determine which counts to vacate].)

Masturbation

For a discussion of the term masturbation, see *People v. Chambless* (1999) 74 Cal.App.4th 773, 783–784, 786–787 [88 Cal.Rptr.2d 444] [construing term for purposes of finding defendant committed sexually violent offenses under the Sexually Violent Predators Act].

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 20~~12~~24) Sex Offenses and Crimes Against Decency, §§ ~~62~~76–~~64~~81, 229~~178~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.21[1][c][ii], [2] (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and Procedure §§ 12:16, 12:17 (The Rutter Group).

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1141. Distributing Obscene Matter Showing Sexual Conduct by a Minor (Pen. Code, §§ 311.1(a), 311.2(b))

The defendant is charged [in Count __] with distributing obscene matter that shows a minor engaging in sexual conduct [in violation of _____ *<insert appropriate code section[s]>***].**

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

<Alternative 1A—sent or brought>

[1. The defendant knowingly (sent/-[or] brought) obscene matter into California [or knowingly caused obscene matter to be (sent/-[or] brought) into California];]

<Alternative 1B—possessed>

[1. The defendant knowingly (possessed[,]/-[or] prepared[,]/-[or] published[,]/-[or] produced[,]/-[or] developed[,]/-[or] duplicated[,]/[or] printed) obscene matter in California;]

<Alternative 1C— offered to distribute>

[1. The defendant offered to distribute obscene matter to someone else;]

<Alternative 1D—distributed>

[1. The defendant (distributed/-[or] showed/-[or] exchanged) obscene matter (to/with) someone else;]

2. When the defendant acted, (he/she) knew the character of the matter;

[AND]

3. When the defendant acted, (he/she) knew that the matter (showed a person under the age of 18 years/[or] contained digitally altered or artificial intelligence–generated data depicting what appears to be a person under the age of 18 years) who was [personally] engaging ~~participating~~ in or simulating sexual conduct(;/.)

<Give element 4 when instructing with alternative 1A, 1B, or 1C; see Bench Notes>

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[AND

4. **When the defendant acted, (he/she) intended to (sell or distribute/distribute, show, or exchange/distribute) the matter to someone else [for money or other commercial benefit].]**

You must decide whether the matter at issue in this case meets the definition of obscene matter. Matter is *obscene* if, when considered as a whole:

1. **It shows or describes sexual conduct in an obviously offensive way;**

2. **A reasonable person would conclude that it lacks serious literary, artistic, political, or scientific value;**

AND

3. **An average adult person, applying contemporary statewide standards, would conclude it appeals to a prurient interest.**

A *prurient interest* is a shameful or morbid interest in nudity, sex, or excretion.

[As used here,](*M/m)atter* means any representation of information, data, or image, including any _____ *<insert type of material described in Pen. Code, § 311.1 and/or § 311.2.>*.

***Applying contemporary statewide standards* means using present-day standards and determining the effect of the matter on all those whom it is likely to reach within the state, in other words, its impact on the average person in the statewide community. The *average adult person* is a hypothetical person who represents the entire community, including both men and women; religious and nonreligious people; and adults of varying ages, educational and economic levels, races, ethnicities, and points of view. The *contemporary statewide standard* means what is acceptable to the statewide community as a whole, not what some person or persons may believe the community ought to accept. The test you must apply is not what you find offensive based on your own personal, social, or moral views. Instead, you must make an objective determination of what would offend the statewide community as a whole.**

[You may consider evidence of local community standards in deciding what the contemporary statewide standard is. However, you may not use the

DRAFT

standard of a local community, by itself, to establish the contemporary statewide standard.]

The material is not obscene unless a reasonable person would conclude that, taken as a whole, it lacks serious literary, artistic, political, or scientific value. When deciding whether the material is obscene, do not weigh its value against its prurient appeal.

[Matter is not considered obscene under the law if (all persons under the age of 18 depicted in the matter are legally emancipated/ [or] it only shows lawful conduct between spouses).]

[The depiction of nudity, by itself, does not make matter obscene. In order for matter containing nudity to be obscene, it must depict sexual activity and it must meet the requirements for obscenity listed above.]

[The depiction of sexual activity, by itself, does not make matter obscene. In order for matter depicting sexual activity to be obscene, it must meet the requirements for obscenity listed above.]

***Sexual conduct* means actual or simulated (sexual intercourse/ [or] oral copulation[,]/ [or] anal intercourse[,]/ [or] anal oral copulation[,]/ [or] _____ <*insert other sexual conduct as defined in Pen. Code, § 311.4(d)(1)*>). An act is simulated when it gives the appearance of being sexual conduct.**

The People must prove that the defendant knew the obscene nature of the matter but do not need to prove that the defendant knew whether the matter met the definition of obscene.

[*To distribute* means to transfer possession, whether or not the transfer is made for money or anything else of value.]

[*Commercial benefit* means receipt of, or intent to receive, financial value or compensation.]

[A person accused of committing this crime can be an individual, partnership, firm, association, corporation, limited liability company, or other legal entity.]

[In deciding the matter's nature and whether it lacks serious literary, artistic, political, or scientific value, consider whether the circumstances of its (production[,]/ presentation[,]/ sale[,]/ dissemination[,]/ distribution[,]/

DRAFT

publicity) indicate that the matter was being commercially exploited because of its prurient appeal. You must decide the weight, if any, to give this evidence.]

[In deciding whether the matter lacks serious literary, artistic, political, or scientific value, you may [also] consider whether the defendant knew that the matter showed persons under the age of 16 years engaging in sexual conduct. You must decide the weight, if any, to give this evidence.]

[In deciding whether, applying contemporary statewide standards, the matter appeals to a prurient interest, you may consider whether similar matter is openly shown in the community. You must decide the weight, if any, to give this evidence.]

[If it appears from the nature of the matter or the circumstances of its distribution or showing that it is designed for clearly defined deviant sexual groups, the appeal of the matter must be judged based on its intended audience.]

[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/other people).]

[A person who possesses obscene matter for his or her own personal use is not guilty of this crime.]

<Defense: Legitimate scientific or educational purpose>
[The defendant is not guilty of this crime if (he/she) was engaging in legitimate medical, scientific, or educational activities. The People have the burden of proving beyond a reasonable doubt that the defendant was not acting for a legitimate medical, scientific, or educational purpose. If the People have not met this burden, you must find the defendant not guilty of this crime.]

<Defense: Law enforcement agent>
[The defendant is not guilty of this offense if (he/she) was a member [or agent] of a law enforcement or prosecuting agency and was involved in the investigation or prosecution of criminal offenses. The People have the burden of proving beyond a reasonable doubt that the defendant was not acting as a member [or agent] of a law enforcement or prosecuting agency. If the People

DRAFT

have not met this burden, you must find the defendant not guilty of this crime.

[A person is an *agent* of a law enforcement or prosecuting agency if he or she does something at the request, suggestion, or direction of a law enforcement or prosecuting agency.]]

New January 2006; Revised September 2022, October 2025

BENCH NOTES

Instructional Duty

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

In element 1, give one of the alternatives A–D depending on the charges and evidence in the case. In element 3, give the bracketed word "personally" if the defendant is charged under Penal Code section 311.2(b). Likewise, in element 3, give the alternative "contained digitally altered or artificial intelligence–generated data depicting what appears to be a person under the age of 18 years" if the defendant is charged under Penal Code section 311.2(b) and if applicable.

Give element 4 when instructing with alternative 1A, 1B, or 1C. (*People v. Young* (1977) 77 Cal.App.3d Supp. 10, 12 [143 Cal.Rptr. 604]; *People v. Burrows* (1968) 260 Cal.App.2d 228, 231 [67 Cal.Rptr. 28]; *In re Klor* (1966) 64 Cal.2d 816, 819 [51 Cal.Rptr. 903, 415 P.2d 791].) When giving alternative 1A, select "sell or distribute" in element 4. When giving alternative 1B, select "distribute, show, or exchange" in element 4. When giving alternative 1C, select "distribute." Do not give element 4 with alternative 1D. No published case has held that distributing or showing obscene material requires specific intent. Give the bracketed phrase "for money or other commercial benefit" in element 4 if the defendant is charged under Penal Code section 311.2(b).

Give any of the other bracketed paragraphs on request.

For the definition of matter, give the bracketed phrase "As used here" when CALCRIM No. 1142, *Distributing or Intending to Distribute Obscene Matter* or CALCRIM No. 1145, *Possession of Matter Depicting Minor Engaged in Sexual Conduct*, is also given.

Defenses—Instructional Duty

If there is sufficient evidence that the defendant was engaging in legitimate medical, scientific, or educational activities, the court has a **sua sponte** duty to instruct on that defense. (See Pen. Code, §§ 311.2(e); 311.8(a).) It is unclear who bears the burden of proof and what standard of proof applies to this defense. In the

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absence of statutory authority or case law stating that the defendant must prove the defense by a preponderance of the evidence, the committee has drafted the instruction to provide that the prosecution must prove beyond a reasonable doubt that the defense does not apply. (See *People v. Mower* (2002) 28 Cal.4th 457, 478–479 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; see also *People v. Woodward* (2004) 116 Cal.App.4th 821, 840–841 [10 Cal.Rptr.3d 779] ["legitimate" does not require definition and the trial court erred in giving amplifying instruction based on *People v. Marler* (1962) 199 Cal.App.2d Supp. 889 [18 Cal.Rptr. 923]].)

If there is sufficient evidence that the defendant was acting as a law enforcement agent, the court has a **sua sponte** duty to instruct on that defense. (See Pen. Code, § 311.2(e).) It is unclear who bears the burden of proof and what standard of proof applies to this defense. In the absence of statutory authority or case law stating that the defendant must prove the defense by a preponderance of the evidence, the committee has drafted the instruction to provide that the prosecution must prove beyond a reasonable doubt that the defense does not apply. (See *People v. Mower*, *supra*, 28 Cal.4th at pp. 478–479.)

AUTHORITY

- Elements. Pen. Code, §§ 311.1(a), 311.2(b).
- Specific Intent to Distribute or Exhibit. *People v. Young*, *supra*, 77 Cal.App.3d Supp. at p. 12 [possession with intent to distribute or exhibit]; see *People v. Burrows*, *supra*, 260 Cal.App.2d at p. 231 [preparation or publication with specific intent to distribute]; *In re Klor*, *supra*, 64 Cal.2d at p. 819.
- "Obscene Matter" Defined. Pen. Code, § 311(a); see *Bloom v. Municipal Court* (1976) 16 Cal.3d 71, 77, 81 [127 Cal.Rptr. 317, 545 P.2d 229]; *Miller v. California* (1973) 413 U.S. 15, 24 [93 S.Ct. 2607, 37 L.Ed.2d 419]; see also *Pope v. Illinois* (1987) 481 U.S. 497, 500–501 [107 S.Ct. 1918, 95 L.Ed.2d 439].
- "Artificial Intelligence" Defined. Pen. Code, § 311(b).
- Contemporary Community Standards. See *Roth v. United States* (1957) 354 U.S. 476, 489–490 [77 S.Ct. 1304, 1 L.Ed.2d 1498].
- "Prurient Interest" Defined. *Bloom v. Municipal Court*, *supra*, 16 Cal.3d at p. 77.
- "Sexual Conduct" Defined. Pen. Code, § 311.4(d)(1); see *People v. Spurlock* (2003) 114 Cal.App.4th 1122, 1130–1131 [8 Cal.Rptr.3d 372].
- "Person" Defined. Pen. Code, § 311(~~c~~d).
- "Distribute" Defined. Pen. Code, § 311(~~d~~e).

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- "Knowingly" Defined. Pen. Code, § 311(~~e~~f); see *People v. Kuhns* (1976) 61 Cal.App.3d 735, 756–758 [132 Cal.Rptr. 725].
- "Exhibit" Defined. Pen. Code, § 311(~~f~~g).
- Matter Designed for Deviant Sexual Group. Pen. Code, § 311(a)(1); see *People v. Young*, *supra*, 77 Cal.App.3d Supp. at pp. 14–15.
- Commercial Exploitation Is Probative of Matter's Nature. Pen. Code, § 311(a)(2); *People v. Kuhns*, *supra*, 61 Cal.App.3d at pp. 748–753 .
- Knowledge That Matter Depicts Child Under 16 Is Probative of Matter's Nature. Pen. Code, § 311(a)(3).
- Similar Matter Shown in Community. *In re Harris* (1961) 56 Cal.2d 879, 880 [16 Cal.Rptr. 889, 366 P.2d 305]; *People v. Heller* (1979) 96 Cal.App.3d Supp. 1, 7 [157 Cal.Rptr. 830].
- Exceptions to Statutory Prohibitions. Pen. Code, §§ 311.1(b)–(d), 311.2(e)–(g); Pen. Code, § 311.8.
- "Agent" Defined. See *People v. McIntire* (1979) 23 Cal.3d 742, 748 [153 Cal.Rptr. 237, 591 P.2d 527] [in context of entrapment].
- Taken or Considered as a Whole. *People v. Goulet* (1971) 21 Cal.App.3d Supp. 1, 3 [98 Cal.Rptr. 782]; *Kois v. Wisconsin* (1972) 408 U.S. 229, 231 [92 S.Ct. 2245, 33 L.Ed.2d 312].
- Obscenity Contrasted With Sex. *Roth v. United States*, *supra*, 354 U.S. at p. 487.
- Obscenity Contrasted With Nudity. *People v. Noroff* (1967) 67 Cal.2d 791, 795–796 [63 Cal.Rptr. 575, 433 P.2d 479]; *In re Panchot* (1968) 70 Cal.2d 105, 108–109 [73 Cal.Rptr. 689, 448 P.2d 385].
- Possessing For Personal Use Not a Crime. *Stanley v. Georgia* (1969) 394 U.S. 557, 568 [89 S.Ct. 1243, 22 L.Ed.2d 542].
- Constructive vs. Actual Possession. *People v. Barnes* (1997) 57 Cal.App.4th 552, 556 [67 Cal.Rptr.2d 162].
- "Commercial Benefit" Defined. *People v. Wimer* (2022) 74 Cal.App.5th 113, 129 [289 Cal.Rptr.3d 164].

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LESSER INCLUDED OFFENSES

- Attempted Distribution of Obscene Matter. Pen. Code, §§ 664, 311.1(a).
- Attempted Distribution of Obscene Matter for Commercial Consideration. Pen. Code, §§ 664, 311.2(b).

RELATED ISSUES

Advertising Obscene Matter Involving Minors

It is a felony to advertise for sale or distribution any obscene matter knowing that it depicts a minor engaged in sexual conduct. (Pen. Code, § 311.10.)

Employing or Using Minor to Pose in Film

It is a felony to employ, use, or persuade a minor to engage in or assist others in posing or modeling for the purpose of preparing a commercial or noncommercial film or other medium involving sexual conduct by a minor. (See Pen. Code, § 311.4(b), (c).) Producing child pornography and posting it on the Internet to induce others to trade such pornography without making a monetary profit satisfies the "commercial purposes" requirement of Penal Code section 311.4(b). (*People v. Cochran* (2002) 28 Cal.4th 396, 406–407 [121 Cal.Rptr.2d 595, 48 P.3d 1148].)

Excluded Conduct

Neither section 311.1 nor 311.2 applies to law enforcement and prosecuting agencies investigating or prosecuting criminal offenses, to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses. (Pen. Code, §§ 311.1(b), 311.2(e); see Pen. Code, § 311.8(a) ["defense" that act committed in aid of legitimate scientific or educational purpose].) Nor do these sections apply to depictions of a minor who is legally emancipated. (Pen. Code, §§ 311.1(c), 311.2(f); see Fam. Code, § 7000 et seq. [emancipation of minors].)

Telephone Services

A telephone corporation (see Pub. Util. Code, § 234) does not violate section 311.1 or 311.2 by carrying or transmitting messages described in these sections, or by performing related activities in providing telephone services. (Pen. Code, §§ 311.1(d), 311.2(g).)

Expert Testimony Not Required

Neither the prosecution nor the defense is required to introduce expert witness testimony regarding the obscene nature of the matter. (Pen. Code, § 312.1 [abrogating *In re Giannini* (1968) 69 Cal.2d 563, 574 [72 Cal.Rptr. 655, 446 P.2d 535]].)

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SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (54th ed. 20124) Sex Offenses and Crimes Against Decency, §§ 94122–13806, 13170.

7 Witkin, Summary of California Law (11th ed. 2017) Constitutional Law, §§ 486-492.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.12 (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and Procedure §§ 12:16, 12:17 (The Rutter Group).

DRAFT

1142. Distributing or Intending to Distribute Obscene Matter~~ial~~ (Pen. Code, § 311.2(a))

The defendant is charged [in Count __] with distributing obscene matter~~ial~~ [in violation of Penal Code section 311.2(a)].

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

<Alternative 1A—sent or brought>

[1. The defendant knowingly (sent/~~-~~[or] brought) obscene matter~~ial~~ into California [or knowingly caused obscene matter~~ial~~ to be (sent/~~-~~[or] brought) into California];]

<Alternative 1B—possessed>

[1. The defendant knowingly (possessed[,]/~~-~~[or] prepared[,]/~~-~~[or] published[,]/~~-~~[or] produced[,]/~~-~~[or] printed) obscene matter~~ial~~ in California;]

<Alternative 1C—offered to distribute>

[1. The defendant offered to distribute obscene matter~~ial~~ to someone else;]

<Alternative 1D—distributed>

[1. The defendant (distributed/~~-~~[or] showed) obscene matter~~ial~~ to someone else;]

[AND]

2. When the defendant acted, (he/she) knew the character of the matter~~ial~~(;/.)

<Give element 3 when instructing with alternative 1A, 1B, or 1C; see Bench Notes.>

[AND

3. When the defendant acted, (he/she) intended to (sell or distribute/distribute or show/distribute) the matter~~ial~~ to someone else.]

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You must decide whether the matter~~ial~~ at issue in this case meet[s] the definition of obscene matter~~ial~~. Matter~~ial~~, when considered as a whole, is *obscene* if:

1. **It shows or describes sexual conduct in an obviously offensive way;**

2. **A reasonable person would conclude that it lacks serious literary, artistic, political, or scientific value;**

AND

3. **An average adult person applying contemporary statewide standards would conclude that it appeals to a prurient interest.**

A *prurient interest* is a shameful or morbid interest in nudity, sex, or excretion.

[As used here,](*M/m)atter~~ial~~ means ([[a] ((book[,]/ [or] magazine[,]/ [or] newspaper[,]/ [or] [other] printed or written material][(,/;)]/ [or] [a picture[,]/ [or] drawing[,]/ [or] photograph[,]/ [or] motion picture[,]/ [or] [other] pictorial representation][(,/;)]/ [or] [a statue or other figure][(,/;)]/ [or] [a (recording[,]/ [or] transcription[,]/ [or] mechanical, chemical, or electrical reproduction][(,/;)]/ [or any other article, equipment, or machine]). [*Matter~~ial~~ also means live or recorded telephone messages transmitted, disseminated, or distributed as part of a commercial transaction.]

***Applying contemporary statewide standards* means using present-day standards and determining the effect of the matter~~ial~~ on all those whom it is likely to reach within the state, in other words, its impact on the average adult person in the statewide community. The *average adult person* is a hypothetical person who represents the entire community, including both men and women, religious and nonreligious people, and adults of varying ages, educational and economic levels, races, ethnicities, and points of view. The term *contemporary statewide standards* means what is acceptable to the statewide community as a whole, not what some person or persons may believe the community should accept. The test you must apply is not what you find offensive based on your own personal, social, or moral views. Instead, you must make an objective determination of what would offend the statewide community as a whole.**

[You may consider evidence of local community standards in deciding what the contemporary statewide standards are. However, you may not use the standards of a specific local community, by themselves, to establish the contemporary statewide standards.]

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The matter~~ial~~ is not obscene unless a reasonable person would conclude that, taken as a whole, it lacks serious literary, artistic, political, or scientific value. When deciding whether the matter~~ial~~ is obscene, do not weigh its value against its prurient appeal.

[The depiction of nudity, by itself, does not make matter~~ial~~ obscene. In order for matter~~ial~~ containing nudity to be obscene, it must depict sexual activity and must meet the requirements for obscenity listed above.]

[The depiction of sexual activity, by itself, does not make matter~~ial~~ obscene. In order for matter~~ial~~ depicting sexual activity to be obscene, it must meet the requirements for obscenity listed above.]

[Matter~~ial~~ is not considered obscene under the law if (all persons under the age of 18 years depicted in the matter~~ial~~ are legally emancipated/ [or] it only shows lawful conduct between spouses).]

The People must prove that the defendant knew the character of the matter~~ial~~ but do not need to prove that the defendant knew whether the matter~~ial~~ met the definition of obscene.

[*To distribute* means to transfer possession, whether or not the transfer is made for money or anything else of value.]

[A *person* accused of committing this crime can be an individual, partnership, firm, association, corporation, limited liability company, or other legal entity.]

[In deciding the matter~~ial~~'s character and whether it lacks serious literary, artistic, political, or scientific value, consider whether the circumstances of its (production[,]/ [or] presentation[,]/ [or] sale[,]/ [or] dissemination[,]/ [or] distribution[,]/ [or] publicity) indicate that the matter~~ial~~ was being commercially exploited because of its prurient appeal. You must decide the weight, if any, to give this evidence.]

[In deciding whether the matter~~ial~~ lacks serious literary, artistic, political, or scientific value, you may [also] consider whether the defendant knew that the matter~~ial~~ showed persons under 16 years old engaging in sexual conduct. You must decide the weight, if any, to give this evidence.]

[In deciding whether, according to contemporary statewide standards, the matter~~ial~~ appeals to a prurient interest, you may consider whether similar

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matter~~ial~~ is openly shown in the statewide community. You must decide the weight, if any, to give this evidence.]

[If it appears from the character of the matter~~ial~~ or the circumstances of its distribution or showing that it is designed for a clearly defined deviant sexual group, the appeal of the matter~~ial~~ must be judged based on its intended audience.]

[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/other people).]

[A person who possesses obscene matter~~ial~~ for his or her own personal use is not guilty of this crime.]

<Defense: Legitimate Scientific or Educational Purpose>
[The defendant is not guilty of this crime if (he/she) was engaging in legitimate medical, scientific, or educational activities. The People have the burden of proving beyond a reasonable doubt that the defendant was not acting for a legitimate medical, scientific, or educational purpose. If the People have not met this burden, you must find the defendant not guilty of this crime.]

<Defense: Law Enforcement Agent>
[The defendant is not guilty of this crime if (he/she) was a member [or agent] of a law enforcement or prosecuting agency and was involved in the investigation or prosecution of crimes. The People have the burden of proving beyond a reasonable doubt that the defendant was not acting as a member [or agent] of a law enforcement or prosecuting agency. If the People have not met this burden, you must find the defendant not guilty of this crime.

[A person is an *agent* of a law enforcement or prosecuting agency if he or she does something at the request, suggestion, or direction of a law enforcement or prosecuting agency.

New January 2006; Revised October 2025

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BENCH NOTES

Instructional Duty

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

In element 1, give one of the alternatives 1A–1D depending on the charges and evidence in the case. Give element 3 when instructing with alternative 1A, 1B, or 1C ~~or 1D~~. (*People v. Young* (1977) 77 Cal.App.3d Supp. 10, 12 [143 Cal.Rptr. 604]; *People v. Burrows* (1968) 260 Cal.App.2d 228, 231 [67 Cal.Rptr. 28]; *In re Klor* (1966) 64 Cal.2d 816, 819 [51 Cal.Rptr. 903, 415 P.2d 791].) When giving alternative 1A, select "sell or distribute" in element 3. When giving alternative 1B, select "distribute or show" in element 3. When giving alternative 1C, select "distribute." Do not give element 3 with alternative 1D. No published case has held that distributing or showing obscene material requires specific intent.

For the definition of matter, give the bracketed phrase "As used here" when CALCRIM No. 1141, *Distributing Obscene Matter Showing Sexual Conduct by a Minor*, CALCRIM No. 1144, *Using a Minor to Perform Prohibited Acts*, or CALCRIM No. 1145, *Possession of Matter Depicting Minor Engaged in Sexual Conduct*, is also given.

Defenses—Instructional Duty

If there is sufficient evidence that the defendant was engaging in legitimate medical, scientific, or educational activities, the court has a **sua sponte** duty to instruct on that defense. (See Pen. Code, §§ 311.2(e), 311.8(a).) It is unclear who bears the burden of proof and what standard of proof applies to this defense. In the absence of statutory authority or case law stating that the defendant must prove the defense by a preponderance of the evidence, the committee has drafted the instruction to provide that the prosecution must prove beyond a reasonable doubt that the defense does not apply. (See *People v. Mower* (2002) 28 Cal.4th 457, 478–479 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; see also *People v. Woodward* (2004) 116 Cal.App.4th 821, 840–841 [10 Cal.Rptr.3d 779] ["legitimate" does not require definition, and the trial court erred in giving amplifying instruction based on *People v. Marler* (1962) 199 Cal.App.2d Supp. 889 [18 Cal.Rptr. 923]].)

If there is sufficient evidence that the defendant was acting as a law enforcement agent, the court has a **sua sponte** duty to instruct on that defense. (See Pen. Code, § 311.2(e).) It is unclear who bears the burden of proof and what standard of proof applies to this defense. In the absence of statutory authority or case law stating that the defendant must prove the defense by a preponderance of the evidence, the committee has drafted the instruction to provide that the prosecution must prove beyond a reasonable doubt that the defense does not apply. (See *People v. Mower*, *supra*, ~~(2002)~~ 28 Cal.4th ~~457,~~at pp. 478–479 ~~[122 Cal.Rptr.2d 326, 49 P.3d 1067]~~.)

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AUTHORITY

- Elements. Pen. Code, § 311.2(a).
- Specific Intent to Distribute or Exhibit. *People v. Young*, *supra*, ~~(1977)~~ 77 Cal.App.3d Supp. ~~10,~~at p. 12 ~~[143 Cal.Rptr. 604]~~ [possession with intent to distribute or exhibit]; see *People v. Burrows*, *supra*, ~~(1968)~~ 260 Cal.App.2d ~~228,~~at p. 231 ~~[67 Cal.Rptr. 28]~~ [preparation or publication with specific intent to distribute]; *In re Klor*, *supra*, ~~(1966)~~ 64 Cal.2d ~~816,~~at p. 819 ~~[51 Cal.Rptr. 903, 415 P.2d 791]~~.
- "Obscene Matter" Defined. Pen. Code, § 311(a); see *Bloom v. Municipal Court* (1976) 16 Cal.3d 71, 77, 81 [127 Cal.Rptr. 317, 545 P.2d 229]; *Miller v. California* (1973) 413 U.S. 15, 24 [93 S.Ct. 2607, 37 L.Ed.2d 419]; see also *Pope v. Illinois* (1987) 481 U.S. 497, 500–501 [107 S.Ct. 1918, 95 L.Ed.2d 439].
- Contemporary Community Standards. See *Roth v. United States* (1957) 354 U.S. 476, 489–490 [77 S.Ct. 1304, 1 L.Ed.2d 1498].
- "Prurient Interest" Defined. *Bloom v. Municipal Court*, *supra*, ~~(1976)~~ 16 Cal.3d ~~71,~~at p. 77 ~~[127 Cal.Rptr. 317, 545 P.2d 229]~~.
- "Person" Defined. Pen. Code, § 311(~~c~~d).
- "Distribute" Defined. Pen. Code, § 311(~~d~~e).
- "Knowingly" Defined. Pen. Code, § 311(~~e~~f); see *People v. Kuhns* (1976) 61 Cal.App.3d 735, 756–758 [132 Cal.Rptr. 725].
- "Exhibit" Defined. Pen. Code, § 311(~~f~~g).
- Matter Designed for Deviant Sexual Group. Pen. Code, § 311(a)(1); see *People v. Young*, *supra*, ~~(1977)~~ 77 Cal.App.3d Supp. ~~10,~~at pp. 14–15 ~~[143 Cal.Rptr. 604]~~.
- Commercial Exploitation Is Probative of Matter's Nature. Pen. Code, § 311(a)(2); *People v. Kuhns* (1976) 61 Cal.App.3d 735, 748–753 [132 Cal.Rptr. 725].
- Knowledge That Matter Depicts Child Under 16 Is Probative of Matter's Nature. Pen. Code, § 311(a)(3).
- Similar Matter Shown in Community. *In re Harris* (1961) 56 Cal.2d 879, 880 [16 Cal.Rptr. 889, 366 P.2d 305]; *People v. Heller* (1979) 96 Cal.App.3d Supp. 1, 7 [157 Cal.Rptr. 830].
- Exceptions to Statutory Prohibitions. Pen. Code, §§ 311.1(b)–(d), 311.2(e)–(g); 311.8.

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- "Agent" Defined. See *People v. McIntire* (1979) 23 Cal.3d 742, 748 [153 Cal.Rptr. 237, 591 P.2d 527] [in context of entrapment].
- Taken or Considered as a Whole. *People v. Goulet* (1971) 21 Cal.App.3d Supp. 1, 3 [98 Cal.Rptr. 782]; *Kois v. Wisconsin* (1972) 408 U.S. 229, 231 [92 S.Ct. 2245, 33 L.Ed.2d 312].
- Obscenity Contrasted With Sex. *Roth v. United States* (1957) 354 U.S. 476, 487 [77 S.Ct. 1304, 1 L.Ed.2d 1498].
- Obscenity Contrasted With Nudity. *People v. Noroff* (1967) 67 Cal.2d 791, 795–796 [63 Cal.Rptr. 575, 433 P.2d 479]; *In re Panchot* (1968) 70 Cal.2d 105, 108–109 [73 Cal.Rptr. 689, 448 P.2d 385].
- Possessing for Personal Use Not a Crime. *Stanley v. Georgia* (1969) 394 U.S. 557, 568 [89 S.Ct. 1243, 22 L.Ed.2d 542].
- Constructive vs. Actual Possession. *People v. Barnes* (1997) 57 Cal.App.4th 552, 556 [67 Cal.Rptr.2d 162].

LESSER INCLUDED OFFENSES

- Attempted Distribution of Obscene Matter. Pen. Code, §§ 664, 311.1(a).

RELATED ISSUES

Definition of "Sexual Conduct"

"Obscene matter" must depict or describe "sexual conduct in a patently offensive way . . . ." (Pen. Code, § 311(a).) The statute does not define "sexual conduct." Penal Code sections 311.4(d)(1) and 311.3(b) provide definitions of the term "sexual conduct" as used in those sections. If the court determines that a definition of "sexual conduct" is necessary, the court may wish to review those statutes. (See also *People v. Spurlock* (2003) 114 Cal.App.4th 1122, 1131 [8 Cal.Rptr.3d 372] [discussing definition of sexual conduct in prosecution for violating Pen. Code, §§ 311.3 and 311.4].)

See the Related Issues section of CALCRIM No. 1141, *Distributing Obscene Matter Showing Sexual Conduct by a Minor*.

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 20~~1~~24) Sex Offenses and Crimes Against Decency, §§ 122~~94~~–10~~6~~38, 170~~3~~1.

7 Witkin, Summary of California Law (11th ed. 2017) Constitutional Law, §§ 486-492.

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6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.12 (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and Procedure §§ 12:16, 12:17 (The Rutter Group).

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1144. Using a Minor to Perform Prohibited Acts (Pen. Code, § 311.4(b), (c))

The defendant is charged [in Count __] with using a minor to perform prohibited acts [in violation of _____ <*insert appropriate code section[s]*>**].**

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

<*Alternative ~~1~~A: defendant promoted, employed, etc.*>

[1. The defendant (promoted/-[or] employed/-[or] used/-[or] persuaded/ [or] induced/-[or] coerced) a minor who was under (18/14) years old at the time to pose or model or assist others to pose or model, alone or with others;

2. The defendant knew that (he/she) was (promoting/-[or] employing/-[or] using/-[or] persuading/-[or] inducing/-[or] coercing) a minor of that age to pose or model or assist others to pose or model;]

<*Alternative ~~1~~B: defendant was parent or guardian*>

[1. The defendant was the (parent/ [or] guardian) in control of a minor who was under (18/14) years old at the time and the defendant permitted that minor to pose or model or assist others to pose or model, alone or with others;

2. At the time the defendant gave permission to the minor, (he/she) knew that the minor would pose or model or assist others to pose or model, alone or with others;]

~~2~~3. The purpose of the posing or modeling was to prepare matter containing [or incorporating] sexual conduct;

~~3. The minor participated in the sexual conduct alone[, or with other persons][, or with animals];~~

4. __ The defendant was aware that~~of~~ the purpose of the minor's posing or modeling was to prepare ~~character of the~~ matter containing [or incorporating] sexual conduct ~~or live conduct~~;

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5. The minor participated in the sexual conduct alone[, or with other persons][, or with animals];

[AND]

~~5~~6. The defendant knew[, or reasonably should have known, based on facts of which (he/she) was aware,] that the minor was under (18/14) years of age(;/.)

<Give only for Pen. Code, § 311.4(b) offense.>
[AND

~~6~~7. When the defendant acted, (he/she) intended that the matter would be used for commercial purposes.]

[As used here,](*M/m*)*atter* means any representation of information, data, or image, including any _____ *<insert type of material described in Pen. Code, § 311.4.>*
~~(film/filmstrip/photograph/negative/slide/photocopy/videotape/video laser disc/computer hardware or software/computer floppy disk/data storage medium/CD-ROM/computer-generated equipment/ [or] computer-generated image that contains any film or filmstrip).~~ [For the purpose of this instruction *matter* does not include material (in which all of the persons depicted under the age of 18 are legally emancipated/ [or] that only depicts lawful conduct between spouses).]

[Under the law, a person becomes one year older as soon as the first minute of his or her birthday has begun.]

***Sexual conduct* means actual or simulated (sexual intercourse/ [or] oral copulation[,]/ [or] anal intercourse[,]/ [or] anal oral copulation[,]/ [or] _____ *<insert other sexual conduct as defined in Pen. Code, § 311.4(d)(1)>*). An act is simulated when it gives the appearance of being sexual conduct.**

[*Use for commercial purposes* includes intending to trade the matter depicting sexual conduct for a commercial purpose at some point in the future. A commercial purpose does not have to include financial gain.]

[A *person* accused of committing this crime can be an individual, partnership, firm, association, corporation, limited liability company, or other legal entity.]

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<Defense: Legitimate scientific or educational purpose>
[The defendant is not guilty of this crime if (he/she) was engaging in legitimate medical, scientific, or educational activities. The People have the burden of proving beyond a reasonable doubt that the defendant was not acting for a legitimate medical, scientific, or educational purpose. If the People have not met this burden, you must find the defendant not guilty of this crime.]

New April 2010; Revised October 2025

BENCH NOTES

Instructional Duty

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

In element 6, give the bracketed phrase that begins "or reasonably should have known" if the defendant is charged as having promoted, employed, used, etc. the minor to pose or model. This phrase does not apply to a parent or guardian who permitted a minor under their control to pose or model.

Give element 7 if the defendant is charged under Penal Code section 311.4(b).

For the definition of matter, give the bracketed phrase "As used here" if CALCRIM No. 1142, *Distributing or Intending to Distribute Obscene Matter* or CALCRIM No. 1145, *Possession of Matter Depicting Minor Engaged in Sexual Conduct*, is also given.

Defenses—Instructional Duty

If there is sufficient evidence that the defendant was engaging in legitimate medical, scientific, or educational activities, the court has a **sua sponte** duty to instruct on that defense. (See Pen. Code, § 311.8(a).) It is unclear who bears the burden of proof and what standard of proof applies to this defense. In the absence of statutory authority or case law stating that the defendant must prove the defense by a preponderance of the evidence, the committee has drafted the instruction to provide that the prosecution must prove beyond a reasonable doubt that the defense does not apply. (See *People v. Mower* (2002) 28 Cal.4th 457, 478–479 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; see also *People v. Woodward* (2004) 116 Cal.App.4th 821, 840–841 [10 Cal.Rptr.3d 779] ["legitimate" does not require definition and the trial court erred in giving amplifying instruction based on *People v. Marler* (1962) 199 Cal.App.2d Supp. 889 [18 Cal.Rptr. 923]].)

AUTHORITY

- Elements. Pen. Code, § 311.4(b), (c).

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- "Sexual Conduct" Defined. Pen. Code, § 311.4(d)~~(1)~~; see *People v. Spurlock* (2003) 114 Cal.App.4th 1122, 1130–1131 [8 Cal.Rptr.3d 372].
- Factors for Determining Whether Exhibition of Specified Body Parts Constitute "Sexual Conduct." *People v. Kongs* (1994) 30 Cal.App.4th 1741, 1754–1755 [37 Cal.Rptr.2d 327]; *People v. Jacobo* (2019) 37 Cal.App.5th 32, 48–51 [249 Cal.Rptr.3d 236].
- "Artificial Intelligence" Defined. Pen. Code, § 311(b).
- "Person" Defined. Pen. Code, § 311(~~c~~d).
- Defendant Need Not Directly Engage in Posing or Modeling Victim. *People v. Haraszewski* (2012) 203 Cal.App.4th 924, 937–938 [137 Cal.Rptr.3d 641]; *People v. Hobbs* (2007) 152 Cal.App.4th 1, 5–7 [60 Cal.Rptr.3d 685].
- Minor Under Age of 14. Pen. Code, § 311.4(f).
- "Commercial Purposes" Defined. *People v. Cochran* (2002) 28 Cal.4th 396, 402-407 [121 Cal.Rptr.2d 595, 48 P.3d 1148].
- "Knowingly" Defined. Pen. Code, § 311(~~d~~e); see *People v. Kuhns* (1976) 61 Cal.App.3d 735, 756–758 [132 Cal.Rptr. 725].
- Calculating Age. Fam. Code, § 6500; *In re Harris* (1993) 5 Cal.4th 813, 849–850 [21 Cal.Rptr.2d 373, 855 P.2d 391].
- Prior Version of This Instruction Upheld. *People v. Hicks* (2017) 17 Cal.App.5th 496, 506 [225 Cal.Rptr.3d 682].

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (5~~3~~4th ed. 20~~12~~24) Sex Offenses and Crimes Against Decency, §§ 124~~96~~, 11~~1~~43–11~~4~~62.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.12 (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and Procedure §§ 12:16, 12:17 (The Rutter Group).

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1145. Possession of Matter Depicting Minor Engaged in Sexual Conduct (Pen. Code, § 311.11(a))

The defendant is charged [in Count __] with possessing matter that shows a minor engaged in or simulating sexual conduct [in violation of Penal Code section 311.11(a)].

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

1. **The defendant possessed or controlled matter that contained [an] image[s] of a minor personally engaging in or simulating sexual conduct;**

2. **The defendant knew that (he/she) possessed or controlled the matter;**

AND

3. **The defendant knew that the matter contained [an] image[s] of a minor personally engaging in or simulating sexual conduct.**

[As used here,](*M/m*)*atter*~~Matter, as used in this instruction,~~ means any visual work[s], including any (film/filmstrip/photograph/negative/slide/photocopy/video recording/computer-generated media[,]/[or] _____ <*insert other item listed in Pen. Code, § 311.11(a)*>**).**

[*Matter* includes digitally altered and artificial intelligence–generated data.]

[*Matter* does not include drawings, figurines, or statues.]

[*Matter* does not include any film rated by the Motion Picture Association of America.]

[The *matter* does not have to be obscene.] <*For a definition of obscene, see CALCRIM No. 1141.*>

[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.]

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[Two or more people may possess something at the same time.]

A *minor* is anyone under the age of 18. [Under the law, a person becomes one year older as soon as the first minute of his or her birthday has begun.]

Sexual conduct* means actual or simulated (sexual intercourse/ [or] oral copulation[,]/ [or] anal intercourse[,]/ [or] anal oral copulation[,]/ [or] _____** *<insert other sexual conduct as defined in Pen. Code, § 311.4(d)(1)>). An act is simulated when it gives the appearance of being sexual conduct.**

<Sentencing Factors>
[If you find the defendant guilty of this crime [as charged in Count[s] __], you must then decide whether the People have proved the additional allegation[s].] [You must decide whether the People have proved (this/these) allegation[s] for each crime beyond a reasonable doubt and return a separate finding for each crime.]

<Give the following paragraph if the defendant is charged with the felony enhancement under Penal Code section 311.11(b)>
[To prove the prior conviction allegation, the People must prove that the defendant has at least one prior conviction for violating or attempting to violate Penal Code section 311.11(a) or for committing or attempting to commit (_____) *<insert description of offense requiring registration pursuant to Penal Code section 290>***.]**

<Give the following four paragraphs if the defendant is charged with the felony enhancement under Penal Code section 311.11(c)(1)>
[To prove the multiple images allegation, the People must prove that:

The *matter* the defendant knowingly possessed or controlled contained more than 600 images all of which the defendant knew showed a minor engaged in or simulating sexual conduct;

AND

The *matter* contained at least ten or more images involving a prepubescent minor or a minor under 12 years of age.

Each photograph, picture, computer or computer-generated image, or any similar visual depiction counts as *one image*.

DRAFT

Each video, video-clip, movie, or similar visual depiction counts as *50 images*.]

<Give the following three paragraphs if the defendant is charged under Penal Code section 311.11(c)(2)>
[To prove the sexual sadism or sexual masochism allegation, the People must prove that the *matter* showed sexual sadism or sexual masochism involving a minor.

***Sexual sadism* means intentionally causing pain for purposes of sexual gratification or stimulation.**

***Sexual masochism* means intentionally experiencing pain for purposes of sexual gratification or stimulation.]**

New March 2019; Revised October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction defining the elements of the crime. Give the sentencing factors if appropriate.

For the definition of matter, give the bracketed phrase "As used here" if CALCRIM No. 1141, *Distributing Obscene Matter Showing Sexual Conduct by a Minor*, CALCRIM No. 1142, *Distributing or Intending to Distribute Obscene Matter*, or CALCRIM No. 1144, *Using a Minor to Perform Prohibited Acts*, is also given.

AUTHORITY

- Elements. Pen. Code, § 311.11(a) ~~(c)~~.
- "Sexual Conduct" Defined. Pen. Code, § 311.4(d)~~(1)~~; see *People v. Spurlock* (2003) 114 Cal.App.4th 1122, 1130–1131 [8 Cal.Rptr.3d 372].
- "Artificial Intelligence" Defined. Pen. Code, § 311(b).
- "Person" Defined. Pen. Code, § 311(~~c~~d).
- "Knowingly" Defined. Pen. Code, § 311(~~e~~f); see *People v. Kuhns* (1976) 61 Cal.App.3d 735, 756–758 [132 Cal.Rptr. 725].
- Calculating Age. Fam. Code, § 6500; *In re Harris* (1993) 5 Cal.4th 813, 849–850 [21 Cal.Rptr.2d 373, 855 P.2d 391].
- "Personally" Defined. *People v. Gerber* (2011) 196 Cal.App.4th 368, 386 [126 Cal.Rptr.3d 688].

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- Possession or Control of Computer Image. *Tecklenburg v. Appellate Div. of Superior Court* (2009) 169 Cal.App.4th 1402, 1418-1419 [87 Cal.Rptr.3d 460].
- Simultaneous Possession of Materials at Same Location is One Offense. *People v. Manfredi* (2008) 169 Cal.App.4th 622, 624 [86 Cal.Rptr.3d 810].

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 20~~1~~12~~2~~4) Sex Offenses and Crimes Against Decency, §§ ~~9~~1122~~4~~–1~~06~~38, 1~~31~~70.

7 Witkin, Summary of California Law (11th ed. 2017) Constitutional Law, §§ 486-492.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.12 (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and ~~-~~Procedure §§ 12:16, 12:17 (The Rutter Group).

1146–1149. Reserved for Future Use

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1180. Incest (Pen. Code, § 285)

The defendant is charged [in Count __] with incest [in violation of Penal Code section 285].

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

1. **The defendant had sexual intercourse with another person;**

2. **When the defendant did so, (he/she) was at least 14 years old;**

3. **When the defendant did so, the other person was at least 14 years old;**

AND

4. **The defendant and the other person are related to each other as <*insert description of relationship from Family Code section 2200*>].**

***Sexual intercourse* means any penetration, no matter how slight, of the vagina or genitalia by the penis. [Ejaculation is not required.]**

[Under the law, a person becomes one year older as soon as the first minute of his or her birthday has begun.]

*New January 2006; Revised June 2007, October 2010, February 2012, August 2015, October 2025**

** 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.

This instruction focuses on incestuous sexual intercourse with a minor, which is the most likely form of incest to be charged. Incest is also committed by intercourse between adult relatives within the specified degree of consanguinity, or by an incestuous marriage. (See Pen. Code, § 285.)

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Give the bracketed paragraph about calculating age if requested. (Fam. Code, § 6500; *In re Harris* (1993) 5 Cal.4th 813, 849–850 [21 Cal.Rptr.2d 373, 855 P.2d 391].)

AUTHORITY

- Elements. Pen. Code, § 285.
- Incestuous Marriages. Fam. Code, § 2200.
- "Sexual Intercourse" Defined. See Pen. Code, § 263; *People v. Karsai* (1982) 131 Cal.App.3d 224, 233–234 [182 Cal.Rptr. 406], disapproved on other grounds by *People v. Jones* (1988) 46 Cal.3d 585 [250 Cal.Rptr. 635, 758 P.2d 1165].
- Genetic Testing or Cohabitation Evidence Not Required to Establish Parent/Child Relationship. *People v. Torres* (2024) 107 Cal.App.5th 513, 528–529 [328 Cal.Rptr.3d 300].

LESSER INCLUDED OFFENSES

- Attempted Incest. Pen. Code, §§ 664, 285.

RELATED ISSUES

Accomplice Instructions

A minor is a victim of, not an accomplice to, incest. Accomplice instructions are not appropriate in a trial for incest involving a minor. (*People v. Tobias* (2001) 25 Cal.4th 327, 334 [106 Cal.Rptr.2d 80, 21 P.3d 758]; see *People v. Stoll* (1927) 84 Cal.App. 99, 101–102 [257 P. 583].) An exception may exist when two minors engage in consensual sexual intercourse, and thus both are victims of the other's crime. (*People v. Tobias, supra,* 25 Cal.4th at p. 334; see *In re T.A.J.* (1998) 62 Cal.App.4th 1350, 1364–1365 [73 Cal.Rptr.2d 331] [minor perpetrator under Pen. Code, § 261.5].) An adult woman who voluntarily engages in the incestuous act is an accomplice, whose testimony must be corroborated. (See *People v. Stratton* (1904) 141 Cal. 604, 609 [75 P. 166].)

Half-Blood Relationship

Family Code section 2200 prohibits sexual relations between brothers and sisters of half blood, but not between uncles and nieces of half blood. (*People v. Baker* (1968) 69 Cal.2d 44, 50 [69 Cal.Rptr. 595, 442 P.2d 675] [construing former version of § 2200].) However, sexual intercourse between persons the law deems to be related is proscribed. A trial court may properly instruct on the conclusive presumption of legitimacy (see Fam. Code, § 7540) if a defendant uncle asserts

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that the victim's mother is actually his half sister. The presumption requires the jury to find that if the defendant's mother and her potent husband were living together when the defendant was conceived, the husband was the defendant's father, and thus the defendant was a full brother of the victim's mother. (*People v. Russell* (1971) 22 Cal.App.3d 330, 335 [99 Cal.Rptr. 277].)

Lack of Knowledge as Defense

No reported cases have held that lack of knowledge of the prohibited relationship is a defense to incest. (But see *People v. Patterson* (1894) 102 Cal. 239, 242–243 [36 P. 436] [dictum that party without knowledge of relationship would not be guilty]; see also *People v. Vogel* (1956) 46 Cal.2d 798, 801, 805 [299 P.2d 850] [good faith belief is defense to bigamy].)

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 20~~12~~24) Sex Offenses and Crimes Against Decency §§ 1840–1483, ~~178~~229.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.21[3] (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and ~~-~~Procedure §§ 12:16, 12:17 (The Rutter Group).

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1215. Kidnapping (Pen. Code, § 207(a))

The defendant is charged [in Count __] with kidnapping [in violation of Penal Code section 207(a)].

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

1. **The defendant took, held, or detained another person by using force or by instilling reasonable fear;**

2. **Using that force or fear, the defendant moved the other person [or made the other person move] a substantial distance;**

[AND]

3. **The other person did not consent to the movement(;/.)**

<Give element 4 when instructing on reasonable belief in consent.>
[AND]

[4. The defendant did not actually and reasonably believe that the other person consented to the movement.]

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

***Substantial distance* means more than a slight or trivial distance. In deciding whether the distance was substantial, you must consider all the circumstances relating to the movement. [Thus, in addition to considering the actual distance moved, you may also consider other factors such as [whether the distance the other person was moved was beyond that merely incidental to the commission of _____*<insert associated crime>*], whether the movement increased the risk of [physical or psychological] harm, increased the danger of a foreseeable escape attempt, or gave the attacker a greater opportunity to commit additional crimes, or decreased the likelihood of detection.]**

<Defense: Good Faith Belief in Consent>
[The defendant is not guilty of kidnapping if (he/she) reasonably and actually believed that the other person consented to the movement. The People have the burden of proving beyond a reasonable doubt that the defendant did not

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reasonably and actually believe that the other 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 other person consented to go with the defendant. The other 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 maturity and understanding to choose to go with the defendant. The People have the burden of proving beyond a reasonable doubt that the other 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 other person withdrew consent, the defendant committed the crime as I have defined it.]]

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*New January 2006; Revised October 2010, April 2020, October 2021, March 2022, October 2025**
** 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.

In the paragraph defining "substantial distance," give the bracketed sentence listing factors that the jury may consider, when evidence permits, in evaluating the totality of the circumstances. (*People v. Martinez* (1999) 20 Cal.4th 225, 237 [83 Cal.Rptr.2d 533, 973 P.2d 512], overruled on other grounds in *People v. Fontenot* (2019) 8 Cal.5th 57, 70 [251 Cal.Rptr.3d 341, 447 P.3d 252].) ~~However, in the case of simple kidnapping, if the movement was for a substantial distance, the jury does not need to consider any other factors. (*People v. Martinez*, *supra*, 20 Cal.4th at p. 237; see *People v. Stanworth* (1974) 11 Cal.3d 588, 600–601 [114 Cal.Rptr. 250, 522 P.2d 1058].)~~

The court must give the bracketed language on movement incidental to an associated crime when it is supported by the evidence. (*People v. Martinez, supra,* 20 Cal.4th at p. 237; *People v. Bell* (2009) 179 Cal.App.4th 428, 439 [102 Cal.Rptr.3d 300].)

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Give the bracketed definition of "consent" on request.

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].) An optional paragraph is provided for this purpose, "Defense: Consent Given."

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 court has a **sua sponte** duty to instruct on the defendant's reasonable and actual belief in the victim's consent to go with the defendant, if supported by the evidence. (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].) Give bracketed element 4 and the bracketed paragraph on the defense.

Related Instructions

If the victim is incapable of consent because of immaturity or mental condition, see CALCRIM No. 1201, *Kidnapping: Child or Person Incapable of Consent.* An illegal purpose or intent is not required for an intoxicated and resisting adult victim. (*People v. Hartland* (2020) 54 Cal.App.5th 71, 80 [268 Cal.Rptr.3d 1].)

A defendant may be prosecuted for both the crimes of child abduction and kidnapping. Child abduction or stealing is a crime against the parents, while kidnapping is a crime against the child. (*In re Michele D.* (2002) 29 Cal.4th 600, 614 [128 Cal.Rptr.2d 92, 59 P.3d 164]; *People v. Campos* (1982) 131 Cal.App.3d 894, 899 [182 Cal.Rptr. 698].) See CALCRIM No. 1250, *Child Abduction: No Right to Custody*.

For instructions relating to other defenses to kidnapping, see CALCRIM No. 1225, *Defense to Kidnapping: Protecting Child From Imminent Harm*, and CALCRIM No. 1226, *Defense to Kidnapping: Citizen's Arrest.*

AUTHORITY

- Elements. Pen. Code, § 207(a).

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- Punishment If Victim Under 14 Years of Age. Pen. Code, § 208(b); *People v. Magpuso* (1994) 23 Cal.App.4th 112, 118 [28 Cal.Rptr.2d 206] [ignorance of victim's age not a defense].
- Asportation Requirement. *People v. Hin* (2025) 17 Cal.5th 401, 469 [329 Cal.Rptr.3d 612, 563 P.3d 514]; *People v. Martinez*, *supra*, ~~(1999)~~ 20 Cal.4th ~~225,~~at pp. 235–237 ~~[83 Cal.Rptr.2d 533, 973 P.2d 512]~~ [adopting modified two-pronged asportation test from *People v. Rayford* (1994) 9 Cal.4th 1, 12–14 [36 Cal.Rptr.2d 317, 884 P.2d 1369], and *People v. Daniels* (1969) 71 Cal.2d 1119, 1139 [80 Cal.Rptr. 897, 459 P.2d 225]].
- Consent to Physical Movement. See *People v. Davis*, *supra*, ~~(1995)~~ 10 Cal.4th ~~463,~~at pp. 516–518 ~~[41 Cal.Rptr.2d 826, 896 P.2d 119]~~.
- Force or Fear Requirement. *People v. Moya* (1992) 4 Cal.App.4th 912, 916–917 [6 Cal.Rptr.2d 323]; *People v. Stephenson* (1974) 10 Cal.3d 652, 660 [111 Cal.Rptr. 556, 517 P.2d 820]; see *People v. Davis*, *supra*, ~~(1995)~~ 10 Cal.4th ~~463,~~at p. 517, fn. 13, 518 ~~[41 Cal.Rptr.2d 826, 896 P.2d 119]~~ [kidnapping requires use of force or fear; consent not vitiated by fraud, deceit, or dissimulation].
- Good Faith Belief in Consent. Pen. Code, § 26(3) [mistake of fact]; *People v. Mayberry* (1975) 15 Cal.3d 143, 153–155 [125 Cal.Rptr. 745, 542 P.2d 1337]; *People v. Isitt*, *supra*, ~~(1976)~~ 55 Cal.App.3d ~~23,~~at p. 28 ~~[127 Cal.Rptr. 279]~~; *People v. Patrick* (1981) 126 Cal.App.3d 952, 968 [179 Cal.Rptr. 276].
- Incidental Movement Test. *People v. Martinez*, *supra*, ~~(1999)~~ 20 Cal.4th ~~225,~~at pp. 237–238 ~~[83 Cal.Rptr.2d 533, 973 P.2d 512]~~.
- Intent Requirement. *People v. Thornton* (1974) 11 Cal.3d 738, 765 [114 Cal.Rptr. 467, 523 P.2d 267], disapproved on other grounds in *People v. Flannel* (1979) 25 Cal.3d 668 [160 Cal.Rptr. 84, 603 P.2d 1]; *People v. Davis*, *supra*, ~~(1995)~~ 10 Cal.4th ~~463,~~at p. 519 ~~[41 Cal.Rptr.2d 826, 896 P.2d 119]~~; *People v. Moya*, *supra*, ~~(1992)~~ 4 Cal.App.4th ~~912,~~at p. 916 ~~[6 Cal.Rptr.2d 323]~~.
- Substantial Distance Requirement. *People v. Derek Daniels* (1993) 18 Cal.App.4th 1046, 1053; *People v. Stanworth* (1974) 11 Cal.3d 588, 600–601 [114 Cal.Rptr. 250, 522 P.2d 1058] [since movement must be more than slight or trivial, it must be substantial in character].

COMMENTARY

Penal Code section 207(a) uses the term "steals" in defining kidnapping not in the sense of a theft, but in the sense of taking away or forcible carrying away. (*People v. McCullough* (1979) 100 Cal.App.3d 169, 176 [160 Cal.Rptr. 831].) The

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instruction uses "take," "hold," or "detain" as the more inclusive terms, but includes in brackets the statutory terms "steal" and "arrest" if either one more closely matches the evidence.

LESSER INCLUDED OFFENSES

- False Imprisonment. Pen. Code, §§ 236, 237; *People v. Magana* (1991) 230 Cal.App.3d 1117, 1120–1121 [281 Cal.Rptr. 338]; *People v. Gibbs* (1970) 12 Cal.App.3d 526, 547 [90 Cal.Rptr. 866].

Attempted kidnapping is not a lesser included offense of simple kidnapping under subdivision (a) of section 207, but the jury may be instructed on attempted kidnapping if supported by the evidence. (*People v. Fontenot* (2019) 8 Cal.5th 57, 65-71 [251 Cal.Rptr.3d 341, 447 P.3d 252] [discussing Pen. Code, § 1159].)

RELATED ISSUES

Victim Must Be Alive

A victim must be alive when kidnapped. (*People v. Hillhouse* (2002) 27 Cal.4th 469, 498 [117 Cal.Rptr.2d 45, 40 P.3d 754].)

Threat of Arrest

"[A]n implicit threat of arrest satisfies the force or fear element of section 207(a) kidnapping if the defendant's conduct or statements cause the victim to believe that unless the victim accompanies the defendant the victim will be forced to do so, and the victim's belief is objectively reasonable." (*People v. Majors* (2004) 33 Cal.4th 321, 331 [14 Cal.Rptr.3d 870, 92 P.3d 360].)

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 20~~1~~24~~2~~) Crimes Against the Person, §§ 2~~81~~96–~~291~~306, 3~~16~~31.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.38 (Matthew Bender).

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

1216–1224. Reserved for Future Use

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1240. Felony False Imprisonment (Pen. Code, §§ 236, 237)

The defendant is charged [in Count __] with false imprisonment by violence, ~~or~~ menace, fraud, or deceit [in violation of Penal Code sections 236 and 237(a)].

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

1. **The defendant intentionally [and unlawfully] (restrained[,]/-[or] confined[,]/-[or] detained) someone [or caused that person to be (restrained[,]/-[or] confined[,]/-[or] detained)] by (violence[,]/[or] menace/[or] fraud[,]/[or] deceit);**

AND

2. **The defendant made the other person stay or go somewhere against that person's will.**

***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.**

[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.]

[False imprisonment does not require that the person restrained be confined in jail or prison.]

New January 2006; Revised October 2025

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BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction defining the elements of the crime. (*People v. Haney* (1977) 75 Cal.App.3d 308, 312–313 [142 Cal.Rptr. 186] [failure to instruct on elements of violence, menace, fraud, or deceit necessary to establish felony false imprisonment requires reversal].)

Give the bracketed words "and unlawfully" in element 1 on request if there is evidence that the defendant acted lawfully. The court will need to further define for the jury when a restraint, detention, or confinement is legal.

Give the bracketed definition of "against a person's will" on request.

Give the final paragraph on request to inform jurors that false "imprisonment" is not limited to confinement in jail or prison. (*People v. Agnew* (1940) 16 Cal.2d 655, 659 [107 P.2d 601]; *People v. Haney* (1977) 75 Cal.App.3d 308, 313 [142 Cal.Rptr. 186].)

Related Instructions

CALCRIM No. 1242, *Misdemeanor False Imprisonment*.

If the defendant is charged with false imprisonment for purposes of protection from arrest or use as a shield (Pen. Code, § 210.5), see CALCRIM No. 1241, *False Imprisonment: Hostage*.

AUTHORITY

- Elements. Pen. Code, §§ 236, 237; *People v. Agnew* (1940) 16 Cal.2d 655, 659–660 [107 P.2d 601].
- Confinement in Jail or Prison Not Required. *People v. Agnew* (1940) 16 Cal.2d 655, 659 [107 P.2d 601]; *People v. Haney* (1977) 75 Cal.App.3d 308, 313 [142 Cal.Rptr. 186].
- General Intent Crime. *People v. Fernandez* (1994) 26 Cal.App.4th 710, 717–718 [31 Cal.Rptr.2d 677]; *People v. Olivencia* (1988) 204 Cal.App.3d 1391, 1399–1400 [251 Cal.Rptr. 880]; *People v. Swanson* (1983) 142 Cal.App.3d 104, 109 [190 Cal.Rptr. 768].
- "Menace" Defined. *People v. Dominguez* (2010) 180 Cal.App.4th 1351, 1359 [103 Cal.Rptr.3d 864]; *People v. Matian* (1995) 35 Cal.App.4th 480, 484–486 [41 Cal.Rptr.2d 459].
- "Violence" Defined. *People v. Babich* (1993) 14 Cal.App.4th 801, 806 [18 Cal.Rptr.2d 60].
- Fraud and Deceit. *People v. Dominguez, supra*, 180 Cal.App.4th at pp. 1359–1360; *People v. Rios* (1986) 177 Cal.App.3d 445, 450–451 [222 Cal.Rptr. 913]; *Parnell v. Superior Court* (1981) 119 Cal.App.3d 392, 409–410 [173 Cal.Rptr. 906].

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COMMENTARY

The instruction includes a definition of "violence" because it has a specific meaning in the context of felony false imprisonment. In addition, force and violence are separate elements with different meanings that must be made clear to the jury. (*People v. Babich* (1993) 14 Cal.App.4th 801, 806–807 [18 Cal.Rptr.2d 60].) Force is required for a finding of both misdemeanor and felony false imprisonment, while violence is only required for the felony. "Violence" is a force greater than that reasonably necessary to effect the restraint. (*People v. Hendrix* (1992) 8 Cal.App.4th 1458, 1462 [10 Cal.Rptr.2d 922].)

A definition of "menace" is also included. Menace has a specific meaning in the context of felony false imprisonment. (*People v. Babich*, *supra*, 14 Cal.App.4th at p. 806.) Two categories of menace include a threat involving either the use of a deadly weapon or verbal threats of harm. (*People v. Matian* (1995) 35 Cal.App.4th 480, 485–486 [41 Cal.Rptr.2d 459].) "Menace" is not a mere modifier of "violence." (*People v. Arvanites* (1971) 17 Cal.App.3d 1052, 1060 [95 Cal.Rptr. 493].)

~~The committee found only one case that involved fraud and deceit. (*People v. Rios* (1986) 177 Cal.App.3d 445, 450–451 [222 Cal.Rptr. 913]; see also *Parnell v. Superior Court* (1981) 119 Cal.App.3d 392, 409–410 [173 Cal.Rptr. 906].) Thus, this instruction focuses on the use of violence or menace to restrain the victim. If there is evidence of the use of fraud or deceit, the court must modify the instruction.~~

LESSER INCLUDED OFFENSES

- Attempted False Imprisonment. Pen. Code, §§ 664, 236, 237; *People v. Ross* (1988) 205 Cal.App.3d 1548, 1554–1555 [253 Cal.Rptr. 178] [present ability not prerequisite to attempted false imprisonment].
- Misdemeanor False Imprisonment. Pen. Code, § 236; *People v. Matian* (1995) 35 Cal.App.4th 480, 484, fn. 4, 487 [41 Cal.Rptr.2d 459]; *People v. Babich* (1993) 14 Cal.App.4th 801, 807 [18 Cal.Rptr.2d 60].

RELATED ISSUES

Elder or Dependent Adult Victim

False imprisonment of an elder or dependent adult by use of violence, menace, fraud, or deceit is punishable by imprisonment for two, three, or four years. (Pen. Code, §§ 237(b), 368(f).) An elder is any person who is 65 years of age or older. (Pen. Code, § 368(g).) A dependent adult is any person between the ages of 18 and 64 with specified physical or mental limitations. (Pen. Code, § 368(h).)

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Parent Confining Child

A parent who confines his or her child with the intent to endanger the health and safety of the child or for an unlawful purpose can be prosecuted for false imprisonment. (*People v. Checketts* (1999) 71 Cal.App.4th 1190, 1195 [84 Cal.Rptr.2d 491] [unlawful purpose of avoiding prosecution].) A parent asserting the defense of parental authority may introduce evidence of his or her intent in confining or restraining the child and of the reasonableness of the restraint or confinement. (*Id.* at p. 1196.) There is no sua sponte duty to instruct on the defense absent substantial evidence supporting the defense or reliance on it during the trial. (*Id.* at p. 1197.)

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (4~~5~~th ed. 20~~1~~2~~2~~4) Crimes Against the Person, §§ 27~~3~~5~~ –~~–2~~7~~6~~81, 28~~3~~79.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.14[2][a], [b] (Matthew Bender).

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1242. Misdemeanor False Imprisonment (Pen. Code, §§ 236~~, 237(a)~~)

The defendant is charged [in Count __] with false imprisonment [in violation of Penal Code section 23~~67(a)~~].

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

1. **The defendant intentionally [and unlawfully] (restrained[,]/ [or] detained[,]/ [or] confined) a person;**

AND

2. **The defendant's act made that person stay or go somewhere against that person's will.**

[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.]

[False imprisonment does not require that the person restrained or detained be confined in jail or prison.]

New January 2006; Revised October 2025

BENCH NOTES

Instructional Duty

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

Give the bracketed words "and unlawfully" in element 1 on request if there is evidence that the defendant acted lawfully. The court will need to further define for the jury when a restraint, detention, or confinement is legal.

Give the bracketed definition of "against a person's will" on request.

Give the final paragraph on request to inform jurors that false "imprisonment" is not limited to confinement in jail or prison. (*People v. Agnew* (1940) 16 Cal.2d 655, 659 [107 P.2d 601]; *People v. Haney* (1977) 75 Cal.App.3d 308, 313 [142 Cal.Rptr. 186].)

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AUTHORITY

- Elements. Pen. Code, §§ 236, 237(a); *People v. Agnew*, *supra*, ~~(1940)~~ 16 Cal.2d ~~655,~~at pp. 659–660 ~~[107 P.2d 601]~~.
- General~~-~~ Intent Crime. *People v. Fernandez* (1994) 26 Cal.App.4th 710, 717–718 [31 Cal.Rptr.2d 677]; *People v. Olivencia* (1988) 204 Cal.App.3d 1391, 1399–1400 [251 Cal.Rptr. 880]; *People v. Swanson* (1983) 142 Cal.App.3d 104, 109 [190 Cal.Rptr. 768].
- Confinement in Jail or Prison Not Required. *People v. Agnew*, *supra*, ~~(1940)~~ 16 Cal.2d ~~655,~~at p. 659 ~~[107 P.2d 601]~~; *People v. Haney*, *supra*, ~~(1977)~~ 75 Cal.App.3d ~~308,~~at p. 313 ~~[142 Cal.Rptr. 186]~~.

RELATED ISSUES

General~~-~~ Intent Crime

False imprisonment is a general~~-~~ intent crime. (*People v. Fernandez*, *supra*, ~~(1994)~~ 26 Cal.App.4th ~~710,~~at pp. 716~~–~~–718 ~~[31 Cal.Rptr.2d 677]~~; *People v. Olivencia*, *supra*, ~~(1988)~~ 204 Cal.App.3d ~~1391~~at pp. 1399–1400 ~~[251 Cal.Rptr. 880]~~; *People v. Swanson*, *supra*, ~~(1983)~~ 142 Cal.App.3d ~~104,~~at p. 109 ~~[190 Cal.Rptr. 768]~~.) Thus, the court is not required to instruct on the joint union of act and specific intent (*People v. Fernandez*, *supra*, 26 Cal.App.4th at p. 716), on the use of circumstantial evidence to prove specific intent (*People v. Swanson*, *supra*, 142 Cal.App.3d at pp. 109–110), or that the jury should consider mental illness in deciding whether the defendant acted with specific intent (*People v. Olivencia*, *supra*, 204 Cal.App.3d at p. 1399).

Parent Confining Child

A parent who confines his or her child with the intent to endanger the health and safety of the child or for an unlawful purpose can be prosecuted for false imprisonment. (*People v. Checketts* (1999) 71 Cal.App.4th 1190, 1195 [84 Cal.Rptr.2d 491] [unlawful purpose of avoiding prosecution]; see also *People v. Rios* (1986) 177 Cal.App.3d 445, 451 [222 Cal.Rptr. 913].) If there is sufficient evidence that the parent's restraint or confinement was a reasonable exercise of parental authority, the court has a **sua sponte** duty to instruct on that defense. (*People v. Checketts*, *supra*, 71 Cal.App.4th at p. 1196.)

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 2024~~12~~) Crimes Against the Person, §§ 275–277~~73~~, 279~~83~~.

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6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.14[2][a], [b] (Matthew Bender).

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1244. Human Trafficking of a~~Causing~~ Minor for~~to Engage in~~ Commercial Sex Act (Pen. Code, § 236.1(c))

The defendant is charged [in Count __] with (causing, inducing, or persuading / (and/or) attempting to cause, induce, or persuade) a minor to engage in a commercial sex act [in violation of Penal Code section 236.1(c)].

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

1. **The defendant (caused/ [or] induced/ [or] persuaded) [or] attempted to (cause/ [or] induce/ [or] persuade)] another person to engage in a commercial sex act;**

2. **When the defendant acted, (he/she) intended ~~that the other person~~ to (commit/ [or] maintain) a [felony] violation of _____ <*insert appropriate code section[s]*>;**

   AND

3. **When the defendant did so, (the other person was under 18 years of age/ [or] the defendant believed that the person was under 18 years of age).**

A *commercial sex act* is sexual conduct that takes place in exchange for anything of value.

When you decide whether the defendant (caused/ [or] induced/ [or] persuaded) the other person to engage in a commercial sex act, 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.

[Under the law, a person becomes one year older as soon as the first minute of his or her birthday has begun.]

[The other person's consent is not a defense to this crime.]

[Being mistaken about the other person's age is not a defense to this crime.]

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New February 2014; Revised March 2019, October 2021, March 2024, October 2025

BENCH NOTES

Instructional Duty

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

Insert the correct Penal Code section into the blank provided in element 2 and give the corresponding instruction or instructions.

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

Related Instructions

CALCRIM No. 3184, *Sex Offenses: Sentencing Factors—Using Force or Fear to Cause Minor to Engage in Commercial Sex Act*.

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].
- Calculating Age. Fam. Code, § 6500; *In re Harris* (1993) 5 Cal.4th 813, 849-850 [21 Cal.Rptr.2d 373, 855 P.2d 391].
- Attempt to Cause, Induce, or Persuade Does Not Require Minor Victim. *People v. Moses* (2020) 10 Cal.5th 893, 912–913 [272 Cal.Rptr.3d 862, 477 P.3d 579].
- Specific Intent for Attempt. *People v. Moses*, *supra*, 10 Cal.5th at pp. 912–913 [adult posing as minor]; *People v. Middleton* (2023) 91 Cal.App.5th 749, 767–768 [308 Cal.Rptr.3d 705] [actual minor].

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 20~~12~~24) Crimes Against the Person, § 2~~78~~85–287.

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

DRAFT

1300. Criminal Threat (Pen. Code, § 422)

The defendant is charged [in Count __] with having made a criminal threat [in violation of Penal Code section 422].

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

1. **The defendant willfully threatened to unlawfully kill or unlawfully cause great bodily injury to _____**<*insert name of complaining witness or member[s] of complaining witness's immediate family*>**;**

2. **The defendant made the threat (orally/in writing/by electronic communication device);**

3. **The defendant intended that (his/her) statement be understood as a threat [and intended that it be communicated to _____**<*insert name of complaining witness*>**];**

4. **Under the circumstances, the threat was so clear, immediate, unconditional, and specific that it communicated to _____**<*insert name of complaining witness*> **a serious intention and the immediate prospect that the threat would be carried out;**

5. **The threat actually caused _____**<*insert name of complaining witness*> **to be in sustained fear for (his/her) own safety [or for the safety of (his/her) immediate family];**

AND

6. **_____'s**<*insert name of complaining witness*> **fear was reasonable under the circumstances.**

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

In deciding whether a threat was sufficiently clear, immediate, unconditional, and specific, consider the words themselves, as well as the surrounding circumstances.

DRAFT

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].

Great bodily injury **means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

Sustained fear **means fear for a period of time that is more than momentary, fleeting, or transitory.**

[An immediate ability to carry out the threat is not required.]

[An *electronic communication device* includes, but is not limited to: a telephone, cellular telephone, pager, computer, video recorder, or fax machine.]

[*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].]

New January 2006; Revised August 2006, June 2007, February 2015, February 2016, March 2018, September 2020, September 2022, October 2025

BENCH NOTES

Instructional Duty

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

A specific crime or the elements of any specific Penal Code violation that might be subsumed within the actual words of any threat need not be identified for the jury. (See *People v. Butler* (2000) 85 Cal.App.4th 745, 758 [102 Cal.Rptr.2d 269].) The threatened acts or crimes may be described on request depending on the nature of the threats or the need to explain the threats to the jury. (*Id.* at p. 760.)

When the threat is conveyed through a third party, give the appropriate bracketed language in element three. (*People v. Felix* (2001) 92 Cal.App.4th 905, 913 [112 Cal.Rptr.2d 311]; *In re Ryan D.* (2002) 100 Cal.App.4th 854, 861–862 [123 Cal.Rptr.2d 193] [insufficient evidence minor intended to convey threat to victim].)

DRAFT

Give the bracketed definition of "electronic communication" on request. (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, the bracketed phrase in element 5 and the final bracketed paragraph defining "immediate family" should be given on request. (See Pen. Code, § 422; Fam. Code, § 6205; Prob. Code, §§ 6401, 6402.)

If instructing on attempted criminal threat, give the third element in the bench notes of CALCRIM No. 460, *Attempt Other Than Attempted Murder*. (*People v. Chandler* (2014) 60 Cal.4th 508, 525 [176 Cal.Rptr.3d 548, 332 P.3d 538].

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Elements. Pen. Code, § 422; *In re George T.* (2004) 33 Cal.4th 620, 630 [16 Cal.Rptr.3d 61, 93 P.3d 1007]; *People v. Melhado* (1998) 60 Cal.App.4th 1529, 1536 [70 Cal.Rptr.2d 878].
- "Great Bodily Injury" Defined. Pen. Code, § 12022.7(f).
- Sufficiency of Threat Based on All Surrounding Circumstances. *People v. Mendoza* (1997) 59 Cal.App.4th 1333, 1340 [69 Cal.Rptr.2d 728]; *People v. Butler*, *supra*, 85 Cal.App.4th at pp. 752–753; *People v. Martinez* (1997) 53 Cal.App.4th 1212, 1218–1221 [62 Cal.Rptr.2d 303]; *In re Ricky T.* (2001) 87 Cal.App.4th 1132, 1137–1138 [105 Cal.Rptr.2d 165]; *People v. Solis* (2001) 90 Cal.App.4th 1002, 1013–1014 [109 Cal.Rptr.2d 464]; see *People v. Garrett* (1994) 30 Cal.App.4th 962, 966–967 [36 Cal.Rptr.2d 33].
- Crime That Will Result in Great Bodily Injury Judged on Objective Standard. *People v. Maciel* (2003) 113 Cal.App.4th 679, 685 [6 Cal.Rptr.3d 628].
- Threatening Hand Gestures Not Verbal Threats Under Penal Code Section 422. *People v. Gonzalez* (2017) 2 Cal.5th 1138, 1147 [218 Cal.Rptr.3d 150, 394 P.3d 1074].
- Threat Not Required to Be Unconditional On Its Face. *People v. Bolin* (1998) 18 Cal.4th 297, 339–340 [75 Cal.Rptr.2d 412, 956 P.2d 374], disapproving *People v. Brown* (1993) 20 Cal.App.4th 1251, 1256 [25 Cal.Rptr.2d 76]; *People v. Melhado, supra,* 60 Cal.App.4th at p. 1540; *People v. Stanfield* (1995) 32 Cal.App.4th 1152, 1162 [38 Cal.Rptr.2d 328].

DRAFT

- Immediate Ability to Carry Out Threat Not Required. *People v. Lopez* (1999) 74 Cal.App.4th 675, 679 [88 Cal.Rptr.2d 252].
- Sustained Fear. *In re Ricky T., supra*, 87 Cal.App.4th at pp. 1139–1140; *People v. Solis, supra*, 90 Cal.App.4th at p. 1024; *People v. Allen* (1995) 33 Cal.App.4th 1149, 1155–1156 [40 Cal.Rptr.2d 7].
- Verbal Statement, Not Mere Conduct, Is Required. *People v. Franz* (2001) 88 Cal.App.4th 1426, 1441–1442 [106 Cal.Rptr.2d 773].
- Statute Not Unconstitutionally Vague. *People v. Maciel, supra*, 113 Cal.App.4th at pp. 684–686.
- Attempted Criminal Threats. *People v. Chandler, supra*, 60 Cal.4th at p. 525.
- Statute Authorizes Only One Conviction and One Punishment Per Victim, Per Threatening Encounter. *People v. Wilson* (2015) 234 Cal.App.4th 193, 202 [183 Cal.Rptr.3d 541].
- First Amendment Requires Recklessness as to Threat. *Counterman v. Colorado* (2023) 600 U.S. 66, 69 [143 S.Ct. 2106, 216 L.Ed.2d 775].

COMMENTARY

This instruction uses the current nomenclature "criminal threat," as recommended by the Supreme Court in *People v. Toledo* (2001) 26 Cal.4th 221, 224, fn. 1 [109 Cal.Rptr.2d 315, 26 P.3d 1051] [previously called "terrorist threat"]. (See also Stats. 2000, ch. 1001, § 4.)

Because a threat need only be "so … unconditional," a conditional threat may nonetheless violate Penal Code section 422 if it conveys a gravity of purpose and the immediate prospect of execution. (See *People v. Bolin, supra*, 18 Cal.4th at pp. 339–340, disapproving *People v. Brown, supra*, 20 Cal.App.4th at p. 1256.)

LESSER INCLUDED OFFENSES

- Attempted Criminal Threat. See Pen. Code, § 422; *People v. Toledo, supra*, 26 Cal.4th at pp. 230–231.
- Threatening a public officer of an educational institution in violation of Penal Code section 71 may be a lesser included offense of a section 422 criminal threat under the accusatory pleadings test. (*In re Marcus T.* (2001) 89 Cal.App.4th 468, 472–473 [107 Cal.Rptr.2d 451].) But see *People v. Chaney* (2005) 131 Cal.App.4th 253, 257–258 [31 Cal.Rptr.3d 714], finding that a violation of section 71 is not a lesser included offense of section 422 under the accusatory pleading test when the pleading does not specifically allege the intent to cause (or attempt to cause) a public officer to do (or refrain from doing) an act in the performance of official duty.

DRAFT

RELATED ISSUES

Ambiguous and Equivocal Poem Insufficient to Establish Criminal Threat

In *In re George T., supra,* 33 Cal.4th at pp. 628–629, a minor gave two classmates a poem containing language that referenced school shootings. The court held that "the text of the poem, understood in light of the surrounding circumstances, was not 'as unequivocal, unconditional, immediate, and specific as to convey to [the two students] a gravity of purpose and an immediate prospect of execution of the threat.' " (*Id.* at p. 638.)

Related Statutes

Other statutes prohibit similar threatening conduct against specified individuals. (See, e.g., Pen. Code, §§ 76 [threatening elected public official, judge, etc., or staff or immediate family], 95.1 [threatening jurors after verdict], 139 [threatening witness or victim after conviction of violent offense], 140 [threatening witness, victim, or informant].)

Unanimity Instruction

If the evidence discloses a greater number of threats than those charged, the prosecutor must make an election of the events relied on in the charges. When no election is made, the jury must be given a unanimity instruction. (*People v. Butler, supra,* 85 Cal.App.4th at p. 755, fn. 4; *People v. Melhado, supra,* 60 Cal.App.4th at pp. 1534, 1539.)

Whether Threat Actually Received

If a threat is intended to and does induce a sustained fear, the person making the threat need not know whether the threat was actually received. (*People v. Teal* (1998) 61 Cal.App.4th 277, 281 [71 Cal.Rptr.2d 644].)

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 20~~12~~24) Crimes Against Public Peace and Welfare, §§ 2~~4~~6–3~~2~~0.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.11A[1] (Matthew Bender).

DRAFT

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

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 person makes a *credible threat* when the maker of the threat consciously disregards a substantial risk that the target of the threat would view the communication as threatening harm to the target [or to the target's immediate family] and it is reasonably foreseeable that the target would become aware of the threat.]

DRAFT

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.]**

DRAFT

New January 2006; Revised April 2010, March 2017, September 2024, October 2025*

** 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).)~~ When the threat is not directly communicated to the victim, give the bracketed sentence that begins with "A person makes a credible threat when the maker of the threat consciously disregards a substantial risk."

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].)

DRAFT

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*, 52 Cal.App.4th at pp. 294–295.
- "Substantial Emotional Distress" Defined. *People v. Ewing*, *supra*, 76 Cal.App.4th at p. 210; see *People v. Carron*, *supra*, 37 Cal.App.4th at pp. 1240–1241.
- Victim's Fear Not Contemporaneous With Stalker's Threats. *People v. Norman*, *supra*, 75 Cal.App.4th at pp. 1239–1241.
- 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. Tafoya* (2025) 109 Cal.App.5th 868, 892–895 [330 Cal.Rptr.3d 845]; *People v. Planchard* (2025) 109 Cal.App.5th 157, 170 [330 Cal.Rptr.3d 277]; 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].
- First Amendment Requires Recklessness as to Threat. *Counterman v. Colorado* (2023) 600 U.S. 66, 69 [143 S.Ct. 2106, 216 L.Ed.2d 775].
- Conscious Disregard of Substantial Risk that Victim Would View Communication as Threatening Harm. *People v. Obermueller* (2024) 104 Cal.App.5th 207, 220 [324 Cal.Rptr.3d 544].
- Threat to Victim May Be Conveyed Indirectly. *People v. Planchard* (2025) 109 Cal.App.5th 157, 166, 169 [330 Cal.Rptr.3d 277].

DRAFT

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,* 75 Cal.App.4th at pp. 1239–1241.)

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 (~~4~~5th ed. 20~~12~~24) Crimes Against the Person, §§ 3~~33~~49–3~~36~~53.

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

DRAFT

1402. Gang-Related Firearm Enhancement (Pen. Code, § 12022.53)

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 crime[s] of _____ <*insert name[s] of alleged lesser offense[s]*>] and you find that the defendant committed (that/those) crime[s] for the benefit of, at the direction of, or in association with a criminal street gang with the intent to promote, further, or assist in any criminal conduct by gang members, you must then decide whether[, for each crime,] the People have proved the additional allegation that one of the principals (personally used/personally and intentionally discharged) a firearm during that crime [and caused (great bodily injury/ [or] death)]. [You must decide whether the People have proved this allegation for each crime and return a separate finding for each crime.]

To prove this allegation, the People must prove that:

[1.] Someone who was a principal in the crime personally (used/discharged) a firearm during the commission [or attempted commission] of the _____<*insert appropriate crime listed in Penal Code section 12022.53(a)*(./;)

[AND]

[2. That person intended to discharge the firearm(./;)]

[AND

3. That person's act caused (great bodily injury to/ [or] the death of) another person [who was not an accomplice to the crime].]

A person is a *principal* in a crime if he or she directly commits [or attempts to commit] the crime or if he or she aids and abets someone else who commits [or attempts to commit] the crime.

[A *firearm* is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.]

[The term *firearm* is defined in another instruction.]

DRAFT

[A firearm does not need to be in working order if it was designed to shoot and appears capable of shooting.] [A firearm does not need to be loaded.]

[A principal *personally uses* a firearm if he or she intentionally does any of the following:

1. **Displays the firearm in a menacing manner.**

2. **Hits someone with the firearm.**

OR

3. **Fires the firearm.]**

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[An act causes (great bodily injury/ [or] death) if the (injury/ [or] death) is the direct, natural, and probable consequence of the act and the (injury/ [or] death) would not have happened without the 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 the circumstances established by the evidence.]

[There may be more than one cause of (great bodily injury/ [or] death). An act causes (injury/ [or] death) only if it is a substantial factor in causing the (injury/ [or] 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 (injury/ [or] death).]

[A person is an *accomplice* if he or she is subject to prosecution for the identical crime charged against the defendant. A person is subject to prosecution if he or she committed the crime or if:

1. **He or she knew of the criminal purpose of the person who committed the crime;**

AND

2. **He or she intended to, and did in fact, (aid, facilitate, promote, encourage, or instigate the commission of the crime/ [or] participate in a criminal conspiracy to commit the crime).]**

<If there is an issue in the case over whether the defendant used the firearm "during the commission of" the offense, see Bench Notes.>

DRAFT

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.

New January 2006; Revised June 2007, April 2010, February 2012, September 2020, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the enhancement. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)

In order for the defendant to receive an enhancement under Penal Code section 12022.53(e), the jury must find both that the defendant committed a felony for the benefit of a street gang and that a principal used or intentionally discharged a firearm in the offense. Thus, the court **must give** CALCRIM No. 1401, *Felony or Misdemeanor Committed for Benefit of Criminal Street Gang*, with this instruction and the jury must find both allegations have been proved before the enhancement may be applied.

In this instruction, the court **must** select the appropriate options based on whether the prosecution alleges that the principal used the firearm, intentionally discharged the firearm, and/or intentionally discharged the firearm causing great bodily injury or death. The court should review CALCRIM Nos. 3146, 3148, and 3149 for guidance. Give the bracketed definition of "personally used" only if the prosecution specifically alleges that the principal "personally used" the firearm. Do not give the bracketed definition of "personally used" if the prosecution alleges intentional discharge or intentional discharge causing great bodily injury or death.

If causation is at issue, the court has a **sua sponte** duty to instruct on proximate cause (*People v. Jomo K. Bland* (2002) 28 Cal.4th 313, 335 [121 Cal.Rptr.2d 546, 48 P.3d 1107]); give the bracketed paragraph that begins with "An act causes . . . ." If there is evidence of multiple potential causes, the court should also give the bracketed paragraph that begins with "There may be more than one cause . . . ." (*Id.* at pp. 335–338.)

The court should give the bracketed definition of "firearm" unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere.

If the case involves an issue of whether the principal used the weapon "during the commission of" the offense, the court may give CALCRIM No. 3261, *While Committing a Felony: Defined—Escape Rule*. (See *People v. Jones* (2001) 25 Cal.4th 98, 109 [104 Cal.Rptr.2d 753, 18 P.3d 674]; *People v. Masbruch* (1996) 13 Cal.4th 1001, 1014 [55 Cal.Rptr.2d 760, 920 P.2d 705]; *People v. Taylor* (1995) 32 Cal.App.4th 578, 582 [38 Cal.Rptr.2d 127].)

DRAFT

If, in the elements, the court gives the bracketed phrase "who was not an accomplice to the crime," the court should also give the bracketed definition of "accomplice." (*People v. Verlinde* (2002) 100 Cal.App.4th 1146, 1167–1168 [123 Cal.Rptr.2d 322].) Additional paragraphs providing further explanation of the definition of "accomplice" are contained in CALCRIM No. 334, *Accomplice Testimony Must Be Corroborated: Dispute Whether Witness Is Accomplice*. The court should review that instruction and determine whether any of these additional paragraphs should be given.

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Enhancement. Pen. Code, § 12022.53(e).
- Vicarious Liability Under Subdivision (e). *People v. Garcia* (2002) 28 Cal.4th 1166, 1171 [124 Cal.Rptr.2d 464, 52 P.3d 648]; *People v. Gonzales* (2001) 87 Cal.App.4th 1, 12 [104 Cal.Rptr.2d 247].
- "Principal" Defined. Pen. Code, § 31.
- "Firearm" Defined. Pen. Code, § 16520.
- Personally Uses. *People v. Marvin Bland* (1995) 10 Cal.4th 991, 997 [43 Cal.Rptr.2d 77, 898 P.2d 391]; *People v. Johnson* (1995) 38 Cal.App.4th 1315, 1319–1320 [45 Cal.Rptr.2d 602]; see also Pen. Code, § 1203.06(b)(2).
- "In Commission of" Felony. *People v. Jones*, *supra*, ~~(2001)~~ 25 Cal.4th ~~98,~~at pp. 109–110 ~~[104 Cal.Rptr.2d 753, 18 P.3d 674]~~; *People v. Masbruch*, *supra*, ~~(1996)~~ 13 Cal.4th ~~1001,~~at p. 1014 ~~[55 Cal.Rptr.2d 760, 920 P.2d 705]~~; *People v. Taylor*, *supra*, ~~(1995)~~ 32 Cal.App.4th ~~578,~~at p. 582 ~~[38 Cal.Rptr.2d 127]~~.
- Proximate Cause. *People v. Jomo K. Bland*, *supra*, ~~(2002)~~ 28 Cal.4th ~~313,~~at pp. 335–338 ~~[121 Cal.Rptr.2d 546, 48 P.3d 1107]~~.
- "Accomplice" Defined. See Pen. Code, § 1111; *People v. Verlinde*, *supra*, ~~(2002)~~ 100 Cal.App.4th ~~1146,~~at pp. 1167–1168 ~~[123 Cal.Rptr.2d 322]~~; *People v. Stankewitz* (1990) 51 Cal.3d 72, 90–91 [270 Cal.Rptr. 817, 793 P.2d 23].

RELATED ISSUES

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Principal Need Not Be Convicted

It is not necessary that the principal who actually used or discharged the firearm be convicted. (*People v. Garcia*, *supra*, ~~(2002)~~ 28 Cal.4th ~~1166,~~at p. 1176 ~~[124 Cal.Rptr.2d 464, 52 P.3d 648]~~.)

Defendant Need Not Know Principal Armed

For an enhancement charged under Penal Code section 12022.53(e) where the prosecution is pursuing vicarious liability, it is not necessary for the prosecution to prove that the defendant knew that the principal intended to use or discharge a firearm. (*People v. Gonzales*, *supra*, ~~(2001)~~ 87 Cal.App.4th ~~1,~~at pp. 14–15 ~~[104 Cal.Rptr.2d 247]~~.)

See the Related Issues sections of CALCRIM Nos. 3146–3149.

SECONDARY SOURCES

3 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 202~~4~~12) Punishment, §§ ~~359~~419 – ~~360~~428.

5 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 202~~4~~12) Criminal Trial, § 758~~27~~.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.30[5] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.03[4] (Matthew Bender).

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1501. Arson: Great Bodily Injury (Pen. Code, § 451)

The defendant is charged [in Count __] with arson that caused great bodily injury [in violation of Penal Code section 451].

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

1. **The defendant set fire to or burned [or (counseled[,]/ [or] helped[,]/ [or] caused) the burning of] (a structure/forest land/property);**

2. **(He/She) acted willfully and maliciously;**

AND

3. **The fire caused great bodily injury to another person.**

To *set fire to or burn* means to damage or destroy with fire either all or part of something, no matter how small the part.

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

As used here, someone acts *maliciously* when he or she intentionally does a wrongful act under circumstances that the direct, natural, and highly probable consequences would be the burning of the (structure/ [or] property) or when he or she acts with the unlawful intent to defraud, annoy, or injure someone else.

***Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

[A *structure* is any (building/bridge/tunnel/power plant/commercial or public tent).]

[*Forest land* means brush-covered land, cut-over land, forest, grasslands, or woods.]

[*Property* means personal property or land other than forest land.]

[A person does not commit arson if the only thing burned is his or her own personal property, unless he or she acts with the intent to defraud, or the fire

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also injures someone else or someone else's structure, forest land, or property.]

New January 2006; Revised February 2013, March 2020, September 2020, February 2025, October 2025

BENCH NOTES

Instructional Duty

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

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

Related Instructions

If attempted arson is charged, do not instruct generally on attempts but give CALCRIM No. 1520, *Attempted Arson.* (Pen. Code, § 455.)

AUTHORITY

- Elements. Pen. Code, § 451.
- Great Bodily Injury. Pen. Code, § 12022.7(f).
- "Structure" and "Forest Land" Defined. Pen. Code, § 450.
- "Maliciously" Defined. Pen. Code, § 450(e); *People v. Atkins* (2001) 25 Cal.4th 76, 88 [104 Cal.Rptr.2d 738, 18 P.3d 660]; *In re V.V.* (2011) 51 Cal.4th 1020, 1031, fn. 6 [125 Cal.Rptr.3d 421, 252 P.3d 979].
- "To Burn" Defined. *People v. Haggerty* (1873) 46 Cal. 354, 355; *In re Jesse L.* (1990) 221 Cal.App.3d 161, 166–167 [270 Cal.Rptr. 389].

LESSER INCLUDED OFFENSES

- Arson. Pen. Code, § 451.
- Attempted Arson. Pen. Code, § 455.
- Unlawfully Causing a Fire. *People v. Hooper* (1986) 181 Cal.App.3d 1174, 1182 [226 Cal.Rptr. 810], disapproved of in *People v. Barton* (1995) 12 Cal.4th 186 [47 Cal.Rptr.2d 569, 906 P.2d 531] on its holding that failure to

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instruct on this crime as a lesser included offense of arson was invited error because defense counsel objected to such instruction; *People v. Schwartz* (1992) 2 Cal.App.4th 1319, 1324 [3 Cal.Rptr.2d 816].

RELATED ISSUES

See the Related Issues section under CALCRIM No. 1515, *Arson*.

Dual Convictions Prohibited

A single act of arson cannot result in convictions under different subdivisions of Penal Code section 451. (*People v. Shiga* (2019) 34 Cal.App.5th 466, 475 [246 Cal.Rptr.3d 198].)

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 2024~~12~~) Crimes Against Property, §§ 2~~68~~8–29~~7~~6.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.47[1] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 143, *Crimes Against Property*, § 143.11 (Matthew Bender).

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1530. Unlawfully Causing a Fire: Great Bodily Injury (Pen. Code, § 452)

The defendant is charged [in Count __] with unlawfully causing a fire that caused great bodily injury [in violation of Penal Code section 452].

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

1. **The defendant set fire to[,] [or] burned[,] [or caused the burning of] (a structure/forest land/property);**

2. **The defendant did so recklessly;**

AND

3. **The fire caused great bodily injury to another person.**

<Alternative A—Recklessness: General Definition>
[A person acts recklessly when (1) he or she is aware that his or her actions present a substantial and unjustifiable risk of causing a fire, (2) he or she ignores that risk, and (3) ignoring the risk is a gross deviation from what a reasonable person would have done in the same situation.]

<Alternative B—Recklessness: Voluntary Intoxication>
[A person acts recklessly when (1) he or she does an act that presents a substantial and unjustifiable risk of causing a fire but (2) he or she is unaware of the risk because he or she is voluntarily intoxicated. Intoxication is voluntary if the defendant willingly used any intoxicating drink, drug, or other substance knowing that it could produce an intoxicating effect.]

To *set fire to or burn* means to damage or destroy with fire either all or part of something, no matter how small the part.

***Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

[A *structure* is any (building/bridge/tunnel/power plant/commercial or public tent).]

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[*Forest land* means brush-covered land, cut-over land, forest, grasslands, or woods.]

[*Property* means personal property or land other than forest land.]

[A person does not unlawfully cause a fire if the only thing burned is his or her own personal property, unless he or she acts with the intent to defraud, or the fire also injures someone else or someone else's structure, forest land, or property.]

[Arson and unlawfully causing a fire require different mental states. For arson, a person must act willfully and maliciously. For unlawfully causing a fire, a person must act recklessly.]

New January 2006; Revised September 2020, October 2025

BENCH NOTES

Instructional Duty

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

If the prosecution's theory is that the defendant did not set the fire but "caused" the fire, the court has a **sua sponte** duty to instruct on aiding and abetting. (*People v. Sarkis* (1990) 222 Cal.App.3d 23, 28 [272, Cal.Rptr. 34].) See CALCRIM Nos. 400–403.

Depending upon the theory of recklessness the prosecutor is alleging, the court should instruct with alternative A or B.

If the defendant is also charged with arson, the court may wish to give the last bracketed paragraph, which explains the difference in intent between unlawfully causing a fire and arson. (*People v. Hooper* (1986) 181 Cal.App.3d 1174, 1182 [226 Cal.Rptr. 810], disapproved of in *People v. Barton* (1995) 12 Cal.4th 186 [47 Cal.Rptr.2d 569, 906 P.2d 531] on the point that defense counsel's objection to instruction on lesser included offense constituted invited error; *People v. Schwartz* (1992) 2 Cal.App.4th 1319, 1324 [3 Cal.Rptr.2d 816].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

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AUTHORITY

- Elements. Pen. Code, § 452.
- Great Bodily Injury. Pen. Code, § 12022.7(f).
- "Structure~~,~~" and "Forest Land" Defined. Pen. Code, § 450.
- Difference Between This Crime and Arson. *People v. Hooper*, *supra*, ~~(1986)~~ 181 Cal.App.3d ~~1174,~~at p. 1182 ~~[226 Cal.Rptr. 810]~~.
- "To Burn" Defined. *People v. Haggerty* (1873) 46 Cal. 354, 355; *In re Jesse L.* (1990) 221 Cal.App.3d 161, 166–167 [270 Cal.Rptr. 389].

LESSER INCLUDED OFFENSES

- Unlawfully Causing a Fire. Pen. Code, § 452.

RELATED ISSUES

See the Related Issues sections under CALCRIM No. 1515, *Arson* and CALCRIM No. 1532, *Unlawfully Causing a Fire*.

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 2024~~12~~) Crimes Against Property, §§ ~~2~~86~~8~~–2~~7~~96.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.47[2] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 143, *Crimes Against Property*, § 143.11 (Matthew Bender).

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1551. Arson Enhancements (Pen. Code, §§ 451.1, 456(b))

If you find the defendant guilty of arson [as charged in Count[s] __], you must then decide whether[, for each crime of arson,] the People have proved (the additional allegation that/one or more of the following additional allegations):

<Alternative A—prior felony violation(s) of Pen. Code, § 451 or § 452>

- **[The defendant was convicted of (felony arson/ [(and/or)] felony unlawfully causing a fire) on _____***<insert date of conviction>***.** *<Repeat for each prior felony conviction alleged.>* **]**

<Alternative B—injury to firefighter, peace officer, or EMT>

- **[(A/An) (firefighter[,]/ peace officer[,]/ [or] emergency worker) suffered great bodily injury as a result of the arson.]**

<Alternative C—great bodily injury to more than one person>

- **[The defendant caused great bodily injury to more than one person during the commission of the arson.]**

<Alternative D—multiple structures burned>

- **[The defendant caused multiple structures to burn during the commission of the arson.]**

<Alternative E—device designed to accelerate fire>

- **[The arson (caused great bodily injury[,]/ [or] caused an inhabited structure or inhabited property to burn[,]/ [or] burned a structure or forest land), and was caused by use of a device designed to accelerate the fire or delay ignition.]**

<Alternative F—monetary gain, Pen. Code, § 456(b)>

- **[The defendant committed the arson for monetary gain.]**

[A person who is employed as a police officer by _____ *<insert name of agency that employs police officer>* **is a *peace officer*.]**

[A person employed by _____ *<insert name of agency that employs peace officer, e.g., "the Department of Fish and Wildlife">* **is a *peace officer* if _____***<insert description of facts necessary to make employee a peace officer, e.g, "designated by the director of the agency as a peace officer">***.]**

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[A *firefighter* includes anyone who is an officer, employee, or member of a (governmentally operated (fire department/fire protection or firefighting agency) in this state/federal fire department/federal fire protection or firefighting agency), whether or not he or she is paid for his or her services.]

[An *emergency worker* includes an emergency medical technician. An *emergency medical technician* is someone who holds a valid certificate under the Health and Safety Code as an emergency medical technician.]

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[A (structure/ [or] property) is *inhabited* if someone lives there and either is present or has left but intends to return.]

[A (structure/ [or] property) is *inhabited* if someone used it as a dwelling and left only because a natural or other disaster caused him or her to leave.]

[A (structure/ [or] property) is not *inhabited* if the former residents have moved out and do not intend to return, even if some personal property remains inside.]

[A *device designed to accelerate the fire* means a piece of equipment or a mechanism intended, or devised, to hasten or increase the fire's progress.]

[In order to prove that the defendant *caused* (great bodily injury to more than one person/ [or] more than one structure to burn), the People must prove that:

1. **A reasonable person in the defendant's position would have foreseen that committing arson could begin a chain of events likely to result in (great bodily injury to more than one person/ [or] the burning of more than one structure);**

2. **The commission of arson was a direct and substantial factor in causing (great bodily injury to more than one person/ [or] the burning of more than one structure);**

AND

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3. The (great bodily injury to more than one person/ [or the] burning of more than one structure) would not have happened if the defendant had not committed arson.]

[You must decide whether the People have proved this allegation for each crime of arson and return a separate finding for each crime of arson.]

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

New January 2006; Revised September 2020, March 2024, October 2025

BENCH NOTES

Instructional Duty

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

The reference to "arson" in the first paragraph refers to all crimes charged under Penal Code section 451, including arson of a structure, forest land, or property (see CALCRIM No. 1515), arson causing great bodily injury (see CALCRIM No. 1501), and arson of an inhabited structure (see CALCRIM No. 1502). It does not refer to aggravated arson under Penal Code section 451.5 (see CALCRIM No. 1500).

Give one of the bracketed alternatives, A through E, depending on the enhancement alleged. Give all relevant bracketed definitions based on the enhancement alleged.

Give alternative F if monetary gain is alleged under Penal Code section 456(b). (See *Southern Union Co. v. U.S.* (2012) 567 U.S. 343 [132 S.Ct. 2344, 183 L.Ed.2d 318] [holding that the jury trial right prescribed by *Apprendi v. New Jersey* (2000) 530 U.S. 466 [120 S.Ct. 2348, 147 L.Ed.2d 435] applies to the imposition of criminal fines not statutorily authorized by the elements of the crime]; cf. *People v. Kramis* (2012) 209 Cal.App.4th 346, 351–352 [147 Cal.Rptr.3d 84] [*Apprendi* not implicated when trial court exercised discretion to impose fine within statutory range that did not require additional factual findings].)

The jury must determine whether the alleged victim is a peace officer. (*People v. Brown* (1988) 46 Cal.3d 432, 444–445 [250 Cal.Rptr. 604, 758 P.2d 1135].) The

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court may instruct the jury on the appropriate definition of "peace officer" from the statute (e.g., "a Garden Grove Regular Police Officer and a Garden Grove Reserve Police Officer are peace officers"). *(Ibid.)* However, the court may not instruct the jury that the alleged victim was a peace officer as a matter of law (e.g., "Officer Reed was a peace officer"). *(Ibid.)* If the alleged victim is a police officer, give the bracketed sentence that begins with "A person employed as a police officer." If the alleged victim is another type of peace officer, give the bracketed sentence that begins with "A person employed by."

Give the bracketed paragraph that begins with "In order to prove that the defendant *caused*" if the prosecution alleges that the defendant caused great bodily injury to multiple people or caused multiple structures to burn. (Pen. Code, § 451.1(a)(5); see Pen. Code, § 451(a)–(c).)

Give the bracketed sentence that begins with "You must decide whether the People have proved" if the same enhancement is alleged for multiple counts of arson.

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Enhancements. Pen. Code, §§ 451.1, 456(b).
- "Device Designed to Accelerate Fire" Defined. *People v. Johnson* (2022) 86 Cal.App.5th 258, 266–267 [301 Cal.Rptr.3d 814]; *People v. Kurtenbach* (2012) 204 Cal.App.4th 1264, 1278–1280 [139 Cal.Rptr.3d 637]; *People v. Andrade* (2000) 85 Cal.App.4th 579, 587 [102 Cal.Rptr.2d 254].
- "Peace Officer" Defined. Pen. Code, § 830 et seq.
- "Firefighter" Defined. Pen. Code, § 245.1.
- "Emergency Medical Technician" Defined. Health & Saf. Code, §§ 1797.80–1797.84.
- Duty to Define Proximate Cause. See *People v. Bland* (2002) 28 Cal.4th 313, 334–335 [121 Cal.Rptr.2d 546, 48 P.3d 1107] [in context of firearm enhancement].

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RELATED ISSUES

Discretion to Strike Enhancement

The trial court retains discretion under Penal Code section 1385 to strike an arson sentence enhancement. (*People v. Wilson* (2002) 95 Cal.App.4th 198, 203 [115 Cal.Rptr.2d 355] [enhancement for use of an accelerant under Pen. Code, § 451.1(a)(5)].)

SECONDARY SOURCES

3 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 2024~~12~~) Punishment, § 433~~372~~.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.47 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 143, *Crimes Against Property*, § 143.11[3] (Matthew Bender).

1552–1599. Reserved for Future Use

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1703. Shoplifting (Pen. Code, § 459.5)

The defendant is charged [in Count __] with shoplifting [in violation of Penal Code section 459.5].

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

1. **The defendant entered a commercial establishment;**

2. **When the defendant entered the commercial establishment, it was open during regular business hours;**

AND

3. **When (he/she) entered the commercial establishment, (he/she) intended to commit theft.**

To decide whether the defendant intended to commit theft, please refer to the separate instructions that I (will give/have given) you on that crime.

The defendant does not need to have actually committed theft as long as (he/she) entered with the intent to do so.

[A person *enters a structure* if some part of his or her body [or some object under his or her control] penetrates the area inside the structure's outer boundary.]

[A structure's *outer boundary* includes the area inside a window screen.]

*New August 2015; Revised October 2025**
** Denotes changes only to bench notes and other commentaries.*

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BENCH NOTES

Instructional Duty

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

To instruct on the necessary intent to commit theft, see CALCRIM No. 1800, *Theft by Larceny.*

When the People allege the defendant has a prior conviction for an offense listed in Penal Code section 667(e)(2)(C)(iv) or for an offense requiring registration pursuant to subdivision (c) of section 290, give CALCRIM No. 3100, *Prior Conviction: ~~-~~Nonbifurcated Trial* or CALCRIM No. 3101, *Prior Conviction: Bifurcated Trial*.

When the People allege the defendant has two or more prior convictions for an offense listed in Penal Code section 666.1, give CALCRIM No. 1851, *Petty Theft or Shoplifting With Prior Convictions*.

AUTHORITY

- Elements. Pen. Code, § 459.5.
- Burden for Consent Defense Is to Raise Reasonable Doubt. *People v. Sherow* (2011) 196 Cal.App.4th 1296, 1308–1309 [128 Cal.Rptr.3d 255].

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 2024~~15 Supp.~~) Crimes Against Property, §§ 17~~, 18~~5.

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1705. Unlawful Entry of a Vehicle (Pen. Code, § 465(a))

The defendant is charged [in Count __] with unlawful entry of a vehicle [in violation of Penal Code section 465].

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

1. **The defendant forcibly entered a vehicle;**

AND

2. **When (he/she) entered the vehicle, (he/she) intended to commit (theft/ [or] _____<*insert one or more felonies*).**

***Forcibly entered* means gaining entry through the use of a tool or device that manipulates the vehicle's locking mechanism[including (a slim jim or other lockout tool[,]/a shaved key, jiggler key, or lock pick[,]/[or] an electronic device such as a signal extender),] or through the use of force that damages the exterior of the vehicle[including (breaking a window[,]/ cutting a convertible top[,]/ punching a lock[,]/[or] prying open a door].**

To decide whether the defendant intended to commit (theft/ [or]_____ *<insert one or more felonies>*)**, please refer to the separate instructions that I (will give/have given) you on (that/those) crime[s].**

An unlawful entry was committed if the defendant forcibly entered with the intent to commit (theft/[or] _____ *<insert one or more felonies*)**. The defendant does not need to have actually committed (theft/[or] _____** *<insert one or more felonies>*) **as long as (he/she) entered with the intent to do so. [The People do not have to prove that the defendant actually committed (theft/[or] _____***<insert one or more felonies>*)**.]**

[The People allege that the defendant intended to commit (theft/[or] _____ *<insert one or more felonies>*)**. You may not find the defendant guilty of unlawful entry of a vehicle unless you all agree that (he/she) intended to commit one of those crimes at the time of the entry. You do not all have to agree on which one of those crimes (he/she) intended.]**

New October 2025

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BENCH NOTES

Instructional Duty

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

Penal Code section 465(d) prohibits dual convictions for Penal Code section 465(a) and Penal Code section 459 (auto burglary). See CALCRIM No. 3516, *Multiple Counts: Alternative Charges For One Event—Dual Conviction Prohibited*.

Give all appropriate instructions on theft or the felony alleged.

If multiple underlying felonies are charged, give the bracketed paragraph that begins with "The People allege that the defendant intended to commit." (*People v. Failla* (1966) 64 Cal.2d 560, 569 [51 Cal.Rptr. 103, 414 P.2d 39]; *People v. Griffin* (2001) 90 Cal.App.4th 741, 750 [109 Cal.Rptr.2d 273].)

AUTHORITY

- Elements. Pen. Code, § 465.
- "Forcible Entry" Defined. Pen. Code, § 465(c).

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1760. Automotive Property Theft for Resale (Pen. Code, § 496.5)

The defendant is charged [in Count __] with automotive property theft for resale [in violation of Penal Code section 496.5].

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

1. **The defendant possessed property that was obtained through [an] act[s] of (theft from a vehicle[,]/[or] unlawful entry of a vehicle[,]/[or] burglary of a locked vehicle[,]/[or] vehicle tampering);**

2. **When the defendant possessed the property, the defendant knew that the property had been stolen;**

3. **The defendant (intended to sell or exchange the property for value/ [or] intended to act with [an]other person[s] to sell or exchange the property for value);**

4. **The defendant did not possess the property for personal use;**

AND

5. **The [combined] value of the property was more than $950.**

[Two or more people can possess the property 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.]

[In deciding whether the defendant intended to sell or exchange the property for value, you may consider whether, in the two years prior to the offense date, the defendant sold or exchanged for value any property obtained through (theft from a vehicle[,]/[or] burglary of a locked vehicle[,]/[or] vehicle tampering[,]/[or] _____ <*insert related offense*>**.]**

[In deciding whether the defendant intended to sell or exchange the property for value, you may [also] consider whether the property is of a type or quantity that would not normally be purchased for personal use or personal consumption, including use or consumption by one's immediate family.]

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[In deciding whether the combined value of the property is more than $950, you may include the value of other property obtained through [an] act[s] of (theft from a vehicle[,]/[or] unlawful entry of a vehicle[,]/[or] auto burglary[,]/[or] vehicle tampering) that the defendant possessed within two years prior to the offense date, if the defendant also intended to sell or exchange that property for value.]

[In deciding whether the combined value of the property is more than $950, you may [also] include the value of property possessed by another person if that person acted with the defendant to sell or exchange that property for value and that property was also obtained through [an] act[s] of (vehicle theft[,]/[or] unlawful entry of a vehicle[,]/[or] burglary of a locked vehicle[,]/[or] vehicle tampering).]

[The prosecution is not required to prove the (identity/identities) of the person[s] who committed the act[s] of (vehicle theft[,]/[or] burglary of a locked vehicle[,]/[or] vehicle tampering).]

New October 2025

BENCH NOTES

Instructional Duty

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

Give the related theft, burglary, unlawful entry, or vehicle tampering instruction applicable to the facts of the case.

Related Instructions

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

CALCRIM No. 376, *Possession of Recently Stolen Property as Evidence of a Crime*.

CALCRIM No. 1700, *Burglary*.

CALCRIM No. 1705, *Unlawful Entry of a Vehicle*.

CALCRIM No. 1800, *Theft by Larceny*.

CALCRIM No. 1821, *Tampering With a Vehicle*.

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AUTHORITY

- Elements. Pen. Code, § 496.5.
- "Theft" Defined. Pen. Code, §§ 484, 490a.
- Possession and Control. *People v. Land* (1994) 30 Cal.App.4th 220, 223–224 [35 Cal.Rptr.2d 544]; *People v. Zyduck* (1969) 270 Cal.App.2d 334, 336 [75 Cal.Rptr. 616]; see *People v. Gatlin* (1989) 209 Cal.App.3d 31, 44–45 [257 Cal.Rptr. 171] [constructive possession means knowingly having the right of control over the property directly or through another]; *People v. Scott* (1951) 108 Cal.App.2d 231, 234 [238 P.2d 659] [two or more persons may jointly possess property].

COMMENTARY

Enacted by Senate Bill No. 905 (Stats. 2024, ch. 170), Penal Code section 496.5 prohibits unlawful possession of property that had been stolen from a vehicle, when the possessor intends to sell or exchange the property for value, or intends to act in concert with another to sell or exchange the property for value, and the value of the possessed property exceeds $950. In determining the meaning of unlawful possession in the context of this statute, the committee concluded that the statute requires that the possessor knew that the property had been stolen. (See *People v. Hall* (2017) 2 Cal.5th 494, 501 [213 Cal.Rptr.3d 561, 388 P.3d 794] ["More commonly, though, courts construe criminal statutes against the backdrop of the common law presumption that scienter is required and imply the requisite mental state, even where the statute is silent."]; *In re Jorge M.* (2000) 23 Cal.4th 866, 872 [98 Cal.Rptr.2d 466, 4 P.3d 297] ["the requirement that, for a criminal conviction, the prosecution prove some form of guilty intent, knowledge, or criminal negligence is of such long standing and so fundamental to our criminal law that penal statutes will often be construed to contain such an element despite their failure expressly to state it."].)

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1761. Unlawful Deprivation of Retail Business Opportunity (Pen. Code, § 496.6(a))

The defendant is charged [in Count __] with unlawful deprivation of a retail business opportunity [in violation of Penal Code section 496.6(a)].

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

1. **The defendant (possessed/[or] acted together with [an]other person[s] to possess) property that had been obtained by (shoplifting[,]/[or] theft[,]/[or] burglary) from a retail business;**

2. **The defendant knew that the property had been stolen;**

3. **When the defendant possessed the property, (he/she) did not intend to personally use the property;**

4. **When the defendant possessed the property, (he/she) intended to (sell[,]/[or] exchange[,]/[or] return) the property for value;**

   AND

5. **The [combined] value of the property was more than $950.**

As used here, *property* includes merchandise or other products or goods that can be bought or sold in a retail business.

[Two or more people can possess an item 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.]

[In deciding whether the defendant intended to (sell[,]/[or] exchange[,]/[or] return) the property for value, you may consider whether, in the two years prior to the offense date, the defendant (sold[,]/[or] exchanged[,]/[or] returned) for value any property obtained through (shoplifting/[,]/[or] theft/[,]/[or] burglary) from a retail business[, or _____ <*insert related offense*>].]

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[In deciding whether the defendant intended to sell or exchange the property for value, you may [also] consider whether the property is of a type or quantity that would not normally be purchased for personal use or personal consumption, including use or consumption by one's immediate family.]

[In deciding whether the combined value of the property is more than $950, you may include the value of other property obtained through [an]act[s] of (shoplifting[,]/[or] theft[,]/[or] burglary) from a retail business that the defendant possessed within two years prior to the offense date, if the defendant also intended to (sell[,]/[or]exchange[,]/[or] return) that property for value.]

[In deciding whether the combined value of the property is more than $950, you may [also] include the value of property possessed by another person if that person acted with the defendant to (sell[,]/[or] exchange[,]/[or] return) that property for value and that property was also obtained through [an] act[s] of (shoplifting[,]/[or] theft[,]/[or] burglary) from a retail business.]

[The prosecution is not required to prove the (identity/identities) of the person[s] who committed the act[s] of (shoplifting[,]/[or] theft[,]/[or] burglary) from a retail business.]

New October 2025

BENCH NOTES

Instructional Duty

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

Give the related shoplifting, theft, or burglary instruction applicable to the facts of the case.

Related Instructions

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

CALCRIM No. 376, *Possession of Recently Stolen Property as Evidence of a Crime.*

CALCRIM No. 1700, *Burglary*.

CALCRIM No. 1703, *Shoplifting.*

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CALCRIM No. 1800, *Theft by Larceny*.

CALCRIM No. 3218, *Value of Property Sold, Exchanged, or Returned.*

AUTHORITY

- Elements. Pen. Code, § 496.6(a).
- "Theft" Defined. Pen. Code, §§ 484, 490a.
- "Shoplifting" Defined. Pen. Code, § 459.5.
- "Burglary" Defined. Pen. Code, § 459.
- Possession and Control. *People v. Land* (1994) 30 Cal.App.4th 220, 223–224 [35 Cal.Rptr.2d 544]; *People v. Zyduck* (1969) 270 Cal.App.2d 334, 336 [75 Cal.Rptr. 616]; see *People v. Gatlin* (1989) 209 Cal.App.3d 31, 44–45 [257 Cal.Rptr. 171] [constructive possession means knowingly having the right of control over the property directly or through another]; *People v. Scott* (1951) 108 Cal.App.2d 231, 234 [238 P.2d 659] [two or more persons may jointly possess property].

COMMENTARY

Enacted by Assembly Bill No. 2943 (Stats. 2024, ch. 168), Penal Code section 496.6 prohibits unlawful possession of property that had been stolen from a retail business when the possessor intends to sell, exchange, or return the property for value, or intends to act in concert with another to sell, exchange, or return the property for value, and the value of the possessed property exceeds $950. In determining the meaning of unlawful possession in the context of this statute, the committee concluded that the statute requires that the possessor knew that the property had been stolen. (See *People v. Hall* (2017) 2 Cal.5th 494, 501 [213 Cal.Rptr.3d 561, 388 P.3d 794] ["More commonly, though, courts construe criminal statutes against the backdrop of the common law presumption that scienter is required and imply the requisite mental state, even where the statute is silent."]; *In re Jorge M.* (2000) 23 Cal.4th 866, 872 [98 Cal.Rptr.2d 466, 4 P.3d 297] ["the requirement that, for a criminal conviction, the prosecution prove some form of guilty intent, knowledge, or criminal negligence is of such long standing and so fundamental to our criminal law that penal statutes will often be construed to contain such an element despite their failure expressly to state it."].)

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1800. Theft by Larceny (Pen. Code, § 484)

The defendant is charged [in Count __] with [grand/petty] theft [by larceny] [in violation of Penal Code section 484].

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

1. **The defendant took possession of property owned by someone else;**

2. **The defendant took the property without the owner's [or owner's agent's] consent;**

3. **When the defendant took the property (he/she) intended (to deprive the owner of it permanently/ [or] to remove it from the owner's [or owner's agent's] possession for so extended a period of time that the owner would be deprived of a major portion of the value or enjoyment of the property);**

AND

4. **The defendant moved the property, even a small distance, and kept it for any period of time, however brief.**

[The taking of property can include its consumption or the use of utilities.]

[An *agent* is someone to whom the owner has given complete or partial authority and control over the owner's property.]

[For petty theft, the property taken can be of any value, no matter how slight.]

*New January 2006; Revised August 2016, March 2024, October 2025**
** Denotes changes only to bench notes and other commentaries.*

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BENCH NOTES

Instructional Duty

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

To have the requisite intent for theft, the defendant must either intend to deprive the owner permanently or to deprive the owner of a major portion of the property's value or enjoyment. (See *People v. Avery* (2002) 27 Cal.4th 49, 57–58 [115 Cal.Rptr.2d 403, 38 P.3d 1].) Select the appropriate language in element 3.

Related Instructions

If the defendant is also charged with grand theft, give CALCRIM No. 1801, *Theft: Degrees*. If the defendant is charged with petty theft, no other instruction is required, and the jury should receive a petty theft verdict form.

If the defendant is charged with Penal Code section 666~~petty theft with a prior conviction~~, give CALCRIM No. 1850, *Petty Theft With Prior Conviction*.

If the defendant is charged with Penal Code section 666.1, give CALCRIM No. 1851, *Petty Theft or Shoplifting With Prior Convictions*.

If a different theory of theft is presented, see CALCRIM No. 1804, *Theft by False Pretense*, CALCRIM No. 1805, *Theft by Trick*, CALCRIM No. 1806, *Theft by Embezzlement*. See also CALCRIM No. 1861, *Jury Does Not Need to Agree on Form of Theft*. The court may also wish to instruct with the bracketed "[by larceny]" in the first sentence to distinguish this theory of theft from the others.

For theft of real property, use CALCRIM No. 1804, *Theft by False Pretense*. (See *People v. Sanders* (1998) 67 Cal.App.4th 1403, 1413–1417 [79 Cal.Rptr.2d 806].)

AUTHORITY

- Elements. Pen. Code, § 484; *People v. Williams* (1946) 73 Cal.App.2d 154, 157 [166 P.2d 63]; *People v. Edwards* (1925) 72 Cal.App. 102, 112–117 [236 P. 944], disapproved on other grounds in *In re Estrada* (1965) 63 Cal.2d 740, 748 [48 Cal.Rptr. 172, 408 P.2d 948].
- Intent to Deprive Owner of Main Value. *People v. Avery*, *supra*, 27 Cal.4th at pp. 57–59; *People v. Zangari* (2001) 89 Cal.App.4th 1436, 1447 [108 Cal.Rptr.2d 250].
- Unauthorized Use of Utilities. *People v. Myles* (2023) 89 Cal.App.5th 711, 731 [306 Cal.Rptr.3d 288].

COMMENTARY

Asportation

To constitute a completed theft, the property must be asported or carried away. (*People v. Shannon* (1998) 66 Cal.App.4th 649, 654 [78 Cal.Rptr.2d 177].) Asportation requires three things: (1) the goods are severed from the possession or custody of the owner, (2) the goods are in the complete possession of the thief or

DRAFT

thieves, and (3) the property is moved, however slightly. (*Ibid*.; *People v. Edwards* (1925) 72 Cal.App. 102, 114–115 [236 P. 944], disapproved on other grounds in *In re Estrada* (1965) 63 Cal.2d 740 [48 Cal.Rptr. 172, 408 P.2d 948]; *People v. Collins* (1959) 172 Cal.App.2d 295, 299 [342 P.2d 370] [joint possession of property by more than one thief].) Asportation is fulfilled by wrongful removal of property from the owner or possessor, against his or her will with the intent to steal it, even though the property is retained by the thief but a moment. (*People v. Quiel* (1945) 68 Cal.App.2d 674, 679 [157 P.2d 446].) Paragraph 4 sets forth the asportation element.

Value

The property taken must have some intrinsic value, however slight. (*People v. Franco* (1970) 4 Cal.App.3d 535, 542 [84 Cal.Rptr. 513]; *People v. Martinez* (2002) 95 Cal.App.4th 581, 585 [115 Cal.Rptr.2d 574].) The final bracketed paragraph may be given on request if the property in question was of slight value.

LESSER INCLUDED OFFENSES

- Petty Theft. Pen. Code, § 486.
- Attempted Theft. Pen. Code, §§ 664, 484.
- Taking an Automobile Without Consent. Veh. Code, § 10851; *People v. Pater* (1968) 267 Cal.App.2d 921, 926 [73 Cal.Rptr. 823].
- Auto Tampering. Veh. Code, § 10852; *People v. Anderson* (1975) 15 Cal.3d 806, 810–811 [126 Cal.Rptr. 235, 543 P.2d 603].
- Misdemeanor Joyriding. Pen. Code, § 499b [of bicycle, motorboat, or vessel].

Petty theft is a not lesser-included offense of grand theft when the charge of grand theft is based on the type of property taken. (*People v. Thomas* (1974) 43 Cal.App.3d 862, 870 [118 Cal.Rptr. 226].)

RELATED ISSUES

Claim of Right

If a person actually believes that he or she has a right to the property even if that belief is mistaken or unreasonable, such belief is a defense to theft. (*People v. Romo* (1990) 220 Cal.App.3d 514, 518 [269 Cal.Rptr. 440]; see also *People v. Devine* (1892) 95 Cal. 227, 229 [30 P. 378] ["[i]t is clear that a charge of larceny, which requires an intent to steal, could not be founded on a mere careless taking away of another's goods"]; *In re Bayles* (1920) 47 Cal.App. 517, 519–521 [190 P. 1034] [larceny conviction reversed where landlady actually believed she was entitled to take tenant's property for cleaning fees incurred even if her belief was

DRAFT

unreasonable]; *People v. Navarro* (1979) 99 Cal.App.3d Supp. 1, 4–6, 10–11 [160 Cal.Rptr. 692]; see CALCRIM No. 1863, *Defense to Theft or Robbery: Claim of Right*.)

Community Property

A person may be found guilty of theft of community property, but only if he or she has the intent to deprive the other owner of the property permanently. (*People v. Llamas* (1997) 51 Cal.App.4th 1729, 1738–1740 [60 Cal.Rptr.2d 357].)

Fraudulent Refunds

A person who takes property while in a store and presents it for a refund is guilty of theft. (*People v. Davis* (1998) 19 Cal.4th 301 [79 Cal.Rptr.2d 295, 965 P.2d 1165].) The Supreme Court held that taking with the intent to fraudulently obtain a refund constitutes both an intent to permanently deprive the store of property and a trespassory taking within the meaning of larceny. (*Id.* at pp. 317–318; see also *People v. Shannon* (1998) 66 Cal.App.4th 649 [78 Cal.Rptr.2d 177].)

Multiple or Single Conviction of Theft—Overall Plan or Scheme

If multiple items are stolen over a period of time and the takings are part of one intention, one general impulse, and one plan, see CALCRIM No. 1802, *Theft: As Part of Overall Plan*.

No Need to Use or Benefit From the Property Taken

It does not matter that the person taking the property does not intend to use the property or benefit from it; he or she is guilty of theft if there is intent to permanently deprive the other person of the property. (*People v. Kunkin* (1973) 9 Cal.3d 245, 251 [107 Cal.Rptr. 184, 507 P.2d 1392]; *People v. Green* (1980) 27 Cal.3d 1, 57–58 [164 Cal.Rptr. 1, 609 P.2d 468] [defendant intended to destroy the property], disapproved on other grounds in *People v. Hall* (1986) 41 Cal.3d 826, 834, fn. 3 [226 Cal.Rptr. 112, 718 P.2d 99]; *People v. Pierce* (1952) 110 Cal.App.2d 598, 609 [243 P.2d 585] [irrelevant that defendant did not personally benefit from embezzled funds]; see also *People v. Avery* (2002) 27 Cal.4th 49, 57–58 [115 Cal.Rptr.2d 403, 38 P.3d 1] [intent to deprive owner of major value or enjoyment].)

Possession

The victim of a theft does not have to be the owner of property, only in possession of it. (*People v. Edwards* (1925) 72 Cal.App. 102, 116 [236 P. 944], disapproved on other grounds in *In re Estrada* (1965) 63 Cal.2d 740, 748 [48 Cal.Rptr. 172, 408 P.2d 948].) "Considered as an element of larceny, 'ownership' and 'possession' may be regarded as synonymous terms; for one who has the right of possession as against the thief is, so far as the latter is concerned, the owner." (*Ibid;* see also *People v. Davis* (1893) 97 Cal. 194, 195 [31 P. 1109] [fact that property in possession of victim sufficient to show ownership].)

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Unanimity of Theft Theory Not Required

If multiple theories of theft have been presented, the jury does not need to agree on which form of theft was committed. All the jury must agree on is that an unlawful taking of property occurred. (*People v. Counts* (1995) 31 Cal.App.4th 785, 792–793 [37 Cal.Rptr.2d 425]; *People v. Failla* (1966) 64 Cal.2d 560, 567–569 [51 Cal.Rptr. 103, 414 P.2d 39] [burglary case]; *People v. Nor Woods* (1951) 37 Cal.2d 584, 586 [233 P.2d 897] [addressing the issue for theft].) See CALCRIM No. 1861, *Jury Does Not Need to Agree on Form of Theft.*

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 20~~1~~24~~2~~) Crimes Against Property, §§ 1~~4~~5–~~21~~17.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 143, *Crimes Against Property*, § 143.01 (Matthew Bender).

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1801. Grand and Petty Theft (Pen. Code, §§ 486, 487–488, 490.2, 490.3, 491)

If you conclude that the defendant committed a theft, you must decide whether the crime was grand theft or petty theft.

[The defendant committed petty theft if (he/she) stole (property/ [(and/or)] services) worth $950 or less.]

[The defendant committed grand theft if the value of the (property/ [(and/or)] services) is more than $950.]

[The defendant committed grand theft if the sum of the value of all (property/[or] merchandise) [referenced in Count __] is more than $950.]

[Theft of property from the person is grand theft if the value of the property is more than $950. Theft is *from the person* if the property taken was in the clothing of, on the body of, or in a container held or carried by, that person.]

[Theft of (an automobile/ a horse/_____<*insert other item listed in statute*>**) is grand theft if the value of the property is more than $950.]**

[Theft of a firearm is grand theft.]

[Theft of (fruit/nuts/_____<*insert other item listed in statute*>**) worth more than $950 is grand theft.]**

[Theft of (fish/shellfish/aquacultural products/_____<*insert other item listed in statute*>**) worth more than $950 is grand theft if (it/they) (is/are) taken from a (commercial fishery/research operation).]**

[The value of _____ <*insert relevant item enumerated in Pen. Code, § 487(b)(1)(B)*>**may be established by evidence proving that on the day of the theft, the same items of the same variety and weight as those stolen had a wholesale value of more than $950.]**

[The value of (property/services) is the fair (market value of the property/market wage for the services performed).]

<Fair Market Value—Generally>

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[*Fair market value* is the highest price the property would reasonably have been sold for in the open market at the time of, and in the general location of, the theft.]

<Fair Market Value—Urgent Sale>
[*Fair market value* is the price a reasonable buyer and seller would agree on if the buyer wanted to buy the property and the seller wanted to sell it, but neither was under an urgent need to buy or sell.]

The People have the burden of proving beyond a reasonable doubt that the theft was grand theft rather than a lesser crime. If the People have not met this burden, you must find the defendant not guilty of grand theft.

New January 2006; Revised February 2012, August 2015, April 2020, September 2023, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction if grand theft has been charged.

If grand theft is based on multiple thefts arising from one overall plan, give CALCRIM No. 1802, *Theft: As Part of Overall Plan.*

When the People allege the defendant has a prior conviction for an offense listed in Penal Code section 667(e)(2)(C)(iv) or for an offense requiring registration pursuant to subdivision (c) of section 290, give CALCRIM No. 3100, *Prior Conviction: Nonbifurcated Trial* or CALCRIM No. 3101, *Prior Conviction: Bifurcated Trial*.

If the evidence raises an issue that the value of the property may be inflated or deflated because of some urgency on the part of either the buyer or seller, the second bracketed paragraph on fair market value should be given.

AUTHORITY

- Determination of Grand vs. Petty Theft. Pen. Code, §§ 486, 487–488, 490.2, 490.3, 491.
- Value/Nature of Property/Theft From the Person. Pen. Code, §§ 487(b)–(e), 487a.
- Theft of a Firearm Is Grand Theft. Pen. Code, §§ 487(d)(2), 490.2(c).
- Aggregation Into Single Count or Charge. Pen. Code, § 490.3.

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RELATED ISSUES

~~Proposition 47 (~~Penal Code Section~~s~~ 490.2 ~~and 490.3)~~

After the passage of Proposition 47 in 2014, theft is defined in Penal Code section 487 as a misdemeanor unless the value of the property taken exceeds $950. (Pen. Code, § 490.2.) This represents a change from the way grand theft was defined under Penal Code section 487(b)–(d) before the enactment of Proposition 47. In 2016, Proposition 63 added subdivision (c) to Penal Code section 490.2 (excepting theft of a firearm). In 2024, Proposition 36 added Penal Code section 490.3, which allows the degree of theft to be determined by the total value of stolen property or merchandise from one or more acts of theft or shoplifting when aggregated into a single count or charge.

Taking From the Person

To constitute a taking from the person, the property must, in some way, be physically attached to the person. (*People v. Williams* (1992) 9 Cal.App.4th 1465, 1472 [12 Cal.Rptr.2d 243].) Applying this rule, the court in *Williams* held that a purse taken from the passenger seat next to the driver was not a taking from the person. (*Ibid.* [see generally for court's discussion of origins of this rule].) *Williams* was distinguished by the court in *People v. Huggins* (1997) 51 Cal.App.4th 1654, 1656–1657 [60 Cal.Rptr.2d 177], where evidence that the defendant took a purse placed on the floor next to and touching the victim's foot was held sufficient to establish a taking from the person. The victim intentionally placed her foot next to her purse, physically touching it and thereby maintaining dominion and control over it.

Theft of Fish, Shellfish, or Aquacultural Products

Fish taken from public waters are not "property of another" within the meaning of Penal Code section 484 and 487; only the Fish and Game Code applies to such takings. (*People v. Brady* (1991) 234 Cal.App.3d 954, 959, 961–962 [286 Cal.Rptr. 19]; see, e.g., Fish & Game Code, § 12006.6 [unlawful taking of abalone].)

Value of Written Instrument

If the thing stolen is evidence of a debt or some other written instrument, its value is (1) the amount due or secured that is unpaid, or that might be collected in any contingency, (2) the value of the property, title to which is shown in the instrument, or (3) or the sum that might be recovered in the instrument's absence. (Pen. Code, § 492; see *Buck v. Superior Court* (1966) 245 Cal.App.2d 431, 438 [54 Cal.Rptr. 282] [trust deed securing debt]; *People v. Frankfort* (1952) 114 Cal.App.2d 680, 703 [251 P.2d 401] [promissory notes and contracts securing debt]; *People v. Quiel* (1945) 68 Cal.App.2d 674, 678 [157 P.2d 446] [unpaid

DRAFT

bank checks]; see also Pen. Code, §§ 493 [value of stolen passage tickets], 494 [completed written instrument need not be issued or delivered].) If evidence of a debt or right of action is embezzled, its value is the sum due on or secured by the instrument. (Pen. Code, § 514.) Section 492 only applies if the written instrument has value and is taken from a victim. (See *People v. Sanders* (1998) 67 Cal.App.4th 1403, 1414, fn. 16 [79 Cal.Rptr.2d 806].)

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 20~~1~~24~~2~~) Crimes Against Property, §§ 4, 5, 8.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 143, *Crimes Against Property*, § 143.01 (Matthew Bender).

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1810. Diversion of Construction Funds (Pen. Code, § 484b)

The defendant is charged [in Count __] with diversion of construction funds [in violation of Penal Code section 484b].

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

1. **The defendant received money for the purpose of obtaining or paying for [construction] (services[,]/[or] labor[,]/[or] materials[,]/[or] equipment);**

2. **The defendant willfully failed [either] (to complete the improvements for which the money was provided/ [or] to pay for the [construction] (services[,]/[or] labor[,]/[or] materials[,]/[or] equipment)) for which the money was provided;**

   [AND]

3. **The defendant wrongfully diverted this money for a use other than one for which the money was received(;/.)**

   [AND]

[4. The wrongful diversion caused the failure (to complete the improvements for which the money was provided/ [or] to pay for the [construction] (services[,]/[or] labor[,]/[or] materials[,]/[or] equipment)) for which the money was provided(;/.)]

[AND

(4/5). The amount of money diverted was greater than $2350.]

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.

New October 2025

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BENCH NOTES

Instructional Duty

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

There is a split of authority regarding the role of causation in Penal Code section 484b. Compare *People v. Williams* (2013) 218 Cal.App.4th 1038, 1064 [160 Cal.Rptr.3d 779] and *People v. Worrell* (1980) 107 Cal.App.3d 50, 55–56 [165 Cal.Rptr. 459] [diversion of funds alone is enough to violate the statute] with *People v. Butcher* (1986) 185 Cal.App.3d 929, 940 [229 Cal.Rptr. 910] ["section 484b is not violated unless the wrongful diversion is a cause of the failure to complete the project or defray its expenses."] If the trial court agrees with *Butcher*, give bracketed element four that begins with "The wrongful diversion caused the failure."

The jury must unanimously agree about the act that constitutes the wrongful diversion. If there is evidence of more than one act and if the prosecution fails to elect which act constitutes the alleged wrongful diversion, the court should instruct the jury about unanimity. (*People v. Thompson* (1995) 36 Cal.App.4th 843, 850–852 [42 Cal.Rptr.2d 798].) See CALCRIM No. 3500, *Unanimity*.

AUTHORITY

- Elements. Pen. Code, § 484b.
- General Intent Required. *People v. Williams* (2013) 218 Cal.App.4th 1038, 1064 [160 Cal.Rptr.3d 779]; *People v. Stark* (1994) 26 Cal.App.4th 1179, 1182–1183 [31 Cal.Rptr.2d 887].
- "Willfully" Defined. Pen. Code, § 7(b)(1).
- Funds Must Be Intended for Specific, Dedicated Purpose. *People v. Heitz* (1983) 145 Cal.App.3d Supp. 8, 14–15 [193 Cal.Rptr. 138].

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1851. Petty Theft or Shoplifting With Two or More Prior Convictions (Pen. Code, § 666.1)

If you find the defendant guilty of (petty theft/[or] shoplifting), you must then decide whether the People have proved the additional allegation that the defendant was previously convicted of two or more theft offenses. It has already been determined that the defendant is the person named in exhibits _____ <*insert numbers or descriptions of exhibits*>**. You must decide whether the evidence proves that the defendant was previously convicted of the alleged crimes.**

The People allege that the defendant was previously convicted of:

> **1. A violation of** _____ <*insert code section violated, as listed in Pen. Code, §666.1(a)(2)*>**, on** _____ <*insert date of conviction*>**, in the** _____ <*insert name of court*>**, in Case Number** _____ <*insert docket or case number*>**;**
>
> **[AND]**
>
> **2. A violation of** _____ <*insert code section violated, as listed in Pen. Code, §666.1(a)(2)*>**, on** _____ <*insert date of conviction*>**, in the** _____ <*insert name of court*>**, in Case Number** _____ <*insert docket or case number*>**(;/.)**
>
> **[AND**
>
> **3.** <*Repeat for each prior conviction alleged*>**.]**

[Consider the evidence presented on this allegation only when deciding whether the defendant was previously convicted of the crimes alleged [or for the limited purpose of _____ <*insert other permitted purpose, e.g., assessing credibility of the defendant*>**]. Do not consider this evidence for any other purpose.]**

You must consider each alleged conviction separately. 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 October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on proof of the alleged prior convictions. (See Pen. Code, § 1025 [on defendant's denial, jury must decide issue of prior convictions]; *People v. Barre* (1992) 11 Cal.App.4th 961, 965 [14 Cal.Rptr.2d 307].)

Give CALCRIM No. 3500, *Unanimity*, if more than two prior theft convictions are alleged.

If a second or subsequent conviction of Penal Code section 666.1 is charged, give either CALCRIM No. 3100, *Prior Conviction: NonBifurcated Trial*, or CALCRIM No. 3101, *Prior Conviction: Bifurcated Trial*.

AUTHORITY

- Enhancement. Pen. Code, § 666.1.
- Convictions From Other States. Pen. Code, § 668; *People v. Perry* (1962) 204 Cal.App.2d 201, 204 [22 Cal.Rptr. 54].

RELATED ISSUES

See the Related Issues section in CALCRIM No. 1850, *Petty Theft With Prior Conviction*.

1852–1859. Reserved for Future Use

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2100. Driving a Vehicle or Operating a Vessel Under the Influence Causing Injury (Veh. Code, § 23153(a), (f), (g))

The defendant is charged [in Count __] with causing injury to another person while (driving a vehicle/operating a vessel) under the [combined] influence of (an alcoholic beverage/ [or] a drug/ [or] an alcoholic beverage and a drug) [in violation of Vehicle Code section 23153(a)/(f)/(g)].

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

1. **The defendant (drove a vehicle/operated a vessel);**

2. **When (he/she) (drove a vehicle/operated a vessel), the defendant was under the [combined] influence of (an alcoholic beverage/ [or] a drug/ [or] an alcoholic beverage and a drug);**

3. **While (driving a vehicle/operating a vessel) under the influence, the defendant also (committed an illegal act/ [or] neglected to perform a legal duty);**

AND

4. **The defendant's (illegal act/ [or] failure to perform a legal duty) caused bodily injury to another person.**

A person is *under the influence* if, as a result of (drinking [or consuming] an alcoholic beverage/ [and/or] taking a drug), his or her mental or physical abilities are so impaired that he or she is no longer able to (drive a vehicle/operate a vessel) with the caution of a sober person, using ordinary care, under similar circumstances.

The manner in which a person drives is not enough by itself to establish whether the person is or is not under the influence of (an alcoholic beverage/ [or] a drug) [or under the combined influence of an alcoholic beverage and a drug]. However, it is a factor to be considered, in light of all the surrounding circumstances, in deciding whether the person was under the influence.

[An *alcoholic beverage* is a liquid or solid material intended to be consumed that contains ethanol. Ethanol is also known as ethyl alcohol, drinking alcohol, or alcohol. [An *alcoholic beverage* includes _____ <*insert type[s] of beverage[s] from Veh. Code, § 109 or Bus. & Prof. Code, § 23004, e.g., wine, beer*>.]]

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[A *drug* is a substance or combination of substances, other than alcohol, that could so affect the nervous system, brain, or muscles of a person that it would appreciably impair his or her ability to (drive a vehicle/operate a vessel) as an ordinarily cautious person, in full possession of his or her faculties and using reasonable care, would (drive a vehicle/operate a vessel) under similar circumstances.]

[If the People have proved beyond a reasonable doubt that the defendant's blood alcohol level was 0.08 percent or more at the time of the chemical analysis, you may, but are not required to, conclude that the defendant was under the influence of an alcoholic beverage at the time of the alleged offense.]

[In evaluating any test results in this case, you may consider whether or not the person administering the test or the agency maintaining the testing device followed the regulations of the California Department of Public Health.]

[The People allege that the defendant committed the following illegal act[s]: _____ *<list name[s] of offense[s]>***.**

To decide whether the defendant committed _____*<list name[s] of offense[s]>***, please refer to the separate instructions that I (will give/have given) you on (that/those) crime[s].]**

[The People [also] allege that the defendant failed to perform the following legal (duty/duties) while (driving the vehicle/operating the vessel): (the duty to exercise ordinary care at all times and to maintain proper control of the (vehicle/vessel)/_____ *<insert other duty or duties alleged>***).]**

[You may not find the defendant guilty unless all of you agree that the People have proved that the defendant (committed [at least] one illegal act/[or] failed to perform [at least] one duty).

<Alternative A—unanimity required; see Bench Notes>
[You must all agree on which (act the defendant committed/ [or] duty the defendant failed to perform).]

<Alternative B—unanimity not required; see Bench Notes>
[But you do not have to all agree on which (act the defendant committed/ [or] duty the defendant failed to perform).]]

[Using *ordinary care* means using reasonable care to prevent reasonably foreseeable harm to someone else. A person fails to exercise ordinary care if he or she (does something that a reasonably careful person would not do in

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the same situation/ [or] fails to do something that a reasonably careful person would do in the same situation).]

[An act causes bodily injury to another person if the injury is the direct, natural, and probable consequence of the act and the injury would not have happened without the 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 the circumstances established by the evidence.]

[There may be more than one cause of injury. An act causes bodily injury to another person only if it is a substantial factor in causing the injury. A *substantial factor* is more than a trivial or remote factor. However, it need not be the only factor that causes the injury.]

[It is not a defense that the defendant was legally entitled to use the drug.]

[If the defendant was under the influence of (an alcoholic beverage/ [and/or] a drug), then it is not a defense that something else also impaired (his/her) ability to (drive a vehicle/operate a vessel).]

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*New January 2006; Revised June 2007, April 2008, December 2008, August 2015, September 2017, March 2018, September 2019, October 2021, October 2025**
** 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.

If the prosecution alleges under element 3 that the defendant committed an act forbidden by law, the court has a **sua sponte** duty to specify the predicate offense alleged and to instruct on the elements of that offense. (*People v. Minor* (1994) 28 Cal.App.4th 431, 438–439 [33 Cal.Rptr.2d 641]; *People v. Ellis* (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409].)

If the prosecution alleges under element 3 that the defendant neglected to perform a duty imposed by law, the court has a **sua sponte** duty to instruct on the duty allegedly neglected. (See *People v. Minor, supra,* 28 Cal.App.4th at pp. 438–439.) If the prosecution alleges that the defendant neglected the general duty of every driver to exercise ordinary care (see *People v. Oyaas* (1985) 173 Cal.App.3d 663, 669 [219 Cal.Rptr. 243]), the court should give the bracketed definition of "ordinary care."

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.

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401].) If the evidence indicates that there was only one cause of injury, the court should give the first bracketed paragraph on causation, which includes the "direct, natural, and probable" language. If there is evidence of multiple causes of injury, the court should also give the second bracketed paragraph on causation, which includes the "substantial factor" definition. (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].)

The court has ~~There is a split in authority over whether there is~~ a **sua sponte** duty to give a unanimity instruction when the prosecution presents evidence of multiple acts to prove a single count ~~predicate offenses are alleged~~, if the prosecution has not elected the specific act relied upon to prove the charge and if the continuous course of conduct exception does not apply. (See *People v. Jennings* (2010) 50 Cal.4th 616, 679 [114 Cal.Rptr.3d 133, 188, 237 P.3d 474, 520–521]~~*People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30] [unanimity instruction required], overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481 [76 Cal.Rptr.2d 180, 957 P.2d 869]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735] [unanimity instruction not required but preferable]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438] [unanimity instruction not required]; *People v. Leffel* (1988) 203 Cal.App.3d 575, 586–587 [249 Cal.Rptr. 906] [unanimity instruction not required, failure to give harmless error if was required]~~.) See the Bench Notes to CALCRIM No. 3500, *Unanimity*, for an extensive discussion of the sua sponte duty to instruct on unanimity. If the court concludes that a unanimity instruction is appropriate, give the unanimity alternative A. If the court concludes that unanimity is not required, give the unanimity alternative B.

The bracketed paragraph that begins with "If the People have proved beyond a reasonable doubt that the defendant's blood alcohol level was 0.08 percent" explains a rebuttable presumption created by statute. (See Veh. Code, § 23610; Evid. Code, §§ 600–607.) The California Supreme Court has held that a jury instruction phrased as a rebuttable presumption in a criminal case creates an unconstitutional mandatory presumption. (*People v. Roder* (1983) 33 Cal.3d 491, 497–505 [189 Cal.Rptr. 501, 658 P.2d 1302].) In accordance with *Roder*, the instructions have been written as permissive inferences.

The court **must not** give the bracketed paragraph that begins with "If the People have proved beyond a reasonable doubt that the defendant's blood alcohol level was 0.08 percent" if there is no substantial evidence that the defendant's blood alcohol level was at or above 0.08 percent at the time of the test. In addition, if the test falls within the range in which no presumption applies, 0.05 percent to just below 0.08 percent, do not give this bracketed sentence. (*People v. Wood* (1989) 207 Cal.App.3d Supp. 11, 15 [255 Cal.Rptr. 537].) The court should also consider whether there is sufficient evidence to establish that the test result exceeds the margin of error before giving this instruction for test results of 0.08 percent. (Compare *People v. Campos* (1982) 138 Cal.App.3d Supp. 1, 4–5 [188 Cal.Rptr. 366], with *People v. Randolph* (1989) 213 Cal.App.3d Supp. 1, 11 [262 Cal.Rptr. 378].)

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The statute also creates a rebuttable presumption that the defendant was not under the influence if his or her blood alcohol level was less than 0.05 percent. (*People v. Gallardo* (1994) 22 Cal.App.4th 489, 496 [27 Cal.Rptr.2d 502].) Depending on the facts of the case, the defendant may be entitled to a pinpoint instruction on this presumption. It is not error to refuse an instruction on this presumption if the prosecution's theory is that the defendant was under the combined influence of drugs and alcohol. (*People v. Andersen* (1994) 26 Cal.App.4th 1241, 1250 [32 Cal.Rptr.2d 442].)

If the evidence demonstrates that the person administering the test or agency maintaining the testing device failed to follow the title 17 regulations, give the bracketed sentence that begins with "In evaluating any test results in this case." (*People v. Adams* (1976) 59 Cal.App.3d 559, 567 [131 Cal.Rptr. 190] [failure to follow regulations in administering breath test goes to weight, not admissibility, of the evidence]; *People v. Williams* (2002) 28 Cal.4th 408, 417 [121 Cal.Rptr.2d 854, 49 P.3d 203] [same]; *People v. Esayian* (2003) 112 Cal.App.4th 1031, 1039 [5 Cal.Rptr.3d 542] [results of blood test admissible even though phlebotomist who drew blood not authorized under title 17].)

Give the bracketed sentence stating that "it is not a defense that something else also impaired (his/her) ability to drive" if there is evidence of an additional source of impairment such as an epileptic seizure, inattention, or falling asleep.

If the defendant is charged with one or more prior convictions for driving under the influence, the defendant may stipulate to the convictions. (*People v. Weathington* (1991) 231 Cal.App.3d 69, 90 [282 Cal.Rptr. 170].) In addition, either the defendant or the prosecution may move for a bifurcated trial. (*People v. Calderon* (1994) 9 Cal.4th 69, 77–78 [36 Cal.Rptr.2d 333, 885 P.2d 83]; *People v. Cline* (1998) 60 Cal.App.4th 1327, 1334–1336 [71 Cal.Rptr.2d 41]; *People v. Weathington*, *supra*, 231 Cal.App.3d at p. 90.) If the defendant does not stipulate and the court does not grant a bifurcated trial, give CALCRIM No. 2125, *Driving Under the Influence or With 0.08 or 0.04 Percent Blood Alcohol: Prior Convictions*. If the court grants a bifurcated trial, give CALCRIM No. 2126, *Driving Under the Influence or With 0.08 or 0.04 Percent Blood Alcohol: Prior Convictions—Bifurcated Trial*. If the defendant stipulates to the truth of the convictions, the prior convictions should not be disclosed to the jury unless the court admits them as otherwise relevant. (See *People v. Hall* (1998) 67 Cal.App.4th 128, 135 [79 Cal.Rptr.2d 690].)

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

Defenses—Instructional Duty

On request, if supported by the evidence, the court must instruct on the "imminent peril/sudden emergency" doctrine. (*People v. Boulware* (1940) 41 Cal.App.2d 268, 269–270 [106 P.2d 436].) The court may use the bracketed instruction on sudden emergency in CALCRIM No. 590, *Gross Vehicular Manslaughter While Intoxicated*.

Related Instructions

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CALCRIM No. 2101, *Driving With 0.08 Percent Blood Alcohol Causing Injury*.

CALCRIM No. 2125, *Driving Under the Influence or With 0.08 or 0.04 Percent Blood Alcohol: Prior Convictions*.

CALCRIM No. 2126, *Driving Under the Influence or With 0.08 or 0.04 Percent Blood Alcohol: Prior Convictions—Bifurcated Trial*.

CALCRIM No. 595, *Vehicular Manslaughter: Speeding Laws Defined*.

AUTHORITY

- Elements. Veh. Code, § 23153(a), (f), (g); *People v. Minor* (1994) 28 Cal.App.4th 431, 438 [33 Cal.Rptr.2d 641].
- "Alcoholic Beverage" Defined. Veh. Code, § 109, Bus. & Prof. Code, § 23004.
- "Drug" Defined. Veh. Code, § 312.
- Presumptions. Veh. Code, § 23610; Evid. Code, § 607; *People v. Milham* (1984) 159 Cal.App.3d 487, 503–505 [205 Cal.Rptr. 688].
- "Under the Influence" Defined. *People v. Schoonover* (1970) 5 Cal.App.3d 101, 105–107 [85 Cal.Rptr. 69]; *People v. Enriquez* (1996) 42 Cal.App.4th 661, 665–666 [49 Cal.Rptr.2d 710].
- Manner of Driving. *People v. Stockman* (2020) 56 Cal.App.5th 1093, 1099–1101 [270 Cal.Rptr.3d 812]; *People v. Weathington* (1991) 231 Cal.App.3d 69, 84 [282 Cal.Rptr. 170]; *People v. McGrath* (1928) 94 Cal.App. 520, 524 [271 P. 549].
- Must Instruct on Elements of Predicate Offense. *People v. Minor* (1994) 28 Cal.App.4th 431, 438–439 [33 Cal.Rptr.2d 641]; *People v. Ellis* (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409].
- Negligence—Ordinary Care. Pen. Code, § 7, subd. 2; Restatement Second of Torts, § 282; *People v. Oyaas* (1985) 173 Cal.App.3d 663, 669 [219 Cal.Rptr. 243] [ordinary negligence standard applies to driving under the influence causing injury].
- Causation. *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 440 [8 Cal.Rptr. 863].
- Legal Entitlement to Use Drug Not a Defense. Veh. Code, § 23630.
- ~~Unanimity Instruction. *People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30], overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481 [76 Cal.Rptr.2d 180, 957 P.2d 869]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438]; *People v. Leffel* (1988) 203 Cal.App.3d 575, 586–587 [249 Cal.Rptr. 906].~~

DRAFT

- Prior Convictions. *People v. Weathington* (1991) 231 Cal.App.3d 69, 90 [282 Cal.Rptr. 170].

LESSER INCLUDED OFFENSES

- Misdemeanor Driving Under the Influence or With 0.08 Percent. Veh. Code, § 23152(a) & (b); *People v. Capetillo* (1990) 220 Cal.App.3d 211, 220 [269 Cal.Rptr. 250].
- Driving Under the Influence Causing Injury is not a lesser included offense of vehicular manslaughter without gross negligence. *People v. Binkerd* (2007) 155 Cal.App.4th 1143, 1148–1149 [66 Cal.Rptr.3d 675].
- Violations of Vehicle Code section 23153(a)~~,~~ are not lesser included offenses of Vehicle Code section 23153(f) [now 23153(g)]. *People v. Cady* (2016) 7 Cal.App.5th 134, 145-146 [212 Cal.Rptr.3d 319].

RELATED ISSUES

DUI Cannot Serve as Predicate Unlawful Act

"[T]he evidence must show an unlawful act or neglect of duty *in addition* to driving under the influence." (*People v. Minor* (1994) 28 Cal.App.4th 431, 438 [33 Cal.Rptr.2d 641] [italics in original]; *People v. Oyaas* (1985) 173 Cal.App.3d 663, 668 [219 Cal.Rptr. 243].)

Act Forbidden by Law

The term " 'any act forbidden by law' . . . refers to acts forbidden by the Vehicle Code . . . ." (*People v. Clenney* (1958) 165 Cal.App.2d 241, 253 [331 P.2d 696].) The defendant must commit the act when driving the vehicle. (*People v. Capetillo* (1990) 220 Cal.App.3d 211, 217 [269 Cal.Rptr. 250] [violation of Veh. Code, § 10851 not sufficient because offense not committed "when" defendant was driving the vehicle but by mere fact that defendant was driving the vehicle].)

Neglect of Duty Imposed by Law

"In proving the person neglected any duty imposed by law in driving the vehicle, it is not necessary to prove that any specific section of [the Vehicle Code] was violated." (Veh. Code, § 23153(c); *People v. Oyaas* (1985) 173 Cal.App.3d 663, 669 [219 Cal.Rptr. 243].) "[The] neglect of duty element . . . is satisfied by evidence which establishes that the defendant's conduct amounts to no more than ordinary negligence." (*People v. Oyaas, supra*, 173 Cal.App.3d at p. 669.) "[T]he law imposes on any driver [the duty] to exercise ordinary care at all times and to maintain a proper control of his or her vehicle." (*Id.* at p. 670.)

Multiple Victims to One Drunk Driving Accident

"In *Wilkoff v. Superior Court* [(1985) 38 Cal.3d 345, 352 [211 Cal.Rptr. 742, 696 P.2d 134]] we held that a defendant cannot be charged with multiple counts of

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felony drunk driving under Vehicle Code section 23153, subdivision (a), where injuries to several people result from one act of drunk driving." (*People v. McFarland* (1989) 47 Cal.3d 798, 802 [254 Cal.Rptr. 331, 765 P.2d 493].) However, when "a defendant commits vehicular manslaughter with gross negligence[,] . . . he may properly be punished for [both the vehicular manslaughter and] injury to a separate individual that results from the same incident." (*Id.* at p. 804.) The prosecution may also charge an enhancement for multiple victims under Vehicle Code section 23558.

See also the Related Issues section in CALCRIM No. 2110, *Driving Under the Influence*.

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 20~~1~~24~~2~~) Crimes Against Public Peace and Welfare, §§ ~~272–277~~330–339.

2 Witkin, California Evidence (~~5~~6th ed. 20~~12~~24) Demonstrative, Experimental, and Scientific Evidence, § 56.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.36 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.02 (Matthew Bender).

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2101. Driving With 0.08 Percent Blood Alcohol Causing Injury (Veh. Code, § 23153(b))

The defendant is charged [in Count __] with causing injury to another person while driving with a blood alcohol level of 0.08 percent or more [in violation of Vehicle Code section 23153(b)].

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

1. **The defendant drove a vehicle;**

2. **When (he/she) drove, the defendant's blood alcohol level was 0.08 percent or more by weight;**

3. **When the defendant was driving with that blood alcohol level, (he/she) also (committed an illegal act/ [or] neglected to perform a legal duty);**

AND

4. **The defendant's (illegal act/ [or] failure to perform a legal duty) caused bodily injury to another person.**

[If the People have proved beyond a reasonable doubt that a sample of the defendant's (blood/breath) was taken within three hours of the defendant's [alleged] driving and that a chemical analysis of the sample showed a blood alcohol level of 0.08 percent or more, you may, but are not required to, conclude that the defendant's blood alcohol level was 0.08 percent or more at the time of the alleged offense.]

[In evaluating any test results in this case, you may consider whether or not the person administering the test or the agency maintaining the testing device followed the regulations of the California Department of Public Health.]

[The People allege that the defendant committed the following illegal act[s]: _____ *<list name[s] of offense[s]>*

To decide whether the defendant committed _____*<list name[s] of offense[s]>***, please refer to the separate instructions that I (will give/have given) you on (that/those) crime[s].]**

DRAFT

[The People [also] allege that the defendant failed to perform the following legal (duty/duties) while driving the vehicle: (the duty to exercise ordinary care at all times and to maintain proper control of the vehicle/_____ *<insert other duty or duties alleged>***).]**

[You may not find the defendant guilty unless all of you agree that the People have proved that the defendant (committed [at least] one illegal act/[or] failed to perform [at least] one duty).

<Alternative A—unanimity required; see Bench Notes>
[You must all agree on which (act the defendant committed/ [or] duty the defendant failed to perform).]

<Alternative B—unanimity not required; see Bench Notes>
[But you do not have to all agree on which (act the defendant committed/ [or] duty the defendant failed to perform).]]

[Using *ordinary care* means using reasonable care to prevent reasonably foreseeable harm to someone else. A person fails to exercise ordinary care if he or she (does something that a reasonably careful person would not do in the same situation/ [or] fails to do something that a reasonably careful person would do in the same situation).]

[An act causes bodily injury to another person if the injury is the direct, natural, and probable consequence of the act and the injury would not have happened without the 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 injury. An act causes bodily injury to another person only if it is a substantial factor in causing the injury. A *substantial factor* is more than a trivial or remote factor. However, it need not be the only factor that causes the injury.]

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*New January 2006; Revised August 2006, April 2008, August 2015, March 2018, September 2019, October 2025**
** Denotes changes only to bench notes and other commentaries.*

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BENCH NOTES

Instructional Duty

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

If the prosecution alleges under element 3 that the defendant committed an act forbidden by law, the court has a **sua sponte** duty to specify the predicate offense alleged and to instruct on the elements of that offense. (*People v. Minor* (1994) 28 Cal.App.4th 431, 438–439 [33 Cal.Rptr.2d 641]; *People v. Ellis* (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409].)

If the prosecution alleges under element 3 that the defendant neglected to perform a duty imposed by law, the court has a **sua sponte** duty to instruct on the duty allegedly neglected. (See *People v. Minor, supra*, 28 Cal.App.4th at pp. 438–439.) If the prosecution alleges that the defendant neglected the general duty of every driver to exercise ordinary care (see *People v. Oya~~s~~s* (1985) 173 Cal.App.3d 663, 669 [219 Cal.Rptr. 243]), the court should give the bracketed definition of "ordinary care."

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 injury, the court should give the first bracketed paragraph on causation, which includes the "direct, natural, and probable" language. If there is evidence of multiple causes of injury, the court should also give the second bracketed paragraph on causation, which includes the "substantial factor" definition. (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].)

The court has ~~There is a split in authority over whether there is~~ a **sua sponte** duty to give a unanimity instruction when the prosecution presents evidence of multiple acts to prove a single count~~predicate offenses are alleged~~, if the prosecution has not elected the specific act relied upon to prove the charge and if the continuous course of conduct exception does not apply. (See *People v. Jennings* (2010) 50 Cal.4th 616, 679 [114 Cal.Rptr.3d 133, 188, 237 P.3d 474, 520–521])~~. (*People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30] [unanimity instruction required], overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481 [76 Cal.Rptr.2d 180, 957 P.2d 869]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735] [unanimity instruction not required but preferable]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438].) [unanimity instruction not required]; *People v. Leffel* (1988) 203 Cal.App.3d 575, 586–587 [249 Cal.Rptr. 906] [unanimity instruction not required, failure to give harmless error if was required].)~~ See the Bench Notes to CALCRIM No. 3500, *Unanimity*, for an extensive discussion of the sua sponte duty to instruct

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on unanimity. If the court concludes that a unanimity instruction is appropriate, give the unanimity alternative A. If the court concludes that unanimity is not required, give the unanimity alternative B.

The bracketed paragraph that begins with "If the People have proved beyond a reasonable doubt that a sample of" explains a rebuttable presumption created by statute. (See Veh. Code, § 23152(b); Evid. Code, §§ 600–607.) The California Supreme Court has held that a jury instruction phrased as a rebuttable presumption in a criminal case creates an unconstitutional mandatory presumption. (*People v. Roder* (1983) 33 Cal.3d 491, 497–505 [189 Cal.Rptr. 501, 658 P.2d 1302].) In accordance with *Roder*, the instructions have been written as permissive inferences.

The court **must not** give the bracketed paragraph that begins with "If the People have proved beyond a reasonable doubt that a sample of" if there is no substantial evidence that the defendant's blood alcohol level was at or above 0.08 percent at the time of the test.

If the evidence demonstrates that the person administering the test or agency maintaining the testing device failed to follow the title 17 regulations, give the bracketed sentence that begins with "In evaluating any test results in this case." (*People v. Adams* (1976) 59 Cal.App.3d 559, 567 [131 Cal.Rptr. 190] [failure to follow regulations in administering breath test goes to weight, not admissibility, of the evidence]; *People v. Williams* (2002) 28 Cal.4th 408, 417 [121 Cal.Rptr.2d 854, 49 P.3d 203] [same]; *People v. Esayian* (2003) 112 Cal.App.4th 1031, 1039 [5 Cal.Rptr.3d 542] [results of blood test admissible even though phlebotomist who drew blood not authorized under title 17].)

If the defendant is charged with one or more prior convictions for driving under the influence, the defendant may stipulate to the convictions. (*People v. Weathington* (1991) 231 Cal.App.3d 69, 90 [282 Cal.Rptr. 170].) In addition, either the defendant or the prosecution may move for a bifurcated trial. (*People v. Calderon* (1994) 9 Cal.4th 69, 77–78 [36 Cal.Rptr.2d 333, 885 P.2d 83]; *People v. Cline* (1998) 60 Cal.App.4th 1327, 1334–1336 [71 Cal.Rptr.2d 41]; *People v. Weathington*, *supra*, 231 Cal.App.3d at p. 90.) If the defendant does not stipulate and the court does not grant a bifurcated trial, give CALCRIM No. 2125, *Driving Under the Influence or With 0.08 or 0.04 Percent Blood Alcohol: Prior Convictions*. If the court grants a bifurcated trial, give CALCRIM No. 2126, *Driving Under the Influence or With 0.08 or 0.04 Percent Blood Alcohol: Prior Convictions—Bifurcated Trial*. If the defendant stipulates to the truth of the convictions, the prior convictions should not be disclosed to the jury unless the court admits them as otherwise relevant. (See *People v. Hall* (1998) 67 Cal.App.4th 128, 135 [79 Cal. Rptr. 2d 690].)

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

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Defenses—Instructional Duty

On request, if supported by the evidence, the court must instruct on the "imminent peril/sudden emergency" doctrine. (*People v. Boulware* (1940) 41 Cal.App.2d 268, 269–270 [106 P.2d 436].) The court may use the bracketed instruction on sudden emergency in CALCRIM No. 590, *Gross Vehicular Manslaughter While Intoxicated*.

Related Instructions

CALCRIM No. 2100, *Driving a Vehicle or Operating a Vessel Under the Influence Causing Injury.*

CALCRIM No. 2125, *Driving Under the Influence or With 0.08 or 0.04 Percent Blood Alcohol: Prior Convictions*.

CALCRIM No. 2126, *Driving Under the Influence or With 0.08 or 0.04 Percent Blood Alcohol: Prior Convictions—Bifurcated Trial*.

CALCRIM No. 595, *Vehicular Manslaughter: Speeding Laws Defined*.

AUTHORITY

- Elements. Veh. Code, § 23153(b); *Burg v. Municipal Court* (1983) 35 Cal.3d 257, 265–266 [198 Cal.Rptr. 145, 673 P.2d 732].
- Partition Ratio. Veh. Code, § 23152(b); *People v. Bransford* (1994) 8 Cal.4th 885, 890 [35 Cal.Rptr.2d 613, 884 P.2d 70].
- Presumptions. Veh. Code, § 23153(b); Evid. Code, § 607; *People v. Milham* (1984) 159 Cal.App.3d 487, 503–505 [205 Cal.Rptr. 688].
- Must Instruct on Elements of Predicate Offense. *People v. Minor* (1994) 28 Cal.App.4th 431, 438–439 [33 Cal.Rptr.2d 641]; *People v. Ellis* (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409].
- Negligence—Ordinary Care. Pen. Code, § 7(2); Restatement Second of Torts, § 282.
- Causation. *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 440 [8 Cal.Rptr. 863].
- ~~Unanimity Instruction. *People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30], overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481 [76 Cal.Rptr.2d 180, 957 P.2d 869]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438]; *People v. Leffel* (1988) 203 Cal.App.3d 575, 586–587 [249 Cal.Rptr. 906].~~

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- Statute Constitutional. *Burg v. Municipal Court* (1983) 35 Cal.3d 257, 273 [198 Cal.Rptr. 145, 673 P.2d 732].
- Prior Convictions. *People v. Weathington* (1991) 231 Cal.App.3d 69, 90 [282 Cal.Rptr. 170].

LESSER INCLUDED OFFENSES

- Misdemeanor Driving Under the Influence or With 0.08 Percent. Veh. Code, § 23152(a) & (b); *People v. Capetillo* (1990) 220 Cal.App.3d 211, 220 [269 Cal.Rptr. 250].

RELATED ISSUES

See the Related Issues section in CALCRIM No. 2111, *Driving With 0.08 Percent Blood Alcohol* and CALCRIM No. 2100, *Driving a Vehicle or Operating a Vessel Under the Influence Causing Injury*.

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (54th ed. 20~~12~~24) Crimes Against Public Peace and Welfare, §§ ~~272–277~~330–339.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.36 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.02[1] (Matthew Bender).

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2102. Driving With 0.04 Percent Blood Alcohol Causing Injury With a Passenger for Hire (Veh. Code, § 23153(e))

The defendant is charged [in Count __] with causing injury to another person while driving with a blood-alcohol level of 0.04 percent or more [in violation of Vehicle Code section 23153(e)].

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

1. **The defendant drove a vehicle;**

2. **When (he/she) drove, the defendant's blood-alcohol level was 0.04 percent or more by weight;**

3. **When (he/she) drove with that blood-alcohol level, (he/she) also (committed an illegal act/ [or] neglected to perform a legal duty);**

4. **When (he/she) drove, there was a passenger for hire in the vehicle;**

AND

5. **The defendant's (illegal act/ [or] failure to perform a legal duty) caused bodily injury to another person.**

A person is a *passenger for hire* when the person or someone else pays, or is expected to pay, for the ride, the payment is or will be with money or something else of value, and the payment is made to, or expected to be made to, the owner, operator, agent or any other person with an interest in the vehicle.

[If the People have proved beyond a reasonable doubt that a sample of the defendant's (blood/breath) was taken within three hours of the defendant's [alleged] driving and that a chemical analysis of the sample showed a blood-alcohol level of 0.04 percent or more, you may, but are not required to, conclude that the defendant's blood-alcohol level was 0.04 percent or more at the time of the alleged offense.]

[In evaluating any test results in this case, you may consider whether or not the person administering the test or the agency maintaining the testing device followed the regulations of the California Department of Public Health.]

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[The People allege that the defendant committed the following illegal act[s]: _____ *<list name[s] of offense[s]>***.**

To decide whether the defendant committed _____*<list name[s] of offense[s]>***, please refer to the separate instructions that I (will give/have given) you on (that/those) crime[s].]**

[The People [also] allege that the defendant failed to perform the following legal (duty/duties) while driving the vehicle: (the duty to exercise ordinary care at all times and to maintain proper control of the vehicle/_____ *<insert other duty or duties alleged>***).]**

[You may not find the defendant guilty unless all of you agree that the People have proved that the defendant (committed [at least] one illegal act/[or] failed to perform [at least] one duty).

<Alternative A—unanimity required; see Bench Notes>
[You must all agree on which (act the defendant committed/ [or] duty the defendant failed to perform).]

<Alternative B—unanimity not required; see Bench Notes>
[But you do not have to all agree on which (act the defendant committed/ [or] duty the defendant failed to perform).]

[Using *ordinary care* means using reasonable care to prevent reasonably foreseeable harm to someone else. A person fails to exercise ordinary care if he or she (does something that a reasonably careful person would not do in the same situation/ [or] fails to do something that a reasonably careful person would do in the same situation).]

[An act causes bodily injury to another person if the injury is the direct, natural, and probable consequence of the act and the injury would not have happened without the 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 injury. An act causes bodily injury to another person only if it is a substantial factor in causing the injury. A *substantial factor* is more than a trivial or remote factor. However, it need not be the only factor that causes the injury.]

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*New March 2018, effective July 2018; Revised September 2019, October 2025**

** 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.

If the prosecution alleges under element 3 that the defendant committed an act forbidden by law, the court has a **sua sponte** duty to specify the predicate offense alleged and to instruct on the elements of that offense. (*People v. Minor* (1994) 28 Cal.App.4th 431, 438–439 [33 Cal.Rptr.2d 641]; *People v. Ellis* (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409].)

If the prosecution alleges under element 3 that the defendant neglected to perform a duty imposed by law, the court has a **sua sponte** duty to instruct on the duty allegedly neglected. (See *People v. Minor, supra,* 28 Cal.App.4th at pp. 438–439.) If the prosecution alleges that the defendant neglected the general duty of every driver to exercise ordinary care (see *People v. Oyaass* (1985) 173 Cal.App.3d 663, 669 [219 Cal.Rptr. 243]), the court should give the bracketed definition of "ordinary care."

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 injury, the court should give the first bracketed paragraph on causation, which includes the "direct, natural, and probable" language. If there is evidence of multiple causes of injury, the court should also give the second bracketed paragraph on causation, which includes the "substantial factor" definition. (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].)

The court hasThere is a split in authority over whether there is a **sua sponte** duty to give a unanimity instruction when the prosecution presents evidence of multiple acts to prove a single countmultiple predicate offenses are alleged, if the prosecution has not elected the specific act relied upon to prove the charge and if the continuous course of conduct exception does not apply. (See *People v. Jennings* (2010) 50 Cal.4th 616, 679 [114 Cal.Rptr.3d 133, 188, 237 P.3d 474, 520–521](*People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30] [unanimity instruction required], overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481 [76 Cal.Rptr.2d 180, 957 P.2d 869]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735] [unanimity instruction not required but preferable]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438] [unanimity instruction not required]; *People v. Leffel* (1988) 203

DRAFT

~~Cal.App.3d 575, 586–587 [249 Cal.Rptr. 906] [unanimity instruction not required, failure to give harmless error if was required]~~.) See the Bench Notes to CALCRIM No. 3500, *Unanimity*, for an extensive discussion of the sua sponte duty to instruct on unanimity. If the court concludes that a unanimity instruction is appropriate, give the unanimity alternative A. If the court concludes that unanimity is not required, give the unanimity alternative B.

The bracketed paragraph that begins with "If the People have proved beyond a reasonable doubt that a sample of" explains a rebuttable presumption created by statute. (See Veh. Code, § 23153(e); Evid. Code, §§ 600–607.) The California Supreme Court has held that a jury instruction phrased as a rebuttable presumption in a criminal case creates an unconstitutional mandatory presumption. (*People v. Roder* (1983) 33 Cal.3d 491, 497–505 [189 Cal.Rptr. 501, 658 P.2d 1302].) In accordance with *Roder*, the instructions have been written as permissive inferences.

The court **must not** give the bracketed paragraph that begins with "If the People have proved beyond a reasonable doubt that a sample of" if there is no substantial evidence that the defendant's blood-alcohol level was at or above 0.04 percent at the time of the test.

If the evidence demonstrates that the person administering the test or agency maintaining the testing device failed to follow the title 17 regulations, give the bracketed sentence that begins with "In evaluating any test results in this case." (*People v. Adams* (1976) 59 Cal.App.3d 559, 567 [131 Cal.Rptr. 190] [failure to follow regulations in administering breath test goes to weight, not admissibility, of the evidence]; *People v. Williams* (2002) 28 Cal.4th 408, 417 [121 Cal.Rptr.2d 854, 49 P.3d 203] [same]; *People v. Esayian* (2003) 112 Cal.App.4th 1031, 1039 [5 Cal.Rptr.3d 542] [results of blood test admissible even though phlebotomist who drew blood not authorized under title 17].)

Do **not** give this instruction if the court has bifurcated the trial. Instead, give CALCRIM No. 2126, *Driving Under the Influence or With 0.08 or 0.04 Percent Blood Alcohol: Prior Convictions—Bifurcated Trial*. See the Bench Notes to CALCRIM No. 3100, *Prior Conviction: Nonbifurcated Trial*, for an extensive discussion of bifurcation. If the court does not grant a bifurcated trial, give CALCRIM No. 2125, *Driving Under the Influence or With 0.08 or 0.04 Percent Blood Alcohol: Prior Convictions*

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

Defenses—Instructional Duty

On request, if supported by the evidence, the court must instruct on the "imminent peril/sudden emergency" doctrine. (*People v. Boulware* (1940) 41 Cal.App.2d 268, 269–270 [106 P.2d 436].) The court may use the bracketed instruction on

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sudden emergency in CALCRIM No. 590, *Gross Vehicular Manslaughter While Intoxicated*.

Related Instructions

CALCRIM No. 2100, *Driving a Vehicle or Operating a Vessel Under the Influence Causing Injury.*

CALCRIM No. 2125, *Driving Under the Influence or With 0.08 or 0.04 Percent Blood Alcohol: Prior Convictions.*

CALCRIM No. 2126, *Driving Under the Influence or With 0.08 or 0.04 Percent Blood Alcohol: Prior Convictions—Bifurcated Trial.*

CALCRIM No. 595, *Vehicular Manslaughter: Speeding Laws Defined.*

AUTHORITY

- Elements. Veh. Code, § 23153(e); *Burg v. Municipal Court* (1983) 35 Cal.3d 257, 265–266 [198 Cal.Rptr. 145, 673 P.2d 732].
- Partition Ratio. Veh. Code, § 23152; *People v. Bransford* (1994) 8 Cal.4th 885, 890 [35 Cal.Rptr.2d 613, 884 P.2d 70].
- Presumptions. Veh. Code, § 23153(e); Evid. Code, § 607; *People v. Milham* (1984) 159 Cal.App.3d 487, 503–505 [205 Cal.Rptr. 688].
- Must Instruct on Elements of Predicate Offense. *People v. Minor* (1994) 28 Cal.App.4th 431, 438–439 [33 Cal.Rptr.2d 641]; *People v. Ellis* (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409].
- Negligence—Ordinary Care. Pen. Code, § 7(2); Restatement Second of Torts, § 282.
- Causation. *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 440 [8 Cal.Rptr. 863].
- ~~Unanimity Instruction. *People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30], overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481 [76 Cal.Rptr.2d 180, 957 P.2d 869]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438]; *People v. Leffel* (1988) 203 Cal.App.3d 575, 586–587 [249 Cal.Rptr. 906].~~
- Statute Constitutional. *Burg v. Municipal Court* (1983) 35 Cal.3d 257, 273 [198 Cal.Rptr. 145, 673 P.2d 732].
- Prior Convictions. *People v. Weathington* (1991) 231 Cal.App.3d 69, 90 [282 Cal.Rptr. 170].

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LESSER INCLUDED OFFENSES

- Driving With 0.04 Percent Blood Alcohol With a Passenger for Hire. Veh. Code, § 23152(e).

RELATED ISSUES

See the Related Issues section in CALCRIM No. 2111, *Driving a Vehicle or Operating a Vessel Under the Influence Causing Injury (Veh. Code, § 23153)(a), (f), (g)* and CALCRIM No. 2100, *Driving With 0.08 Percent Blood Alcohol (Veh. Code, § 23152(b)*.

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2307. Possession of Hard Drug With Prior Controlled Substance Convictions (Health & Saf. Code, § 11395)

The defendant is charged [in Count __][, in violation of Health and Safety Code section 11395,] with possessing _____ *<insert substance specified in Health & Saf. Code, § 11395(e)>* **with two or more prior drug-related convictions.**

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

1. **The defendant [unlawfully] possessed _____** *<insert substance specified in Health & Saf. Code, § 11395(e)>***;**

2. **The defendant knew of its presence;**

3. **The defendant knew of the substance's nature or character as a controlled substance;**

4. **The _____** *<insert substance specified in Health & Saf. Code, § 11395(e)>* **was in a usable amount;**

AND

5. **The defendant was previously convicted of a violation of _____[,]***<insert applicable drug offense listed in Health and Safety Code, § 11395(c)>* **[and] a violation of _____***<insert applicable drug offense listed in Health and Safety Code, § 11395(c)>* **[and a violation of _____***<insert applicable drug offense listed in Health and Safety Code, § 11395(c); repeat as necessary>***].**

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 drug (he/she) possessed.]

[Two or more people may possess something at the same time.]

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[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 drug does not, by itself, mean that a person has control over that drug.]

<Defense: Prescription>
[The defendant is not guilty of possessing _____ *< insert drug specified in Health & Saf. Code, § 11395(e)>* **if (he/she) had a valid, written prescription for that substance from a physician, dentist, podiatrist, [naturopathic doctor], or veterinarian licensed to practice in California. The People have the burden of proving beyond a reasonable doubt that the defendant did not have a valid prescription. If the People have not met this burden, you must find the defendant not guilty.]**

New October 2025

BENCH NOTES

Instructional Duty

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

Give CALCRIM No. 3500, *Unanimity*, if more than two prior drug related convictions are alleged.

Defenses—Instructional Duty

The prescription defense is codified in Health and Safety Code section 11395. It is not available as a defense to possession of all controlled substances. The defendant need only raise a reasonable doubt about whether his or her possession of the drug was lawful because of a valid prescription. (See *People v. Mower* (2002) 28 Cal.4th 457, 479 [122 Cal.Rptr.2d 326, 49 P.3d 1067].) If there is sufficient evidence, the court has a **sua sponte** duty to give the bracketed paragraph on the defense.

Section 11150 includes a naturopathic doctor in the category of those who may furnish or order certain controlled substances, so that bracketed option should be included in this instruction if substantial evidence supports it.

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AUTHORITY

- Elements. Health & Saf. Code, § 11395.
- Constructive vs. Actual Possession. *People v. Barnes* (1997) 57 Cal.App.4th 552, 556 [67 Cal.Rptr.2d 162].
- Knowledge. *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].
- Prescription. Health & Saf. Code, §§ 11027, 11164, 11164.5.
- Persons Authorized to Write Prescriptions. Health & Saf. Code, § 11150.
- "Hard Drug" Defined. Health & Saf. Code, § 11395(e).

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2501. Carrying Concealed Explosive or Dirk or Dagger (Pen. Code, §§ 21310, 16470)

The defendant is charged [in Count __] with unlawfully carrying a concealed (explosive/dirk or dagger) [in violation of Penal Code section 21310].

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

1. **The defendant carried on (his/her) person (an explosive/a dirk or dagger);**

2. **The defendant knew that (he/she) was carrying it;**

3. **It was substantially concealed on the defendant's person;**

AND

4. **The defendant knew that it (was an explosive/could readily be used as a stabbing weapon).**

The People do not have to prove that the defendant used or intended to use the alleged (explosive/dirk or dagger) as a weapon.

[An *explosive* is any substance, or combination of substances, (1) whose main or common purpose is to detonate or rapidly combust and (2) that is capable of a relatively instantaneous or rapid release of gas and heat.]

[An *explosive* is also any substance whose main purpose is to be combined with other substances to create a new substance that can release gas and heat rapidly or relatively instantaneously.]

[_____ *<insert type of explosive from Health & Saf. Code, § 12000>* **is an *explosive*.]**

[A *dirk or dagger* is a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. *Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

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[A (pocketknife/nonlocking folding knife/folding knife that is not prohibited by Penal Code section 21510) is not a *dirk or dagger* unless the blade of the knife is exposed and locked into position.]

[A knife carried in a sheath and worn openly suspended from the waist of the wearer is not *concealed*.]

<Give only if object may have innocent uses.>
[When deciding whether the defendant knew the object (was an explosive/could be used as a stabbing weapon), consider all the surrounding circumstances, including the time and place of possession. Consider also (the destination of the defendant[,]/ the alteration of the object from standard form[,]) and other facts, if any.]

[The People allege that the defendant carried the following weapons: _____ <*insert description of each weapon when multiple items alleged*>. You may not find the defendant guilty unless all of you agree that the People have proved that the defendant carried at least one of these weapons and you all agree on which weapon (he/she) carried and when (he/she) carried it.]

New January 2006; Revised February 2012, September 2020, October 2025

BENCH NOTES

Instructional Duty

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

If the prosecution alleges under a single count that the defendant possessed multiple weapons and the possession was "fragmented as to time . . . [or] space," the court has a **sua sponte** duty to instruct on unanimity. (See *People v. Wolfe* (2003) 114 Cal.App.4th 177, 184–185 [7 Cal.Rptr.3d 483].) Give the bracketed paragraph beginning "The People allege that the defendant possessed the following weapons," inserting the items alleged.

Give the bracketed paragraph that begins with "When deciding whether" only if the object was not designed solely for use as a stabbing weapon but may have innocent uses. (*People v. Fannin* (2001) 91 Cal.App.4th 1399, 1404 [111 Cal.Rptr.2d 496]; *People v. Grubb* (1965) 63 Cal.2d 614, 620–621, fn. 9 [47 Cal.Rptr. 772, 408 P.2d 100].)

When instructing on the meaning of "explosive," if the explosive is listed in Health and Safety Code section 12000, the court may use the bracketed sentence stating, "_____ is an explosive." For example, "Nitroglycerine is an

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explosive." However, the court may not instruct the jury that the defendant used an explosive. For example, the court may not state, "The defendant used an explosive, nitroglycerine," or "The substance used by the defendant, nitroglycerine, was an explosive." (See *People v. Dimitrov* (1995) 33 Cal.App.4th 18, 25–26 [39 Cal.Rptr.2d 257]; *People v. Brown* (1988) 46 Cal.3d 432, 444–445 [250 Cal.Rptr. 604, 758 P.2d 1135].)

If the court gives the instruction on a "folding knife that is not prohibited by Penal Code section 21510," give a modified version of CALCRIM No. 2502, *Possession, etc., of Switchblade Knife.*

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Elements. Pen. Code, § 21310.
- Need Not Prove Intent to Use. *People v. Rubalcava* (2000) 23 Cal.4th 322, 328 [96 Cal.Rptr.2d 735, 1 P.3d 52].
- Knowledge Required. *People v. Rubalcava*, *supra*, ~~(2000)~~ 23 Cal.4th ~~322,~~at pp. 331–332 ~~[96 Cal.Rptr.2d 735, 1 P.3d 52]~~.
- Substantial Concealment. *People v. Wharton* (1992) 5 Cal.App.4th 72, 75 [6 Cal.Rptr.2d 673]; *People v. Fuentes* (1976) 64 Cal.App.3d 953, 955 [134 Cal.Rptr. 885].
- "Explosive" Defined. Health & Saf. Code, § 12000; *People v. Clark* (1990) 50 Cal.3d 583, 604 [789 P.2d 127, 268 Cal.Rptr. 399].
- "Dirk or Dagger" Defined. Pen. Code, § 16470.
- Dirk or Dagger—No Length Requirement. *In re Victor B.* (1994) 24 Cal.App.4th 521, 526 [29 Cal.Rptr.2d 362].
- Dirk or Dagger—Object Not Originally Designed as Knife. *In re Victor B.*, *supra*, ~~(1994)~~ 24 Cal.App.4th ~~521,~~at pp. 525–526 ~~[29 Cal.Rptr.2d 362]~~.
- Dirk or Dagger—Capable of Ready Use. *People v. Sisneros* (1997) 57 Cal.App.4th 1454, 1457 [67 Cal.Rptr.2d 782].

DRAFT

- Dirk or Dagger—Pocketknives. *In re Luke W.* (2001) 88 Cal.App.4th 650, 655–656 [105 Cal.Rptr.2d 905]; *In re George W.* (1998) 68 Cal.App.4th 1208, 1215 [80 Cal.Rptr.2d 868].

RELATED ISSUES

Knowledge Element

"[T]he relevant language of section 12020 is unambiguous and establishes that carrying a concealed dirk or dagger does not require an intent to use the concealed instrument as a stabbing weapon." (*People v. Rubalcava*, *supra*, ~~(2000)~~ 23 Cal.4th ~~322,~~at p. 328 ~~[96 Cal.Rptr.2d 735, 1 P.3d 52]~~ [interpreting now-repealed Pen. Code, § 12020].) However, "to commit the offense, a defendant must still have the requisite *guilty mind*: that is, the defendant must knowingly and intentionally carry concealed upon his or her person an instrument 'that is capable of ready use as a stabbing weapon.' ([now repealed] § 12020(a), (c)(24).) A defendant who does not know that he is carrying the weapon or that the concealed instrument may be used as a stabbing weapon is therefore not guilty of violating section 12020." (*Id.* at pp. 331–332 [emphasis in original] [referencing repealed Pen. Code § 12020; see now Pen. Code, §§ 16479, 21310].)

Definition of Dirk or Dagger

The definition of "dirk or dagger" contained in Penal Code section 16470 was effective on January 1, 2012. Prior decisions interpreting the meaning of "dirk or dagger" should be viewed with caution. (See *People v. Mowatt* (1997) 56 Cal.App.4th 713, 719–720 [65 Cal.Rptr.2d 722] [comparing old and new definitions]; *People v. Sisneros*, *supra*, ~~(1997)~~ 57 Cal.App.4th ~~1454,~~at p. 1457 ~~[67 Cal.Rptr.2d 782]~~ [same]; *In re George W.*, *supra*, ~~(1998)~~ 68 Cal.App.4th ~~1208,~~at p. 1215 ~~[80 Cal.Rptr.2d 868]~~ [discussing 1997 amendment].)

Dirk or Dagger—"Capable of Ready Use"

"[T]he 'capable of ready use' requirement excludes from the definition of dirk or dagger a device carried in a configuration that requires assembly before it can be utilized as a weapon." (*People v. Sisneros*, *supra*, ~~(1997)~~ 57 Cal.App.4th ~~1454,~~at p. 1457 ~~[67 Cal.Rptr.2d 782]~~.)

Dirk or Dagger—"Pocketknife"

"Although they may not have folding blades, small knives obviously designed to be carried in a pocket in a closed state, and which cannot be used until there have been several intervening manipulations, comport with the implied legislative intent that such knives do not fall within the definition of proscribed dirks or daggers but are a type of pocketknife excepted from the statutory proscription." (*In re Luke W.*, *supra*, ~~(2001)~~ 88 Cal.App.4th ~~650,~~at pp. 655–656 ~~[105 Cal.Rptr.2d 905]~~.)

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SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 2024~~12~~) Crimes Against Public Peace and Welfare, § 246~~13~~.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.02[2][a][i] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.01[1][a] (Matthew Bender).

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2503. Possession of Deadly Weapon With Intent to Assault (Pen. Code, § 17500)

The defendant is charged [in Count __] with possessing a deadly weapon with intent to assault [in violation of Penal Code section 17500].

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

1. **The defendant possessed a deadly weapon on (his/her) person;**

2. **The defendant knew that (he/she) possessed the weapon;**

AND

3. **At the time the defendant possessed the weapon, (he/she) intended to assault someone.**

A person intends to assault someone else if he or she intends to do an act that by its nature would directly and probably result in the application of force to a person.

[A *deadly weapon* is any object, instrument, or weapon [that is inherently deadly or one] that is used in such a way that it is capable of causing and likely to cause death or great bodily injury.]

[An object is *inherently deadly* if it is deadly or dangerous in the ordinary use for which it was designed.]

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[The term *deadly weapon* is defined in another instruction to which you should refer.]

[In deciding whether an object is a deadly weapon, consider all the surrounding circumstances, including when and where the object was possessed[,] [and] [where the person who possessed the object was going][,] [and] [whether the object was changed from its standard form] and any other evidence that indicates that the object would be used for a dangerous, rather than a harmless, purpose.]

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The term *application of force* means to touch in a harmful or offensive manner. The slightest touching can be enough 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).]

[The People are not required to prove that the defendant actually touched someone.]

[The People allege that the defendant possessed the following weapons: _____ <*insert description of each weapon when multiple items alleged*>. You may not find the defendant guilty unless you all agree that the People have proved that the defendant possessed at least one of these weapons and you all agree on which weapon (he/she) possessed.]

New January 2006; Revised February 2012, February 2013, September 2019, September 2020, March 2022, February 2025, October 2025

BENCH NOTES

Instructional Duty

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

If the prosecution alleges under a single count that the defendant possessed multiple weapons and the possession was "fragmented as to time [or] space," the court has a **sua sponte** duty to instruct on unanimity. (See *People v. Wolfe* (2003) 114 Cal.App.4th 177, 184–185 [7 Cal.Rptr.3d 483].) Give the bracketed paragraph that begins with "The People allege that the defendant possessed the following weapons," inserting the items alleged.

Give the bracketed paragraph on indirect touching if relevant.

Give the definition of deadly weapon unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere.

Give the bracketed phrase "that is inherently deadly or one" and give the bracketed definition of *inherently deadly* only if the object is a deadly weapon as a

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matter of law. (*People v. Stutelberg* (2018) 29 Cal.App.5th 314, 317–318 [240 Cal.Rptr.3d 156].)

Give the bracketed paragraph that begins with "In deciding whether" if the object is not a weapon as a matter of law and is capable of innocent uses. (*People v. Aguilar* (1997) 16 Cal.4th 1023, 1028–1029 [68 Cal.Rptr.2d 655, 945 P.2d 1204]; *People v. Godwin* (1996) 50 Cal.App.4th 1562, 1573–1574 [58 Cal.Rptr.2d 545].)

If determining whether the item is an inherently deadly weapon requires resolution of a factual issue, give both bracketed instructions.

Defenses—Instructional Duty

Evidence of voluntary intoxication or mental impairment may be admitted to show that the defendant did not form the required mental state. (See *People v. Ricardi* (1992) 9 Cal.App.4th 1427, 1432 [12 Cal.Rptr.2d 364].) The court has no sua sponte duty to instruct on these defenses; however, the trial court must give these instructions on request if supported by the evidence. (*People v. Saille* (1991) 54 Cal.3d 1103, 1119 [2 Cal.Rptr.2d 364, 820 P.2d 588] [on duty to instruct generally]; *People v. Stevenson* (1978) 79 Cal.App.3d 976, 988 [145 Cal.Rptr. 301] [instructions applicable to possession of weapon with intent to assault].) See Defenses and Insanity, CALCRIM No. 3400 et seq.

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Elements. Pen. Code, § 17500.
- "Deadly Weapon" Defined. *People v. Brown* (2012) 210 Cal.App.4th 1, 6–8 [147 Cal.Rptr.3d 848]; *People v. Aguilar, supra,* 16 Cal.4th at pp. 1028–1029.
- Objects With Innocent Uses. *People v. Aguilar, supra,* 16 Cal.4th at pp. 1028–1029; *People v. Godwin, supra,* 50 Cal.App.4th at pp. 1573–1574.
- "Knowledge" Required. See *People v. Rubalcava* (2000) 23 Cal.4th 322, 331–332 [96 Cal.Rptr.2d 735, 1 P.3d 52]; *People v. Gaitan* (2001) 92 Cal.App.4th 540, 547 [111 Cal.Rptr.2d 885].
- Assault. Pen. Code, § 240; see also *People v. Williams* (2001) 26 Cal.4th 779, 790 [111 Cal.Rptr.2d 114, 29 P.3d 197].

DRAFT

- 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]].
- "Inherently Deadly" Defined. *People v. Perez* (2018) 4 Cal.5th 1055, 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42]; *People v. Aguilar, supra,* 16 Cal.4th at pp. 1028–1029.
- Examples of Noninherently Deadly Weapon. *People v. Aledamat* (2019) 8 Cal.5th 1, 6 [251 Cal.Rptr.3d 371, 447 P.3d 277] [box cutter]; *People v. Perez, supra,* 4 Cal.5th at p. 1065 [vehicle]; *People v. McCoy* (1944) 25 Cal.2d 177, 188 [153 P.2d 315] [knife].

RELATED ISSUES

See the Authority section in CALCRIM No. 960, *Simple Battery*, regarding indirect touching.

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 202~~4~~412) Crimes Against Public Peace and Welfare, §§ ~~189~~215, 2~~4~~45, 312.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict,* § 85.02[2][a][i] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order,* § 144.01[1] (Matthew Bender).

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2514. Possession of Firearm by Person Prohibited by Statute: Self-Defense

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The defendant is not guilty of unlawful possession of a firearm[, as charged in Count __,] if (he/she) temporarily possessed the firearm in (self-defense/ [or] defense of another). The defendant possessed the firearm in lawful (self-defense/ [or] defense of another) if:

1. **The defendant reasonably believed that (he/she/someone else/_____ <*insert name of third party*>) was in imminent danger of suffering great bodily injury;**

2. **The defendant reasonably believed that the immediate use of force was necessary to defend against that danger;**

3. **A firearm became available to the defendant without planning or preparation on (his/her) part;**

4. **The defendant possessed the firearm temporarily, that is, for a period no longer than was necessary [or reasonably appeared to have been necessary] for self-defense;**

5. **No other means of avoiding the danger of injury was available;**

AND

6. **The defendant's use of the firearm was reasonable under the circumstances.**

Belief in future harm is not sufficient, no matter how great or how likely the harm is believed to be. The defendant must have believed there was imminent danger of great bodily injury to (himself/herself/ [or] someone else). Defendant's belief must have been reasonable and (he/she) must have acted only because of that belief. The defendant is only entitled to use that amount of force that a reasonable person would believe is necessary in the same situation. If the defendant used more force than was reasonable, the defendant did not act in lawful (self-defense/ [or] defense of another).

When deciding whether the defendant's beliefs were reasonable, consider all the circumstances as they were known to and appeared to the defendant and consider what a reasonable person in a similar situation with similar

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knowledge would have believed. If the defendant's beliefs were reasonable, the danger does not need to have actually existed.

Great bodily injury **means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

[The defendant's belief that (he/she/someone else) was threatened may be reasonable even if (he/she) relied on information that was not true. However, the defendant must actually and reasonably have believed that the information was true.]

[If you find that _____ *<insert name of person who allegedly threatened defendant>* **threatened or harmed the defendant [or others] in the past, you may consider that information in deciding whether the defendant's conduct and beliefs were reasonable.]**

[If you find that the defendant knew that _____ *<insert name of person who allegedly threatened defendant>* **had threatened or harmed others in the past, you may consider that information in deciding whether the defendant's conduct and beliefs were reasonable.]**

[Someone who has been threatened or harmed by a person in the past, is justified in acting more quickly or taking greater self-defense measures against that person.]

[If you find that the defendant received a threat from someone else that (he/she) reasonably associated with _____ *<insert name of person who was the alleged source of the threat>***, you may consider that threat in deciding whether the defendant was justified in acting in (self-defense/ [or] defense of another).]**

The People have the burden of proving beyond a reasonable doubt that the defendant did not temporarily possess the firearm in (self-defense/ [or] defense of another). If the People have not met this burden, you must find the defendant not guilty of this crime.

New January 2006; Revised December 2008, February 2012, September 2020, March 2022, October 2025

DRAFT

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on self-defense when "it appears that the defendant is relying on such a defense, or if there is substantial evidence supportive of such a defense and the defense is not inconsistent with the defendant's theory of the case." (See *People v. Breverman* (1998) 19 Cal.4th 142, 157 [77 Cal.Rptr.2d 870, 960 P.2d 1094] [discussing duty to instruct on defenses generally]; see also *People v. Lemus* (1988) 203 Cal.App.3d 470, 478 [249 Cal.Rptr. 897] [if substantial evidence of self-defense exists, court must instruct sua sponte and let jury decide credibility of witnesses]; *People v. King* (1978) 22 Cal.3d 12, 24 [148 Cal.Rptr. 409, 582 P.2d 1000] [self-defense applies to charge under now repealed Pen. Code, § 12021].)

On defense request and when supported by sufficient evidence, the court must instruct that the jury may consider the effect of "antecedent threats or assaults against the defendant on the reasonableness of defendant's conduct." (*People v. Garvin* (2003) 110 Cal.App.4th 484, 488 [1 Cal.Rptr.3d 774].) The court must also instruct that the jury may consider previous threats or assaults by the aggressor against someone else or threats received by the defendant from a third party that the defendant reasonably associated with the aggressor. (See *People v. Pena* (1984) 151 Cal.App.3d 462, 475 [198 Cal.Rptr. 819]; *People v. Minifie* (1996) 13 Cal.4th 1055, 1065, 1068 [56 Cal.Rptr.2d 133, 920 P.2d 1337]; see also CALCRIM No. 505, *Justifiable Homicide: Self-Defense or Defense of Another*.) If these instructions have already been given in CALCRIM No. 3470 or CALCRIM No. 505, the court may delete them here.

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

Related Instructions

CALCRIM No. 3470, *Right to Self-Defense or Defense of Another (Non-Homicide)*.

CALCRIM No. 3471, *Right to Self-Defense: Mutual Combat or Initial Aggressor*.

CALCRIM No. 3472, *Right to Self-Defense: May Not Be Contrived*.

CALCRIM No. 505, *Justifiable Homicide: Self-Defense or Defense of Another*.

DRAFT

AUTHORITY

- Temporary Possession of Firearm by Felon in Self-Defense. *People v. King* (1978) 22 Cal.3d 12, 24 [148 Cal.Rptr. 409, 582 P.2d 1000].
- Duty to Retreat Limited to Felon in Possession Cases. *People v. Rhodes* (2005) 129 Cal.App.4th 1339, 1343–1346 [29 Cal.Rptr.3d 226].
- Possession Must Be Brief and Not Planned. *People v. McClindon* (1980) 114 Cal.App.3d 336, 340 [170 Cal.Rptr. 492].
- Instructional Requirements. *People v. Moody* (1943) 62 Cal.App.2d 18 [143 P.2d 978]; *People v. Myers* (1998) 61 Cal.App.4th 328, 335, 336 [71 Cal.Rptr.2d 518].
- Lawful Resistance. Pen. Code, §§ 692, 693, 694; Civ. Code, § 50.
- Burden of Proof. Pen. Code, § 189.5; *People v. Banks* (1976) 67 Cal.App.3d 379, 383–384 [137 Cal.Rptr. 652].
- Elements. *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082 [56 Cal.Rptr.2d 142, 921 P.2d 1].
- Imminence. *People v. Aris* (1989) 215 Cal.App.3d 1178, 1187 [264 Cal.Rptr. 167], disapproved on other grounds by *People v. Humphrey*, *supra*, ~~(1996)~~ 13 Cal.4th ~~1073,~~at pp. 1088–1089 ~~[56 Cal.Rptr.2d 142, 921 P.2d 1]~~.
- Reasonable Belief. *People v. Humphrey*, *supra*, ~~(1996)~~ 13 Cal.4th ~~1073,~~at p. 1082 ~~[56 Cal.Rptr.2d 142, 921 P.2d 1]~~; *People v. Clark* (1982) 130 Cal.App.3d 371, 377 [181 Cal.Rptr. 682].

RELATED ISSUES

Reasonable Person Standard Not Modified by Evidence of Mental Impairment

In *People v. Jefferson* (2004) 119 Cal.App.4th 508, 519 [14 Cal.Rptr.3d 473], the court rejected the argument that the reasonable person standard for self-defense should be the standard of a mentally ill person like the defendant. “The common law does not take account of a person’s mental capacity when determining whether he has acted as the reasonable person would have acted. The law holds ‘the mentally deranged or insane defendant accountable for his negligence as if the person were a normal, prudent person.’ (Prosser & Keeton, Torts (5th ed. 1984) § 32, p. 177.)” (*Ibid.*; see also Rest.2d Torts, § 283B.)

Reasonable Person Standard and Physical Limitations

A defendant’s physical limitations are relevant when deciding the reasonable person standard for self-defense. (*People v. Horn* (2021) 63 Cal.App.5th 672, 686

DRAFT

[277 Cal.Rptr.3d 901].) See also CALCRIM No. 3429, *Reasonable Person Standard for Physically Disabled Person*.

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 2024~~12~~) Defenses, §§ ~~86~~94, ~~87~~95, ~~68~~75, 7~~1~~8, 7~~2~~9, ~~73~~80.

2 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 2024~~12~~) Crimes Against Public Peace and Welfare, §§ ~~233~~278 – ~~237~~283.

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications,* § 73.11[1][a] (Matthew Bender).

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 93, *Disabilities Flowing From Conviction,* § 93.06 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order,* § 144.01[1][d] (Matthew Bender).

2515–2519. Reserved for Future Use

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2578. Explosion of Explosive or Destructive Device Causing Death, Mayhem, or Great Bodily Injury (Pen. Code, § 18755)

The defendant is charged [in Count __] with (exploding/ [or] igniting) (an explosive/ [or] a destructive device) causing (death[,]/ mayhem[,]/ [or] great bodily injury) to another person [in violation of Penal Code section 18755].

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

1. **The defendant willfully and maliciously (exploded/ [or] ignited) (an explosive/ [or] a destructive device);**

AND

2. **The explosion caused (death[,]/ mayhem[,]/ [or] great bodily injury) to another person.**

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.

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

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[*Mayhem* means unlawfully:

<A. Removing Body Part>
[Removing a part of someone's body](;[or]/.)

<B. Disabling Body Part>
[Disabling or making useless a part of someone's body and the disability is more than slight or temporary](;[or]/.)

<C. Disfigurement>
[Permanently disfiguring someone](;[or]/.)

DRAFT

<D. Tongue Injury>
[Cutting or disabling someone's tongue](;[or]/.)

<E. Slitting Nose, Ear, or Lip>
[Slitting someone's (nose[,]/ear[,]/ [or] lip)](; or/.)

<F. Significant Eye Injury>
[Putting out someone's eye or injuring someone's eye in a way that so significantly reduces his or her ability to see that the eye is useless for the purpose of ordinary sight.]]

[A disfiguring injury may be *permanent* even though it can be repaired by medical procedures.]

[An *explosive* is any substance, or combination of substances, (1) whose main or common purpose is to detonate or rapidly combust and (2) which is capable of a relatively instantaneous or rapid release of gas and heat.]

[An *explosive* is also any substance whose main purpose is to be combined with other substances to create a new substance that can release gas and heat rapidly or relatively instantaneously.]

[_____ *<insert type of explosive from Health & Saf. Code, § 12000>* **is an *explosive*.]**

[A *destructive device* is _____ *<insert definition from Pen. Code, § 16460>***.]**

[_____ *<insert type of destructive device from Pen. Code, § 16460>* **is a *destructive device*.]**

[The term[s] (*explosive*/ [and] *destructive device*) (is/are) defined in another instruction.]

[An act causes (death[,]/ mayhem[,]/ [or] great bodily injury) if the (death/injury) is the direct, natural, and probable consequence of the act, and the (death[,]/ mayhem[,]/ [or] great bodily injury) would not have happened without the 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.]

DRAFT

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

New January 2006; Revised February 2012, September 2020, October 2025

BENCH NOTES

Instructional Duty

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

If causation is at issue, the court has a **sua sponte** duty to instruct on proximate cause. (See *People v. Bernhardt* (1963) 222 Cal.App.2d 567, 590–591 [35 Cal.Rptr. 401] [causation issue in homicide].) If the evidence indicates that there was only one cause of 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 injury, the court should also give the "substantial factor" instruction and definition in the second bracketed paragraph. (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].)

Depending on the device or substance used, give the bracketed definitions of "explosive" or "destructive device," inserting the appropriate definition from Penal Code section 16460, unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere. If the case involves a specific device listed in Health and Safety Code section 12000 or Penal Code section 16460, the court may instead give the bracketed sentence stating that the listed item "is an explosive" or "is a destructive device." For example, "A grenade is a destructive device." However, the court may not instruct the jury that the defendant used a destructive device. For example, the court may not state that "the defendant used a destructive device, a grenade," or "the device used by the defendant, a grenade, was a destructive device." (*People v. Dimitrov* (1995) 33 Cal.App.4th 18, 25–26 [39 Cal.Rptr.2d 257].)

If the device used is a bomb, the court may insert the word "bomb" in the bracketed definition of destructive device without further definition. (*People v. Dimitrov, supra*, 33 Cal.App.4th at p. 25.) Appellate courts have held that the term "bomb" is not vague and is understood in its "common, accepted, and popular sense." (*People v. Quinn* (1976) 57 Cal.App.3d 251, 258 [129 Cal.Rptr. 139]; *People v. Dimitrov, supra*, 33 Cal.App.4th at p. 25.) If the court wishes to define

DRAFT

the term "bomb," the court may use the following definition: "A bomb is a device carrying an explosive charge fused to blow up or detonate under certain conditions." (See *People v. Morse* (1992) 2 Cal.App.4th 620, 647, fn. 8 [3 Cal.Rptr.2d 343].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Elements. Pen. Code, § 18755.
- "Explosive" Defined. Health & Saf. Code, § 12000.
- "Destructive Device" Defined. Pen. Code, § 16460.
- "Maliciously" Defined. Pen. Code, § 7(4); *People v. Lopez* (1986) 176 Cal.App.3d 545, 550 [222 Cal.Rptr. 101]; see also *People v. Heideman* (1976) 58 Cal.App.3d 321, 335 [130 Cal.Rptr. 349].
- Must Injure Another Person. See *People v. Teroganesian* (1995) 31 Cal.App.4th 1534, 1538 [37 Cal.Rptr.2d 489].
- General Intent Crime. See *People v. Thompson* (1992) 7 Cal.App.4th 1966, 1970–1971 [10 Cal.Rptr.2d 15].
- "Great Bodily Injury" Defined. *People v. Poulin* (1972) 27 Cal.App.3d 54, 61 [103 Cal.Rptr. 623].

LESSER INCLUDED OFFENSES

- Possession of Destructive Device. Pen. Code, § 18710; *People v. Westoby* (1976) 63 Cal.App.3d 790, 795 [134 Cal.Rptr. 97].
- Possession of Explosive. Health & Saf. Code, § 12305; *People v. Westoby, supra,* ~~(1976)~~ 63 Cal.App.3d ~~790,~~at p. 795 ~~[134 Cal.Rptr. 97]~~.
- Explosion of a Destructive Device Causing Injury. Pen. Code, § 18750; see *People v. Poulin, supra,* ~~(1972)~~ 27 Cal.App.3d ~~54,~~at p. 60 ~~[103 Cal.Rptr. 623]~~.

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RELATED ISSUES

See the Related Issues section to CALCRIM No. 2571, *Carrying or Placing Explosive or Destructive Device on Common Carrier*, and CALCRIM No. 2577, *Explosion of Explosive or Destructive Device Causing Bodily Injury*.

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 2024~~12~~) Crimes Against Public Peace and Welfare, §§ 258~~25–~~260~~26, 227~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, § 140.04, Ch. 142, *Crimes Against the Person*, § 142.01[2][a][i], [ii], Ch. 144, *Crimes Against Order*, § 144.01[1][c] (Matthew Bender).

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2593. Purchase, Possession, or Use of Tear Gas or Tear Gas Weapon (Pen. Code, § 22810(a), (e)(1), (g))

The defendant is charged [in Count __] with unlawfully (purchasing[,]/[or] possessing[,]/[or] using) (tear gas/[or] a tear gas weapon) [in violation of Penal Code section 22810].

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

1. **The defendant (purchased[,]/[or] possessed[,]/[or] used) (an item containing tear gas/[or] a tear gas weapon);**

2. **When the defendant (purchased[,]/[or] possessed[,]/[or] used) the (item/weapon), the defendant knew that it (contained tear gas/was a tear gas weapon);**

AND

<prohibited grounds related to defendant>
[3. When the defendant (purchased[,]/[or] possessed[,]/[or] used) the (item/weapon), the defendant was (not acting in self-defense/had been convicted of _____ <*insert applicable offense*>).]

<prohibited characteristics of a tear gas weapon>
[3. The tear gas weapon (could expel (a projectile/tear gas by any method other than an aerosol spray)/[or] contained more than 2.5 ounces net weight of aerosol spray).]

***Tear gas* is a liquid, gaseous, or solid substance intended to produce temporary physical discomfort or permanent injury when vaporized or otherwise dispersed in the air.**

[A *tear gas weapon* is a shell, cartridge, or bomb capable of being discharged or exploded to release or emit tear gas.] [A *tear gas weapon* [also] means a revolver, pistol, fountain pen gun, billy, or other device, portable or fixed, intended specifically to project or release tear gas.] [A *tear gas weapon* does not include a device regularly manufactured and sold for use with firearm ammunition.]

[Pepper spray is a type of tear gas.]

DRAFT

[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.]

[The People allege that the defendant possessed the following (tear gas/tear gas weapons): _____ *<insert description of each tear gas or tear gas weapon when multiple items alleged>***. You may not find the defendant guilty unless all of you agree that the People have proved that the defendant (purchased[,]/[or] possessed[,]/[or] used) at least one of the alleged items, and you all agree on which alleged item (he/she) (purchased[,]/[or] possessed[,]/[or] used).]**

<sentence enhancement under Pen. Code, § 22810(g)(2)>
[The defendant used (tear gas/[or] a tear gas weapon) against a peace officer engaged in the performance of official duties and, when the defendant used the (tear gas/[or] tear gas weapon), the defendant knew or reasonably should have known that the person was a peace officer.]

[A person employed as a police officer by _____ *<insert name of agency that employs police officer>* **is a *peace officer*.]**

[A person employed by _____ *<insert name of agency that employs peace officer, e.g., "the Department of Fish and Wildlife">* **is a *peace officer* if _____** *<insert description of facts necessary to make employee a peace officer, e.g., "designated by the director of the agency as a peace officer">***.]**

New October 2025

BENCH NOTES

Instructional Duty

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

If there is sufficient evidence of self-defense, give any appropriate defense instructions. (See CALCRIM Nos. 3470–3477.)

If the prosecution alleges under a single count that the defendant possessed multiple items, the court has a **sua sponte** duty to instruct on unanimity. (*People v. Heideman* (1976) 58 Cal.App.3d 321, 333 [130 Cal.Rptr. 349].) Give the

DRAFT

bracketed paragraph that begins "The People allege that the defendant possessed the following tear gas or tear gas weapons" and insert the items alleged.

If the sentence enhancement under Penal Code section 22810(g)(2) is charged, the jury must determine whether the alleged victim is a peace officer. (See *People v. Brown* (1988) 46 Cal.3d 432, 444–445 [250 Cal.Rptr. 604, 758 P.2d 1135].) The court may instruct the jury on the appropriate definition of "peace officer" from the statute (e.g., "a Garden Grove Regular Police Officer and a Garden Grove Reserve Police Officer are peace officers"). *(Ibid.)* However, the court may not instruct the jury that the alleged victim was a peace officer as a matter of law (e.g., "Officer Reed was a peace officer"). *(Ibid.)* If the alleged victim is a police officer, give the bracketed sentence that begins with "A person employed as a police officer." If the alleged victim is another type of peace officer, give the bracketed sentence that begins with "A person employed by."

AUTHORITY

- Elements. Pen. Code, § 22810(a), (e)(1).
- "Tear Gas" Defined. Pen. Code, § 17240.
- Pepper Spray is a Type of Tear Gas. *People v. Autterson* (1968) 261 Cal.App.2d 627, 630–631 [68 Cal.Rptr. 113].
- Knowledge. See *People v. Rubalcava* (2000) 23 Cal.4th 322, 331–332 [96 Cal.Rptr.2d 735, 1 P.3d 52]; *In re Jorge M.* (2000) 23 Cal.4th 866, 887 [98 Cal.Rptr.2d 466, 4 P.3d 297]; *People v. Yoshimura* (1979) 91 Cal.App.3d 609, 629 [154 Cal.Rptr. 314].
- Constructive vs. Actual Possession. See *People v. Azevedo* (1984) 161 Cal.App.3d 235, 242–243 [207 Cal.Rptr. 270], questioned on other grounds in *In re Jorge M.* (2000) 23 Cal.4th 866, 876, fn. 6 [98 Cal.Rptr.2d 466, 4 P.3d 297]; *People v. Yoshimura* (1979) 91 Cal.App.3d 609, 619 [154 Cal.Rptr. 314].

DRAFT

2670. Lawful Performance: Peace Officer

The People have the burden of proving beyond a reasonable doubt that _____ <*insert name, excluding title*> was lawfully performing (his/her) duties as a peace officer. If the People have not met this burden, you must find the defendant not guilty of _____ <*insert name[s] of all offense[s] with lawful performance as an element*>.

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 when making or attempting to make an otherwise lawful arrest or detention).

<A. Unlawful Detention>
[A peace officer may legally detain someone if [the person consents to the detention or if]:

1. **Specific facts known or apparent to the officer lead him or her to suspect that the person to be detained has been, is, or is about to be involved in activity relating to crime;**

AND

2. **A reasonable officer who knew the same facts would have the same suspicion.**

Any other detention is unlawful.

In deciding whether the detention was lawful, consider evidence of the officer's training and experience and all the circumstances known by the officer when he or she detained the person.]

<B. Unlawful Arrest>
[A peace officer may legally arrest someone [either] (on the basis of an arrest warrant/ [or] if he or she has probable cause to make the arrest).

Any other arrest is unlawful.

Probable cause exists when the facts known to the arresting officer at the time of the arrest would persuade someone of reasonable caution that the person to be arrested has committed a crime.

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In deciding whether the arrest was lawful, consider evidence of the officer's training and experience and all the circumstances known by the officer when he or she arrested the person.]

<Arrest without warrant for most misdemeanors or infractions>
[In order for an officer to lawfully arrest someone without a warrant for a misdemeanor or infraction, the officer must have probable cause to believe that the person to be arrested committed a misdemeanor or infraction in the officer's presence.]

<Arrest without warrant for felony or misdemeanor not requiring commission in officer's presence; see Bench Notes>
[In order for an officer to lawfully arrest someone for (a/an) (felony/ [or] _____ *<insert misdemeanor not requiring commission in officer's presence>***) without a warrant, the officer must have probable cause to believe the person to be arrested committed (a/an) (felony/ [or]** _____ *<insert misdemeanor not requiring commission in officer's presence>***). However, it is not required that the offense be committed in the officer's presence.]**

_____ *<insert crime that was basis for arrest>* **is (a/an) (felony/misdemeanor/infraction).**

<Entering home without warrant>
[In order for an officer to enter a home to arrest someone without a warrant [and without consent]:

1. **The officer must have probable cause to believe that the person to be arrested committed a crime and is in the home;**

AND

2. **Exigent circumstances require the officer to enter the home without a warrant.**

The term *exigent circumstances* describes an emergency situation that requires swift action to prevent (1) imminent danger to life or serious damage to property, or (2) the imminent escape of a suspect or destruction of evidence.]

[The officer must tell that person that the officer intends to arrest him or her, why the arrest is being made, and the authority for the arrest. [The officer does not have to tell the arrested person these things if the officer has

DRAFT

probable cause to believe that the person is committing or attempting to commit a crime, is fleeing immediately after having committed a crime, or has escaped from custody.] [The officer must also tell the arrested person the offense for which he or she is being arrested if he or she asks for that information.]]

<*When giving either paragraph A on unlawful detention or paragraph B on unlawful arrest, give the following paragraph also, if applicable***>**
[Photographing or recording a *peace 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 nor a basis for (reasonable suspicion to detain/ [nor] probable cause to arrest).]

<C. Use of Force by a Peace Officer>
[Special rules control the use of force.]

[A peace officer may use reasonable non-deadly force to arrest or detain someone, to prevent escape, to overcome resistance, or in self-defense.]

[A peace officer may use deadly force if (he/she):

1. **Reasonably believed, based on the totality of the circumstances, that the force was necessary to defend against an imminent threat of death or serious bodily injury to the officer or another person;**

   OR

2. **Reasonably believed, based on the totality of the circumstances, that:**

   a. _____*<insert name of fleeing felon>* **was fleeing;**

   b. The force was necessary to arrest or detain _____*<insert name of fleeing felon >* **for the crime of _____***<insert name of felony >*;

   c. The commission of the crime of _____ *<insert name of felony>* **created a risk of or resulted in death or serious bodily injury to another person;**

   AND

   d. *<insert name of fleeing felon>* **would cause death or serious bodily injury to another person unless immediately arrested or detained.]**

DRAFT

[*Deadly force* means any use of force that creates a substantial risk of causing death or serious bodily injury. Deadly force includes, but is not limited to, the discharge of a firearm.]

[A *serious bodily injury* means a serious impairment of physical condition. Such an injury may include[, but is not limited to]: (loss of consciousness/ concussion/ bone fracture/ protracted loss or impairment of function of any bodily member or organ/ a wound requiring extensive suturing/ [and] serious disfigurement).]

[A threat of death or serious bodily injury is *imminent* when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or to another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.]

***Totality of the circumstances* means all facts known to the peace officer at the time, including the conduct of the defendant and _____** *<insert name of officer>* **leading up to the use of deadly force.**

[A peace officer who makes or attempts to make an arrest need not retreat or stop because the person being arrested is resisting or threatening to resist. A peace officer does not lose (his/her) right to self-defense by using objectively reasonable force to arrest or to prevent escape or to overcome resistance.]

<D. Use of Force by a Person Being Arrested or Detained>
[If a person knows, or reasonably should know, that a peace officer is arresting or detaining him or her, the person must not use force or any weapon to resist an officer's use of reasonable force. [However, you may not find the defendant guilty of resisting arrest if the arrest was unlawful, even if the defendant knew or reasonably should have known that the officer was arresting him or her.]]

[If a peace officer uses unreasonable or excessive force while (arresting or attempting to arrest/ [or] detaining or attempting to detain) a person, that person may lawfully use reasonable force to defend himself or herself.

A person being arrested or detained uses reasonable force when he or she: (1) uses that degree of force that he or she actually believes is reasonably necessary to protect himself or herself from the officer's use of unreasonable

DRAFT

or excessive force; and (2) uses no more force than a reasonable person in the same situation would believe is necessary for his or her protection.]

New January 2006; Revised August 2016, March 2022, September 2022, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction if there is sufficient evidence that the officer was not lawfully performing his or her duties and lawful performance is an element of the offense. (*People v. Gonzalez* (1990) 51 Cal.3d 1179, 1217 [275 Cal.Rptr. 729, 800 P.2d 1159] ["disputed facts bearing on the issue of legal cause must be submitted to the jury considering an engaged-in-duty element"]; *People v. Olguin* (1981) 119 Cal.App.3d 39, 46–47 [173 Cal.Rptr. 663]; *People v. Castain* (1981) 122 Cal.App.3d 138, 145 [175 Cal.Rptr. 651]; *People v. White* (1980) 101 Cal.App.3d 161, 166–168 [161 Cal.Rptr. 541].)

Give section A if there is an issue as to whether the officer had a legal basis to detain someone. Give section B if there is an issue as to whether the officer had a legal basis to arrest someone. Give section C if there is an issue as to whether the officer used excessive force in arresting or detaining someone. If the issue is whether the officer used excessive force in some other duty, give section C with any necessary modifications. Give section D if there is an issue as to whether the defendant used reasonable force in response to the officer's use of excessive force.

If this instruction is only relevant to a charge of violating Penal Code section 148, the court **must not give** the first paragraph in bracketed ~~sentence in~~ section ~~C~~D that begins with "If a person knows, or reasonably should know, that a peace officer is arresting or detaining him or her." (*People v. White, supra,* 101 Cal.App.3d at pp. 168–169 [court must clarify that Penal Code section 834a does not apply to charge under section 148].) If the case does not involve an alleged violation of Penal Code section 148 (either as a charge offense or as a lesser), the court should give that bracketed sentence. If the case involves an alleged violation of Penal Code section 148 as well as other offenses in which lawful performance is an element, the court may give the bracketed sentence but must also give the sentence that begins with "However, you may not find the defendant guilty of resisting arrest."

When giving the bracketed section under the heading "A. Unlawful Detention," if there is a factual issue about whether the person was in fact "detained," the court should provide the jury with a definition of when a person is detained. Similarly, if there is a factual issue as to whether the person consented to the detention, the

DRAFT

court should instruct on consent. (See *People v. Wilkins* (1993) 14 Cal.App.4th 761, 777 [17 Cal.Rptr.2d 743].)

In the section headed "B. Unlawful Arrest," two options are provided for arrests without a warrant. The general rule is that an officer may not make an arrest for a misdemeanor or infraction unless the offense was committed in the officer's presence. (See Pen. Code, § 836(a)(1).) Statutes provide exceptions to this requirement for some misdemeanors. (See, e.g., Pen. Code, § 836(c) [violation of domestic violence protective or restraining order]; Veh. Code, § 40300.5 [driving under the influence plus traffic accident or other specified circumstance].) If the officer made the arrest for an infraction or a misdemeanor falling under the general rule, give the bracketed paragraph under the heading "Arrest without warrant for most misdemeanors or infraction." If the officer made the arrest for a felony or misdemeanor not requiring commission in the officer's presence give the bracketed paragraph under the heading "Arrest without warrant for felony or misdemeanor not requiring commission in officer's presence." The court may also give both bracketed paragraphs, if appropriate.

Give the bracketed section about entering a home without a warrant if the arrest took place in a home. (*People v. Wilkins, supra,* 14 Cal.App.4th at p. 777.) If there is a factual issue about whether the officer had consent to enter the home, the court must also instruct on the legal requirements for consent. *(Ibid.)*

AUTHORITY

- Instructional Duty. *People v. Gonzalez, supra,* 51 Cal.3d at p. 1217; *People v. Olguin, supra,* 119 Cal.App.3d at pp. 46–47; *People v. Castain, supra,* 122 Cal.App.3d at p. 145; *People v. White, supra,* 101 Cal.App.3d at pp. 166–168.
- Lawful Detention. *People v. Celis* (2004) 33 Cal.4th 667, 674-675 [16 Cal.Rptr.3d 85, 93 P.3d 1027].
- Lawful Arrest. Pen. Code, §§ 834–836, 841.
- "Probable Cause" Defined. *People v. Celis, supra,* 33 Cal.4th at p. 673; *People v. Fischer* (1957) 49 Cal.2d 442, 446 [317 P.2d 967].
- Officer's Training and Experience Relevant. *People v. Lilienthal* (1978) 22 Cal.3d 891, 899 [150 Cal.Rptr. 910, 587 P.2d 706]; *People v. Clayton* (1970) 13 Cal.App.3d 335, 338 [91 Cal.Rptr. 494].
- Duty to Submit to Arrest or Detention. Pen. Code, § 834(a); *People v. Allen* (1980) 109 Cal.App.3d 981, 985 [167 Cal.Rptr. 502]; *People v. Curtis* (1969) 70 Cal.2d 347, 351 [74 Cal.Rptr. 713, 450 P.2d 33].
- Exigent Circumstances to Enter Home. *People v. Wilkins, supra,* 14 Cal.App.4th at p. 777; *People v. Ramey* (1976) 16 Cal.3d 263, 276 [127

DRAFT

Cal.Rptr. 629, 545 P.2d 1333]; *People v. Hoxter* (1999) 75 Cal.App.4th 406, 414, fn. 7 [89 Cal.Rptr.2d 259].

- Reasonable Force. Pen. Code, §§ 692, 693.
- "Deadly Force" Defined. Pen. Code, § 835a(e).
- Excessive Use of Deadly Force. Pen. Code, § 835a.
- Excessive Force Makes Arrest Unlawful. *People v. White, supra,* 101 Cal.App.3d at pp. 166–168.
- Excessive Force Triggers Right to Self-Defense With Reasonable Force. *People v. Curtis, supra,* 70 Cal.2d at p. 356.
- Merely Photographing or Recording Officers Not a Crime. Pen. Code, § 148(g).

COMMENTARY

Graham Factors

In determining reasonableness, the inquiry is whether the officer's actions are objectively reasonable from the perspective of a reasonable officer on the scene. (*Graham v. Connor* (1989) 490 U.S. 386, 396 [109 S.Ct. 1865, 104 L.Ed.2d 443].) Factors relevant to the totality of the circumstances may include those listed in *Graham*, but those factors are not exclusive. (See *Glenn v. Washington County* (9th Cir. 2011) 673 F.3d 864, 872.) The *Graham* factors may not all apply in a given case. (See *People v. Perry* (2019) 36 Cal.App.5th 444, 473, fn. 18 [248 Cal.Rptr.3d 522].) Conduct and tactical decisions preceding an officer's use of deadly force are relevant considerations. (*Hayes v. County of San Diego* (2013) 57 Cal.4th 622, 639 [160 Cal.Rptr.3d 684, 305 P.3d 252] [in context of negligence liability].)

RELATED ISSUES

Service of Warrant

An officer is lawfully engaged in his or her duties if he or she is correctly serving "a facially valid search or arrest warrant, regardless of the legal sufficiency of the facts shown in support of the warrant." (*People v. Gonzalez, supra,* 51 Cal.3d at p. 1222.) On the other hand, "the proper *service* of a warrant is a jury issue under the engaged-in-duty requirement." (*Id.* at p. 1223 [emphasis in original].) If there is a factual dispute over the manner in which the warrant was served, the court should instruct the jury on the requirements for legal service of the warrant. *(Ibid.)*

Lawfulness of Officer's Conduct Based on Objective Standard

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The rule "requires that the officer's lawful conduct be established as an objective fact; it does not establish any requirement with respect to the defendant's mens rea." (*People v. Jenkins* (2000) 22 Cal.4th 900, 1020 [95 Cal.Rptr.2d 377, 997 P.2d 1044].) The defendant's belief about whether the officer was or was not acting lawfully is irrelevant. (*Id.* at p. 1021.)

Photographing or Recording Officers

Penal Code section 148(g) provides that merely photographing or recording a public officer or peace officer under certain conditions is not a crime. The intended scope of this new legislation is unclear. Until the legislature or courts of review provide further guidance, the court will have to determine whether section 148(g) should apply in an individual case.

SECONDARY SOURCES

1 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 11, *Arrest,* §§ 11.01-11.06 (Matthew Bender).

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications,* § 73.15[1], [2] (Matthew Bender).

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2720. Assault by Prisoner Serving Life Sentence (Pen. Code, § 4500)

The defendant is charged [in Count __] with assault with (force likely to produce great bodily injury/a deadly weapon) with malice aforethought, while serving a life sentence [in violation of Penal Code section 4500].

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

<Alternative 1A—force with weapon>

[1. The defendant did an act with a deadly weapon that by its nature would directly and probably result in the application of force to a person;]

<Alternative 1B—force without weapon>

[1. The defendant did an act that by its nature would directly and probably result in the application of force to a person, and the force used was likely to produce great bodily injury;]

2. The defendant did that act willfully;

3. When the defendant acted, (he/she) was aware of facts that would lead a reasonable person to realize that (his/her) act by its nature would directly and probably result in the application of force to someone;

4. When the defendant acted, (he/she) had the present ability to apply force (likely to produce great bodily injury/with a deadly weapon) to a person;

5. The defendant acted with malice aforethought;

[AND]

<Alternative 6A—defendant sentenced to life term>

[6. When (he/she) acted, the defendant had been sentenced to a maximum term of life in state prison [in California](;/.)]

DRAFT

<Alternative 6B—defendant sentenced to life and to determinate term>

[6. When (he/she) acted, the defendant had been sentenced to both a specific term of years and a maximum term of life in state prison [in California](;/.)]

<Give element 7 when self-defense or defense of another is an issue raised by the evidence.>

[AND

7. The defendant did not act (in self-defense/ [or] in defense of someone else).]

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

The terms *application of force* and *apply force* mean to touch in a harmful or offensive manner. The slightest touching can be enough 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).]

[The People are not required to prove that the defendant actually touched someone.]

No one needs to actually have been injured by defendant's act. But if someone was injured, you may consider that fact, along with all the other evidence, in deciding whether the defendant committed an assault[, and if so, what kind of assault it was].

[A *deadly weapon* is any object, instrument, or weapon [that is inherently deadly or dangerous or one] that is used in such a way that it is capable of causing and likely to cause death or great bodily injury.]

[An object is *inherently deadly* if it is deadly or dangerous in the ordinary use for which it was designed.]

[In deciding whether an object is a deadly weapon, consider all the surrounding circumstances.]

DRAFT

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[The term (*great bodily injury/deadly weapon*) is defined in another instruction.]

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 this crime.

The defendant acted with *express malice* if (he/she) unlawfully intended to kill the person assaulted.

The defendant acted with *implied malice* if:

1. **(He/She) intentionally committed an act.**

2. **The natural and probable consequences of the act were dangerous to human life.**

3. **At the time (he/she) acted, (he/she) knew (his/her) act was dangerous to human life.**

AND

4. **(He/She) deliberately acted with conscious disregard for human 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 is committed. It does not require deliberation or the passage of any particular period of time.

[A person is *sentenced to a term in a state prison* if he or she is (sentenced to confinement in _____ <*insert name of institution from Pen. Code, § 5003*>/committed to the Department of Corrections and Rehabilitation[, Division of Juvenile Justice,]) by an order made according to law[, regardless of both the purpose of the (confinement/commitment) and the validity of the order directing the (confinement/commitment), until a judgment of a competent court setting aside the order becomes final]. [A person may be *sentenced to a term in a state prison* even if, at the time of the offense, he or she is confined in a local correctional institution pending trial or is temporarily outside the prison walls or boundaries for any permitted purpose, including but not limited to serving on a work detail.] [However, a prisoner who has been released on parole is *not sentenced to a term in a state prison*.]]

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New January 2006; Revised February 2013, August 2016, September 2019, September 2020, March 2022, February 2025, October 2025

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 7 and any appropriate defense instructions. (See CALCRIM Nos. 3470–3477.)

In element 1, give alternative 1A if it is alleged the assault was committed with a deadly weapon. Give alternative 1B if it is alleged that the assault was committed with force likely to produce great bodily injury.

In element 6, give alternative 6A if the defendant was sentenced to only a life term. Give element 6B if the defendant was sentenced to both a life term and a determinate term. (*People v. Superior Court of Monterey (Bell)* (2002) 99 Cal.App.4th 1334, 1341 [121 Cal.Rptr.2d 836].)

Give the bracketed paragraph on indirect touching if relevant.

Give the relevant bracketed definitions unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere.

Give the bracketed phrase "that is inherently deadly or one" and give the bracketed definition of *inherently deadly* only if the object is a deadly weapon as a matter of law. (*People v. Stutelberg* (2018) 29 Cal.App.5th 314, 317–318 [240 Cal.Rptr.3d 156].)

Give the bracketed portion that begins with "In deciding whether" if the object is not a weapon as a matter of law and is capable of innocent uses. (*People v. Aguilar* (1997) 16 Cal.4th 1023, 1028–1029 [68 Cal.Rptr.2d 655, 945 P.2d 1204]; *People v. Godwin* (1996) 50 Cal.App.4th 1562, 1573–1574 [58 Cal.Rptr.2d 545].)

If determining whether the item is an inherently deadly weapon requires resolution of a factual issue, give both bracketed instructions.

On request, give the bracketed definition of "sentenced to a term in state prison." Within that definition, give the bracketed portion that begins with "regardless of the purpose," or the bracketed second or third sentence, if requested and relevant based on the evidence.

DRAFT

Do not give an attempt instruction in conjunction with this instruction. There is no crime of "attempted assault" in California. (*In re James M.* (1973) 9 Cal.3d 517, 519, 521–522 [108 Cal.Rptr. 89, 510 P.2d 33].)

Penal Code section 4500 provides that the punishment for this offense is death or life in prison without parole, unless "the person subjected to such assault does not die within a year and a day after" the assault. If this is an issue in the case, the court should consider whether the time of death should be submitted to the jury for a specific factual determination pursuant to *Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

Defense—Instructional Duty

As with murder, the malice required for this crime may be negated by evidence of heat of passion or imperfect self-defense. (*People v. St. Martin* (1970) 1 Cal.3d 524, 530–531 [83 Cal.Rptr. 166, 463 P.2d 390]; *People v. Chacon* (1968) 69 Cal.2d 765, 780–781 [73 Cal.Rptr. 10, 447, P.2d 106].) If the evidence raises an issue about one or both of these potential defenses, the court has a **sua sponte** duty to give the appropriate instructions, CALCRIM No. 570, *Voluntary Manslaughter: Heat of Passion–Lesser Included Offense*, or CALCRIM No. 571, *Voluntary Manslaughter: Imperfect Self-Defense–Lesser Included Offense*. The court must modify these instructions for the charge of assault by a life prisoner.

Related Instructions

CALCRIM No. 875, *Assault With Deadly Weapon or Force Likely to Produce Great Bodily Injury*.

CALCRIM No. 520, *Murder With Malice Aforethought*.

AUTHORITY

- Elements of Assault by Life Prisoner. Pen. Code, § 4500.
- Elements of Assault With Deadly Weapon or Force Likely. Pen. Code, §§ 240, 245(a)(1)–(3) & (b).
- "Willful" Defined. Pen. Code, § 7(1); *People v. Lara* (1996) 44 Cal.App.4th 102, 107 [51 Cal.Rptr.2d 402].

DRAFT

- "Deadly Weapon" Defined. *People v. Aguilar, supra,* 16 Cal.4th at pp. 1028–1029.
- 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]].
- Malice Equivalent to Malice in Murder. *People v. St. Martin, supra,* 1 Cal.3d at pp. 536–537; *People v. Chacon, supra,* 69 Cal.2d at pp. 780–781.
- "Malice" Defined. 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].
- Ill Will Not Required for Malice. *People v. Sedeno* (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].
- Undergoing Sentence of Life. *People v. Superior Court of Monterey (Bell), supra,* 99 Cal.App.4th at p. 1341.
- "Inherently Deadly" Defined. *People v. Perez* (2018) 4 Cal.5th 1055, 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42]; *People v. Aguilar, supra,* 16 Cal.4th at pp. 1028–1029.
- Examples of Noninherently Deadly Weapon. *People v. Aledamat* (2019) 8 Cal.5th 1, 6 [251 Cal.Rptr.3d 371, 447 P.3d 277] [box cutter]; *People v. Perez, supra,* 4 Cal.5th at p. 1065 [vehicle]; *People v. McCoy* (1944) 25 Cal.2d 177, 188 [153 P.2d 315] [knife].

LESSER INCLUDED OFFENSES

- Assault With Deadly Weapon or Force Likely to Produce Great Bodily Injury—Not a Prisoner. Pen. Code, § 245; *People v. Milward* (2011) 52 Cal.4th 580, 588–589 [129 Cal.Rptr.3d 145, 257 P.3d 748].
- Assault. Pen. Code, § 240; see *People v. McDaniel* (2008) 159 Cal.App.4th 736, 747 [71 Cal.Rptr.3d 845] [Pen. Code, § 4501].

RELATED ISSUES

See the Authority section in CALCRIM No. 960, *Simple Battery,* regarding indirect touching.

Status as Life Prisoner Determined on Day of Alleged Assault

Whether the defendant is sentenced to a life term is determined by his or her status on the day of the assault. (*People v. Superior Court of Monterey (Bell), supra,*99

DRAFT

Cal.App.4th at p. 1341; *Graham v. Superior Court* (1979) 98 Cal.App.3d 880, 890 [160 Cal.Rptr. 10].) It does not matter if the conviction is later overturned or the sentence is later reduced to something less than life. (*People v. Superior Court of Monterey (Bell)*, *supra*, 99 Cal.App.4th at p. 1341; *Graham v. Superior Court*, *supra*, 98 Cal.App.3d at p. 890.)

Undergoing Sentence of Life

This statute applies to "[e]very person undergoing a life sentence . . . ." (Pen. Code, § 4500.) In *People v. Superior Court of Monterey (Bell)*, *supra*, 99 Cal.App.4th at p. 1341, the defendant had been sentenced both to life in prison and to a determinate term and, at the time of the assault, was still technically serving the determinate term. The court held that he was still subject to prosecution under this statute, stating "a prisoner who commits an assault is subject to prosecution under section 4500 for the crime of assault by a life prisoner if, on the day of the assault, the prisoner was serving a sentence which potentially subjected him to actual life imprisonment, and therefore the prisoner might believe he had 'nothing left to lose' by committing the assault." *(Ibid.)*

Error to Instruct on General Definition of Malice and General Intent

"Malice," as used in Penal Code section 4500, has the same meaning as in the context of murder. (*People v. St. Martin*, *supra*, 1 Cal.3d at pp. 536–537; *People v. Chacon*, *supra*, 69 Cal.2d at pp. 780–781.) Thus, it is error to give the general definition of malice found in Penal Code section 7, subdivision 4. (*People v. Jeter* (2005) 125 Cal.App.4th 1212, 1217 [23 Cal.Rptr.3d 402].) It is also error to instruct that Penal Code section 4500 is a general intent crime. *(Ibid.)*

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 202~~4~~4~~12~~) Crimes Against the Person, §§ 234~~58~~–236~~60~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.11[3] (Matthew Bender).

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2721. Assault by Prisoner (Pen. Code, § 4501)

The defendant is charged [in Count __] with assault with (force likely to produce great bodily injury/a deadly weapon) while serving a state prison sentence [in violation of Penal Code section 4501].

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

<Alternative 1A—force with weapon>

[1. The defendant did an act with a deadly weapon that by its nature would directly and probably result in the application of force to a person;]

<Alternative 1B—force without weapon>

[1. The defendant did an act that by its nature would directly and probably result in the application of force to a person, and the force used was likely to produce great bodily injury;]

2. The defendant did that act willfully;

3. When the defendant acted, (he/she) was aware of facts that would lead a reasonable person to realize that (his/her) act by its nature would directly and probably result in the application of force to someone;

4. When the defendant acted, (he/she) had the present ability to apply force (likely to produce great bodily injury/with a deadly weapon) to a person;

[AND]

5. When (he/she) acted, the defendant was confined in a [California] state prison(;/.)

<Give element 6 when self-defense or defense of another is an issue raised by the evidence.>

[AND

6. The defendant did not act (in self-defense/ [or] in defense of someone else).]

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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 terms *application of force* and *apply force* mean to touch in a harmful or offensive manner. The slightest touching can be enough 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).]

[The People are not required to prove that the defendant actually touched someone.]

No one needs to actually have been injured by defendant's act. But if someone was injured, you may consider that fact, along with all the other evidence, in deciding whether the defendant committed an assault[, and if so, what kind of assault it was].

[A *deadly weapon* is any object, instrument, or weapon [that is inherently deadly or dangerous or one] that is used in such a way that it is capable of causing and likely to cause death or great bodily injury.]

[An object is *inherently deadly* if it is deadly or dangerous in the ordinary use for which it was designed.]

[In deciding whether an object is a deadly weapon, consider all the surrounding circumstances.]

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[The term (*great bodily injury/deadly weapon*) is defined in another instruction.]

A person is *confined in a state prison* if he or she is (confined in _____ *<insert name of institution from Pen. Code, § 5003>*/**committed to the Department of Corrections and Rehabilitation[, Division of Juvenile Justice,]) by an order made according to law[, regardless of both the purpose of the**

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(confinement/commitment) and the validity of the order directing the (confinement/commitment), until a judgment of a competent court setting aside the order becomes final]. [A person may be *confined in a state prison* even if, at the time of the offense, he or she is confined in a local correctional institution pending trial or is temporarily outside the prison walls or boundaries for any permitted purpose, including but not limited to serving on a work detail.] [However, a prisoner who has been released on parole is not *confined in a state prison*.]

New January 2006; Revised August 2016, September 2019, September 2020, March 2022, February 2025, October 2025

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 6 and any appropriate defense instructions. (See CALCRIM Nos. 3470–3477.)

In element 1, give alternative 1A if it is alleged the assault was committed with a deadly weapon. Give alternative 1B if it is alleged that the assault was committed with force likely to produce great bodily injury.

Give the bracketed paragraph on indirect touching if relevant.

Give the bracketed phrase "that is inherently deadly or one" and give the bracketed definition of *inherently deadly* only if the object is a deadly weapon as a matter of law. (*People v. Stutelberg* (2018) 29 Cal.App.5th 314, 317–318 [240 Cal.Rptr.3d 156].)

Give the bracketed portion that begins with "In deciding whether" if the object is not a weapon as a matter of law and is capable of innocent uses. (*People v. Aguilar* (1997) 16 Cal.4th 1023, 1028–1029 [68 Cal.Rptr.2d 655, 945 P.2d 1204]; *People v. Godwin* (1996) 50 Cal.App.4th 1562, 1573–1574 [58 Cal.Rptr.2d 545].)

If determining whether the item is an inherently deadly weapon requires resolution of a factual issue, give both bracketed instructions.

Give the relevant bracketed definitions unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere.

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In the definition of "serving a sentence in a state prison," give the bracketed portion that begins with "regardless of the purpose," or the bracketed second or third sentence, if requested and relevant based on the evidence.

Do not give an attempt instruction in conjunction with this instruction. There is no crime of "attempted assault" in California. (*In re James M.* (1973) 9 Cal.3d 517, 519, 521–522 [108 Cal.Rptr. 89, 510 P.2d 33].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

Related Instructions

CALCRIM No. 875, *Assault With Deadly Weapon or Force Likely to Produce Great Bodily Injury*.

AUTHORITY

- Elements of Assault by Prisoner. Pen. Code, § 4501.
- Elements of Assault With Deadly Weapon or Force Likely to Produce Great Bodily Injury. Pen. Code, §§ 240, 245(a)(1)–(3) & (b).
- "Willful" Defined. Pen. Code, § 7 7(1); *People v. Lara* (1996) 44 Cal.App.4th 102, 107 [51 Cal.Rptr.2d 402].
- "Deadly Weapon" Defined. *People v. Aguilar*, *supra*, 16 Cal.4th at pp. 1028–1029.
- 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]].
- "Confined in State Prison" Defined. Pen. Code, § 4504.
- Underlying Conviction Need Not Be Valid. *Wells v. California* (9th Cir. 1965) 352 F.2d 439, 442.
- "Inherently Deadly" Defined. *People v. Perez* (2018) 4 Cal.5th 1055, 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42]; *People v. Aguilar*, *supra*, 16 Cal.4th at pp. 1028–1029.
- Examples of Noninherently Deadly Weapon. *People v. Aledamat* (2019) 8 Cal.5th 1, 6 [251 Cal.Rptr.3d 371, 447 P.3d 277] [box cutter]; *People v. Perez*,

DRAFT

supra, 4 Cal.5th at p. 1065 [vehicle]; *People v. McCoy* (1944) 25 Cal.2d 177, 188 [153 P.2d 315] [knife].

LESSER INCLUDED OFFENSES

- Assault With Deadly Weapon or Force Likely to Produce Great Bodily Injury—Not a Prisoner. Pen. Code, § 245; see *People v. Milward* (2011) 52 Cal.4th 580, 588–589 [129 Cal.Rptr.3d 145, 257 P.3d 748] [Pen. Code, § 4501].
- Assault. Pen. Code, § 240; *People v. McDaniel* (2008) 159 Cal.App.4th 736, 747 [71 Cal.Rptr.3d 845].

RELATED ISSUES

See the Authority section in CALCRIM No. 960, *Simple Battery*, regarding indirect touching.

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 2024~~12~~) Crimes Against the Person, §§ 237~~61~~, 239~~63~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.11[3] (Matthew Bender).

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2745. Possession or Manufacture of Weapon in Penal Institution (Pen. Code, § 4502)

The defendant is charged [in Count __] with (possessing[,]/ [or] manufacturing[,]/ [or] attempting to manufacture) a weapon, specifically [(a/an)] _____ *<insert type of weapon from Pen. Code, § 4502, e.g., "explosive">*, **while (in a penal institution/being taken to or from a penal institution/under the custody of an (official/officer/employee) of a penal institution) [in violation of Penal Code section 4502].**

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

1. **The defendant was (present at or confined in a penal institution/being taken to or from a penal institution/under the custody of an (official/officer/employee) of a penal institution);**

2. **The defendant (possessed[,]/ [or] carried on (his/her) person[,]/ [or] had under (his/her) custody or control[,]/ [or] manufactured[,]/ [or] attempted to manufacture) [(a/an)]** _____ *<insert type of weapon from Pen. Code, § 4502, e.g., "explosive">***;**

3. **The defendant knew that (he/she) (possessed[,]/ [or] carried on (his/her) person[,]/ [or] had under (his/her) custody or control[,]/ [or] manufactured[,]/ [or] attempted to manufacture) the** _____ *<insert type of weapon from Pen. Code, § 4502, e.g., "explosive">***;**

AND

4. **The defendant knew that the object (was [(a/an)]** _____ *<insert type of weapon from Pen. Code, § 4502, e.g., "explosive">*/**could be used** _____ *<insert description of weapon's use, e.g., "as a stabbing weapon," or "for purposes of offense or defense">***).**

A *penal institution* is a (state prison[,]/ [or] prison camp or farm[,]/ [or] county jail[,]/ [or] county road camp).

[*Metal knuckles* means any device or instrument made wholly or partially of metal that is worn in or on the hand for purposes of offense or defense and

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that either protects the wearer's hand while striking a blow or increases the injury or force of impact from the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs that would contact the individual receiving a blow.]

[An *explosive* is any substance, or combination of substances, (1) whose main or common purpose is to detonate or rapidly combust and (2) which is capable of a relatively instantaneous or rapid release of gas and heat.]

[An *explosive* is also any substance whose main purpose is to be combined with other substances to create a new substance that can release gas and heat rapidly or relatively instantaneously.]

[_____ *<insert type of explosive from Health & Saf. Code, § 12000>* **(is/are) [an] *explosive[s]*.]**

[*Fixed ammunition* is a projectile and powder enclosed together in a case ready for loading.]

[A *dirk or dagger* is a knife or other instrument, with or without a handguard, that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.] [*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[A *firearm* is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.] [A firearm need not be in working order if it was designed to shoot and appears capable of shooting.]

[*Tear gas* is a liquid, gaseous, or solid substance intended to produce temporary physical discomfort or permanent injury when vaporized or otherwise dispersed in the air.]

[A *tear gas weapon* is a shell, cartridge, or bomb capable of being discharged or exploded to release or emit tear gas.] [A *tear gas weapon* [also] means a revolver, pistol, fountain pen gun, billy, or other device, portable or fixed, intended specifically to project or release tear gas.] [A *tear gas weapon* does not include a device regularly manufactured and sold for use with firearm ammunition.]

[[(A/An)] _____ *<insert type of weapon from Pen. Code, § 4502, not covered in above definitions>* **(is/means/includes)** _____ *<insert appropriate definition, see Bench Notes>***.]**

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The People do not have to prove that the defendant used or intended to use the object as a weapon.

[You may consider evidence that the object could be used in a harmless way in deciding if the object is (a/an) _____ *<insert type of weapon from Pen. Code, § 4502>***, as defined here.]**

[The People do not have to prove that the object was (concealable[,]/ [or] carried by the defendant on (his/her) person[,]/ [or] (displayed/visible)).]

[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.]

[The People allege that the defendant (possessed[,]/ [or] carried on (his/her) person[,]/ [or] had under (his/her) custody or control[,]/ [or] manufactured[,]/ [or] attempted to manufacture) the following weapons: _____ *<insert description of each weapon when multiple items alleged>***. You may not find the defendant guilty unless all of you agree that the People have proved that the defendant (possessed[,]/ [or] carried on (his/her) person[,]/ [or] had under (his/her) custody or control[,]/ [or] manufactured[,]/ [or] attempted to manufacture) at least one of these weapons and you all agree on which weapon (he/she) (possessed[,]/ [or] carried on (his/her) person[,]/ [or] had under (his/her) custody or control[,]/ [or] manufactured[,]/ [or] attempted to manufacture).]**

New January 2006; Revised February 2012, September 2020, October 2025

BENCH NOTES

Instructional Duty

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

Where indicated in the instruction, insert one or more of the following weapons from Penal Code section 4502, based on the evidence presented:

metal knuckles

explosive substance

fixed ammunition

DRAFT

dirk or dagger

sharp instrument

pistol, revolver, or other firearm

tear gas or tear gas weapon

an instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag

Following the elements, give the appropriate definition of the alleged weapon. If the prosecution alleges that the defendant possessed an "instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, [or] sandbag," the court should give an appropriate definition based on case law. (See *People v. Fannin* (2001) 91 Cal.App.4th 1399, 1402 [111 Cal.Rptr.2d 496] [definition of "slungshot"]; *People v. Mulherin* (1934) 140 Cal.App. 212, 215 [35 P.2d 174] [definition of this class of weapons].)

If the prosecution alleges under a single count that the defendant possessed multiple weapons, the court has a **sua sponte** duty to instruct on unanimity. (See *People v. Wolfe* (2003) 114 Cal.App.4th 177, 184–185 [7 Cal.Rptr.3d 483]; *People v. Rowland* (1999) 75 Cal.App.4th 61, 65 [88 Cal.Rptr.2d 900].) Give the bracketed paragraph that begins with "The People allege that the defendant possessed," inserting the items alleged.

If there is sufficient evidence of a harmless use for the object possessed, give the bracketed sentence that begins with "You may consider evidence that the object could be used in a harmless way . . . ." (*People v. Savedra* (1993) 15 Cal.App.4th 738, 743–744 [19 Cal.Rptr.2d 115].)

If the prosecution alleges that the defendant attempted to manufacture a weapon, give CALCRIM No. 460, *Attempt Other Than Attempted Murder*.

It is unclear if the defense of momentary possession for disposal applies to a charge of weapons possession in a penal institution. In *People v. Brown* (2000) 82 Cal.App.4th 736, 740 [98 Cal.Rptr.2d 519], the court held that the defense was not available on the facts of the case before it but declined to consider whether "there can *ever* be a circumstance justifying temporary possession in a penal institution." (*Ibid.* [emphasis in original].) The California Supreme Court has reaffirmed that the momentary possession defense is available to a charge of illegal possession of a weapon. (*People v. Martin* (2001) 25 Cal.4th 1180, 1191–1192 [108 Cal.Rptr.2d 599, 25 P.3d 1081].) However, the Supreme Court has yet to determine whether the defense is available in a penal institution. If the trial court determines that an instruction on momentary possession is warranted on the facts of the case before it, give a modified version of the instruction on momentary possession contained in CALCRIM No. 2510, *Possession of Firearm by Person Prohibited Due to Conviction—No Stipulation to Conviction*.

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If there is sufficient evidence of imminent death or bodily injury, the defendant may be entitled to an instruction on the defense of duress or threats. (*People v. Otis* (1959) 174 Cal.App.2d 119, 125–126 [344 P.2d 342].) Give CALCRIM No. 3402, *Duress or Threats*, modified as necessary.

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Elements. Pen. Code, § 4502.
- "Metal Knuckles" Defined. Pen. Code, § 21810.
- "Explosive" Defined. Health & Saf. Code, § 12000.
- ~~Fixed Ammunition. *The Department of Defense Dictionary of Military Terms*, http://www.dtic.mil/doctrine/dod_dictionary/ (accessed January 11, 2012).~~
- "Dirk or Dagger" Defined. Pen. Code, § 16470.
- "Firearm" Defined. Pen. Code, § 16520.
- "Tear Gas" Defined. Pen. Code, § 17240.
- "Tear Gas Weapon" Defined. Pen. Code, § 17250.
- "Blackjack," etc., Defined. *People v. Fannin*, *supra*, ~~(2001)~~ 91 Cal.App.4th ~~1399,~~at p. 1402 ~~[111 Cal.Rptr.2d 496]~~; *People v. Mulherin*, *supra*, ~~(1934)~~ 140 Cal.App. ~~212,~~at p. 215 ~~[35 P.2d 174]~~.
- Knowledge. See *People v. Rubalcava* (2000) 23 Cal.4th 322, 331–332 [96 Cal.Rptr.2d 735]; *People v. Reynolds* (1988) 205 Cal.App.3d 776, 779 [252 Cal.Rptr. 637], overruled on other grounds, *People v. Flood* (1998) 18 Cal.4th 470, 484 [76 Cal.Rptr.2d 180, 957 P.2d 869].
- Harmless Use. *People v. Savedra*, *supra*, ~~(1993)~~ 15 Cal.App.4th ~~738,~~at pp. 743–744 ~~[19 Cal.Rptr.2d 115]~~; *People v. Martinez* (1998) 67 Cal.App.4th 905, 910–913 [79 Cal.Rptr.2d 334].
- Unanimity. *People v. Wolfe*, *supra*, ~~(2003)~~ 114 Cal.App.4th ~~177,~~at pp. 184–185 ~~[7 Cal.Rptr.3d 483]~~.

DRAFT

- Constructive vs. Actual Possession. *People v. Reynolds* (1988) 205 Cal.App.3d 776, 782, fn. 5 [252 Cal.Rptr. 637], overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 484 [76 Cal.Rptr.2d 180, 957 P.2d 869].

RELATED ISSUES

Administrative Punishment Does Not Bar Criminal Action

"[P]rison disciplinary measures do not bar subsequent prosecution in a criminal action for violation of a penal statute prohibiting the same act which was the basis of the prison discipline by virtue of the proscription against double punishment provided in section 654 [citation] or by the proscription against double jeopardy provided in the California Constitution (art. I, § 13) and section 1023." (*People v. Vatelli* (1971) 15 Cal.App.3d 54, 58 [92 Cal.Rptr. 763] [citing *People v. Eggleston* (1967) 255 Cal.App.2d 337, 340 [63 Cal.Rptr. 104]].)

Possession of Multiple Weapons at One Time Supports Only One Conviction

"[D]efendant is subject to only one conviction for his simultaneous possession of three sharp wooden sticks in prison." (*People v. Rowland*, *supra*, ~~(1999)~~ 75 Cal.App.4th ~~61,~~at p. 65 ~~[88 Cal.Rptr.2d 900]~~.)

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 202~~4~~12) Crimes Against Public Peace and Welfare, §§ 2~~44~~93, 2~~48~~97.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.02[2][a][i] (Matthew Bender).

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 94, *Prisoners' Rights*, § 94.04 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.01 (Matthew Bender).

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2746. Possession of Firearm, Deadly Weapon, or Explosive in a Jail or County Road Camp (Pen. Code, § 4574(a))

The defendant is charged [in Count __] with possessing a weapon while confined in a (jail/county road camp) [in violation of Penal Code section 4574(a)].

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

1. **The defendant was lawfully confined in a (jail/county road camp);**

2. **While confined there, the defendant [unlawfully] possessed [(a/an)] (firearm[,]/ [or] deadly weapon[,]/ [or] explosive[,]/ [or] tear gas[,]/ [or] tear gas weapon) within the (jail/county road camp);**

3. **The defendant knew that (he/she) possessed the (firearm[,]/ [or] deadly weapon[,]/ [or] explosive[,]/ [or] tear gas[,]/ [or] tear gas weapon);**

AND

4. **The defendant knew that the object was [(a/an)] (firearm[,]/ [or] deadly weapon[,]/ [or] explosive[,]/ [or] tear gas[,]/ [or] tear gas weapon).**

[A *jail* is a place of confinement where people are held in lawful custody.]

[A *firearm* is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.] [A firearm need not be in working order if it was designed to shoot and appears capable of shooting.]

[As used here, a *deadly weapon* is any weapon, instrument, or object that has the reasonable potential of being used in a manner that would cause great bodily injury or death.] [*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[An *explosive* is any substance, or combination of substances, (1) whose main or common purpose is to detonate or rapidly combust and (2) which is capable of a relatively instantaneous or rapid release of gas and heat.]

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[An *explosive* is also any substance whose main purpose is to be combined with other substances to create a new substance that can release gas and heat rapidly or relatively instantaneously.]

[_____ *<insert type of explosive from Health & Saf. Code, § 12000>* **(is/are) [an] *explosive[s]*.]**

[*Tear gas* is a liquid, gaseous, or solid substance intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispersed in the air.]

[A *tear gas weapon* is a shell, cartridge, or bomb capable of being discharged or exploded to release or emit tear gas.] [A *tear gas weapon* [also] means a revolver, pistol, fountain pen gun, billy, or other device, portable or fixed, intended specifically to project or release tear gas.] [A *tear gas weapon* does not include a device regularly manufactured and sold for use with firearm ammunition.]

The People do not have to prove that the defendant used or intended to use the object as a weapon.

[You may consider evidence that the object could be used in a harmless way in deciding whether the object is a deadly weapon as defined here.]

[The People do not have to prove that the object was (concealable[,]/ [or] carried by the defendant on (his/her) person[,]/ [or] (displayed/visible)).]

[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 knowingly has (control over it/ [or] the right to control it), either personally or through another person).]

[The People allege that the defendant possessed the following weapons: _____ *<insert description of each weapon when multiple items alleged>***. You may not find the defendant guilty unless all of you agree that the People have proved that the defendant possessed at least one of these weapons and you all agree on which weapon (he/she) possessed.]**

<Defense: Possession Authorized>
[The defendant is not guilty of this offense if (he/she) was authorized to possess the weapon by (law[,]/ [or] a person in charge of the (jail/county road

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camp)[,]/ [or] an officer of the (jail/county road camp) empowered by the person in charge of the (jail/camp) to give such authorization). The People have the burden of proving beyond a reasonable doubt that the defendant was not authorized to possess the weapon. If the People have not met this burden, you must find the defendant not guilty of this offense.]

New January 2006; Revised February 2012, September 2020, October 2025

BENCH NOTES

Instructional Duty

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

If the prosecution alleges under a single count that the defendant possessed multiple weapons, the court has a **sua sponte** duty to instruct on unanimity. (See *People v. Wolfe* (2003) 114 Cal.App.4th 177, 184–185 [7 Cal.Rptr.3d 483]; *People v. Rowland* (1999) 75 Cal.App.4th 61, 65 [88 Cal.Rptr.2d 900].) Give the bracketed paragraph that begins with "The People allege that the defendant possessed," inserting the items alleged.

Note that the definition of "deadly weapon" in the context of Penal Code section 4574 differs from the definition given in other instructions. (*People v. Martinez* (1998) 67 Cal.App.4th 905, 909 [79 Cal.Rptr.2d 334].)

If there is sufficient evidence of a harmless use for the object possessed, give the bracketed sentence that begins with "You may consider evidence that the object could be used in a harmless way . . . ." (*People v. Savedra* (1993) 15 Cal.App.4th 738, 743–744 [19 Cal.Rptr.2d 115].)

If there is sufficient evidence that the defendant was authorized to possess the weapon, give the bracketed word "unlawfully" in element 2. Give also the bracketed paragraph headed "Defense: Possession Authorized."

It is unclear if the defense of momentary possession for disposal applies to a charge of weapons possession in a penal institution. In *People v. Brown* (2000) 82 Cal.App.4th 736, 740 [98 Cal.Rptr.2d 519], the court held that the defense was not available on the facts of the case before it but declined to consider whether "there can *ever* be a circumstance justifying temporary possession in a penal institution." (*Ibid.* [emphasis in original].) The California Supreme Court has reaffirmed that the momentary possession defense is available to a charge of illegal possession of a weapon. (*People v. Martin* (2001) 25 Cal.4th 1180, 1191–1192 [108 Cal.Rptr.2d 599, 25 P.3d 1081].) However, the Supreme Court has yet to determine whether the defense is available in a penal institution. If the trial court determines that an instruction on momentary possession is warranted on the facts of the case before it, give a modified version of the instruction on momentary possession contained

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in CALCRIM No. 2510, *Possession of Firearm by Person Prohibited Due to Conviction—No Stipulation to Conviction*.

If there is sufficient evidence of imminent death or bodily injury, the defendant may be entitled to an instruction on the defense of duress or threats. (*People v. Otis* (1959) 174 Cal.App.2d 119, 125–126 [344 P.2d 342].) Give CALCRIM No. 3402, *Duress or Threats*, modified as necessary.

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Elements. Pen. Code, § 4574(a).
- "Firearm" Defined. Pen. Code, § 16520.
- "Explosive" Defined. Health & Saf. Code, § 12000.
- "Tear Gas" Defined. Pen. Code, § 17240.
- "Tear Gas Weapon" Defined. Pen. Code, § 17250.
- "Deadly Weapon" Defined. *People v. Martinez*, *supra*, ~~(1998)~~ 67 Cal.App.4th ~~905,~~at p. 909 ~~[79 Cal.Rptr.2d 334]~~.
- "Jail" Defined. *People v. Carter* (1981) 117 Cal.App.3d 546, 550 [172 Cal.Rptr. 838].
- Knowledge. See *People v. Rubalcava* (2000) 23 Cal.4th 322, 331–332 [96 Cal.Rptr.2d 735, 1 P.3d 52]; *People v. James* (1969) 1 Cal.App.3d 645, 650 [81 Cal.Rptr. 845].
- Harmless Use. *People v. Savedra*, *supra*, ~~(1993)~~ 15 Cal.App.4th ~~738,~~at pp. 743–744 ~~[19 Cal.Rptr.2d 115]~~; *People v. Martinez*, *supra*, ~~(1998)~~ 67 Cal.App.4th ~~905,~~at pp. 910–913 ~~[79 Cal.Rptr.2d 334]~~.
- Unanimity. *People v. Wolfe*, *supra*, ~~(2003)~~ 114 Cal.App.4th ~~177,~~at pp. 184–185 ~~[7 Cal.Rptr.3d 483]~~.
- Firearm Need Not Be Operable. *People v. Talkington* (1983) 140 Cal.App.3d 557, 563 [189 Cal.Rptr. 735].

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- Constructive vs. Actual Possession. *People v. Reynolds* (1988) 205 Cal.App.3d 776, 782, fn. 5 [252 Cal.Rptr. 637], overruled on other grounds, *People v. Flood* (1998) 18 Cal.4th 470, 484 [76 Cal.Rptr.2d 180, 957 P.2d 869].

RELATED ISSUES

Administrative Punishment Does Not Bar Criminal Action

"[P]rison disciplinary measures do not bar subsequent prosecution in a criminal action for violation of a penal statute prohibiting the same act which was the basis of the prison discipline by virtue of the proscription against double punishment provided in section 654 [citation] or by the proscription against double jeopardy provided in the California Constitution (art. I, § 13) and section 1023." (*People v. Vatelli* (1971) 15 Cal.App.3d 54, 58 [92 Cal.Rptr. 763]; [citing *People v. Eggleston* (1967) 255 Cal.App.2d 337, 340 [63 Cal.Rptr. 104]].)

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 202~~4~~12) Crimes Against Public Peace and Welfare, §§ 2~~44~~93, 2~~48~~97.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.02[2][a][i] (Matthew Bender).

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 94, *Prisoners' Rights*, § 94.04 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.01 (Matthew Bender).

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2747. Bringing or Sending Firearm, Deadly Weapon, or Explosive Into Penal Institution (Pen. Code, § 4574(a)~~–~~(c))

The defendant is charged [in Count __] with (bringing/sending/ [or] assisting in (bringing/sending)) a weapon into a penal institution [in violation of Penal Code section 4574].

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

1. **The defendant [unlawfully] (brought/sent/ [or] assisted in (bringing/sending)) [(a/an)] (firearm[,]/ [or] deadly weapon[,]/ [or] explosive[,]/ [or] tear gas[,]/ [or] tear gas weapon) into a penal institution [or onto the grounds (of/ [or] adjacent to) a penal institution];**

2. **The defendant knew that (he/she) was (bringing/sending/ [or] assisting in (bringing/sending)) an object into a penal institution [or onto the grounds (of/ [or] adjacent to) a penal institution];**

AND

3. **The defendant knew that the object was [(a/an)] (firearm[,]/ [or] deadly weapon[,]/ [or] explosive[,]/ [or] tear gas[,]/ [or] tear gas weapon).**

A *penal institution* is a (state prison[,]/ [or] prison camp or farm[,]/ [or] jail[,]/ [or] county road camp[,]/ [or] place where prisoners of the state prison are located under the custody of prison officials, officers, or employees).

[A *firearm* is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.] [A firearm need not be in working order if it was designed to shoot and appears capable of shooting.]

[As used here, a *deadly weapon* is any weapon, instrument or object that has the reasonable potential of being used in a manner that would cause great bodily injury or death.] [*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

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[An *explosive* is any substance, or combination of substances, (1) whose main or common purpose is to detonate or rapidly combust and (2) which is capable of a relatively instantaneous or rapid release of gas and heat.]

[An *explosive* is also any substance whose main purpose is to be combined with other substances to create a new substance that can release gas and heat rapidly or relatively instantaneously.]

[_____ *<insert type[s] of explosive[s] from Health & Saf. Code, § 12000>* **(is/are) [an] *explosive[s]*.]**

[*Tear gas* means a liquid, gaseous, or solid substance intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispersed in the air.]

[A *tear gas weapon* means any shell, cartridge, or bomb capable of being discharged or exploded to release or emit tear gas.] [A *tear gas weapon* [also] means a revolver, pistol, fountain pen gun, billy, or other device, portable or fixed, intended specifically to project or release tear gas.] [A *tear gas weapon* does not include a device regularly manufactured and sold for use with firearm ammunition.]

The People do not have to prove that the defendant used or intended to use the object as a weapon.

[You may consider evidence that the object could be used in a harmless way in deciding if the object is a deadly weapon as defined here.]

[The People do not have to prove that the object was (concealable[,]/ [or] carried by the defendant on (his/her) person[,]/ [or] (displayed/visible)).]

[The People allege that the defendant (brought/sent/ [or] assisted in (bringing/sending)) the following weapons: _____ *<insert description of each weapon when multiple items alleged>***. You may not find the defendant guilty unless all of you agree that the People have proved that the defendant (brought/sent/ [or] assisted in (bringing/sending)) at least one of these weapons and you all agree on which weapon (he/she) (brought/sent/ [or] assisted in (bringing/sending)).]**

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<Defense: Conduct Authorized>

[The defendant is not guilty of this offense if (he/she) was authorized to (bring/send) a weapon into the penal institution by (law[,]/ [or] a person in charge of the penal institution[,]/ [or] an officer of the penal institution empowered by the person in charge of the institution to give such authorization). The People have the burden of proving beyond a reasonable doubt that the defendant was not authorized to (bring/send) the weapon into the institution. If the People have not met this burden, you must find the defendant not guilty of this offense.]

New January 2006; Revised February 2012, September 2020, October 2025

BENCH NOTES

Instructional Duty

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

If the prosecution alleges under a single count that the defendant brought or sent multiple weapons into the institution, the court has a **sua sponte** duty to instruct on unanimity. (See *People v. Wolfe* (2003) 114 Cal.App.4th 177, 184–185 [7 Cal.Rptr.3d 483]; *People v. Rowland* (1999) 75 Cal.App.4th 61, 65 [88 Cal.Rptr.2d 900].) Give the bracketed paragraph that begins with "The People allege that the defendant (brought/sent/ [or] assisted in (bringing/sending))," inserting the items alleged.

If the defendant is charged with a felony for bringing or sending tear gas or a tear gas weapon into a penal institution resulting in the release of tear gas (Pen. Code, § 4574(b)), the court has a **sua sponte** duty to instruct the jury on this additional allegation. The court should give the jury an additional instruction on this issue and a verdict form on which the jury may indicate if this fact has or has not been proved.

Note that the definition of "deadly weapon" in the context of Penal Code section 4574 differs from the definition given in other instructions. (*People v. Martinez* (1998) 67 Cal.App.4th 905, 909 [79 Cal.Rptr.2d 334].)

If there is sufficient evidence of a harmless use for the object, give the bracketed sentence that begins with "You may consider evidence that the object could be used in a harmless way . . . ." (*People v. Savedra* (1993) 15 Cal.App.4th 738, 743–744 [19 Cal.Rptr.2d 115].)

If there is sufficient evidence that the defendant was authorized to bring or send the weapon, give the bracketed word "unlawfully" in element 1. Give also the bracketed paragraph headed "Defense: Conduct Authorized."

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~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Elements. Pen. Code, § 4574(a), (b) & (c).
- "Firearm" Defined. Pen. Code, § 16520.
- "Explosive" Defined. Health & Saf. Code, § 12000.
- "Tear Gas" Defined. Pen. Code, § 17240.
- "Tear Gas Weapon" Defined. Pen. Code, § 17250.
- "Deadly Weapon" Defined. *People v. Martinez*, *supra*, ~~(1998)~~ 67 Cal.App.4th ~~905,~~at p. 909 ~~[79 Cal.Rptr.2d 334]~~.
- "Jail" Defined. *People v. Carter* (1981) 117 Cal.App.3d 546, 550 [172 Cal.Rptr. 838].
- Knowledge of Nature of Object. See *People v. Rubalcava* (2000) 23 Cal.4th 322, 331–332 [96 Cal.Rptr.2d 735, 1 P.3d 52]; *People v. James* (1969) 1 Cal.App.3d 645, 650 [81 Cal.Rptr. 845].
- Knowledge of Location as Penal Institution. *People v. Seale* (1969) 274 Cal.App.2d 107, 111 [78 Cal.Rptr. 811].
- Harmless Use. *People v. Savedra*, *supra*, ~~(1993)~~ 15 Cal.App.4th ~~738,~~at pp. 743–744 ~~[19 Cal.Rptr.2d 115]~~; *People v. Martinez*, *supra*, ~~(1998)~~ 67 Cal.App.4th ~~905,~~at pp. 910–913 ~~[79 Cal.Rptr.2d 334]~~.
- Unanimity. *People v. Wolfe*, *supra*, ~~(2003)~~ 114 Cal.App.4th ~~177,~~at pp. 184–185 ~~[7 Cal.Rptr.3d 483]~~.
- Firearm Need Not Be Operable. *People v. Talkington* (1983) 140 Cal.App.3d 557, 563 [189 Cal.Rptr. 735].
- "Adjacent to" and "Grounds" Not Vague. *People v. Seale* (1969) 274 Cal.App.2d 107, 114–115 [78 Cal.Rptr. 811].

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LESSER INCLUDED OFFENSES

- Attempt to Bring or Send Weapon Into Penal Institution. Pen. Code, §§ 664, 4574(a), (b), or (c); *People v. Carter* (1981) 117 Cal.App.3d 546, 548 [172 Cal.Rptr. 838].

If the defendant is charged with bringing or sending tear gas or a tear gas weapon into a penal institution, the offense is a misdemeanor unless tear gas was released in the institution. (Pen. Code, § 4574(b) & (c).) If the defendant is charged with a felony, 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 prosecution has proved that tear gas was released. If the jury finds that this has not been proved, then the offense should be set at a misdemeanor.

RELATED ISSUES

Inmate Transferred to Mental Hospital

A prison inmate transferred to a mental hospital for treatment pursuant to Penal Code section 2684 is not "under the custody of prison officials." (*People v. Superior Court (Ortiz)* (2004) 115 Cal.App.4th 995, 1002 [9 Cal.Rptr.3d 745].)

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 2024~~12~~) Crimes Against Governmental Authority, § 1~~05~~43.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.02[2][a][i] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.01 (Matthew Bender).

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2964. Purchasing Alcoholic Beverage for Person Under 21: Resulting in Death or Great Bodily Injury (Bus. & Prof. Code, § 25658(a) & (c))

The defendant is charged [in Count __] with [unlawfully] (purchasing an alcoholic beverage for[,]/ [or] (furnishing[,]/ [or] giving[,]/ [or] giving away) an alcoholic beverage to[,]) a person under 21 years old causing (death/ [or] great bodily injury) [in violation of Business and Professions Code section 25658].

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

1. **The defendant [unlawfully] (purchased an alcoholic beverage for[,]/ [or] (furnished[,]/ [or] gave[,]/ [or] gave away) an alcoholic beverage to[,]) _____** *<insert name of person under 21>***;**

2. **When the defendant did so, _____** *<insert name of person under 21>* **was under 21 years old;**

3. **_____** *<insert name of person under 21>* **consumed the alcoholic beverage;**

AND

4. **_____'s** *<insert name of person under 21>* **consumption of the alcoholic beverage caused (death/ [or] great bodily injury) to (himself/herself/ [or] another person).**

An *alcoholic beverage* is a liquid or solid material intended to be consumed that contains one-half of 1 percent or more of alcohol by volume. [An *alcoholic beverage* includes _____ *<insert type[s] of beverage[s] from Bus. & Prof. Code, § 23004, e.g., wine, beer>*.**]**

[*Great bodily injury* is significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

An act causes (death/ [or] great bodily injury) if the (death/ [or] injury) is the direct, natural, and probable consequence of the act and the (death/ [or] injury) would not have happened without the act. A *natural and probable consequence* is one that a reasonable person would know is likely to happen if

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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] great bodily injury). An act 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 does not need to be the only factor that causes the (death/ [or] injury).]

[Under the law, a person becomes one year older as soon as the first minute of his or her birthday has begun.]

<Defense: Good Faith Belief at Least 21>
[The defendant is not guilty of this crime if (he/she) reasonably and actually believed that _____ <*insert name of person under 21*> was at least 21 years old. The People have the burden of proving beyond a reasonable doubt that the defendant did not reasonably and actually believe that _____ <*insert name of person under 21*> was at least 21 years old. If the People have not met this burden, you must find the defendant not guilty of this crime.]

<Defense: Actual Reliance on Identification>
[The defendant did not unlawfully furnish an alcoholic beverage to a person under 21 years old if:

1. **The defendant [or (his/her) (employee/ [or] agent)] demanded to see a government-issued document as evidence of _____'s <*insert name of person under 21*> age and identity;**

2. **_____ <*insert name of person under 21*> showed the defendant [or (his/her) employee/ [or] agent)] a government-issued document, or what appeared to be a government-issued document, as evidence of (his/her) age and identity;**

AND

3. **The defendant [or (his/her) employee/ [or] agent)] actually relied on the document as evidence of _____'s <*insert name of person under 21*> age and identity.**

As used here, a *government-issued document* is a document [including a driver's license or an identification card issued to a person in the armed forces] that has been, or appears to have been, issued by a government agency

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and contains the person's name, date of birth, description, and picture. The government-issued document does not have to be genuine.

[An *agent* is a person who is authorized to act for the defendant in dealings with other people.]

The People have the burden of proving beyond a reasonable doubt that the defendant did not actually rely on a government-issued document, or what appeared to be a government-issued document, as evidence of _____'s *<insert name of person under 21>* **age and identity. If the People have not met this burden, you must find the defendant not guilty of this crime.]**

New January 2006; Revised August 2006, October 2025

BENCH NOTES

Instructional Duty

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

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 there is evidence of multiple causes of death or injury, the court should also give the bracketed paragraph on causation that begins with "There may be more than one cause of (death/ [or] great bodily injury)." (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].)

Give the bracketed sentence about calculating age if requested. (Fam. Code, § 6500; *In re Harris* (1993) 5 Cal.4th 813, 849–850 [21 Cal.Rptr.2d 373, 855 P.2d 391].)

Defenses—Instructional Duty

In *In re Jennings* (2004) 34 Cal.4th 254, 280 [17 Cal.Rptr.3d 645, 95 P.3d 906], the Supreme Court held that, although the prosecution is not required to prove that the defendant knew the age of the person he or she provided with alcohol, the defendant may assert as a defense a good faith belief that the person was at least 21. The burden is on the defendant to prove this defense. *(Ibid.)* The Court failed to state what burden of proof applies. Following *People v. Mower* (2002) 28 Cal.4th 457, 478–481 [122 Cal.Rptr.2d 326, 49 P.3d 1067], the committee has drafted the instruction on the premise that the defendant's burden is to merely raise a reasonable doubt about the defense, and the prosecution must then prove beyond a reasonable doubt that the defense does not apply. If there is sufficient

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evidence supporting the defense, the court has a **sua sponte** duty to give the bracketed paragraph on the defense. *(Ibid.)*

Business and Professions Code section 25660 provides a defense for those who rely in good faith on bona fide evidence of age and identity. If there is sufficient evidence, the court has a **sua sponte** duty to instruct on the defense. (See *People v. Mower, supra*, 28 Cal.4th at pp. 478–481.) Give the bracketed word "unlawfully" in the first sentence and element 1, and the bracketed paragraph on the defense.

AUTHORITY

- Elements. Bus. & Prof. Code, § 25658(a) & (c).
- "Alcoholic Beverage" Defined. Bus. & Prof. Code, § 23004.
- "Great Bodily Injury" Defined. Pen. Code, § 12022.7(f).
- Knowledge of Age Not an Element. *In re Jennings, supra,* (2004) 34 Cal.4th 254, at p. 280 [17 Cal.Rptr.3d 645, 95 P.3d 906].
- Good Faith Belief Person at Least 21 Defense. *In re Jennings, supra,* (2004) 34 Cal.4th 254, at p. 280 [17 Cal.Rptr.3d 645, 95 P.3d 906].
- Bona Fide Evidence of Age Defense. Bus. & Prof. Code, § 25660(c); *Kirby v. Alcoholic Beverage Control Appeals Board* (1968) 267 Cal.App.2d 895, 897, 898–899 [73 Cal.Rptr. 352].
- Affirmative Defenses. See *People v. Mower, supra,* (2002) 28 Cal.4th 457, at pp. 478–481 [122 Cal.Rptr.2d 326, 49 P.3d 1067].

RELATED ISSUES

See the Related Issues section of CALCRIM No. 2962, *Selling or Furnishing Alcoholic Beverage to Person Under 21*.

SECONDARY SOURCES

2 Witkin & Epstein, California Criminal Law (45th ed. 20124) Crimes Against Public Peace and Welfare, §§ 443364 – 369448.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, § 140.04 (Matthew Bender).

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3130. Personally Armed With Deadly Weapon (Pen. Code, § 12022.3)

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 crime[s] of _____ <*insert name[s] of alleged lesser offense[s]*>], you must then decide whether[, for each crime,] the People have proved the additional allegation that the defendant was personally armed with a deadly weapon in the commission [or attempted commission] of that crime. [You must decide whether the People have proved this allegation for each crime and return a separate finding for each crime.]

A *deadly weapon* is any object, instrument, or weapon [that is inherently deadly or one] that is used in such a way that it is capable of causing and likely to cause death or great bodily injury.

[An object is *inherently deadly* if it is deadly or dangerous in the ordinary use for which it was designed.]

[In deciding whether an object is a deadly weapon, consider all the surrounding circumstances, including when and where the object was possessed[,] [and] [where the person who possessed the object was going][,] [and] [whether the object was changed from its standard form] [and any other evidence that indicates whether the object would be used for a dangerous, rather than a harmless, purpose.]]

***Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

A person is *armed* with a deadly weapon when that person:

1. **Carries a deadly weapon [or has a deadly weapon available] for use in either offense or defense in connection with the crime[s] charged;**

AND

2. **Knows that he or she is carrying the deadly weapon [or has it available].**

<If there is an issue in the case over whether the defendant was armed with the weapon "in the commission of" the offense, see Bench Notes.>

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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.

New January 2006; Revised December 2008, February 2013, September 2019, September 2020, March 2022, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction when the enhancement is charged. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)

Give the bracketed phrase "that is inherently deadly or one" and give the bracketed definition of *inherently deadly* only if the object is a deadly weapon as a matter of law. (*People v. Stutelberg* (2018) 29 Cal.App.5th 314, 317-318 [240 Cal.Rptr.3d 156].)

Give the bracketed portion that begins with "In deciding whether" if the object is not a weapon as a matter of law and is capable of innocent uses. (*People v. Aguilar* (1997) 16 Cal.4th 1023, 1028–1029 [68 Cal.Rptr.2d 655, 945 P.2d 1204]; *People v. Godwin* (1996) 50 Cal.App.4th 1562, 1573–1574 [58 Cal.Rptr.2d 545].)

If determining whether the item is an inherently deadly weapon requires resolution of a factual issue, give both bracketed instructions.

In the definition of "armed," the court may give the bracketed phrase "or has a deadly weapon available" on request if the evidence shows that the weapon was at the scene of the alleged crime and "available to the defendant to use in furtherance of the underlying felony." (*People v. Bland* (1995) 10 Cal.4th 991, 997–998 [43 Cal.Rptr.2d 77, 898 P.2d 391]; see also *People v. Wandick* (1991) 227 Cal.App.3d 918, 927–928 [278 Cal.Rptr. 274] [language of instruction approved; sufficient evidence defendant had firearm available for use]; *People v. Jackson* (1995) 32 Cal.App.4th 411, 419–422 [38 Cal.Rptr.2d 214] [evidence that firearm was two blocks away from scene of rape insufficient to show available to defendant].)

If the case involves an issue of whether the defendant was armed "in the commission of" the offense, the court may give CALCRIM No. 3261, *While Committing a Felony: Defined—Escape Rule*. (See *People v. Jones* (2001) 25 Cal.4th 98, 109 [104 Cal.Rptr.2d 753, 18 P.3d 674]; *People v. Masbruch* (1996) 13 Cal.4th 1001, 1014 [55 Cal.Rptr.2d 760, 920 P.2d 705]; *People v. Taylor* (1995) 32 Cal.App.4th 578, 582 [38 Cal.Rptr.2d 127].)

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~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Enhancement. Pen. Code, § 12022.3.
- "Deadly Weapon" Defined. *People v. Brown* (2012) 210 Cal.App.4th 1, 6–8 [147 Cal.Rptr.3d 848]; *People v. Aguilar*, *supra*, ~~(1997)~~ 16 Cal.4th ~~1023,~~at pp. 1028–1029 ~~[68 Cal.Rptr.2d 655, 945 P.2d 1204]~~; *People v. Beasley* (2003) 105 Cal.App.4th 1078, 1086–1087 [130 Cal.Rptr.2d 717].
- Objects With Innocent Uses. *People v. Aguilar*, *supra*, ~~(1997)~~ 16 Cal.4th ~~1023,~~at pp. 1028–1029 ~~[68 Cal.Rptr.2d 655, 945 P.2d 1204]~~; *People v. Godwin* (1996) 50 Cal.App.4th 1562, 1573–1574 [58 Cal.Rptr.2d 545].
- Armed. *People v. Pitto* (2008) 43 Cal.4th 228, 236–240 [74 Cal.Rptr.3d 590, 180 P.3d 338]; *People v. Bland*, *supra*, ~~(1995)~~ 10 Cal.4th ~~991,~~at pp. 997–998 ~~[43 Cal.Rptr.2d 77, 898 P.2d 391]~~; *People v. Jackson* (1995) 32 Cal.App.4th 411, 419–422 [38 Cal.Rptr.2d 214]; *People v. Wandick*, *supra*, ~~(1991)~~ 227 Cal.App.3d ~~918,~~at pp. 927–928 ~~[278 Cal.Rptr. 274]~~.
- Must Be Personally Armed. *People v. Rener* (1994) 24 Cal.App.4th 258, 267 [29 Cal.Rptr.2d 392]; *People v. Reed* (1982) 135 Cal.App.3d 149, 152–153 [185 Cal.Rptr. 169].
- "In Commission of" Felony. *People v. Jones*, *supra*, ~~(2001)~~ 25 Cal.4th ~~98,~~at pp. 109–110 ~~[104 Cal.Rptr.2d 753, 18 P.3d 674]~~; *People v. Masbruch*, *supra*, ~~(1996)~~ 13 Cal.4th ~~1001,~~at p. 1014 ~~[55 Cal.Rptr.2d 760, 920 P.2d 705]~~; *People v. Taylor*, *supra*, ~~(1995)~~ 32 Cal.App.4th ~~578,~~at p. 582 ~~[38 Cal.Rptr.2d 127]~~.
- "Inherently Deadly" Defined. *People v. Perez* (2018) 4 Cal.5th 1055, 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42]; *People v. Aguilar*, *supra*, ~~(1997)~~ 16 Cal.4th ~~1023,~~at pp. 1028–1029 ~~[68 Cal.Rptr.2d 655, 945 P.2d 1204]~~.
- Examples of Noninherently Deadly Weapon. *People v. Aledamat* (2019) 8 Cal.5th 1, 6 [251 Cal.Rptr.3d 371, 447 P.3d 277] [box cutter]; *People v. Perez*, *supra*, ~~(2018)~~ 4 Cal.5th ~~1055,~~at p. 1065 ~~[232 Cal.Rptr.3d 51, 416 P.3d 42]~~ [vehicle]; *People v. McCoy* (1944) 25 Cal.2d 177, 188 [153 P.2d 315] [knife].

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RELATED ISSUES

~~***Penal Code Section 220***~~

~~A defendant convicted of violating Penal Code section 220 may receive an enhancement under Penal Code section 12022.3 even though the latter statute does not specifically list section 220 as a qualifying offense. (*People v. Rich* (2003) 109 Cal.App.4th 255, 261 [134 Cal.Rptr.2d 553].) Section 12022.3 does apply to attempts to commit one of the enumerated offenses, and a conviction for violating section 220, assault with intent to commit a sexual offense, "translates into an attempt to commit" a sexual offense. (*People v. Rich*, *supra*, 109 Cal.App.4th at p. 261.)~~

~~***Multiple Weapons***~~

~~There is a split in the Court of Appeal over whether a defendant may receive multiple enhancements under Penal Code section 12022.3 if the defendant has multiple weapons in his or her possession during the offense. (*People v. Maciel* (1985) 169 Cal.App.3d 273, 279 [215 Cal.Rptr. 124] [defendant may only receive one enhancement for each sexual offense, either for being armed with a rifle or for using a knife, but not both]; *People v. Stiltner* (1982) 132 Cal.App.3d 216, 232 [182 Cal.Rptr. 790] [defendant may receive both enhancement for being armed with a knife and enhancement for using a pistol for each sexual offense].) The court should review the current state of the law before sentencing a defendant to multiple weapons enhancements under Penal Code section 12022.3.~~

Pepper Spray

In *People v. Blake* (2004) 117 Cal.App.4th 543, 559 [11 Cal.Rptr.3d 678], the court upheld the jury's determination that pepper spray was a deadly weapon.

SECONDARY SOURCES

3 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 202~~4~~12) Punishment, §§ 400~~349~~, 411~~364~~, ~~388~~451.

5 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 202~~4~~12) Criminal Trial, § ~~727~~758.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.31 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, §§ 142.20[7][c], 142.21[1][d][iii] (Matthew Bender).

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3145. Personally Used Deadly Weapon (Pen. Code, §§ 667.61(e)(3), 1192.7(c)(23), 12022(b)(1) & (2), 12022.3)

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 crime[s] of _____ <*insert name[s] of alleged lesser offense[s]*>], you must then decide whether[, for each crime,] the People have proved the additional allegation that the defendant personally used a deadly [or dangerous] weapon during the commission [or attempted commission] of that crime. [You must decide whether the People have proved this allegation for each crime and return a separate finding for each crime.]

A *deadly* [*or dangerous*] *weapon* is any object, instrument, or weapon that is [inherently deadly] [or] [dangerous] [or] [one that is] used in such a way that it is capable of causing and likely to cause death or great bodily injury.

[An object is *inherently deadly* if it is deadly or dangerous in the ordinary use for which it was designed.]

[In deciding whether an object is a deadly weapon, consider all the surrounding circumstances, including when and where the object was possessed[,] [and] [where the person who possessed the object was going][,] [and] [whether the object was changed from its standard form] [and any other evidence that indicates whether the object would be used for a dangerous, rather than a harmless, purpose.]]

***Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

Someone *personally uses* a deadly [or dangerous] weapon if he or she intentionally [does any of the following]:

[1. Displays the weapon in a menacing manner(./;)]

[OR]

[(2/1). Hits someone with the weapon(./;)]

[OR]

[(3/2). Fires the weapon(./;)]

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[OR

(4/3). _____ <*insert description of use*>. **]**

<*If there is an issue in the case over whether the defendant used the weapon "in the commission of" the offense, see Bench Notes.*>

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.

New January 2006; Revised June 2007, February 2013, September 2017, September 2019, September 2020, March 2022, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction defining the elements of the enhancement. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)

Give all of the bracketed "or dangerous" phrases if the enhancement charged uses both the words "deadly" and "dangerous" to describe the weapon. (Pen. Code, §§ 667.61, 1192.7(c)(23), 12022(b).) Do not give these bracketed phrases if the enhancement uses only the word "deadly." (Pen. Code, § 12022.3.)

Give the bracketed phrase "inherently deadly" and give the bracketed definition of *inherently deadly* only if the object is a deadly weapon as a matter of law. (*People v. Stutelberg* (2018) 29 Cal.App.5th 314, 317-318 [240 Cal.Rptr.3d 156].)

Give the bracketed portion that begins with "In deciding whether" if the object is not a weapon as a matter of law and is capable of innocent uses. (*People v. Aguilar* (1997) 16 Cal.4th 1023, 1028–1029 [68 Cal.Rptr.2d 655, 945 P.2d 1204]; *People v. Godwin* (1996) 50 Cal.App.4th 1562, 1573–1574 [58 Cal.Rptr.2d 545].)

If determining whether the item is an inherently deadly weapon requires resolution of a factual issue, give both bracketed instructions.

In the definition of "personally uses," the court may give the bracketed item 3 if the case involves an object that may be "fired."

If the case involves an issue of whether the defendant used the weapon "in the commission of" the offense, the court may give CALCRIM No. 3261, *While Committing a Felony: Defined—Escape Rule*. (See *People v. Jones* (2001) 25 Cal.4th 98, 109 [104 Cal.Rptr.2d 753, 18 P.3d 674]; *People v. Masbruch* (1996)

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13 Cal.4th 1001, 1014 [55 Cal.Rptr.2d 760, 920 P.2d 705]; *People v. Taylor* (1995) 32 Cal.App.4th 578, 582 [38 Cal.Rptr.2d 127].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Enhancements. Pen. Code, §§ 667.61(e)(3), 1192.7(c)(23), 12022(b)(1) & (2), 12022.3.
- "Deadly Weapon" Defined. *People v. Aguilar*, *supra*, ~~(1997)~~ 16 Cal.4th ~~1023,~~at pp. 1028–1029 ~~[68 Cal.Rptr.2d 655, 945 P.2d 1204]~~; *People v. Beasley* (2003) 105 Cal.App.4th 1078, 1086–1087 [130 Cal.Rptr.2d 717].
- Objects With Innocent Uses. *People v. Aguilar*, *supra*, ~~(1997)~~ 16 Cal.4th ~~1023,~~at pp. 1028–1029 ~~[68 Cal.Rptr.2d 655, 945 P.2d 1204]~~; *People v. Godwin*, *supra*, ~~(1996)~~ 50 Cal.App.4th ~~1562,~~at pp. 1573–1574 ~~[58 Cal.Rptr.2d 545]~~.
- Personally Uses. *People v. Bland* (1995) 10 Cal.4th 991, 997 [43 Cal.Rptr.2d 77, 898 P.2d 391]; *People v. Johnson* (1995) 38 Cal.App.4th 1315, 1319–1320 [45 Cal.Rptr.2d 602]; see also Pen. Code, § 1203.06(b)(2).
- "In Commission of" Felony. *People v. Jones*, *supra*, ~~(2001)~~ 25 Cal.4th ~~98,~~at pp. 109–110 ~~[104 Cal.Rptr.2d 753, 18 P.3d 674]~~; *People v. Masbruch*, *supra*, ~~(1996)~~ 13 Cal.4th ~~1001,~~at p. 1014 ~~[55 Cal.Rptr.2d 760, 920 P.2d 705]~~; *People v. Taylor*, *supra*, ~~(1995)~~ 32 Cal.App.4th ~~578,~~at p. 582 ~~[38 Cal.Rptr.2d 127]~~.
- May Not Receive Enhancement for Both Using and Being Armed With One Weapon. *People v. Wischemann* (1979) 94 Cal.App.3d 162, 175–176 [156 Cal.Rptr. 386].
- "Inherently Deadly" Defined. *People v. Perez* (2018) 4 Cal.5th 1055, 1065 [232 Cal.Rptr.3d 51, 416 P.3d 42]; *People v. Aguilar*, *supra*, ~~(1997)~~ 16 Cal.4th ~~1023,~~at pp. 1028–1029 ~~[68 Cal.Rptr.2d 655, 945 P.2d 1204]~~.
- Examples of Noninherently Deadly Weapon. *People v. Aledamat* (2019) 8 Cal.5th 1, 6 [251 Cal.Rptr.3d 371, 447 P.3d 277] [box cutter]; *People v. Perez*, *supra*, ~~(2018)~~ 4 Cal.5th ~~1055,~~at p. 1065 ~~[232 Cal.Rptr.3d 51, 416 P.3d 42]~~ [vehicle]; *People v. McCoy* (1944) 25 Cal.2d 177, 188 [153 P.2d 315] [knife].

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RELATED ISSUES

No Duty to Instruct on "Lesser Included Enhancements"

"[A] trial court's sua sponte obligation to instruct on lesser included offenses does not encompass an obligation to instruct on 'lesser included enhancements.' " (*People v. Majors* (1998) 18 Cal.4th 385, 411 [75 Cal.Rptr.2d 684, 956 P.2d 1137].) Thus, if the defendant is charged with an enhancement for use of a weapon, the court does not need to instruct on an enhancement for being armed.

Weapon Displayed Before Felony Committed

Where a weapon is displayed initially and the underlying crime is committed some time after the initial display, the jury may conclude that the defendant used the weapon in the commission of the offense if the display of the weapon was "at least … an aid in completing an essential element of the subsequent crimes. . . ." (*People v. Masbruch*, *supra*, ~~(1996)~~ 13 Cal.4th ~~1001,~~at p. 1014 ~~[55 Cal.Rptr.2d 760, 920 P.2d 705]~~.)

Weapon Used Did Not Cause Death

In *People v. Lerma* (1996) 42 Cal.App.4th 1221, 1224 [50 Cal.Rptr.2d 580], the defendant stabbed the victim and then kicked him. The coroner testified that the victim died as a result of blunt trauma to the head and that the knife wounds were not life threatening. *(Ibid.)* The court upheld the finding that the defendant had used a knife during the murder even though the weapon was not the cause of death. (*Id.* at p. 1226.) The court held that in order for a weapon to be used in the commission of the crime, there must be "a nexus between the offense and the item at issue, [such] that the item was an instrumentality of the crime." *(Ibid.)* [ellipsis and brackets omitted] Here, the court found that "[t]he knife was instrumental to the consummation of the murder and was used to advantage." *(Ibid.)*

"One Strike" Law and Use Enhancement

Where the defendant's use of a weapon has been used as a basis for applying the "one strike" law for sex offenses, the defendant may not also receive a separate enhancement for use of a weapon in commission of the same offense. (*People v. Mancebo* (2002) 27 Cal.4th 735, 754 [117 Cal.Rptr.2d 550, 41 P.3d 556].)

Assault and Use of Deadly Weapon Enhancement

"A conviction [for assault with a deadly weapon or by means of force likely to cause great bodily injury] under [Penal Code] section 245, subdivision (a)(1) cannot be enhanced pursuant to section 12022, subdivision (b)." (*People v. Summersville* (1995) 34 Cal.App.4th 1062, 1070 [40 Cal.Rptr.2d 683].)

Robbery and Use of Deadly Weapon Enhancement

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A defendant may be convicted and sentenced for both robbery and an enhancement for use of a deadly weapon during the robbery. (*In re Michael L.* (1985) 39 Cal.3d 81, 88 [216 Cal.Rptr. 140, 702 P.2d 222].)

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 2024~~12~~) Crimes Against the Person, § 214~~40~~.

3 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 2024~~12~~) Punishment, §§ ~~356~~408–417~~–357~~, 429~~361~~–430~~369~~.

5 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 2024~~12~~) Criminal Trial, § 758~~27~~.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing,* §§ 91.30, 91.81[1][d] (Matthew Bender).

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3149. Personally Used Firearm: Intentional Discharge Causing Injury or Death (Pen. Code, §§ 667.61(e)(3), 12022.53(d))

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 crime[s] of _____ <*insert name[s] of alleged lesser offense[s]*>], you must then decide whether[, for each crime,] the People have proved the additional allegation that the defendant personally and intentionally discharged a firearm during that crime causing (great bodily injury/ [or] death). [You must decide whether the People have proved this allegation for each crime and return a separate finding for each crime.]

To prove this allegation, the People must prove that:

1. **The defendant personally discharged a firearm during the commission [or attempted commission] of that crime;**

2. **The defendant intended to discharge the firearm;**

AND

3. **The defendant's act caused (great bodily injury to/ [or] the death of) a person [who was not an accomplice to the crime].**

[A *firearm* is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.]

[The term *firearm* is defined in another instruction.]

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[An act causes (great bodily injury/ [or] death) if the (injury/ [or] death) is the direct *natural and probable consequence* of the act and the (injury/ [or] death) would not have happened without the 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 the circumstances established by the evidence.]

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[There may be more than one cause of (great bodily injury/ [or] death). An act causes (injury/ [or] death) only if it is a substantial factor in causing the (injury/ [or] 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 (injury/ [or] death).]

[A person is an *accomplice* if he or she is subject to prosecution for the identical crime (charged against/intended by) the defendant[of which the intentional discharge of a firearm was a *natural and probable consequence*]. A person is subject to prosecution if he or she committed the crime or if:

1. **He or she knew of the criminal purpose of the person who committed the crime;**

AND

2. **He or she intended to, and did in fact, (aid, facilitate, promote, encourage, or instigate the commission of the crime/ [or] participate in a criminal conspiracy to commit the crime).]**

<If there is an issue in the case over whether the defendant used the firearm "during the commission of" the offense, see Bench Notes.>

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.

New January 2006; Revised February 2012, September 2020, September 2022, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the enhancement. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].) If the defendant is charged with an enhancement for both intentional discharge *and* intentional discharge causing great bodily injury or death, the court may give CALCRIM No. 3150, *Personally Used Firearm: Intentional Discharge and Discharge Causing Injury or Death Both Charged*, instead of this instruction.

If causation is at issue, the court has a **sua sponte** duty to instruct on proximate cause (*People v. Jomo K. Bland* (2002) 28 Cal.4th 313, 335 [121 Cal.Rptr.2d 546, 48 P.3d 1107]); give the bracketed paragraph that begins with "An act causes . . .

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." If there is evidence of multiple potential causes, the court should also give the bracketed paragraph that begins with "There may be more than one cause . . . ." (*Id.* at pp. 335–338.)

The court should give the bracketed definition of "firearm" unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere.

If the case involves an issue of whether the defendant used the firearm "during the commission of" the offense, the court may give CALCRIM No. 3261, *While Committing a Felony: Defined—Escape Rule*. (See *People v. Jones* (2001) 25 Cal.4th 98, 109 [104 Cal.Rptr.2d 753, 18 P.3d 674]; *People v. Masbruch* (1996) 13 Cal.4th 1001, 1014 [55 Cal.Rptr.2d 760, 920 P.2d 705]; *People v. Taylor* (1995) 32 Cal.App.4th 578, 582 [38 Cal.Rptr.2d 127].)

In element 3, give the bracketed phrase "who was not an accomplice to the crime" if there is evidence that the victim was an accomplice to the intended crime of which the intentional discharge of a firearm was a natural and probable consequence. (See *People v. Flores* (2005) 129 Cal.App.4th 174, 182 [28 Cal.Rptr.3d 232]; *People v. Morales* (2021) 67 Cal.App.5th 326, 340–341 [282 Cal.Rptr.3d 151].)

If the court gives the bracketed phrase "who was not an accomplice to the crime," the court should also give the bracketed definition of "accomplice." (*People v. Verlinde* (2002) 100 Cal.App.4th 1146, 1167–1168 [123 Cal.Rptr.2d 322].) Additional paragraphs providing further explanation of the definition of "accomplice" are contained in CALCRIM No. 334, *Accomplice Testimony Must Be Corroborated: Dispute Whether Witness Is Accomplice*. The court should review that instruction and determine whether any of these additional paragraphs should be given.

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Enhancement. Pen. Code, §§ 667.61(e)(3), 12022.53(d).
- "Firearm" Defined. Pen. Code, § 16520.

DRAFT

- "During Commission of" Felony. *People v. Jones, supra,* 25 Cal.4th at pp. 109–110; *People v. Masbruch, supra,* 13 Cal.4th at p. 1014; *People v. Taylor, supra,* 32 Cal.App.4th at p. 582.
- Proximate Cause. *People v. Jomo K. Bland, supra,* 28 Cal.4th at pp. 335–338.
- "Accomplice" Defined. See Pen. Code, § 1111; *People v. Verlinde, supra,* 100 Cal.App.4th at pp. 1167–1168; *People v. Stankewitz* (1990) 51 Cal.3d 72, 90–91 [270 Cal.Rptr. 817, 793 P.2d 23].
- Accomplice Exception Attaches to Intended Crime. *People v. Flores, supra,* 129 Cal.App.4th at p. 182; *People v. Morales, supra,* 67 Cal.App.5th at pp. 340–341.

RELATED ISSUES

Need Not Personally Cause Injury or Death

"[Penal Code] Section 12022.53(d) requires that the defendant 'intentionally and *personally* discharged a firearm' (italics added), but only that he 'proximately caused' the great bodily injury or death. . . . The statute states nothing else that defendant must *personally* do. Proximately causing and personally inflicting harm are two different things." (*People v. Jomo K. Bland, supra*, 28 Cal.4th at p. 336 [italics in original].)

Person Injured or Killed Need Not Be Victim of Crime

In *People v. Oates* (2004) 32 Cal.4th 1048, 1052 [12 Cal.Rptr.3d 325, 88 P.3d 56], the defendant fired two shots into a group of people, hitting and injuring one. He was convicted of five counts of premeditated attempted murder. The court held that the subdivision (d) enhancement for causing great bodily injury applied to each of the five counts even though the defendant only injured one person. (*Id.* at p. 1056.) The court observed that "the phrase, 'any person other than an accomplice,' does not mean 'the victim' of the underlying crime." (*Id.* at p. 1055.)

Multiple Enhancements for Single Injury

The court in *Oates* (*supra,* 32 Cal.4th at p. 1056) also held that the trial court was required to impose all five subdivision (d) enhancements because Penal Code section 12022.53(f) requires a court to impose the longest enhancement available. The court further found that Penal Code section 654 did not preclude imposition of multiple subdivision (d) enhancements due to "the long-recognized, judicially-created exception for cases involving multiple victims of violent crime." (*Id.* at p. 1062.)

Multiple Enhancements May Not Be Imposed Based on Multiple Participants

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In *People v. Cobb* (2004) 124 Cal.App.4th 1051, 1054, fn. 3 [21 Cal.Rptr.3d 869], the defendant and two others simultaneously shot at the decedent. The defendant was convicted of personally inflicting death by use of a firearm. (*Id.* at p. 1053; Pen. Code, § 12022.53(d).) In addition to the sentence for personally using a firearm, the trial court also imposed two sentences under Penal Code section 12022.53(e)(1) based on the other two participants having also fired at the decedent (*Ibid.*) The Court of Appeal reversed the latter two enhancements, holding that Penal Code section 12022.53(f) did not permit multiple sentence enhancements based on multiple participants in one crime. (*Id.* at p. 1058.)

Self-Defense and Imperfect Self-Defense

Penal Code section 12022.53(*l*) provides that "[t]he enhancements specified in this section shall not apply to the lawful use or discharge of a firearm by a public officer, as provided in Section 196, or by any person in lawful self-defense, lawful defense of another, or lawful defense of property, as provided in Sections 197, 198, and 198.5." In *People v. Watie* (2002) 100 Cal.App.4th 866, 884 [124 Cal.Rptr.2d 258], the court held, "[t]his subdivision, on its face, exempts lawful (perfect) self-defense from the section's application. It does not exempt imperfect self-defense." Further, an instruction informing the jury that the defense of self-defense applies to the enhancement is not necessary. (*Id.* at p. 886.)

SECONDARY SOURCES

3 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 202~~4~~4~~12~~) Punishment, §§ ~~359~~419 – ~~360~~428.

5 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 202~~4~~4~~12~~) Criminal Trial, § 75~~8~~8~~27~~.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.30[5] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, § 140.04 (Matthew Bender).

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3150. Personally Used Firearm: Intentional Discharge and Discharge Causing Injury or Death—Both Charged (Pen. Code, §§ 667.61(e)(3), 12022.53(d))

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 crime[s] of _____ <*insert name[s] of alleged lesser offense[s]*>], you must then decide whether[, for each crime,] the People have proved the additional allegations that the defendant personally and intentionally discharged a firearm during (that/those) crime[s] and, if so, whether the defendant's act caused (great bodily injury/ [or] death). [You must decide whether the People have proved these allegations for each crime and return a separate finding for each crime.]

To prove that the defendant intentionally discharged a firearm, the People must prove that:

1. **The defendant personally discharged a firearm during the commission [or attempted commission] of that crime;**

AND

2. **The defendant intended to discharge the firearm.**

If the People have proved both 1 and 2, you must then decide whether the People also have proved that the defendant's act caused (great bodily injury to/ [or] the death of) a person [who was not an accomplice to the crime].

[A *firearm* is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.]

[The term *firearm* is defined in another instruction.]

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

[An act causes (great bodily injury/ [or] death) if the (injury/ [or] death) is the direct *natural and probable consequence* of the act and the (injury/ [or] death) would not have happened without the act. A *natural and probable consequence* is one that a reasonable person would know is likely to happen if

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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 (great bodily injury/ [or] death). An act causes (injury/ [or] death) only if it is a substantial factor in causing the (injury/ [or] 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 (injury/ [or] death).]

[A person is an *accomplice* if he or she is subject to prosecution for the identical crime (charged against/intended by) the defendant[of which the intentional discharge of a firearm was a *natural and probable consequence*]. A person is subject to prosecution if he or she committed the crime or if:

1. **He or she knew of the criminal purpose of the person who committed the crime;**

AND

2. **He or she intended to, and did in fact, (aid, facilitate, promote, encourage, or instigate the commission of the crime/ [or] participate in a criminal conspiracy to commit the crime).]**

<If there is an issue in the case over whether the defendant used the firearm "during the commission of" the offense, see Bench Notes.>

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

New January 2006; Revised February 2012, September 2020, September 2022, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the enhancement. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].) This instruction may be used when the defendant is charged with an enhancement both for intentional discharge *and* for intentional discharge causing great bodily injury or death. If only one of these enhancements is charged, do not use this instruction. Instead, give CALCRIM No. 3148, *Personally Used Firearm: Intentional Discharge*, or CALCRIM No. 3149,

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Personally Used Firearm: Intentional Discharge Causing Injury or Death, whichever is appropriate.

If causation is at issue, the court has a **sua sponte** duty to instruct on proximate cause (*People v. Jomo K. Bland* (2002) 28 Cal.4th 313, 335 [121 Cal.Rptr.2d 546, 48 P.3d 1107]); give the bracketed paragraph that begins with "An act causes . . . ." If there is evidence of multiple potential causes, the court should also give the bracketed paragraph that begins with "There may be more than one cause . . . ." (*Id.* at pp. 335–338.)

The court should give the bracketed definition of "firearm" unless the court has already given the definition in other instructions. In such cases, the court may give the bracketed sentence stating that the term is defined elsewhere.

If the case involves an issue of whether the defendant used the weapon "during the commission of" the offense, the court may give CALCRIM No. 3261, *While Committing a Felony: Defined—Escape Rule*. (See *People v. Jones* (2001) 25 Cal.4th 98, 109 [104 Cal.Rptr.2d 753, 18 P.3d 674]; *People v. Masbruch* (1996) 13 Cal.4th 1001, 1014 [55 Cal.Rptr.2d 760, 920 P.2d 705]; *People v. Taylor* (1995) 32 Cal.App.4th 578, 582 [38 Cal.Rptr.2d 127].)

In the paragraph following the elements, give the bracketed phrase "who was not an accomplice to the crime" if there is evidence that the victim was an accomplice to the intended crime of which the intentional discharge of a firearm was the natural and probable consequence. (See *People v. Flores* (2005) 129 Cal.App.4th 174, 182 [28 Cal.Rptr.3d 232]; *People v. Morales* (2021) 67 Cal.App.5th 326, 340–341 [282 Cal.Rptr.3d 151].)

If the court gives the bracketed phrase "who was not an accomplice to the crime," the court should also give the bracketed definition of "accomplice." (*People v. Verlinde* (2002) 100 Cal.App.4th 1146, 1167–1168 [123 Cal.Rptr.2d 322].) Additional paragraphs providing further explanation of the definition of "accomplice" are contained in CALCRIM No. 334, *Accomplice Testimony Must Be Corroborated: Dispute Whether Witness Is Accomplice*. The court should review that instruction and determine whether any of these additional paragraphs should be given.

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

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AUTHORITY

- Enhancement. Pen. Code, §§ 667.61(e)(3), 12022.53(d).
- "Firearm" Defined. Pen. Code, § 16520.
- "During Commission of" Felony. *People v. Jones*, *supra*, 25 Cal.4th at pp. 109–110; *People v. Masbruch*, *supra*, 13 Cal.4th at pp. 1014; *People v. Taylor*, *supra*, 32 Cal.App.4th at p. 582.
- Proximate Cause. *People v. Jomo K. Bland*, *supra*, 28 Cal.4th at pp. 335–338.
- "Accomplice" Defined. See Pen. Code, § 1111; *People v. Verlinde*, *supra*, 100 Cal.App.4th at pp. 1167–1168; *People v. Stankewitz* (1990) 51 Cal.3d 72, 90–91 [270 Cal.Rptr. 817, 793 P.2d 23].
- Accomplice Exception Attaches to Intended Crime. *People v. Flores*, *supra*, 129 Cal.App.4th at p. 182; *People v. Morales*, *supra*, 67 Cal.App.5th at pp. 340–341.

RELATED ISSUES

See the Related Issues sections of CALCRIM No. 3148, *Personally Used Firearm: Intentional Discharge*, and CALCRIM No. 3149, *Personally Used Firearm: Intentional Discharge Causing Injury or Death*.

SECONDARY SOURCES

3 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 2024~~12~~) Punishment, §§ ~~359~~419 – ~~360~~428.

5 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 2024~~12~~) Criminal Trial, § 7~~27~~58.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.30[5] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, § 140.04 (Matthew Bender).

3151–3159. Reserved for Future Use

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3160. Great Bodily Injury (Pen. Code, §§ 667.5(c)(8), 667.61(d)(6), 1192.7(c)(8), 12022.7, 12022.8)

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 crime[s] of _____ *<insert name[s] of alleged lesser offense[s]>***], you must then decide whether[, for each crime,] the People have proved the additional allegation that the defendant personally inflicted great bodily injury on _____** *<insert name of injured person>* **during the commission [or attempted commission] of that crime. [You must decide whether the People have proved this allegation for each crime and return a separate finding for each crime.]**

[The People must also prove that _____ *<insert name of injured person>* **was not an accomplice to the crime.]**

Great bodily injury **means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

[Committing the crime of _____ *<insert sexual offense charged>* **is not by itself the infliction of great bodily injury.]**

[A person inflicts great bodily injury if the person sells, furnishes, administers, or gives a controlled substance to another person who uses the substance and, as a result, suffers a significant or substantial physical injury.]

<Group Assault>
[If you conclude that more than one person assaulted _____ *<insert name of injured person>* **and you cannot decide which person caused which injury, you may conclude that the defendant personally inflicted great bodily injury on _____***<insert name of injured person>* **if the People have proved that:**

1. **Two or more people, acting at the same time, assaulted _____** *<insert name of injured person>* **and inflicted great bodily injury on (him/her);**

2. **The defendant personally used physical force on _____** *<insert name of injured person>* **during the group assault;**

AND

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[3A. The amount or type of physical force the defendant used on _____ <*insert name of injured person*> was enough that it alone could have caused _____ <*insert name of injured person*> to suffer great bodily injury(;/.)]

[OR]

[3B. The physical force that the defendant used on _____ <*insert name of injured person*> was sufficient in combination with the force used by the others to cause _____ <*insert name of injured person*> to suffer great bodily injury.]

The defendant must have applied substantial force to _____ <*insert name of injured person*>. If that force could not have caused or contributed to the great bodily injury, then it was not substantial.]

[A person is an *accomplice* if he or she is subject to prosecution for the identical crime charged against the defendant. Someone is subject to prosecution if he or she personally committed the crime or if:

1. **He or she knew of the criminal purpose of the person who committed the crime;**

AND

2. **He or she intended to, and did in fact, (aid, facilitate, promote, encourage, or instigate the commission of the crime/ [or] participate in a criminal conspiracy to commit the crime).]**

<If there is an issue in the case over whether the defendant inflicted the injury "during the commission of" the offense, see Bench Notes.>

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.

New January 2006; Revised June 2007, February 2015, September 2020, March 2022, March 2024, October 2025*
** Denotes changes only to bench notes and other commentaries.*

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BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction on the enhancement when charged. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)

Give the bracketed sentence that begins with "Committing the crime of" if the defendant is charged with a sexual offense. (*People v. Escobar* (1992) 3 Cal.4th 740, 746 [12 Cal.Rptr.2d 586, 837 P.2d 1100] [injury must be more than that which is present in every offense of rape].)

The bracketed section beneath the heading "Group Assault" is designed to be used in cases where the evidence shows a group assault.

If the court gives the bracketed sentence instructing that the People must prove that the person assaulted "was not an accomplice to the crime," the court should also give the bracketed definition of "accomplice." (*People v. Verlinde* (2002) 100 Cal.App.4th 1146, 1167–1168 [123 Cal.Rptr.2d 322].) Additional paragraphs providing further explanation of the definition of "accomplice" are contained in CALCRIM No. 334, *Accomplice Testimony Must Be Corroborated: Dispute Whether Witness Is Accomplice*. The court should review that instruction and determine whether any of these additional paragraphs should be given.

The jury must determine whether an injury constitutes "great bodily injury." (*People v. Escobar*, *supra*, 3 Cal.4th at p. 750; *People v. Nava* (1989) 207 Cal.App.3d 1490, 1498 [255 Cal.Rptr. 903] [reversible error to instruct that a bone fracture is a significant or substantial injury].) A jury's finding of serious bodily injury is not equivalent to a finding of great bodily injury. (*In re Cabrera* (2023) 14 Cal.5th 476, 491 [304 Cal.Rptr.3d 798, 524 P.3d 784].)

If there is an issue in the case over whether the defendant inflicted the injury "during the commission of" the offense, the court may give CALCRIM No. 3261, *While Committing a Felony: Defined—Escape Rule*. (See *People v. Jones* (2001) 25 Cal.4th 98, 109 [104 Cal.Rptr.2d 753, 18 P.3d 674]; *People v. Masbruch* (1996) 13 Cal.4th 1001, 1014 [55 Cal.Rptr.2d 760, 920 P.2d 705]; *People v. Taylor* (1995) 32 Cal.App.4th 578, 582 [38 Cal.Rptr.2d 127].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

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AUTHORITY

- Enhancements. Pen. Code, §§ 667.5(c)(8), 667.61(d)(6), 12022.7, 12022.8.
- Great Bodily Injury Enhancements Do Not Apply to Conviction for Murder or Manslaughter. *People v. Cook* (2015) 60 Cal.4th 922, 924 [183 Cal.Rptr.3d 502].
- "Great Bodily Injury" Defined. Pen. Code, § 12022.7(f); *In re Cabrera*, *supra*, 14 Cal.5th at p. 484 [not equivalent to serious bodily injury]; *People v. Escobar*, *supra*, 3 Cal.4th at pp. 749–750 [greater than minor or moderate harm].
- Personal Infliction by Furnishing Drugs. Pen. Code, § 12022.7(f)(2).
- Great Bodily Injury May Be Established by Pregnancy or Abortion. *People v. Cross* (2008) 45 Cal.4th 58, 68 [82 Cal.Rptr.3d 373, 190 P.3d 706].
- Must Personally Inflict Injury. *People v. Lee* (2003) 31 Cal.4th 613, 631 [3 Cal.Rptr.3d 402, 74 P.3d 176]; *People v. Cole* (1982) 31 Cal.3d 568, 571 [183 Cal.Rptr. 350, 645 P.2d 1182]; *People v. Ramirez* (1987) 189 Cal.App.3d 603, 627 [236 Cal.Rptr. 404] [Pen. Code, § 12022.8].
- Sex Offenses—Injury Must Be More Than Incidental to Offense. *People v. Escobar*, *supra*, 3 Cal.4th at p. 746.
- Group Beating Instruction. *People v. Modiri* (2006) 39 Cal.4th 481, 500–501 [46 Cal.Rptr.3d 762, 139 P.3d 136].
- This Instruction Is Correct In Defining Group Beating. *People v. Dunkerson* (2007) 155 Cal.App.4th 1413, 1418 [66 Cal.Rptr.3d 795].
- "Accomplice" Defined. See Pen. Code, § 1111; *People v. Verlinde*, *supra*, 100 Cal.App.4th at pp. 1167–1168; *People v. Stankewitz* (1990) 51 Cal.3d 72, 90–91 [270 Cal.Rptr. 817, 793 P.2d 23].
- "During Commission of" Felony. *People v. Jones*, *supra*, 25 Cal.4th at pp. 109–110; *People v. Masbruch*, *supra*, 13 Cal.4th at p. 1014; *People v. Taylor*, *supra*, 32 Cal.App.4th at p. 582.
- This Instruction Correctly Omits Requirement of Intent to Inflict GBI. *People v. Poroj* (2010) 190 Cal.App.4th 165, 176 [117 Cal.Rptr.3d 884].

RELATED ISSUES

Specific Intent Not Required

Penal Code section 12022.7 was amended in 1995, deleting the requirement that the defendant act with "the intent to inflict such injury." (Stats. 1995, ch. 341, § 1;

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see also *People v. Carter* (1998) 60 Cal.App.4th 752, 756 [70 Cal.Rptr.2d 569] [noting amendment].)

Instructions on Aiding and Abetting

In *People v. Magana* (1993) 17 Cal.App.4th 1371, 1378–1379 [22 Cal.Rptr.2d 59], the evidence indicated that the defendant and another person both shot at the victims. The jury asked for clarification of whether the evidence must establish that the bullet from the defendant's gun struck the victim in order to find the enhancement for personally inflicting great bodily injury true. (*Id.* at p. 1379.) The trial court responded by giving the instructions on aiding and abetting. *(Ibid.)* The Court of Appeal reversed, finding the instructions erroneous in light of the requirement that the defendant must personally inflict the injury for the enhancement to be found true. (*Id.* at p. 1381.)

Sex Offenses—Examples of Great Bodily Injury

The following have been held to be sufficient to support a finding of great bodily injury: transmission of a venereal disease (*People v. Johnson* (1986) 181 Cal.App.3d 1137, 1140 [225 Cal.Rptr. 251]); pregnancy (*People v. Sargent* (1978) 86 Cal.App.3d 148, 151 [150 Cal.Rptr. 113]); and a torn hymen (*People v. Williams* (1981) 115 Cal.App.3d 446, 454 [171 Cal.Rptr. 401]).

Enhancement May Be Applied Once Per Victim

The court may impose one enhancement under Penal Code section 12022.7 for each injured victim. (Pen. Code, § 12022.7(h); *People v. Ausbie* (2004) 123 Cal.App.4th 855, 864 [20 Cal.Rptr.3d 371].)

~~***Furnishing Drugs***~~

~~In *People v. Ollo* (2021) 11 Cal.5th 682 [279 Cal.Rptr.3d 668, 487 P.3d 981], the defendant was charged with personally inflicting great bodily injury on a victim who had voluntarily ingested the drugs furnished by the defendant. The court held: "[T]he act of furnishing is not by itself sufficient to establish personal infliction. Whether a defendant who furnishes drugs personally inflicts such injury depends on the facts of the particular case. To determine whether a defendant personally inflicts such injury, fact finders and courts must examine the circumstances of the underlying offense and the defendant's role in causing the injury that followed." (11 Cal.5th at p. 685.)~~

SECONDARY SOURCES

3 Witkin & Epstein, California Criminal Law (5~~4~~th ed. 202~~4~~1~~2~~) Punishment, §§ ~~350~~401~~–~~–403~~351~~.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.02[2][a][i] (Matthew Bender).

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5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.35 (Matthew Bender).

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3161. Great Bodily Injury: Causing Victim to Become Comatose or Paralyzed (Pen. Code, § 12022.7(b))

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 crime[s] of _____ <*insert name[s] of alleged lesser offense[s]*>], you must then decide whether[, for each crime,] the People have proved the additional allegation that the defendant personally inflicted great bodily injury that caused _____ <*insert name of injured person*> to become (comatose/ [or] permanently paralyzed). [You must decide whether the People have proved this allegation for each crime and return a separate finding for each crime.]

To prove this allegation, the People must prove that:

1. **The defendant personally inflicted great bodily injury on _____ <*insert name of injured person*> during the commission [or attempted commission] of the crime;**

[AND]

2. **The defendant's acts caused _____ <*insert name of injured person*> to (become comatose due to brain injury/ [or] suffer permanent paralysis)(./;)**

<Give element 3 when instructing on whether injured person was an accomplice.>
[AND

3. **_____ <*insert name of injured person*> was not an accomplice to the crime.]**

Great bodily injury **means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

[*Paralysis* is a major or complete loss of motor function resulting from injury to the nervous system or to a muscular mechanism.]

<Group Assault>
[If you conclude that more than one person assaulted _____ <*insert name of injured person*> and you cannot decide which person caused which injury, you may conclude that the defendant personally inflicted great bodily

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injury on _____ *<insert name of injured person>* **if the People have proved that:**

1. **Two or more people, acting at the same time, assaulted _____** *<insert name of injured person>* **and inflicted great bodily injury on (him/her);**

2. **The defendant personally used physical force on _____** *<insert name of injured person>* **during the group assault;**

AND

[3A. The amount or type of physical force the defendant used on _____ *<insert name of injured person>* **was enough that it alone could have caused _____** *<insert name of injured person>* **to suffer great bodily injury(;/.)]**

[OR]

[3B. The physical force that the defendant used on _____ *<insert name of injured person>* **was sufficient in combination with the force used by the others to cause _____** *<insert name of injured person>* **to suffer great bodily injury.]**

The defendant must have applied substantial force to _____ *<insert name of injured person>***. If that force could not have caused or contributed to the great bodily injury, then it was not substantial.]**

[A person is an *accomplice* if he or she is subject to prosecution for the identical crime charged against the defendant. Someone is subject to prosecution if he or she personally committed the crime or if:

1. **He or she knew of the criminal purpose of the person who committed the crime;**

AND

2. **He or she intended to, and did in fact, (aid, facilitate, promote, encourage, or instigate the commission of the crime/ [or] participate in a criminal conspiracy to commit the crime).]**

<If there is an issue in the case over whether the defendant inflicted the injury "during the commission of" the offense, see Bench Notes.>

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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.

New January 2006; Revised June 2007, December 2008, September 2020, March 2024, * *October 2025*
** Denotes changes only to bench notes and other commentaries.*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction on the enhancement when charged. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)

The bracketed section beneath the heading "Group Assault" is designed to be used in cases where the evidence shows a group assault.

If the court gives bracketed element 3 instructing that the People must prove that the person assaulted "was not an accomplice to the crime," the court should also give the bracketed definition of "accomplice." (*People v. Verlinde* (2002) 100 Cal.App.4th 1146, 1167–1168 [123 Cal.Rptr.2d 322].) Additional paragraphs providing further explanation of the definition of "accomplice" are contained in CALCRIM No. 334, *Accomplice Testimony Must Be Corroborated: Dispute Whether Witness Is Accomplice*. The court should review that instruction and determine whether any of these additional paragraphs should be given.

The jury must determine whether an injury constitutes "great bodily injury." (*People v. Escobar* (1992) 3 Cal.4th 740, 750 [12 Cal.Rptr.2d 586, 837 P.2d 1100]; *People v. Nava* (1989) 207 Cal.App.3d 1490, 1498 [255 Cal.Rptr. 903] [reversible error to instruct that a bone fracture is a significant or substantial injury].) A jury's finding of serious bodily injury is not equivalent to a finding of great bodily injury. (*In re Cabrera* (2023) 14 Cal.5th 476, 491 [304 Cal.Rptr.3d 798, 524 P.3d 784].)

If the case involves an issue of whether the defendant inflicted the injury "during the commission of" the offense, the court may give CALCRIM No. 3261, *While Committing a Felony: Defined—Escape Rule*. (See *People v. Jones* (2001) 25 Cal.4th 98, 109 [104 Cal.Rptr.2d 753, 18 P.3d 674]; *People v. Masbruch* (1996) 13 Cal.4th 1001, 1014 [55 Cal.Rptr.2d 760, 920 P.2d 705]; *People v. Taylor* (1995) 32 Cal.App.4th 578, 582 [38 Cal.Rptr.2d 127].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-~~

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~~535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Enhancement. Pen. Code, § 12022.7(b).
- "Great Bodily Injury" Defined. Pen. Code, § 12022.7(f); *In re Cabrera*, *supra*, 14 Cal.5th at p. 484 [not equivalent to serious bodily injury]; *People v. Escobar*, *supra*, 3 Cal.4th at pp. 749–750 [greater than minor or moderate harm].
- Must Personally Inflict Injury. *People v. Lee* (2003) 31 Cal.4th 613, 631 [3 Cal.Rptr.3d 402, 74 P.3d 176]; *People v. Cole* (1982) 31 Cal.3d 568, 571 [183 Cal.Rptr. 350, 645 P.2d 1182]; *People v. Ramirez* (1987) 189 Cal.App.3d 603, 627 [236 Cal.Rptr. 404] [Pen. Code, § 12022.8].
- Group Beating Instruction. *People v. Modiri* (2006) 39 Cal.4th 481, 500–501 [46 Cal.Rptr.3d 762].
- "Accomplice" Defined. See Pen. Code, § 1111; *People v. Verlinde*, *supra*, 100 Cal.App.4th at pp. 1167–1168; *People v. Stankewitz* (1990) 51 Cal.3d 72, 90–91 [270 Cal.Rptr. 817, 793 P.2d 23].
- "During Commission of" Felony. *People v. Jones*, *supra*, 25 Cal.4th at pp. 109–110; *People v. Masbruch*, *supra*, 13 Cal.4th at p. 1014; *People v. Taylor*, *supra*, 32 Cal.App.4th at p. 582.

RELATED ISSUES

Coma Need Not Be Permanent

In *People v. Tokash* (2000) 79 Cal.App.4th 1373, 1378 [94 Cal.Rptr. 2d 814], the court held that an enhancement under Penal Code section 12022.7(b) was proper where the victim was maintained in a medically induced coma for two months following brain surgery necessitated by the assault.

See the Related Issues section of CALCRIM No. 3160, *Great Bodily Injury*.

SECONDARY SOURCES

3 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 20~~1~~24~~2~~) Punishment, §§ ~~350~~401–~~354~~406.

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5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.35 (Matthew Bender).

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3162. Great Bodily Injury: Age of Victim (Pen. Code, § 12022.7(c) & (d))

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 crime[s] of _____ *<insert name[s] of alleged lesser offense[s]>*, **you must then decide whether[, for each crime,] the People have proved the additional allegation that the defendant personally inflicted great bodily injury on someone who was (under the age of 5 years/70 years of age or older). [You must decide whether the People have proved this allegation for each crime and return a separate finding for each crime.]**

To prove this allegation, the People must prove that:

1. **The defendant personally inflicted great bodily injury on** _____ *<insert name of injured person>* **during the commission [or attempted commission] of the crime;**

[AND]

2. **At that time,** _____ *<insert name of injured person>* **was (under the age of 5 years/70 years of age or older)(./;)**

<Give element 3 when instructing on whether injured person was an accomplice.>

[AND

3. _____ *<insert name of injured person>* **was not an accomplice to the crime.]**

Great bodily injury **means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

[Committing the crime of _____ *<insert sexual offense charged>* **is not by itself the infliction of great bodily injury.]**

<Group Assault>
[If you conclude that more than one person assaulted _____ *<insert name of injured person>* **and you cannot decide which person caused which injury, you may conclude that the defendant personally inflicted great bodily**

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injury on _____ <*insert name of injured person*> **if the People have proved that:**

1. **Two or more people, acting at the same time, assaulted _____** <*insert name of injured person*> **and inflicted great bodily injury on (him/her);**

2. **The defendant personally used physical force on _____** <*insert name of injured person*> **during the group assault;**

AND

[3A. The amount or type of physical force the defendant used on _____ <*insert name of injured person*> **was enough that it alone could have caused _____** <*insert name of injured person*> **to suffer great bodily injury(;/.)]**

[OR]

[3B. The physical force that the defendant used on _____ <*insert name of injured person*> **was sufficient in combination with the force used by the others to cause _____** <*insert name of injured person*> **to suffer great bodily injury.**

The defendant must have applied substantial force to _____ <*insert name of injured person*>**. If that force could not have caused or contributed to the great bodily injury, then it was not substantial.]**

[A person is an *accomplice* if he or she is subject to prosecution for the identical crime charged against the defendant. Someone is subject to prosecution if he or she personally committed the crime or if:

1. **He or she knew of the criminal purpose of the person who committed the crime;**

AND

2. **He or she intended to, and did in fact, (aid, facilitate, promote, encourage, or instigate the commission of the crime/ [or] participate in a criminal conspiracy to commit the crime).]**

[Under the law, a person becomes one year older as soon as the first minute of his or her birthday has begun.]

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<If there is an issue in the case over whether the defendant inflicted the injury "during the commission of" the offense, see Bench Notes.>

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 June 2007, December 2008, September 2020, March 2024, October 2025*
** Denotes changes only to bench notes and other commentaries.*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction on the enhancement when charged. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)

Give the bracketed sentence that begins with "Committing the crime of" if the defendant is charged with a sexual offense. (*People v. Escobar* (1992) 3 Cal.4th 740, 746 [12 Cal.Rptr.2d 586, 837 P.2d 1100] [injury must be more than that which is present in every offense of rape].)

The bracketed section beneath the heading "Group Assault" is designed to be used in cases where the evidence shows a group assault. If the court gives bracketed element 3 instructing that the People must prove that the person assaulted "was not an accomplice to the crime," the court should also give the bracketed definition of "accomplice." (*People v. Verlinde* (2002) 100 Cal.App.4th 1146, 1167–1168 [123 Cal.Rptr.2d 322].) Additional paragraphs providing further explanation of the definition of "accomplice" are contained in CALCRIM No. 334, *Accomplice Testimony Must Be Corroborated: Dispute Whether Witness Is Accomplice*. The court should review that instruction and determine whether any of these additional paragraphs should be given.

Give the bracketed paragraph about calculating age if requested. (Fam. Code, § 6500; *In re Harris* (1993) 5 Cal.4th 813, 849–850 [21 Cal.Rptr.2d 373, 855 P.2d 391].)

The jury must determine whether an injury constitutes "great bodily injury." (*People v. Escobar, supra*, 3 Cal.4th at p. 750; *People v. Nava* (1989) 207 Cal.App.3d 1490, 1498 [255 Cal.Rptr. 903] [reversible error to instruct that a bone fracture is a significant or substantial injury].) A jury's finding of serious bodily

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injury is not equivalent to a finding of great bodily injury. (*In re Cabrera* (2023) 14 Cal.5th 476, 491 [304 Cal.Rptr.3d 798, 524 P.3d 784].)

If the case involves an issue of whether the defendant inflicted the injury "during the commission of" the offense, the court may give CALCRIM No. 3261, *While Committing a Felony: Defined—Escape Rule*. (See *People v. Jones* (2001) 25 Cal.4th 98, 109 [104 Cal.Rptr.2d 753, 18 P.3d 674]; *People v. Masbruch* (1996) 13 Cal.4th 1001, 1014 [55 Cal.Rptr.2d 760, 920 P.2d 705]; *People v. Taylor* (1995) 32 Cal.App.4th 578, 582 [38 Cal.Rptr.2d 127].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Enhancements. Pen. Code, § 12022.7(c) & (d).
- "Great Bodily Injury" Defined. Pen. Code, § 12022.7(f); *In re Cabrera*, *supra*, 14 Cal.5th at p. 484 [not equivalent to serious bodily injury]; *People v. Escobar*, *supra*, 3 Cal.4th at pp. 749–750 [greater than minor or moderate harm].
- Must Personally Inflict Injury. *People v. Lee* (2003) 31 Cal.4th 613, 631 [3 Cal.Rptr.3d 402, 74 P.3d 176]; *People v. Cole* (1982) 31 Cal.3d 568, 571 [183 Cal.Rptr. 350, 645 P.2d 1182]; *People v. Ramirez* (1987) 189 Cal.App.3d 603, 627 [236 Cal.Rptr. 404] [Pen. Code, § 12022.8].
- Sex Offenses—Injury Must Be More Than Incidental to Offense. *People v. Escobar*, *supra*, 3 Cal.4th at p. 746.
- Group Beating Instruction. *People v. Modiri* (2006) 39 Cal.4th 481, 500–501 [46 Cal.Rptr.3d 762].
- "Accomplice" Defined. See Pen. Code, § 1111; *People v. Verlinde*, *supra*, 100 Cal.App.4th at pp. 1167–1168; *People v. Stankewitz* (1990) 51 Cal.3d 72, 90–91 [270 Cal.Rptr. 817, 793 P.2d 23].
- "During Commission of" Felony. *People v. Jones*, *supra*, 25 Cal.4th at pp. 109–110; *People v. Masbruch, supra*, 13 Cal.4th at p. 1014; *People v. Taylor, supra*, 32 Cal.App.4th at p. 582.

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RELATED ISSUES

See the Related Issues section of CALCRIM No. 3160, *Great Bodily Injury*.

SECONDARY SOURCES

3 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 202~~4~~12) Punishment, §§ ~~350~~401–~~354~~406.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.35 (Matthew Bender).

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3163. Great Bodily Injury: Domestic Violence (Pen. Code, § 12022.7(e))

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 crime[s] of _____ <*insert name[s] of alleged lesser offense[s]*>], you must then decide whether[, for each crime,] the People have proved the additional allegation that the defendant personally inflicted great bodily injury on _____ <*insert name of injured person*> during the commission [or attempted commission] of that crime, under circumstances involving domestic violence. [You must decide whether the People have proved this allegation for each crime and return a separate finding for each crime.]

[The People must also prove that _____ <*insert name of injured person*> was not an accomplice to the crime.]

***Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

***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 with whom the defendant is having or has had a dating relationship[,]/ [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 *dating relationship* means frequent, intimate associations primarily characterized by the expectation of affection or sexual involvement independent of financial considerations.]

[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.]

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[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.]

[Committing the crime of _____ *<insert sexual offense charged>* **is not by itself the infliction of great bodily injury.]**

<Group Assault>
[If you conclude that more than one person assaulted _____ *<insert name of injured person>* **and you cannot decide which person caused which injury, you may conclude that the defendant personally inflicted great bodily injury on _____** *<insert name of injured person>* **if the People have proved that:**

1. **Two or more people, acting at the same time, assaulted _____** *<insert name of injured person>* **and inflicted great bodily injury on (him/her);**

2. **The defendant personally used physical force on _____** *<insert name of injured person>* **during the group assault;**

AND

[3A. The amount or type of physical force the defendant used on _____ *<insert name of injured person>* **was enough that it alone could have caused _____** *<insert name of injured person>* **to suffer great bodily injury(;/.)]**

[OR]

[3B. The physical force that the defendant used on _____ *<insert name of injured person>* **was sufficient in combination with the force used by the others to cause _____** *<insert name of injured person>* **to suffer great bodily injury.]**

The defendant must have applied substantial force to _____ *<insert name of injured person>***. If that force could not have caused or contributed to the great bodily injury, then it was not substantial.]**

[A person is an *accomplice* if he or she is subject to prosecution for the identical crime charged against the defendant. Someone is subject to prosecution if he or she personally committed the crime or if:

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1. **He or she knew of the criminal purpose of the person who committed the crime;**

AND

2. **He or she intended to, and did in fact, (aid, facilitate, promote, encourage, or instigate the commission of the crime/ [or] participate in a criminal conspiracy to commit the crime).]**

<If there is an issue in the case over whether the defendant inflicted the injury "during the commission of" the offense, see Bench Notes.>

[The person who was injured does not have to be a person with whom the defendant had a relationship.]

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.

New January 2006; Revised June 2007, December 2008, September 2020, March 2024, October 2025*
** Denotes changes only to bench notes and other commentaries.*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction on the enhancement when charged. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)

Give the bracketed sentence that begins with "Committing the crime of" if the defendant is charged with a sexual offense. (*People v. Escobar* (1992) 3 Cal.4th 740, 746 [12 Cal.Rptr.2d 586, 837 P.2d 1100] [injury must be more than that which is present in every offense of rape].)

The bracketed section beneath the heading "Group Assault" is designed to be used in cases where the evidence shows a group assault.

The jury must determine whether an injury constitutes "great bodily injury." (*People v. Escobar, supra*, 3 Cal.4th at p. 750; *People v. Nava* (1989) 207 Cal.App.3d 1490, 1498 [255 Cal.Rptr. 903] [reversible error to instruct that a bone fracture is a significant or substantial injury].) A jury's finding of serious bodily

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injury is not equivalent to a finding of great bodily injury. (*In re Cabrera* (2023) 14 Cal.5th 476, 491 [304 Cal.Rptr.3d 798, 524 P.3d 784].)

If the case involves an issue of whether the defendant inflicted the injury "during the commission of" the offense, the court may give CALCRIM No. 3261, *While Committing a Felony: Defined—Escape Rule*. (See *People v. Jones* (2001) 25 Cal.4th 98, 109 [104 Cal.Rptr.2d 753, 18 P.3d 674]; *People v. Masbruch* (1996) 13 Cal.4th 1001, 1014 [55 Cal.Rptr.2d 760, 920 P.2d 705]; *People v. Taylor* (1995) 32 Cal.App.4th 578, 582 [38 Cal.Rptr.2d 127].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Enhancement. Pen. Code, § 12022.7(e).
- "Great Bodily Injury" Defined. Pen. Code, § 12022.7(f); *In re Cabrera*, *supra*, 14 Cal.5th at p. 484 [not equivalent to serious bodily injury]; *People v. Escobar*, *supra*, 3 Cal.4th at pp. 749–750 [greater than minor or moderate harm].
- "Dating Relationship" Defined. Fam. Code, § 6210; Pen. Code, § 243(f)(10).
- Must Personally Inflict Injury. *People v. Lee* (2003) 31 Cal.4th 613, 631 [3 Cal.Rptr.3d 402, 74 P.3d 176]; *People v. Cole* (1982) 31 Cal.3d 568, 571 [183 Cal.Rptr. 350, 645 P.2d 1182]; *People v. Ramirez* (1987) 189 Cal.App.3d 603, 627 [236 Cal.Rptr. 404] [Pen. Code, § 12022.8].
- General Intent Only Required. *People v. Carter* (1998) 60 Cal.App.4th 752, 755–756 [70 Cal.Rptr.2d 569].
- Sex Offenses—Injury Must Be More Than Incidental to Offense. *People v. Escobar*, *supra*, 3 Cal.4th at p. 746.
- Group Beating Instruction. *People v. Modiri* (2006) 39 Cal.4th 481, 500–501 [46 Cal.Rptr.3d 762].
- "During Commission of" Felony. *People v. Jones*, *supra*, 25 Cal.4th at pp. 109–110; *People v. Masbruch*, *supra*, 13 Cal.4th at p. 1014; *People v. Taylor*, *supra*, 32 Cal.App.4th at p. 582.

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RELATED ISSUES

Person Who Suffers Injury Need Not Be "Victim" of Domestic Abuse

Penal Code section 12022.7(e) does not require that the injury be inflicted on the "victim" of the domestic violence. (*People v. Truong* (2001) 90 Cal.App.4th 887, 899 [108 Cal.Rptr.2d 904].) Thus, the enhancement may be applied where "an angry husband physically abuses his wife and, as part of the same incident, inflicts great bodily injury upon the man with whom she is having an affair." (*Id.* at p. 900.)

See also the Related Issues section of CALCRIM No. 3160, *Great Bodily Injury*.

SECONDARY SOURCES

3 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 202~~4~~12) Punishment, §§ ~~350~~401–~~354~~406.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.35 (Matthew Bender).

3164–3174. Reserved for Future Use

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3177. Sex Offenses: Sentencing Factors—Torture (Pen. Code, § 667.61(d)(3))

If you find the defendant guilty of the crime[s] charged in Count[s] __ *<insert counts charging sex offense[s] from Pen. Code, § 667.61(c)>*, **you must then decide whether[, for each crime,] the People have proved the additional allegation that, while committing that crime, the defendant also committed torture. [You must decide whether the People have proved this allegation for each crime and return a separate finding for each crime.]**

To prove this allegation, the People must prove that:

1. **During the commission of the crime, the defendant inflicted great bodily injury on someone else;**

AND

2. **When inflicting the injury, the defendant intended to cause cruel or extreme pain and suffering for the purpose of revenge, extortion, or persuasion or for any sadistic purpose.**

Great bodily injury **means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.**

[It is not required that a victim actually suffer pain.]

[Someone acts for the purpose of *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 acts for the purpose of *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 an officer does in his or her official capacity using the authority of his or her public office.]

[Someone acts with a *sadistic purpose* if he or she intends to inflict pain on someone else in order to experience pleasure himself or herself.]

<If there is an issue in the case over whether the torture was inflicted "during the commission of" the offense, see Bench Notes.>

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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.

New January 2006; Revised September 2020, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction on the sentencing factor when charged. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)

Unlike murder by torture, the crime of torture under Penal Code section 206 does not require that the intent to cause pain be premeditated or that any cruel or extreme pain be prolonged. (*People v. Pre* (2004) 117 Cal.App.4th 413, 419–420 [11 Cal.Rptr.3d 739]; *People v. Aguilar* (1997) 58 Cal.App.4th 1196, 1204–1205 [68 Cal.Rptr.2d 619]; *People v. Vital* (1996) 45 Cal.App.4th 441, 444 [52 Cal.Rptr.2d 676].) Torture as defined in section 206 focuses on the mental state of the perpetrator and not the actual pain inflicted. (*People v. Hale* (1999) 75 Cal.App.4th 94, 108 [88 Cal.Rptr.2d 904].) Give the bracketed sentence stating that "It is not required that a victim actually suffer pain" on request if there is no proof that the alleged victim actually suffered pain.

"Extortion" need not be defined for purposes of torture. (*People v. Barrera* (1993) 14 Cal.App.4th 1555, 1564 [18 Cal.Rptr.2d 395]; but see *People v. Hill* (1983) 141 Cal.App.3d 661, 668 [190 Cal.Rptr. 628] [term should be defined for kidnapping under Pen. Code, § 209].) Nevertheless, either of the bracketed definitions of extortion, and the related definition of "official act," may be given on request if any of these issues are raised in the case. (See Pen. Code, § 518 [defining "extortion"]; *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 of the term].) It appears that this type of extortion would rarely occur in the context of torture, so it is excluded from this instruction.

"Sadistic purpose" may be defined on request. (See *People v. Barrera*, *supra*, 14 Cal.App.4th at p. 1564; *People v. Raley* (1992) 2 Cal.4th 870, 899–901 [8 Cal.Rptr.2d 678, 830 P.2d 712] [approving use of phrase in torture-murder and special circumstances torture-murder instructions].)

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If the case involves an issue of whether the defendant inflicted the injury "during the commission of" the offense, the court may give CALCRIM No. 3261, *While Committing a Felony: Defined—Escape Rule*. (See *People v. Jones* (2001) 25 Cal.4th 98, 109 [104 Cal.Rptr.2d 753, 18 P.3d 674]; *People v. Masbruch* (1996) 13 Cal.4th 1001, 1014 [55 Cal.Rptr.2d 760, 920 P.2d 705]; *People v. Taylor* (1995) 32 Cal.App.4th 578, 582 [38 Cal.Rptr.2d 127].)

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533–535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- One-Strike Sex Offense Statute—Torture Factor. Pen. Code, § 667.61(d)(3).
- Factors Must Be Pleaded and Proved. Pen. Code, § 667.61(j); *People v. Mancebo* (2002) 27 Cal.4th 735, 743 [117 Cal.Rptr.2d 550, 41 P.3d 556].
- Elements of Torture. Pen. Code, § 206.
- "Extortion" Defined. Pen. Code, § 518.
- "Great Bodily Injury" Defined. Pen. Code, § 12022.7(f); see, e.g., *People v. Hale* (1999) 75 Cal.App.4th 94, 108 [88 Cal.Rptr.2d 904] [broken and smashed teeth, split lip, and facial cut sufficient evidence of great bodily injury].
- Cruel Pain Equivalent to Extreme or Severe Pain. *People v. Aguilar*, *supra*, ~~(1997)~~ 58 Cal.App.4th ~~1196,~~at p. 1202 ~~[68 Cal.Rptr.2d 619]~~.
- Intent. *People v. Hale*, *supra*, ~~(1999)~~ 75 Cal.App.4th ~~94,~~at pp. 106–107 ~~[88 Cal.Rptr.2d 904]~~; *People v. Jung* (1999) 71 Cal.App.4th 1036, 1042–1043 [84 Cal.Rptr.2d 5]; see *People v. Aguilar*, *supra*, ~~(1997)~~ 58 Cal.App.4th ~~1196,~~at pp. 1204–1206 ~~[68 Cal.Rptr.2d 619]~~ [neither premeditation nor intent to inflict prolonged pain are elements of torture].
- "Sadistic Purpose" Defined. *People v. Raley* (1992) 2 Cal.4th 870, 899–901 [8 Cal.Rptr.2d 678, 830 P.2d 712]; *People v. Aguilar*, *supra*, ~~(1997)~~ 58 Cal.App.4th ~~1196,~~at pp. 1202–1204 ~~[68 Cal.Rptr.2d 619]~~; see *People v. Healy* (1993) 14 Cal.App.4th 1137, 1142 [18 Cal.Rptr.2d 274] [sexual element not required].
- "During Commission of" Felony. *People v. Jones*, *supra*, ~~(2001)~~ 25 Cal.4th ~~98,~~at pp. 109–110 ~~[104 Cal.Rptr.2d 753, 18 P.3d 674]~~; *People v. Masbruch*,

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supra, ~~(1996)~~ 13 Cal.4th ~~1001,~~at p. 1014 ~~[55 Cal.Rptr.2d 760, 920 P.2d 705]~~; *People v. Taylor*, *supra*, ~~(1995)~~ 32 Cal.App.4th ~~578,~~at p. 582 ~~[38 Cal.Rptr.2d 127]~~.

RELATED ISSUES

See the Related Issues section of CALCRIM No. 810, *Torture*.

SECONDARY SOURCES

3 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 202~~4~~12) Punishment, §§ ~~459~~543–~~463~~550.

5 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 202~~4~~12) Criminal Trial, § 75~~8~~27.

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.102[2][a][i] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.15 (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and Procedure § 13:9 (The Rutter Group).

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3218. Value of Stolen Property Sold, Exchanged, or Returned (Pen. Code, § 12022.10)

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 crimes[s] of _____ <*insert lesser offense[s]*>], you must then decide whether the People have proved the additional allegation that the defendant (sold[,]/[or] exchanged[,]/[or] returned) property for value that had been obtained through [an] act[s] of (shoplifting[,]/[or] theft[,]/[or] burglary) from a retail business and the value of that property was more than $_____ <*insert amount alleged*>.

To prove this allegation, the People must prove that:

1. **In the commission [or attempted commission] of the crime[s], the defendant**

   <*defendant acted alone*>
   [((sold[,]/[or] exchanged[,]/[or] returned) property/[or] attempted to (sell[,]/[or] exchange[,]/[or] return) property) for value;]

   [OR]

   <*defendant acted in concert*>
   [acted together with another person who (sold[,]/[or] exchanged[,]/[or] returned) property for value[or] [who attempted to (sell[,]/[or] exchange[,]/[or] return property] for value;]

2. **This property had been obtained through [an] act[s] of (shoplifting[,]/[or] theft[,]/[or] burglary) from a retail business;**

3. **At the time of the [attempted] (sale[,]/[or] exchange[,]/[or] return) of the property for value, the defendant knew that the property had been obtained though [an] act[s] of (shoplifting[,]/[or] theft[,]/[or] burglary) from a retail business;**

   AND

4. **The [combined] value of the property was greater than $_____ <*insert amount alleged*>.**

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[In deciding the value of the property, you may add together the value of property in Count[s] _____<*specify all counts that jury may use to compute cumulative total loss*> **to determine whether the total value was more than $_____** <*insert amount alleged*> **if the People prove that the crimes arose from a common scheme or plan.]**

[When computing the property value according to this instruction, do not count any property more than once simply because it is mentioned in more than one count, if the property mentioned in those counts refers to the same property with respect to the same victim.]

The People are not required to prove that the defendant committed the underlying act[s] of (shoplifting[,]/[or] theft[,]/[or] burglary).

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.

New October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction on the enhancement when charged. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)

AUTHORITY

- Enhancement. Pen. Code, § 12022.10.

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3219. Acting in Concert to Take, Damage, or Destroy Property (Pen. Code, § 12022.65)

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 crimes[s] of _____ <*insert lesser offense[s]*>], you must then decide whether the People have proved the additional allegation that the defendant acted together with two or more persons to (take[,]/[or] attempt to take[,]/[or] damage[,]/[or] destroy) any property.

To prove this allegation, the People must prove that:

In the commission [or attempted commission] of the crime, the defendant acted together with two or more other people to (take[,]/[or] attempt to take[,]/[or] damage[,]/[or] destroy) property.

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.

New October 2025

BENCH NOTES

Instructional Duty

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

AUTHORITY

- Enhancement. Pen. Code, § 12022.65.

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3220. Amount of Loss (Pen. Code, § 12022.6)

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 crimes[s] of _____ *<insert lesser offense[s]>***], you must then decide whether the People have proved the additional allegation that the value of the property [(taken[,]/[or] damaged[,]/[or] destroyed)] was more than $ _____***<insert amount alleged>***.**

To prove this allegation, the People must prove that:

<Alternative A: took, damaged, or destroyed property>

[1. In the commission [or attempted commission] of the crime, the defendant (took[,]/[or] damaged[,]/[or] destroyed) property;

~~**2. When the defendant acted, (he/she) intended to (take[,]/ [or] damage[,]/ [or] destroy) the property;**~~

AND

23. The [total] loss caused by the defendant's (taking[,]/[or] damaging[,]/[or] destroying) the property was greater than $_____ *<insert amount alleged>***.]**

[If you find the defendant guilty of more than one crime, you may add together the loss suffered by each victim in Count[s] _____*<specify all counts that jury may use to compute cumulative total loss>* **to determine whether the total losses to all the victims were more than $_____** *<insert amount alleged>* **if the People prove that:**

A. The defendant ~~intended to and did~~ (tookake[,]/[or] damaged[,]/[or] destroyed) property in each crime;

AND

B. The losses arose from a common scheme or plan.]

~~**[The value of property is the fair market value of the property.]**~~

[When computing the amount of loss according to this instruction, do not count any taking, damage, or destruction more than once simply because it is

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mentioned in more than one count, if the taking, damage, or destruction mentioned in those counts refers to the same taking, damage, or destruction with respect to the same victim.]

<Alternative B: Penal Code section 496 violation(s)>
[The property value and/or loss amount was greater than $_____ *<insert amount alleged>***.]**

[If you find the defendant guilty of more than one felony violation of receiving stolen property, you may combine the stolen property value and/or loss amount in Count[s] _____ *<specify all counts that jury may use to compute cumulative total loss>* **to determine whether the total value and/or loss amount was more than $**_____ *<insert amount alleged>* **if the People prove that the crimes arose from a common scheme or plan.]**

[The value of property is the fair market value of the property.]

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.

New January 2006; Revised August 2009, April 2010, August 2016; Revoked March 2021; Restored and Revised October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction on the enhancement when charged. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)

~~The court **must** insert the alleged amounts of loss in the blanks provided so that the jury may first determine whether the statutory threshold amount exists for any single victim, and then whether the statutory threshold amount exists for all victims or for all losses to one victim cumulatively.~~

Alternative A applies to taking, damaging, or destroying property in the commission or attempted commission of any felony. Alternative B applies to felony violations of Penal Code section 496. In the introductory paragraph, give the bracketed language about property taken, damaged, or destroyed only when instructing with Alternative A. **Do not** use the bracketed language about attempt and lesser crimes when instructing with Alternative B.

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Penal Code section 12022.6 sunset on January 1, 2018. In 2024, Proposition 36 reenacted this statute but with several differences, including new threshold amounts and the addition of property values or loss for felony violations of Penal Code section 496. Many of the cases cited in the authority section interpret the prior version of the statute but may still be relevant.

AUTHORITY

- Enhancement**.** Pen. Code, § 12022.6.
- Value Is Fair Market Value. *People v. Swanson* (1983) 142 Cal.App.3d 104, 107–109 [190 Cal.Rptr. 768].
- ~~Definition of "Loss" of Computer Software**.** Pen. Code, § 12022.6(e).~~
- Defendant Need Not Intend to Permanently Deprive Owner of Property. *People v. Kellett* (1982) 134 Cal.App.3d 949, 958–959 [185 Cal.Rptr. 1].
- Victim Need Not Suffer Actual Loss. *People v. Bates* (1980) 113 Cal.App.3d 481, 483–484 [169 Cal.Rptr 853]; *People v. Ramirez* (1980) 109 Cal.App.3d 529, 539–540 [167 Cal.Rptr. 174].
- Defendant Need Not Know or Reasonably Believe Value of Item Exceeded Amount Specified. *People v. DeLeon* (1982) 138 Cal.App.3d 602, 606–607 [188 Cal.Rptr. 63].
- Aggregation of Amount Based on Common Scheme or Plan. Pen. Code, § 12022.6(b).
- ~~Great Taking Enhancement Encompasses Liability of Aiders and Abettors. *People v. Acosta* (2014) 226 Cal.App.4th 108, 123-126 [171 Cal.Rptr.3d 774].~~

RELATED ISSUES

"Take"

As used in the prior version of Penal Code section 12022.6, "take" does not have the same meaning as in the context of theft. (*People v. Kellett*, *supra*, ~~(1982)~~ 134 Cal.App.3d ~~949,~~at pp. 958–959 ~~[185 Cal.Rptr. 1]~~.) The defendant need not intend to permanently deprive the owner of the property so long as the defendant intends to take, damage, or destroy the property. *(Ibid.)* Moreover, the defendant need not actually steal the property but may "take" it in other ways. (*People v. Superior Court (Kizer)* (1984) 155 Cal.App.3d 932, 935 [204 Cal.Rptr. 179].) Thus, the enhancement may be applied to ~~the crime of receiving stolen property *(ibid.)* and to~~ the crime of driving a stolen vehicle (*People v. Kellett, supra,* 134 Cal.App.3d at pp. 958–959).

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"Loss"

As used in the prior version of Penal Code section 12022.6, "loss" does not require that the victim suffer an actual or permanent loss. (*People v. Bates*, *supra*, ~~(1980)~~ 113 Cal.App.3d ~~481,~~at pp. 483–484 ~~[169 Cal.Rptr. 853]~~; *People v. Ramirez*, *supra*, ~~(1980)~~ 109 Cal.App.3d ~~529,~~at pp. 539–540 ~~[167 Cal.Rptr. 174]~~.) Thus, the enhancement may be imposed when the defendant had temporary possession of the stolen property but the property was recovered (*People v. Bates*, *supra*, 113 Cal.App.3d at pp. 483–484), and when the defendant attempted fraudulent wire transfers but the bank suffered no actual financial loss (*People v. Ramirez*, *supra*, 109 Cal.App.3d at pp. 539–540).

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3470. Right to Self-Defense or Defense of Another (Non-Homicide)

(Self-defense/[or] defense of another) is a defense to _____ <*insert list of pertinent crimes charged*>. The defendant is not guilty of (that/those crime[s]) if (he/she) used force against the other person in lawful (self-defense/-[or] defense of another). The defendant acted in lawful (self-defense/-[or] defense of another) if:

1. **The defendant reasonably believed that (he/she/-[or] someone else/-[or] _____ <*insert name of third party*>) was in imminent danger of suffering bodily injury [or was in imminent danger of being touched unlawfully];**

2. **The defendant reasonably believed that the immediate use of force was necessary to defend against that danger;**

AND

3. **The defendant used no more force than was reasonably necessary to defend against that danger.**

Belief in future harm is not sufficient, no matter how great or how likely the harm is believed to be. The defendant must have believed there was (imminent danger of bodily injury to (himself/herself/ [or] someone else)/ [or] an imminent danger that (he/she/ [or] someone else) would be touched unlawfully). Defendant's belief must have been reasonable and (he/she) must have acted because of that belief. The defendant is only entitled to use that amount of force that a reasonable person would believe is necessary in the same situation. If the defendant used more force than was reasonable, the defendant did not act in lawful (self-defense/ [or] defense of another).

<The following definition may be given if requested.>
[Danger is *imminent* if, when the defendant used force, the danger actually existed or the defendant reasonably believed it existed. The danger must seem immediate and present, so that it must be instantly dealt with. It may not be merely prospective or in the near future.]

When deciding whether the defendant's beliefs were reasonable, consider all the circumstances as they were known to and appeared to the defendant and consider what a reasonable person in a similar situation with similar

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knowledge would have believed. If the defendant's beliefs were reasonable, the danger does not need to have actually existed.

[The slightest touching can be unlawful 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 defendant's belief that (he/she/ [or] someone else) was threatened may be reasonable even if (he/she) relied on information that was not true. However, the defendant must actually and reasonably have believed that the information was true.]

[If you find that _____ <*insert name of victim*> **threatened or harmed the defendant [or others] in the past, you may consider that information in deciding whether the defendant's conduct and beliefs were reasonable.]**

[If you find that the defendant knew that _____ <*insert name of victim*> **had threatened or harmed others in the past, you may consider that information in deciding whether the defendant's conduct and beliefs were reasonable.]**

[Someone who has been threatened or harmed by a person in the past is justified in acting more quickly or taking greater self-defense measures against that person.]

[If you find that the defendant received a threat from someone else that (he/she) reasonably associated with _____<*insert name of victim*>**, you may consider that threat in deciding whether the defendant was justified in acting in (self-defense/ [or] defense of another).]**

[A defendant is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself and, if reasonably necessary, to pursue an assailant until the danger of (death/bodily injury/_____ <*insert crime*>**) has passed. This is so even if safety could have been achieved by retreating.]**

The People have the burden of proving beyond a reasonable doubt that at least one of the three elements of (self-defense/[or] defense of another) listed above is not met in this case~~the defendant did not act in lawful (self-defense/ [or] defense of another)~~. If the People have not met this burden, you must find the defendant not guilty of _____ <*insert crime(s) charged*>**.**

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New January 2006; Revised June 2007, April 2008, August 2009, February 2012, August 2012, March 2022, February 2025, October 2025

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].)

On defense request and when supported by sufficient evidence, the court must instruct that the jury may consider the effect of "antecedent threats and assaults against the defendant on the reasonableness of defendant's conduct." (*People v. Garvin* (2003) 110 Cal.App.4th 484, 488 [1 Cal.Rptr.3d 774].) The court must also instruct that the jury may consider previous threats or assaults by the aggressor against someone else or threats received by the defendant from a third party that the defendant reasonably associated with the aggressor. (See *People v. Pena* (1984) 151 Cal.App.3d 462, 475 [198 Cal.Rptr. 819]; *People v. Minifie* (1996) 13 Cal.4th 1055, 1065, 1068 [56 Cal.Rptr.2d 133, 920 P.2d 1337]; see also CALCRIM No. 505, *Justifiable Homicide: Self-Defense or Defense of Another*.)

Related Instructions

CALCRIM No. 505, *Justifiable Homicide: Self-Defense or Defense of Another*.

CALCRIM Nos. 3471–3477, Defense Instructions: Defense of Self, Another, Property.

CALCRIM No. 851, *Testimony on Intimate Partner Battering and Its Effects: Offered by the Defense*.

CALCRIM No. 2514, *Possession of Firearm by Person Prohibited by Statute: Self-Defense*.

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AUTHORITY

- Instructional Requirements. *People v. Moody* (1943) 62 Cal.App.2d 18 [143 P.2d 978]; *People v. Myers* (1998) 61 Cal.App.4th 328, 335, 336 [71 Cal.Rptr.2d 518].
- Lawful Resistance. Pen. Code, §§ 692, 693, 694; Civ. Code, § 50; see also *People v. Myers*, *supra*, 61 Cal.App.4th at p. 335.
- Burden of Proof. Pen. Code, § 189.5; *People v. Banks* (1976) 67 Cal.App.3d 379, 383–384 [137 Cal.Rptr. 652].
- Elements. *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082 [56 Cal.Rptr.2d 142, 921 P.2d 1].
- Imminence. *People v. Aris* (1989) 215 Cal.App.3d 1178, 1187 [264 Cal.Rptr. 167] (overruled on other grounds in *People v. Humphrey*, *supra*, 13 Cal.4th at p. 1089).
- No Duty to Retreat. *People v. Hughes* (1951) 107 Cal.App.2d 487, 494 [237 P.2d 64]; *People v. Hatchett* (1942) 56 Cal.App.2d 20, 22 [132 P.2d 51].
- Temporary Possession of Firearm by Felon in Self-Defense. *People v. King* (1978) 22 Cal.3d 12, 24 [148 Cal.Rptr. 409, 582 P.2d 1000].
- Duty to Retreat Limited to Felon in Possession Cases. *People v. Rhodes* (2005) 129 Cal.App.4th 1339, 1343–1346 [29 Cal.Rptr.3d 226].
- Inmate Self-Defense. *People v. Saavedra* (2007) 156 Cal.App.4th 561 [67 Cal.Rptr.3d 403].
- Reasonable Belief. *People v. Humphrey*, *supra*, 13 Cal.4th at p. 1082; *People v. Clark* (1982) 130 Cal.App.3d 371, 377 [181 Cal.Rptr. 682].

RELATED ISSUES

Brandishing Weapon in Defense of Another

The defense of others is a defense to a charge of brandishing a weapon under Penal Code section 417(a)(2). (*People v. Kirk* (1986) 192 Cal.App.3d Supp. 15, 19 [238 Cal.Rptr. 42].)

Reasonable Person Standard Not Modified by Evidence of Mental Impairment

In *People v. Jefferson* (2004) 119 Cal.App.4th 508, 519 [14 Cal.Rptr.3d 473], the court rejected the argument that the reasonable person standard for self-defense should be the standard of a mentally ill person like the defendant. “The common law does not take account of a person’s mental capacity when determining whether he has acted as the reasonable person would have acted. The law holds ‘the mentally deranged or insane defendant accountable for his negligence as if the

DRAFT

person were a normal, prudent person.' (Prosser & Keeton, Torts (5th ed. 1984) § 32, p. 177.)" (*Ibid.*; see also Rest.2d Torts, § 283B.)

Reasonable Person Standard and Physical Limitations

A defendant's physical limitations are relevant when deciding the reasonable person standard for self-defense. (*People v. Horn* (2021) 63 Cal.App.5th 672, 686 [277 Cal.Rptr.3d 901].) See also CALCRIM No. 3429, *Reasonable Person Standard for Physically Disabled Person*.

See also the Related Issues section of CALCRIM No. 505, *Justifiable Homicide: Self-Defense or Defense of Another*.

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (54th ed. 2024) Defenses, §§ 68–75, 781–7380, 9486–8795.

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications*, §§ 73.11, 73.12 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 124, *Jurisdiction and Disposition Hearings*, § 124.04 (Matthew Bender).

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3477. Presumption That Resident Was Reasonably Afraid of Death or Great Bodily Injury (Pen. Code, § 198.5)

The law presumes that the defendant reasonably feared imminent death or great bodily injury to (himself/herself)[, or to a member of (his/her) family or household,] if:

1. **An intruder unlawfully and forcibly (entered/-[or] was entering) the defendant's home;**

2. **The defendant knew [or reasonably believed] that an intruder unlawfully and forcibly (entered/-[or] was entering) the defendant's home;**

3. **The intruder was not a member of the defendant's household or family;**

AND

4. **The defendant used force intended to or likely to cause death or great bodily injury to the intruder inside the home.**

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than ~~minor or~~ moderate harm.]

The People have the burden of overcoming this presumption. This means that the People must prove that the defendant did not have a reasonable fear of imminent death or injury to (himself/herself)[, or to a member of his or her family or household,] when (he/she) used force against the intruder. If the People have not met this burden, you must find the defendant reasonably feared death or injury to (himself/herself)[, or to a member of his or her family or household].

New January 2006; Revised March 2017, September 2020, October 2025

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on presumptions relevant to the issues of the case. (See *People v. Hood* (1969) 1 Cal.3d 444, 449 [82 Cal.Rptr. 618, 462 P.2d 370]; but see *People v. Silvey* (1997) 58 Cal.App.4th 1320, 1327 [68

DRAFT

Cal.Rptr.2d 681] [presumption not relevant because defendant was not a resident]; *People v. Owen* (1991) 226 Cal.App.3d 996, 1005 [277 Cal.Rptr. 341] [jury was otherwise adequately instructed on pertinent law].)

Give this instruction when there is evidence that a resident had a reasonable expectation of protection against unwanted intruders. *People v. Grays* (2016) 246 Cal.App.4th 679, 687-688 [202 Cal.Rptr.3d 288].

~~The second sentence of the great bodily injury definition could result in error if the prosecution improperly argues great bodily injury may be shown by greater than minor injury alone. (Compare *People v. Medellin* (2020) 45 Cal.App.5th 519, 533-535 [258 Cal.Rptr.3d 867] [the definition was reasonably susceptible to prosecutor's erroneous argument that the injury need only be greater than minor] with *People v. Quinonez* (2020) 46 Cal.App.5th 457, 466 [260 Cal.Rptr.3d 86] [upholding instructions containing great bodily injury definition as written].)~~

AUTHORITY

- Instructional Requirements. Pen. Code, § 198.5; *People v. Brown* (1992) 6 Cal.App.4th 1489, 1494–1495 [8 Cal.Rptr.2d 513].
- Rebuttable Presumptions Affecting Burden of Proof. Evid. Code, §§ 601, 604, 606.
- Definition of Residence. *People v. Grays*, *supra*, ~~(2016)~~ 246 Cal.App.4th ~~679,~~at pp. 687–~~_~~688 ~~[202 Cal.Rptr.3d 288]~~.

SECONDARY SOURCES

1 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 202~~4~~12) Defenses, § 83~~76~~.

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications*, §§ 73.11[1], 73.13 (Matthew Bender).

3478–3499. Reserved for Future Use

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3516. Multiple Counts: Alternative Charges for One Event—Dual Conviction Prohibited

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<Give this paragraph when the law does not specify which crime must be sustained or dismissed if the defendant is found guilty of both.>

[The defendant is charged in Count __ with _____ *<insert name of alleged offense >* **and in Count __ with _____** *<insert name of alleged offense >***. These are alternative charges. If you find the defendant guilty of one of these charges, you must find (him/her) not guilty of the other. You cannot find the defendant guilty of both.]**

<Give the following paragraph when the defendant is charged with both theft and receiving stolen property offenses based on the same incident.>

[The defendant is charged in Count ___with _____*<insert theft offense>* **and in Count ___ with _____***<insert receiving stolen property offense>*.

You must first decide whether the defendant is guilty of _____*<insert name of theft offense>*. **If you find the defendant guilty of _____***<insert name of theft offense>*, **you must return the verdict form for _____***<insert name of receiving stolen property offense>* **unsigned. If you find the defendant not guilty of _____***<insert theft offense >* **you must then decide whether the defendant is guilty of _____***<insert name of receiving stolen property offense>***.]**

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*New January 2006; Revised June 2007, October 2010, April 2011, October 2025**

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

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BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction where the defendant is charged in the alternative with multiple counts for a single event. (See *People v. Allen* (1999) 21 Cal.4th 846, 851 [89 Cal.Rptr.2d 279, 984 P.2d 486]; *People v. Jaramillo* (1976) 16 Cal.3d 752, 757 [129 Cal.Rptr. 306, 548 P.2d 706].) –This instruction applies only to those cases in which the defendant may be legally convicted of only one of the alternative charges. -See dual conviction list in *Related Issues* section below.

If the evidence raises the issue whether the same act or single event underlies both a theft conviction and a receiving stolen property conviction, this may be a question for the jury and the instruction should be modified accordingly.

If the defendant is charged with both theft and receiving stolen property, and the jury informs the court that it cannot reach a verdict on the theft count, the court may then instruct the jury to consider the receiving stolen property count.

If the defendant is charged with multiple counts for separate offenses, give CALCRIM No. 3515, *Multiple Counts: Separate Offenses*.

If the case involves separately charged greater and lesser offenses, the court should give CALCRIM No. 3519.

~~Because the law is unclear in this area, t~~The court~~ has a **sua sponte** duty must decide whether~~ to give this instruction if the defendant is charged with specific sexual offenses for the same time period as ~~and, in the alternative, with~~ continuous sexual abuse under Penal Code section 288.5. (*People v. Martinez* (2024) 105 Cal.App.5th 178, 184 [325 Cal.Rptr.3d 700].) ~~If the court decides not to so instruct, and the jury convicts the defendant of both continuous sexual abuse and one or more specific sexual offenses that occurred during the same period, the court must then decide which conviction to dismiss.~~

AUTHORITY

- Prohibition Against Dual Conviction. *People v. Ortega* (1998) 19 Cal.4th 686, 692 [80 Cal.Rptr.2d 489, 968 P.2d 48]; *People v. Sanchez* (2001) 24 Cal.4th 983, 988 [103 Cal.Rptr.2d 698, 16 P.3d 118]; *People v. Allen*, *supra*, ~~(1999)~~ 21 Cal.4th ~~846,~~at p. 851 ~~[89 Cal.Rptr.2d 279, 984 P.2d 486]~~; *People v. Jaramillo*, *supra*, ~~(1976)~~ 16 Cal.3d ~~752,~~at p. 757 ~~[129 Cal.Rptr. 306, 548 P.2d 706]~~.

- Instructional Requirements. See *People v. Allen*, *supra*, ~~(1999)~~ 21 Cal.4th ~~846,~~at p. 851 ~~[89 Cal.Rptr.2d 279, 984 P.2d 486]~~; *People v. Jaramillo*, *supra*, ~~(1976)~~ 16 Cal.3d ~~752,~~at p. 757 ~~[129 Cal.Rptr. 306, 548 P.2d 706]~~.

- Conviction of Receiving Stolen Property Not Possible if Defendant Convicted of Theft. *People v. Ceja* (2010) 49 Cal.4th 1, 3-4 [108 Cal.Rptr.3d 568, 229 P.3d 995].

RELATED ISSUES

Dual Conviction May Not Be Based on Necessarily Included Offenses

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"[T]his court has long held that multiple convictions may *not* be based on necessarily included offenses. The test in this state of a necessarily included offense is simply that where an offense cannot be committed without necessarily committing another offense, the latter is a necessarily included offense." (*People v. Ortega*, *supra*, ~~(1998)~~ 19 Cal.4th ~~686,~~at p. 692 ~~[80 Cal.Rptr.2d 489, 968 P.2d 48]~~ [emphasis in original, citations and internal quotation marks omitted]; see also *People v. Montoya* (2004) 33 Cal.4th 1031, 1034 [16 Cal.Rptr.3d 902, 94 P.3d 1098].) "In deciding whether an offense is necessarily included in another, we apply the elements test, asking whether all the legal ingredients of the corpus delicti of the lesser offense are included in the elements of the greater offense." (*People v. Montoya*, *supra*, 33 Cal.4th at p. 1034 [internal quotation marks and citation omitted].)

Dual Conviction—Examples of Offense Where Prohibited or Permitted

The courts have held that dual conviction is *prohibited* for the following offenses:

- Robbery and theft. *People v. Ortega*, *supra*, ~~(1998)~~ 19 Cal.4th ~~686,~~at p. 699 ~~[80 Cal.Rptr.2d 489, 968 P.2d 48]~~.
- Robbery and receiving stolen property. *People v. Stephens* (1990) 218 Cal.App.3d 575, 586–587 [267 Cal.Rptr. 66].
- Theft and receiving stolen property. *People v. Jaramillo*, *supra*, ~~(1976)~~ 16 Cal.3d ~~752,~~at p. 757 ~~[129 Cal.Rptr. 306, 548 P.2d 706]~~.
- Battery and assault. See *People v. Ortega*, *supra*, ~~(1998)~~ 19 Cal.4th ~~686,~~at p. 693 ~~[80 Cal.Rptr.2d 489, 968 P.2d 48]~~.
- Forgery and check fraud. *People v. Hawkins* (1961) 196 Cal.App.2d 832, 838 [17 Cal.Rptr. 66].
- Forgery and credit card fraud. *People v. Cobb* (1971) 15 Cal.App.3d 1, 4 [93 Cal.Rptr. 152].

The courts have held that dual conviction is *permitted* for the following offenses (although dual punishment is not):

- Burglary and theft. *People v. Bernal* (1994) 22 Cal.App.4th 1455, 1458 [27 Cal.Rptr.2d 839].
- Burglary and receiving stolen property. *People v. Allen* (1999) 21 Cal.4th 846, 866 [89 Cal.Rptr.2d 279, 984 P.2d 486].
- Carjacking and grand theft. *People v. Ortega*, *supra*, ~~(1998)~~ 19 Cal.4th ~~686,~~at p. 693 ~~[80 Cal.Rptr.2d 489, 968 P.2d 48]~~.
- Carjacking and robbery. *People v. Ortega*, *supra*, ~~(1998)~~ 19 Cal.4th ~~686,~~at p. 700 ~~[80 Cal.Rptr.2d 489, 968 P.2d 48]~~.

DRAFT

- Carjacking and unlawful taking of a vehicle. *People v. Montoya*, *supra*, ~~(2004)~~ 33 Cal.4th ~~1031,~~at p. 1035 ~~[16 Cal.Rptr.3d 902, 94 P.3d 1098]~~.
- Murder and gross vehicular manslaughter while intoxicated. *People v. Sanchez*, *supra*, ~~(2001)~~ 24 Cal.4th ~~983,~~at p. 988 ~~[103 Cal.Rptr.2d 698, 16 P.3d 118]~~.
- Murder and child abuse resulting in death. *People v. Malfavon* (2002) 102 Cal.App.4th 727, 743 [125 Cal.Rptr.2d 618].

Joy Riding and Receiving Stolen Property

A defendant cannot be convicted of both joy riding (Veh. Code, § 10851) and receiving stolen property (Pen. Code, § 496), unless the record clearly demonstrates that the joy riding conviction is based exclusively on the theory that the defendant drove the car, temporarily depriving the owner of possession, not on the theory that the defendant stole the car. (*People v. Allen*, *supra*, ~~(1999)~~ 21 Cal.4th ~~846,~~at p. 851 ~~[89 Cal.Rptr.2d 279, 984 P.2d 486]~~; *People v. Jaramillo*, *supra*, ~~(1976)~~ 16 Cal.3d ~~752,~~at pp. 758–759 ~~[129 Cal.Rptr. 306, 548 P.2d 706]~~; *People v. Austell* (1990) 223 Cal.App.3d 1249, 1252 [273 Cal.Rptr. 212].)

Accessory and Principal

In *People v. Prado* (1977) 67 Cal.App.3d 267, 273 [136 Cal.Rptr. 521], and *People v. Francis* (1982) 129 Cal.App.3d 241, 248 [180 Cal.Rptr. 873], the courts held that the defendant could not be convicted as both a principal and as an accessory after the fact for the same offense. However, later opinions have criticized these cases, concluding, "there is no bar to conviction as both principal and accessory where the evidence shows distinct and independent actions supporting each crime." (*People v. Mouton* (1993) 15 Cal.App.4th 1313, 1324 [19 Cal.Rptr.2d 423]; *People v. Riley* (1993) 20 Cal.App.4th 1808, 1816 [25 Cal.Rptr.2d 676]; see also *People v. Nguyen* (1993) 21 Cal.App.4th 518, 536, fn. 6 [26 Cal.Rptr.2d 323].)

SECONDARY SOURCES

5 Witkin & Epstein, California Criminal Law (~~4~~5th ed. 201~~2~~24) Criminal Trial, § 7~~27~~58.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.02[2][a][i] (Matthew Bender).

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Instruction Number	Commenter	Position	Comment	Committee Response
202, 505, 508, 511, 520, 524, 525, 526, 571, 580, 581, 582, 590, 592, 593, 600, 603, 604, 810, 820, 830, 860, 862, 863, 875, 970, 982, 983, 1120, 1141, 1144, 1145, 1180, 1215, 1240, 1242. 1244, 1300, 1301, 1402, 1501, 1530, 1551, 1703, NEW 1705, NEW 1760, NEW 1761, 1800, 1801, NEW 1851, 2100, 2101, 2102, 2501, 2503, 2514, 2578, NEW 2593, 2670, 2720, 2721, 2745, 2746, 2747, 2964, 3130, 3145, 3149, 3150, 3160, 3161, 3162, 3163, 3177, NEW 3219, 3220, 3470, 3477, 3516	Orange County Bar Association, by Mei Tsang, President.	A	The OCBA agrees with the above-referenced instructions.	No response necessary.
505, 508, 511, 524, 525, 571, 580, 581, 582, 590, 592, 604, 810, 820, 830, 860, 862, 863, 875, 970, 982, 983, 1300,	Office of the State Public Defender, by Galit Lipa, State Public Defender and Jessica	NI	**Re: Invitation to comment on proposed CALCRIM changes to instructions related to great bodily injury and a parent's legal duty to protect their child (eff. Oct. 24, 2025)** Dear Judicial Council Members:	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

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Instruction Number	Commenter	Position	Comment	Committee Response
1402, 1501, 1530, 1551, 2501, 2503, 2514, 2578, 2720, 2721, 2745, 2746, 2747, 2964, 3130, 3145, 3149, 3150, 3160, 3161, 3162, 3163, 3177, and 3477	Oats, Director of Systemic Litigation		The Office of the State Public Defender (OSPD) is a statewide office that represents indigent persons in their appeals from criminal convictions in capital and noncapital cases. The Legislature has also instructed OSPD to "engage in related efforts for the purpose of improving the quality of indigent defense." (Gov. Code § 15420, subd. (b).) The jury instructions addressed in these comments affect our day-to-day practice. We hope our experience with the application of these instructions and the problems they sometimes engender can provide a useful perspective to the Council as it attempts to ensure that jurors can accurately apply the law to the facts before them. We appreciate the opportunity to participate in this process. Thank you for considering the following comments.	
			PROPOSED CHANGES TO GREAT BODILY INJURY (GBI) INSTRUCTIONS **I. The proposed definition of great bodily injury may be misinterpreted by juries** The Judicial Council proposes an important change to CALCRIM Nos. 505, 508, 511, 524, 525, 571, 580, 581, 582, 590, 592, 604, 810, 820, 830, 860, 862, 863, 875, 970, 982, 983, 1300, 1402, 1501, 1530, 1551, 2501, 2503, 2514, 2578, 2720, 2721, 2745, 2746, 2747, 2964, 3130, 3145, 3149, 3150, 3160, 3161, 3162, 3163, 3177, and 3477 (hereafter GBI instructions) regarding the defining characteristics of great bodily injury. As proposed, the pertinent portion of these instructions would read: "*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than moderate harm." The GBI instructions would no longer state that a "great	The committee disagrees with this proposed expansion of the great bodily injury definition. The definition in the draft correctly tracks with California Supreme Court authority. (See, e.g., *People v. Miller* (1977) 18 Cal.3d 873, 883 [construing great bodily injury in former §§ 213 and 461 to mean "significant or substantial bodily injury or damage as distinguished from trivial or insignificant injury or moderate harm"].)

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			bodily injury" is one "greater than minor or moderate harm." For the reasons outlined below, OSPD proposes that the instructions instead be amended to read: "*Great bodily injury* means significant or substantial physical injury. It is an injury that is ~~greater than~~ not moderate ~~harm~~ injury and is essentially equivalent to serious injury. If, from the facts, you determine injury/ies occurred, you must decide if the harm exceeds that threshold of severity; not all injuries will meet this standard." **A. Background** Jurists have long wrestled with the contours of what constitutes great bodily injury. (See, e.g., *In re Cabrera* (2023) 14 Cal.5th 476, 483-492 (*Cabrera*) [discussing cases and legislative history]; *People v. Quinonez* (2020) 46 Cal.App.5th 457, 464-465 (*Quinonez*) [citing cases].) Indeed, the Legislature has left the term open-ended. When the Legislature deleted specific examples of great bodily injuries from the Penal Code in 1977 they "eliminate[d] the possibility that [those examples] would be taken as all inclusive and would leave no room for a finding by the trier of fact of a great bodily injury of equal magnitude to the categories specified in the [examples]." (*People v. Nava* (1989) 207 Cal.App.3d 1490, 1497 (*Nava*) overruled on another ground in *People v. Clark* (1997) 55 Cal.App.4th 709, 717, fn. 3.) Because of that "generality," courts have "declined invitations" to determine, as a matter of law, "whether a particular type of injury amounts to great bodily injury." (*Cabrera*, at p. 484, italics added.) Against that backdrop, articulating GBI instructions for laypersons charged with applying them is a challenge.	

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DRAFT

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			Coined during the creation of the CALCRIM instructions (see, e.g., CALCRIM No. 875 (1st ed. 2006) vol. 1, p. 684), the comparative expression "greater than minor or moderate harm" to define great bodily injury is relatively recent.[1] It does not appear in California case law until 2007. (See, e.g., *People v. Lockman* (May 1, 2007, D048492) [first nonpub. opn.]; *People v. Anderson* (2007) 152 Cal.App.4th 919, 951 [first pub. opn.].) **B. Ambiguity in the proposed change** It is well established that only injuries that are significant or substantial qualify as great bodily injury. (Pen. Code, § 12022.7, subd. (f)(1); see *Cabrera, supra*, 14 Cal.5th at p. 484 [where Penal Code section does not define "great bodily injury," § 12022.7, subd. (f)(1) definition applies]; *Quinonez, supra*, 46 Cal.App.5th at p. 460, 464 [same].) In the proposed change to the GBI instructions, the necessary conditions for an injury to qualify ("significant or substantial") are immediately followed by a gradable or comparative expression ("an injury that is greater than moderate harm"). This juxtaposition—of presenting the qualifying conditions in the first sentence and bounding it with a comparative degree of quality in the second—lends itself to ambiguity and risks misinterpretation. It may suggest that an injury exceeding moderate harm necessarily meets the threshold of significance or substantiality. In other words, jurors may understand the second sentence as defining that which is significant or substantial.	

[1] For simplicity, rather than repeatedly citing to every CALCRIM or CALJIC instruction using the term great bodily injury, this letter cites to instructions regarding Penal Code section 245 (assault with force likely to produce great bodily injury) as model exemplars.

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			This interpretation would not satisfy the Penal Code because an injury may be more than moderate and yet still lack the impact and gravity necessary to qualify as great bodily injury. Even some "serious" bodily injuries—which are certainly greater than moderate in harm—cannot qualify as great bodily injury. (*Cabrera, supra,* 14 Cal.5th at pp. 487-488, citing *People v. Taylor* (2004) 118 Cal.App.4th 11 (*Taylor*) and *People v. Thomas* (2019) 39 Cal.App.5th 930 (*Thomas*); *People v. Chaffer* (2003) 111 Cal.App.4th 1037, 1044 [moderate injuries lie somewhere between minor and serious]; see Pen. Code, § 243, subd. (f)(4) [serious bodily injury includes losing a body part or a wound requiring extensive suturing].) Indeed, juries have "reasonably appl[ied] the statutory definitions of great bodily injury and serious bodily injury and f[ou]nd that an injury was serious but not great." (*Cabrera*, at pp. 487-488.) If some injuries (like the serious ones described by *Cabrera*) can be "greater than moderate" but nevertheless are not great, then using that comparative expression inaccurately defines great bodily injury. True, a "'"fine line can divide an injury from being significant or substantial from an injury that does not quite meet the description,"'" but the law requires a significant or substantial injury—not less. (*People v. Cross* (2008) 45 Cal.4th 58, 64 (*Cross*).) Great bodily injury is either "significant or substantial" or it is not. A "greater than moderate" injury may belong to either side of that division. This ambiguity is further exacerbated by the failure of the proposed change to provide any antonymic contrast to great bodily injury. On this, CALJIC instructions are educative. First, they have never defined great bodily injury using CALCRIM's "greater than" expression. The 1946, 1958,	

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DRAFT

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			and 1970 CALJIC instructions did not define great bodily injury at all. (CALJIC No. 601 (1946 ed.) p. 487; CALJIC No. 601 (1958 ed.) p. 448; CALJIC No. 9.02 (1970 ed.) p. 277.) Today, when CALJIC does define great bodily injury using language in addition to "significant or substantial physical injury," *that additional language is an explanation of what great bodily injury specifically is not.* (See, e.g., CALJIC No. 9.02 (2025-1 ed.) pts. 9-14, p. 11 ["Minor, trivial or moderate injuries do not constitute great bodily injury"]; CALJIC No. 17.20 (2025-1 ed.) pts. 15-18, p. 510 ["It does not refer to trivial or insignificant or moderate harm"]). In contrast, in addition to inaccurately defining what great bodily injury is, the CALCRIM GBI instructions also fail to explicitly define what great bodily injury is not. **C. A proposed solution supported by the law** To reduce the risk of erroneous interpretation, juries should be provided with both the positive and negative qualifying conditions of great bodily injury using expressions of likeness rather than comparative degrees of quality. OSPD, therefore, proposes the pertinent portion of the GBI instructions be amended to read: *Great bodily injury* means significant or substantial physical injury. It is an injury that is ~~greater than~~ not moderate ~~harm~~ injury and is essentially equivalent to serious injury. If, from the facts, you determine injury/ies occurred, you must decide if the harm exceeds that threshold of severity; not all injuries will meet this standard. OSPD's proposed amended instruction is supported by the law.	

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DRAFT

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			First, there is no specific list of injuries that qualify as great bodily injury. (*Taylor, supra,* 118 Cal.App.4th at p. 24.) **Second**, it is accurate to state that a great bodily injury is not a moderate one. When the Legislature removed the phrase "serious impairment of physical condition" from the definition of great bodily injury and replaced it with "significant or substantial physical injury," it "impliedly defined" great bodily injury "as excluding not only 'trivial or insignificant injury' but *even 'moderate harm.'*" (*People v. Escobar* (1992) 3 Cal.4th 740, 757 (*Escobar*) (conc. opn. of Mosk, J.), italics added; *Cross, supra,* 45 Cal.4th at p. 73 (conc. opn. of Corrigan, J.) [jurors "determine whether an injury is 'great' in light of instructions explaining that a 'significant or substantial physical injury' is one that is not 'moderate'"].) **Third**, courts repeatedly correlate great bodily injury with something closely analogous to, but not necessarily the same as, serious bodily injury: • Great bodily injury and serious bodily injury are "essentially equivalent" and "closely analogous." (*People v. Burroughs* (1984) 35 Cal.3d 824, 831, overruled on another ground in *People v. Blakeley* (2000) 23 Cal.4th 82, 89; accord, *People v. Sloan* (2007) 42 Cal.4th 110, 117; *Cabrera, supra,* 14 Cal.5th at p. 490 [*Burroughs*'s assertion remains true].) • The two have "substantially the same meaning." (*People v. Hawkins* (1993) 15 Cal.App.4th 1373, 1375; accord, *People v. Kent* (1979) 96 Cal.App.3d 130, 136.)	

DRAFT

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			• There is "substantial overlap" between the two. (*Cabrera, supra,* 14 Cal.5th at p. 484.) When "applying Penal Code section 12022.7," it is suitable "for serious bodily injury and great bodily injury to be '*substantially* the same.'" (*Id.* at p. 491.) • Injuries "may often amount to both great and serious bodily injury." (*Cabrera, supra,* 14 Cal.5th at p. 491.) • "The use of an object in a manner 'likely to produce' death or *great bodily injury* [citation] requires more than a mere possibility that serious injury could have resulted from the way the object was used." (*In re B.M.* (2018) 6 Cal.5th 528, 534, italics added; accord, *ibid.* [interchangeable use of "serious" harm or injury with "great bodily injury" when analyzing likelihood]; *id.* at pp. 535, 536, 537 [same].) • Yet, they "remain distinct" concepts (*Cabrera, supra,* 14 Cal.5th at p. 489) and are not "factually equivalent" (*Taylor, supra,* 118 Cal.App.4th at p. 24; accord, *Thomas, supra,* 39 Cal.App.5th at p. 933 [jury found serious bodily injury but did not find great bodily injury].) **Fourth**, it is the jury that decides if any injury exceeds the threshold of severity to warrant a finding of great bodily injury. It is "well settled that the determination of great bodily injury" is "a question of fact." (*Escobar, supra,* 3 Cal.4th at p. 750; accord, *Cross, supra,* 45 Cal.4th at p. 64 ["a factual inquiry to be resolved by the jury"]; see CALCRIM Nos. 3160, 3161, 3162, 3163, bench notes ["jury must determine whether an injury constitutes 'great bodily injury'"].) A jury "determine[s] where along that continuum it believes the harm becomes a '"significant or substantial physical injury"' rather than a '"moderate"'" one. (*Cabrera, supra,* 14 Cal.5th at p. 485; accord, *Nava,*	

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DRAFT

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			supra, 207 Cal.App.3d at p. 1496 [the "point is that [physical injuries] exist on a continuum of severity from significant and substantial to minor"].) "Proof that a victim's injury is 'great' . . . is commonly established by evidence of the severity of the victim's physical injury." (*Cross*, at p. 66.) **Fifth**, not every injury will meet the standard. "[T]he harm inflicted must exceed a certain threshold. Some injuries may not be sufficiently serious to satisfy that standard." (*Cross, supra*, 45 Cal.4th at p. 73 (conc. opn. of Corrigan, J.); accord, *Nava, supra*, 207 Cal.App.3d at p. 1498 [not every broken bone is a great bodily injury as a matter of law].) **Sixth**, juries sometimes do not understand their responsibility. In *Cabrera*, the jury asked the court for specific definitions of mild and moderate injury as used in the instruction. (*Cabrera, supra*, 14 Cal.5th at p. 481.) The court declined to "'fine-tune'" it, explaining "'we know of no legal definition' other than the instruction" and left the responsibility with the jury. (*Ibid.*) Likewise, in *Taylor*, the jury submitted a note asking for an expanded definition of great bodily injury, specifically inquiring whether a fracture constituted great bodily injury or moderate injury. (*Taylor, supra*, 118 Cal.App.4th at p. 21.) The court responded that it could not provide more specific definitions and referred the jury to the instructions already given, stating that determining the severity of the injuries was a matter for their judgment based on the evidence.	

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			(*Ibid.*)[2] Alerting jurors to this responsibility at the outset may limit unnecessary confusion in the deliberative process.	
			II. Bench notes and authorities cited for the instructions containing "great bodily injury" should also be amended In both the Bench Note and Authority sections for CALCRIM Nos. 3160, 3161, 3162, and 3163 there are references to *Cabrera*, *supra*, 14 Cal.5th at p. 484. The references simply state that great bodily injury is "not equivalent" to serious bodily injury. While true, *Cabrera* also states that "[t]he holding in [*Cabrera*] does not call into question . . . that serious bodily injury and great bodily injury are '"essentially equivalent elements."'" (*Id.* at p. 490.) The opinion even refers to their relationship as "[n]ear equivalence." (*Id.* at p. 492.) The references should more closely align with what is stated in *Cabrera*. We therefore respectfully request that the bench notes and authorities state: "Great bodily injury and serious bodily injury are essentially equivalent but, for the purposes of sentencing, remain distinct."	The committee disagrees with the suggested changes to the bench notes and authority sections for Nos. 3160–3164. The proposed changes are unnecessary.
520 & 526	Office of the State Public Defender, by Galit Lipa, State Public Defender and Jessica Oats, Director of	NI	**PROPOSED CHANGES TO INSTRUCTIONS REGARDING A PARENT'S LEGAL DUTY TO PROTECT THEIR CHILD** The Judicial Council proposes changing CALCRIM Nos. 520 and 526 to incorporate the California Supreme Court's recent holding in *People v. Collins* (2025) 17 Cal.5th 293	

[2] In light of the court's examination of the term over decades and the jury questions arising from it, it may be time for the Legislature to reconsider its definition. Doing so might also resolve any confusion in differentiating "great bodily injury" from "serious bodily injury." (See *Cabrera, supra*, 14 Cal.5th. at pp. 485 ["the two terms are not equivalent as a matter of law"], 490 [yet they are "'"essentially equivalent elements"'" and "'substantially the same'"].)

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
	Systemic Litigation		(*Collins*). As written, however, jurors could apply these instructions in a manner that conflicts with *Collins*. OSPD offers a few suggestions to address this concern. Additionally, to clarify the limits of a pregnant parent's criminal liability when their fetus has died, CALCRIM No. 520 should include an explanatory parenthetical stating that such persons cannot be held liable for murder when their own actions or inactions are alleged to have caused the death of their fetus.	
			I. Jurors applying the proposed changes to CALCRIM Nos. 520 and 526 could make findings conflicting with the holding of *People v. Collins* (2025) 17 Cal.5th 293 The Judicial Council proposes adding the following bracketed paragraph to CALCRIM No. 520, which addresses "First or Second Degree Murder With Malice Aforethought (Pen. Code, § 187)": <*Give in parental duty to protect cases.*> [A parent has a legal duty to protect (his/her) child when the parent knows to a substantial degree of certainty that a life-endangering act has occurred or is about to occur. This duty to protect does not require a parent to place (him/her)self in danger of death or great bodily harm.] To support this proposed addition, the Council cites *Collins, supra,* 17 Cal. 5th at pp. 308-310. In *Collins*, the California Supreme Court held that a parent has a legal duty to take "'"every step reasonably necessary . . . to protect the[ir] child from harm."'" (*Collins, supra,* 17 Cal.5th at p. 308, citing *People v. Rolon* (2008) 160	The committee disagrees with this suggestion. As currently written, the second sentence adequately addresses the commenter's concerns and counsel can make specific arguments, such as how intimate partner violence might impact this duty, in a given case.

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DRAFT

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			Cal.App.4th 1206.) But "[w]hat is reasonably possible for a parent to do to protect their child from harm or to stop an attack *depends on the circumstances of each individual situation*." (*Id.* at p. 309, italics added.) "When the abusive person is the child's co-parent," the Court held that "a parent may be more limited in what they can reasonably be expected to do to protect their child from the other parent." (*Ibid.*) In other words, the *Collins* court, sensitive to the complexities of intimate partner violence, knew that the actions an abused parent can reasonably take in protecting their child are greatly constrained by the risk of death or great bodily harm they personally face from their abusive co-parent. (See *Collins, supra*, 17 Cal.5th at pp. 309-310.) As written, the proposed addition to CALCRIM No. 520 does not make clear that the actions a parent failed to take in protecting their child should be evaluated under a standard of reasonableness; that the actions that parent could have taken are constrained by their individual circumstances; and that, in situations of intimate partner violence, a parent may have a greatly diminished ability to act in protecting their child. A juror could read the bracketed paragraph as written and ask, "What actions would I have taken in protecting this child?" and "Would I currently feel endangered in taking those actions?" That is, a juror applying this instruction could erroneously use the standard of a generic person—who is not abused or not aware of the heightened danger faced by taking actions against an abusive co-parent—instead of a person in the defendant's actual circumstances.	

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DRAFT

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			To ensure that jurors apply this instruction in a manner consistent with *Collins, supra,* 17 Cal.5th at pp. 309-310, we suggest modifying the bracketed paragraph to read: *<Give in parental duty to protect cases.>* [A parent has a legal duty to protect (his/her) child when the parent knows to a substantial degree of certainty that a life-endangering act has occurred or is about to occur. A parent is expected to take only those actions that are reasonably possible to protect their child from harm or to stop an attack. When deciding whether an action was reasonably possible for the defendant to take, consider all the individual circumstances, including, but not limited to, the relative size and strength of those involved, the relationship of the direct perpetrator to the child and to the defendant, and any history of domestic violence involving the direct perpetrator. This duty to protect does not require a parent to place (him/her)self in danger of death or great bodily harm.]	
			Additionally, to accord with *Collins*, the Judicial Council proposes adding the word "protect" to CALCRIM No. 520, option 1B, as follows: [1B. The defendant had a legal duty to (help/care for/protect/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);]	The committee disagrees with the suggestion to add a directional use note. Instead, the committee made some clarifying changes to the instructional duty bench notes.

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DRAFT

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			Option 1B thus contains multiple articulations of the duty (e.g., "help," "care for," "protect"), which could suggest that each of these duties are different and distinct, with different rules applied to prove them. Although many of these words characterize legal duties parents hold towards their children ("help," "care for," "protect"), the bracketed instruction to be "[g]ive[n] in parental duty to protect cases" (above) only uses the "duty to protect" formulation. Jurors reading option 1B alongside this bracketed instruction could reasonably believe that a parent has a duty to "help" or "care for" their child that is governed by different standards than those laid out in *Collins* and expressed in the bracketed language. But *Collins* did not differentiate between those duties, and the court did not suggest that Ms. Collins could have been found guilty if the prosecution had argued a duty to care for her child, rather than a duty to protect him. (See, e.g., *Collins, supra,* 17 Cal.5th at p. 308 ["'[a] parent has a legal duty . . . to exercise reasonable care for the child, to protect the child from harm, and *to obtain reasonable medical attention* for the child'"], italics added, citing *People v. Rolon* (2008) 160 Cal.App.4th 1206, 1213.) Nor did the Attorney General argue that any distinction should be made between a parent's duty to care for their child and their duty to protect the child from harm. (Respondent's Answer Brief on the Merits, *People v. Collins*, S279737 (Jan. 24, 2024) at pp. 29-30.) *Collins* indicated that all these parental duties fall under the umbrella term, "the parental duty to protect." (See *Collins, supra,* 17 Cal.5th at p. 309 ["Importantly, the parental duty	

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			to protect has bounds. To confer criminal liability, parents must be aware that their duty to protect has arisen. . . . [¶] . . . Co-parents have their own duty to protect and their own parental rights and obligations."].) We respectfully suggest that to avoid juror confusion and ensure the trial court tailors the instruction to reflect only the applicable legal duty in a particular case, the Judicial Council alter CALCRIM No. 520, option 1B as follows: [1B. The defendant had a legal duty to <u><*insert only applicable legal duty (i.e. help/care for/protect/rescue/warn/maintain the property of/)*></u> _____ <*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);] Because *Collins* recognized that a parent's "duty to protect" encompasses a parent's duty to "care for" and "obtain reasonable medical attention for" their child, when the parent's failure to act constitutes the basis for the prosecution's theory of liability, the court should only use the umbrella "duty to protect" formulation. This explanation could also be included as a bench note following CALCRIM No. 520.	
			Finally, CALCRIM No. 526 addresses "Implied Malice Murder: Aiding and Abetting." Under the Authority section of that instruction, the Judicial Council proposes adding a citation to *Collins, supra,* 17 Cal.5th 293. The body of that instruction, however, has not been altered to address aiding	The committee agrees with the suggestion to add optional instructional language to No. 526 based on *Collins*. The committee added the following sentence:

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DRAFT

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			and abetting liability in the context of a parent's failure to protect. Without any additions to CALCRIM No. 526, it could be difficult for jurors to properly apply the elements of aiding and abetting murder to a parent's failure to protect their child. To best incorporate *Collins, supra*, 17 Cal.5th at p. 312, into that instruction, we suggest adding this language: 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. [Where aiding and abetting liability is based on a parent's failure to protect, the defendant must knowingly fail to protect their child from the direct perpetrator's life-endangering act for the purpose of facilitating that act, and the failure to protect the child from the life-endangering act must actually assist in the commission of the act.]	**For murder liability to attach to a parent as an aider and abettor based on failure to protect, the parent must knowingly fail to protect the child from the life-endangering act for the purpose of facilitating that life-endangering act and the failure to act must actually assist in the commission of the life-endangering act.**
			II. CALCRIM No. 520 should explain that pregnant persons cannot be held criminally liable for their own actions or inactions that allegedly caused the death of their fetus As currently written, CALCRIM No. 520 provides that a person could be liable for murder under Penal Code section 187 if they had a legal duty to protect a fetus, the person failed to adequately perform that duty, they intentionally and knowingly committed an act that was dangerous to the fetus, they did so with conscious disregard for fetal life, and that failure caused the death of the fetus.	This committee appreciates the commenter's concerns but the subject relates more to a charging decision than to an issue about instructions.

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			Nothing in CALCRIM No. 520 clarifies that a person cannot be criminally liable for a lawful abortion, an act by a physician or surgeon to save the life of a pregnant person, or a pregnant person's own actions or inactions that are alleged to have caused the death of their fetus. (See Pen. Code, § 187, subds. (b)(1) [lawful abortion], (b)(2) [physicians], (b)(3) [not liable for murder if "[i]t was an act or omission by the person pregnant with the fetus or was solicited, aided, abetted, or consented to by the person pregnant with the fetus"].) As a point of comparison, in the Related Issues subsection of CALCRIM No. 571, which addresses voluntary manslaughter, the instructions provide that "manslaughter does not apply to the death of a fetus." (Citing *People v. Carlson* (1974) 37 Cal.App.3d 349, 355.) The instructions continue: "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 "the unlawful killing of a human being."'" The plain language of Penal Code section 192 thus limits manslaughter liability to exclude the death of a fetus. And similarly, the plain language of Penal Code section 187, subdivision (b)(3) limits murder liability to exclude the death of a fetus resulting from "act[s] or omission[s] by the person pregnant," or that were "solicited, aided, abetted, or consented to by the person pregnant with the fetus." Like CALCRIM No. 571, CALCRIM No. 520 should therefore	

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			also explain the limits of murder liability for the death of a fetus under Penal Code section 187. Without clarification, CALCRIM No. 520 could be interpreted to allow a pregnant person to be held liable for murder for the death of their fetus based on that pregnant person's actions or inactions. This concern is not unfounded. In 2018, the Kings County District Attorney charged Adora Danyel Perez with murder of a fetus, pursuant to Penal Code, section 187, subdivision (a), and voluntary manslaughter, pursuant to Penal Code, section 192, subdivision (a), because Ms. Perez had delivered a stillborn child at a hospital, the fetus had "toxic level[s] of methamphetamine," and Ms. Perez admitted to having used methamphetamine during the pregnancy. (Ruling Granting Pet. for Writ of Habeas Corpus, *In re: Adora Danyel Perez*, Kings County Super. Ct. No. 21W0033A (Mar. 16, 2022) at pp. 3-4 (*Perez*).) Ms. Perez's appointed counsel failed to investigate the possible causes of her unborn child's death or discuss any potential defenses with her, so she pled guilty to voluntary manslaughter to avoid the murder charge. (*Perez, supra,* at pp. 3-5.) Ms. Perez later filed a motion to withdraw the plea, which was denied. (Id. at p. 5.) And on appeal, her counsel filed a brief raising no arguable issues, pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), and the judgment was affirmed. (*Ibid.*) Nearly four years after Ms. Perez pled guilty and was sentenced to 11 years in prison, the Kings County Superior	

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			Court granted her habeas corpus petition, holding that Ms. Perez's plea was based on a "legal impossibility" because "voluntary manslaughter of a fetus is not a crime in California." (*Perez, supra,* at pp. 3-5, 9, citing *People v. Brown* (1995) 35 Cal.App.4th 1585, 1592.) Similarly, in accordance with Penal Code section 187, subdivision (b)(3), murder of a fetus is not a crime in California when a person—like Ms. Perez—has been so charged for their own actions or inactions that allegedly caused the death of their fetus. Put simply, the Kings County District Attorney should never have charged Ms. Perez with murder because the circumstances of her case fell outside the bounds of Penal Code section 187. The Attorney General agrees. On January 6, 2022, in reaction to Ms. Perez's case, the Attorney General's Office issued a "Legal Alert" to "All California District Attorneys, Police Chiefs, and Sheriffs," explaining that because section 187, subdivision (b) expressly excludes from murder liability any act that "was solicited, aided, abetted, or consented to by the mother of the fetus," and "persons necessarily consent to their own voluntary actions, the exclusion in subdivision (b) means that persons cannot be criminal liable for their own actions or inactions that are alleged to have caused the death of their fetus." (AG Legal Alert, No. OAG-2022-01 (Jan. 6, 2022).) In an amicus brief attached to the Legal Alert, filed by the Attorney General in support of Ms. Perez's habeas petition, the Attorney General explained:	

DRAFT

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			The Legislature's purpose in adding the killing of a fetus to Penal Code section 187 was not to punish women who do not—or cannot, because of addiction or resources— follow best practices for prenatal health. Nor did it intend to punish women who might in desperation seek to end their pregnancies outside normal medical channels. (Amicus Brief in Support of Issuance of an Order to Show Cause, Kings County Super. Ct. No. 21W-0033A (June 25, 2021) at p. 11.) Even further, after the Kings County Superior Court vacated Ms. Perez's voluntary manslaughter conviction and her 11-year prison term, the Attorney General issued a press release applauding that court's decision and noting that Ms. Perez's "'remaining murder charge is unlawful, and we will continue to support Ms. Perez in her fight to challenge that charge.'" (AG Press Release (Mar. 17, 2022).) The Attorney General concluded, "[s]ection 187 was not meant to punish people who suffer the loss of their own pregnancies." (*Ibid.*) We agree. It is plain from the language of section 187, subdivision (b)(3) that murder liability for the death of a fetus does not extend to the pregnant person. (Pen. Code, § 187, subd. (b)(3) ["This section shall not apply to any person who commits an act that results in the death of a fetus if . . . [i]t was an act or omission by the person pregnant with the fetus or was solicited, aided, abetted, or consented to by the person pregnant with the fetus."].) And yet, that plain language did not deter the Kings County District Attorney from pursuing murder charges against Ms. Perez; it did not alert her trial counsel to the baseless nature of her charges; it (and the legal impossibility of applying voluntary	

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			manslaughter to her circumstances) did not prevent her appellate counsel from filing a *Wende* ("no-issues") brief; and these legal impossibilities did not stop the appellate court from affirming her conviction. More clarification is needed. To that end, we respectfully ask the Judicial Council to add an explanatory paragraph to CALCRIM No. 520, under the Related Issues subsection, providing: *Murder of a Fetus—Pregnant Person Not Liable* A person cannot be criminally liable for their own actions or inactions that are alleged to have caused the death of their fetus. Nor is a person liable for the death of a fetus when the act or omission causing the fetus's death was solicited, aided, abetted, or consented to by the pregnant person. (Pen. Code, § 187, subd. (b)(3).)	
520	San Diego County District Attorney's Office, by Shawn Tafreshi, North County Branch Chief	NI	**Re: Invitation to Comment on CALCRIM-2025-01, Regarding Proposed Changes to CALCRIM No. 520** Dear Committee: We recently reviewed proposed changes to CALCRIM No. 520. The proposed new language seeks to guide jury deliberations on the question of implied malice in driving under the influence ("DUI") murder cases: **<*Applicable only to driving under the influence cases.*>** **[If you find that the defendant drove a motor vehicle while impaired by (alcohol/[and] drugs), you may consider that as a factor in deciding whether the defendant acted with conscious disregard for (human/[or] fetal) life.]**	Instead of adding this proposed new language, the committee decided to add a bench note that references CALCRIM No. 3426, *Voluntary Intoxication*.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			The proposed language does not clarify what inference the jury should draw from the fact that the defendant drove a motor vehicle while impaired. While we understand the language to suggest that impaired driving can demonstrate conscious disregard for human life, our concern is that jurors could instead misinterpret this language as a license to negate a DUI murder defendant's implied malice with any evidence of voluntary intoxication. Penal Code section 29.4 states that a jury **cannot** negate implied malice with such evidence, by pronouncing in relevant part: (a) No act committed by a person while in a state of voluntary intoxication is less criminal by reason of his or her having been in that condition. Evidence of voluntary intoxication shall not be admitted to negate the capacity to form any mental states for the crimes charged, including, but not limited to, purpose, intent, knowledge, premeditation, deliberation, or malice aforethought, with which the accused committed the act; (b) Evidence of voluntary intoxication is admissible solely on the issue of whether or not the defendant actually formed a required specific intent, or, when charged with murder, whether the defendant premeditated, deliberated, or harbored express malice aforethought. The following cases also make clear that evidence of a defendant's voluntary intoxication is not admissible to negate implied malice in any murder case. (*People v. Martin* (2000) 78 Cal.App.4th 1107, 1114-1115; *People v. Timms* (2007) 151 Cal.App.4th 1292, 1298 [former Pen. Code, § 22].)	

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			Instead, we propose the following language, with our suggested changes in red text: <***Applicable only to driving under the influence cases.***> **[If you find that the defendant drove a motor vehicle while impaired by (alcohol/[and] drugs), you may consider that ~~as a factor in deciding whether~~ impairment as evidence supporting a finding that the defendant acted with conscious disregard for (human/[or] fetal) life. Voluntary intoxication is not a defense to murder based on implied malice. See CALCRIM 3426.]** Thank you for the Committee's consideration of this matter and for its continued dedication to clarifying the law for our jurors.	
1142	Orange County Bar Association, by Mei Tsang, President	AM	Appropriately adds requirement that the defendant act "knowingly." Changes multiple references to Obscene "Material" to Obscene "Matter." Only suggested modification is to change "material" to "matter" in three instances that seem to have been overlooked: 1. Line 1 in Alternative 1A 2. Page 2, paragraph that begins, "[As used here,]" in line 2 3. Second to last paragraph on page 3, line 1 Also, the second instance of "matter" on page 2 is missing a "t."	The committee appreciates the commenter's detailed review and has made all of the proposed corrections, with one exception. Penal Code section 311(c) includes the phrase "other printed or written material" in its definition of matter. Therefore, the committee has retained the word "material" in the paragraph that begins "[As used here,]" on page two, line two.

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			Bench Notes have been appropriately revised to clarify which language should be used, depending on the specific statute charged. Modifications accurately reflect the law.	
1810	Contractors State License Board, by David Fogt, Registrar of Contractors Riverside County District Attorney, by Evan Goldsmith, Deputy District Attorney San Francisco District Attorney, by Matthew Beltramo, Assistant District Attorney	NI	To The Judicial Council of California and the Advisory Committee on Criminal Jury Instructions: On behalf of the California Contractors State License Board, the Riverside County District Attorney's Office, and the San Francisco District Attorney's Office, we write to offer comment regarding CALCRIM-2025-01, specifically as it relates to proposed instruction number 1810, "Diversion of Construction Funds (Pen. Code, § 484b)." To begin, we thank the Council and Advisory Committee for drafting a proposed instruction for Penal Code section 484b. Our agencies agree that the language of the instruction, particularly with the modifications suggested below, is warranted. Criminal charges involving the diversion of construction funds arise with some frequency. Having a pattern jury instruction will be of considerable assistance to those of us who practice in this area. There are two additions to the instruction that we believe will meaningfully improve the proposed language and be of further assistance to practitioners and judges alike.	See the committee's responses to the commenters' substantive comments.
			(1) The first centers on the definition of the term "wrongfully diverts." (See Penal Code, § 484b ["Any person who receives money for the purpose of obtaining or paying for services, labor, materials or equipment and	The committee disagrees with the suggestion to add the proposed sentence to element three. The addition would be unnecessary because the

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			willfully fails to apply such money for such purpose by either willfully failing to complete the improvements for which funds were provided or willfully failing to pay for services, labor, materials or equipment provided incident to such construction, and *wrongfully diverts* the funds to a use other than that for which the funds were received, shall be guilty of a public offense…"], emphasis added.) The term "wrongfully diverts" has been defined to mean not used for the purpose it was intended. (See *People v. Stark* (1994) 26 Cal.App.4th 1179, 1183–1184 ["A defendant wrongfully diverted funds if the funds were not applied for the purpose for which they were disbursed."]). Accordingly, we believe that element Number 3, which addresses the wrongful diversion issue, should be modified by adding a second sentence: "3. The defendant wrongfully diverted this money for a use other than one for which the money was received. **A wrongful diversion can occur if the money was not applied to the purpose for which it was intended.**"	instruction already adequately conveys this point.
			(2) We also believe that the proposed instruction would benefit by defining the word "willfully," which is a term used throughout the statute. (See Penal Code section 484b ["Any person who receives money for the purpose of obtaining or paying for services, [etc.] and *willfully* fails to apply such money for such purpose by either *willfully* failing to complete the improvements for which funds were provided or *willfully* failing to pay for services,…"], emphasis added.)	The committee agrees and has added a definition of "willfully." The committee also added an authority section entry for the statutory source of this definition.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			To that end, we propose that the following language be added as a separate sentence at the end of the instruction: "**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**." This language (or very similar language) appears in other CALCRIM instructions that also use the term "willful" or "willfully." (See, e.g., CALCRIM 841, 861, 875, 1060, 1160, 1821, 2131, 2160, 2571, 2653, 2721, 2950.) Thank you again for your consideration.	
1810	Orange County Bar Association, by Mei Tsang, President	N	New instruction on old crime PC 484b. The bench notes recognize a split in authority regarding if the prosecution must show that wrongfully diverting the money is the cause of the defendant not being able to complete the construction. However, the elements as proposed ignore this issue and simply don't ask the jury to consider the issue. Thus, the instruction is contrary to *Butcher* and lessens the burden on the state. At the least, there should be a bracketed element saying "The wrongful diversion caused the failure to complete the project."	The committee has added a new optional causation element, along with a bench note about the split in authority. This new bench note replaces the commentary that originally appeared in the draft.
2307	Orange County Bar Association, by Mei Tsang, President	AM	Creates Instruction for newly-enacted HSC §11395. With the exception of Element 5, this accurately reflects the law.	
			Element 5 states "The defendant was previously convicted of two (or more) **drug related offenses.** - This is too broad. Section 11395(c) lists specific offenses that qualify. The list is not comprehensive.	The committee agrees with this suggestion and has changed element five to contain more specific language. This element now appears in the draft as:

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			E.g., it does not contain 11364 (possession of drug paraphernalia) or 11357 (possession of marijuana). - Offenses listed: 11350, 11351, 11351.5, 11352, 11353, 11353.5, 11353.7, 11370.1, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11395 - **Proposed language: The defendant was previously convicted of two or more violations of [select applicable offenses from §11395(c): 11350, 11351, 11351.5, 11352, 11353, 11353.5, 11353.7, 11370.1, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11395.]**	**5. The defendant was previously convicted of a violation of _____[,]***<insert applicable drug offense listed in Health and Safety Code, § 11395(c)>* **[and] a violation of _____***<insert applicable drug offense listed in Health and Safety Code, § 11395(c)>* **[and a violation of _____***<insert applicable drug offense listed in Health and Safety Code, § 11395(c); repeat as necessary>*.**
			<u>Additional note</u>: the Instruction title would be more accurate and possibly less prejudicial if it was changed to "Possession of Specified Controlled Substance with Specified Priors."	The committee agrees that the title could be improved and changed it to: **Possession of Hard Drug with Prior Controlled Substance Convictions.**
2307	San Diego County District Attorney's Office, by Karl Husoe, Deputy District Attorney, Appellate and Training Division	NI	**Re: Invitation to Comment on CALCRIM-2025-01, Regarding Proposed CALCRIM No. 2307** Dear Committee: We recently reviewed proposed CALCRIM No. 2307, which states the elements for newly enacted Health and Safety Code section 11395, Possession of a Hard Drug. The proposed instruction addresses the knowledge requirement of the offense with the following element: **3. The defendant knew of its nature or character as _____** *<insert substance specified in Health & Saf. Code, § 11395(e)>;*	The committee agrees with this suggestion and has changed element three to state: **The defendant knew of the substance's nature or character as a controlled substance;**

DRAFT

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

Instruction Number	Commenter	Position	Comment	Committee Response
			This proposed language appears to misstate the knowledge requirement of this offense, which could create undue confusion among jurors (and, potentially, trial courts). Appellate courts have discussed the knowledge requirement of possession of controlled substances and have published cases clarifying what this requirement is. The court in *People v. Rodriquez* (2013) 222 Cal.App.4th 578 (disapproved of on other grounds by *People v. Hall* (2017) 2 Cal.5th 494), stated, "The essential elements of unlawful possession of a controlled substance are 'dominion and control of the substance in a quantity usable for consumption or sale, with knowledge of its presence and of its restricted dangerous drug character.' " (*People v. Martin* (2001) 25 Cal.4th 1180, 1184.) "Although the possessor's knowledge of the presence of the controlled substance and its nature as a restricted dangerous drug must be shown, **no further showing of a subjective mental state is required**." (*Id.* at pp. 1184–1185.) If a person believes an item he possesses or ingests is a controlled substance, it is no defense that he was wrong about which controlled substance it is. (*People v. Romero* (1997) 55 Cal.App.4th 147, 157; *People v. Velez* (1985) 175 Cal.App.3d 785, 795–796, [marijuana cigarette laced with phencyclidine].) (*Id.* at p. 593, emphasis added.) Element three of proposed CALCRIM 2307 instructs the jury that the defendant must harbor a subjective mental	

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			state that they are possessing one of the controlled substances listed in Health and Safety Code section 11395. This is not only inconsistent with the case law outlined above, but it is also inconsistent with how factfinders are currently instructed regarding possession of controlled substances. CALCRIM 2304, Simple Possession of a Controlled Substance (Health & Saf. Code, §§ 11350, 11377) currently states in element three, "The defendant knew of the substance's nature or character as a controlled substance." This instruction is given for violations of Health and Safety Code sections 11350 **and** 11377, even though these two offenses prohibit the possession of different controlled substances. Thus, a factfinder could find that a defendant was guilty of Health and Safety Code section 11350, even if that person did not subjectively believe that they possessed a controlled substance specifically described in that code section. Lastly, proposed CALCRIM 2307 states the following: [The People do not need to prove that the defendant knew which specific drug (he/she) possessed.] This bracketed language, which is a correct statement of the law, is at odds with element three of proposed CALCRIM 2307, which seemingly requires the defendant to harbor a subjective mental state about the specific drug possessed. This has the potential to create further confusion.	

DRAFT

Instruction Number	Commenter	Position	Comment	Committee Response
			Considering the above case law, and consistent with CALCRIM 2304, we propose the following language for element 3 of CALCIM 2307: **3. The defendant knew of the substance's nature or character as a controlled substance** Thank you for the Committee's consideration of this matter and for its continued dedication to clarifying the law for our jurors.	
3218	Orange County Bar Association, by Mei Tsang, President	AM	Creates Instruction for newly-enacted **enhancement** under PC §12022.10. This adds time when a defendant is returning a stolen/shoplifted item for money and the value of the property exceeds a given threshold. The elements listed accurately reflect the law.	
			It would be helpful to clarify in the Bench Notes the crimes this attaches to, as the statute states it is not necessary to prove the defendant committed the original act of shoplifting, theft, or burglary. An additional bracketed paragraph should be added to account for the language in 12022.10(a) ("whether or not the person committed the act of shoplifting"). **<u>Suggested language</u>: [the People are not required to prove the defendant committed the original act of shoplifting, theft, or burglary]**	The committee agrees and has added the following sentence to the draft instruction: **The People are not required to prove that the defendant committed the underlying act[s] of (shoplifting[,]/[or] theft[,]/[or] burglary).**

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RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: September 11, 2025

Rules Committee action requested [Choose from drop-down menu below]:
Submit to JC (without circulating for comment)

Title of proposal: Judicial Branch Education: Sunset of Pandemic-Related Deadline Extensions

Proposed rules, forms, or standards (include amend/revise/adopt/approve)*:*
Repeal Cal. Rule of Court, rule 10.492

Committee or other entity submitting the proposal:
The Center for Judicial Education and Resources (CJER) Advisory Committee

Staff contact (name, phone and email)*: Karene Alvarado, 415-865-7761, karene.alvarado@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*): N/A
Project description from annual agenda: The CJER Advisory Committee's annual agenda is approved by the Executive and Planning Committee. The Executive and Planning Committee is expected to meet and approve this project as part of the CJER Advisory Committee's 2025 annual agenda by September 30, 2025.

Recommend repealing California Rules of Court, rule 10.492, temporary extension and pro rata reduction of judicial branch education requirements. Pandemic-related deadline extensions, contained within rule 10.492, gave judicial officers and judicial branch personnel additional time to complete continuing education requirements. Under the sunset provision contained in rule 10.492(e), the rule ceased to have effect on December 31, 2024. Making a technical amendment to repeal rule 10.492 in its entirety would eliminate any actual or potential confusion that the extensions may remain in effect.

Out of Cycle/Early Implementation: *If requesting July 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)* June 9, 2025
  ☒ approved by Office Director (or Designee) (*name*) Karene Alvarado
  on (date) June 20, 2025

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
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REPORT TO THE JUDICIAL COUNCIL

Item No.: [25-134]
For business meeting on October 23–24, 2025

Title
Judicial Branch Education: Sunset of Pandemic-Related Deadline Extensions

Rules, Forms, Standards, or Statutes Affected
Repeal Cal. Rules of Court, rule 10.492

Recommended by
Center for Judicial Education and Resources Advisory Committee
Hon. Darrell S. Mavis, Chair

Report Type
Action Required

Effective Date
January 1, 2026

Date of Report
August 11, 2025

Contact
Karene Alvarado, Director, 415-865-7761
karene.alvarado@jud.ca.gov

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Executive Summary

Pandemic-related deadline extensions, contained within rule 10.492 of the California Rules of Court, provided judicial officers and judicial branch personnel additional time to complete continuing education requirements. By its sunset provision, the rule ceased to have effect on December 31, 2024. The Center for Judicial Education and Resources Advisory Committee now recommends the Judicial Council make a technical amendment to repeal rule 10.492 in its entirety to eliminate any actual or potential confusion that the extensions may remain in effect.

Recommendation

The Center for Judicial Education and Resources Advisory Committee recommends that the Judicial Council, effective January 1, 2026, repeal rule 10.492 of the California Rules of Court to eliminate any actual or potential confusion that the pandemic-related deadline extensions for continuing education remain in place. The proposed repeal is attached at pages 3–5.

Relevant Previous Council Action

At its business meeting on November 13, 2020, the Judicial Council adopted rule 10.492 in response to the COVID-19 pandemic that led to the widespread cancellation and postponement

of in-person educational training. The pandemic made it difficult to comply with the continuing education requirements for judicial officers and judicial branch personal contained in rules 10.461–10.479. The council amended rule 10.492 in 2021 to extend the deadline even further for new judicial officers to attend the B. E. Witkin Judicial College.

Analysis/Rationale

The proposal is recommended to eliminate any actual or potential confusion that the deadline extensions remain in effect. Under rule 10.492(e), the entire rule sunsetted effective December 31, 2024. Potentially, anyone who joined the bench or became a judicial branch employee before that date could misinterpret the rule and believe that the extensions remain in effect or were "acquired" on the date of their oath or first day of employment. For example, a judge who assumed office on December 1, 2024, could mistakenly believe that they have 4.5 years from that date, or until June 30, 2029, to attend the judicial college. Repealing the rule eliminates the potential for this confusion.

Policy implications

There are no policy implications of the recommendation in this proposal.

Comments

The proposal was not circulated for public comment. However, the proposed repeal was considered via email by the Center for Judicial Education and Resources Advisory Committee in compliance with rule 10.75(o) of the California Rules of Court.

Alternatives considered

The only viable alternative is to leave rule 10.492 on record until it is repurposed or repealed at a future date. Given that this alternative did not address the rule's actual or potential ability to cause current confusion, this alternative was rejected.

Fiscal and Operational Impacts

The proposal will result in no fiscal or operational costs to the courts or the Judicial Council.

Attachments and Links

1. Cal. Rules of Court, rule 10.493, at pages 3–5
2. Link A: Cal. Rules of Court, rules 10.461–10.479, *https://courts.ca.gov/cms/rules/index/ten*

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Rule 10.492 of the California Rules of Court is repealed, effective January 1, 2026, to read:

Rule 10.492. Temporary extension and pro rata reduction of judicial branch education requirements [Repealed]

~~**(a) Application**~~

~~This rule applies to the requirements and expectations in the California Rules of Court relating to judicial branch education, except rule 10.491 on minimum education requirements for Judicial Council employees.~~

~~**(b) Definitions**~~

~~As used in this rule:~~

~~(1) "Content-based education requirement" means a requirement or expectation of:~~

~~(A) Attendance at any specific program;~~

~~(B) A course of study on any specific topic or topics; or~~

~~(C) A course of study limited to a specific delivery method, such as traditional (live, face-to-face) education.~~

~~(2) "Hours-based education requirement" means a requirement or expectation of a specified number of hours of education to be completed within a specified time period.~~

~~**(c) Content-based education requirement**~~

~~(1) Notwithstanding any other rule, any deadline for completion of a content-based education requirement or expectation, except for the deadline for the B. E. Witkin Judicial College, is extended for 12 months from that deadline, even if the deadline has passed.~~

~~(2) The deadline for completion of the B. E. Witkin Judicial College is extended for 30 months from the deadline specified in rule 10.462(c)(1)(C), even if the deadline has passed.~~

~~**(d) Hours-based education requirement**~~

~~Notwithstanding any other rule, the months of April 2020 through March 2021 are excluded from the education cycles in which those months fall, and the number of~~

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hours of education to complete hours-based education requirements or expectations is prorated accordingly.

(e) Sunset

This rule remains in effect through December 31, 20224, or until amended or repealed.

Advisory Committee Comment

Various rules in title 10, chapter 7, of the California Rules of Court authorize, for good cause, the granting of an extension of time to complete content-based and hours-based education requirements and expectations. Nothing in this rule modifies that authority.

Nothing in this rule alters education requirements and expectations outside the California Rules of Court, including education requirements mandated by statute or regulation (e.g., Welf. & Inst. Code, § 304.7) or required by Judicial Council policy (e.g., the Qualifying Ethics Program and the Temporary Assigned Judges Program).

Subdivision (c). This subdivision applies to all rules of court containing content-based education requirements. Below are examples of this subdivision in practice.

Rule 10.462(c)(1) contains education requirements for new trial court judges and subordinate judicial officers. Based on the date on which individuals took their oath of office, rule 10.462(c)(1) allows judges six months within which to attend the New Judge Orientation (NJO) program, one year within which to attend an orientation course in their primary assignment, and two years within which to attend the B. E. Witkin Judicial College of California.

Under rule 10.462(c)(1), a judge who took the oath of office on January 1, 2020, is required to complete these programs by June 30, 2020 (NJO), December 31, 2020 (primary assignment orientation), and December 31, 2021 (judicial college), respectively. With the 12-month extension under rule 10.492(c)(1), this same judge now has to complete NJO by June 30, 2021, and a primary assignment orientation by, December 31, 2021. With the 30-month extension under rule 10.492(c)(2), the same judge must now complete the judicial college by June 30, 2024.

As another example of the extensions under rule 10.492(c), a judge who took the oath of office on December 1, 2018, needs to complete NJO by May 31, 2020 (within 18 months), a primary assignment orientation by November 30, 2020 (within two years), and the judicial college by May 31, 2023 (within 4.5 years).

Using a different rule as an example, rule 10.478(b)(1) requires court investigators to complete 18 hours of education on specified topics within 1 year of their start date. Rule 10.492(c) allows a court investigator up to 2 years to complete this education.

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Subdivision (d). This subdivision applies to all rules of court containing hours-based education requirements. Below are examples of this subdivision in practice.

Rule 10.461(c)(1) contains education requirements for Supreme Court and Court of Appeal justices. Each justice must complete 30 hours of judicial education every three years.

Under rule 10.492(d), a justice's hours requirements are prorated for the three-year education cycle that runs from January 1, 2019, through December 31, 2021. For example, justices who were confirmed for appointment before January 1, 2019, must complete 20 hours of education by December 31, 2021.

Education hours requirements for justices who were confirmed for appointment on or after January 1, 2019, would be prorated by rule 10.492(d) and prorated additionally based on the number of years remaining in the three-year educational cycle. For example, a justice confirmed for appointment on October 1, 2020, ordinarily has 10 hours of hours-based education to complete for the last year of the three-year cycle. Under rule 10.492(d), the months of January 2021 through March 2021 would be excluded, and the justice would have 7.5 hours rather than 10 hours of hours-based education to complete.

As an additional example, rule 10.474(c)(2) requires 8 hours of continuing education every two years for nonmanagement court staff. For a court employee hired on or before January 1, 2020, rule 10.492(d) prorates the number of hours of education required for the cycle that runs from January 1, 2020, through December 31, 2021. The number of hours required would be prorated for 4 quarters—April 1, 2020, through March 31, 2021—and would result in a reduced hours-based requirement of 4 hours.

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RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: September 11, 2025

Rules Committee action requested [Choose from drop-down menu below]:
Submit to JC (without circulating for comment)

Title of proposal: Civil Practice and Procedure: Rules Regarding Telephonic Appearances

Proposed rules, forms, or standards (include amend/revise/adopt/approve)*:*
Amend Cal. Rules of Court, rules 3.670, 5.9, 5.324, 5.531, and 5.900

Committee or other entity submitting the proposal:
Judicial Council staff

Staff contact (name, phone and email)*: Jenny Grantz, 415-865-4394, jenny.grantz@jud.ca.gov; Corby Sturges, 415-865-4507 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*): 10/22/2024
Project description from annual agenda:

Civil and Small Claims: Review Enacted Legislation. Review all enacted legislation referred to the committee by the Judicial Council's Governmental Affairs office that may have an impact on issues within the advisory committee's purview and, where appropriate, propose to the council rules and forms to implement the legislation or to bring rules and forms into conformity with it.

Family and Juvenile Law Advisory Committee: Ongoing Project 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/Early Implementation: *If requesting July 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)* 7/17/2025
  ☒ approved by Office Director (or Designee) (*name*) Don Will, CFCC; Michael Giden, LS
  on (date) 8/13/2025

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

REPORT TO THE JUDICIAL COUNCIL

Item No.: 25-146
For business meeting on October 24, 2025

Title
Civil Practice and Procedure: Rules Regarding Telephonic Appearances

Rules, Forms, Standards, or Statutes Affected
Amend Cal. Rules of Court, rules 3.670, 5.9, 5.324, 5.531, and 5.900

Recommended by
Michelle Curran, Administrative Director
Judicial Council

Report Type
Action Required

Effective Date
January 1, 2026

Date of Report
August 18, 2025

Contact
Jenny Grantz, 415-865-4394
jenny.grantz@jud.ca.gov

Corby Sturges, 415-865-4507
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Executive Summary

Code of Civil Procedure section 367.75 authorizes courts to conduct proceedings using remote technology in all civil matters. Assembly Bill 170 (Stats. 2024, ch. 51) extends the sunset date of that statute from January 1, 2026, to January 1, 2027. Judicial Council staff recommend that the council amend several rules of court regarding telephonic appearances to reflect the extended sunset date of January 1, 2027, as provided in section 367.75.

Recommendation

Judicial Council staff recommend that the Judicial Council, effective January 1, 2026, amend California Rules of Court, rules 3.670, 5.9, 5.324, 5.531, and 5.900 to reflect the new sunset date in Code of Civil Procedure section 367.75.

The proposed amended rules are attached at pages 4–5.

Relevant Previous Council Action

In September 2021, the Legislature enacted Senate Bill 241 (Stats. 2021, ch. 214) authorizing courts to conduct proceedings in all civil matters using remote technology under section 367.75 of the Code of Civil Procedure.[1] As mandated by that statute, the Judicial Council adopted California Rules of Court, rule 3.672, effective January 1, 2022, to create procedures for remote proceedings in all civil cases.

Code of Civil Procedure section 367.75 does not distinguish between types of remote technology platforms, such as telephonic (audio alone) or videoconference (both audio and video, or either). For that reason, when it adopted rule 3.672, the council suspended the prior telephone appearance rules (previously authorized under Code of Civil Procedure section 367.5, which was limited to telephone only) to the extent the provisions in those rules limit remote hearings and provide specific rules regarding notice of such hearings, noting that they have been replaced with the provisions in rule 3.672. Specifically, the council suspended the general civil rule (3.670), family law rules (5.9 and 5.324), Indian Child Welfare Act rule (5.482), and juvenile rules (5.531 and 5.900). The suspension of those rules was initially set to expire on July 1, 2023, the original sunset date of section 367.75, but was later extended to January 1, 2026, after the Legislature extended the sunset date of section 367.75 by enacting Senate Bill 133 (Stats. 2023, ch. 34).

Analysis/Rationale

AB 170 (see Link A) extended the sunset date of Code of Civil Procedure section 367.75 to January 1, 2027. Staff therefore recommend extending the suspension dates in rules 3.670, 5.9, 5.324, 5.531, and 5.900 to January 1, 2027.[2]

Policy implications

The key policy implication is to ensure that the California Rules of Court correctly reflect the law. The recommended rule amendments are therefore consistent with the *Strategic Plan for California's Judicial Branch*, specifically the goals of Modernization of Management and Administration (Goal III) and Quality of Justice and Service to the Public (Goal IV).

Comments

Public comments were not solicited for this proposal because the Rules Committee determined that the recommendations are within the Judicial Council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

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[1] SB 241 is available at *https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB241*.

[2] This recommendation does not include rule 5.482, which addresses remote appearances by tribal representatives in proceedings subject to the Indian Child Welfare Act. These appearances are now governed by Welfare and Institutions Code section 224.2(k) rather than Code of Civil Procedure section 367.75. The council amended rule 5.482 in 2023 to implement Welfare and Institutions Code section 224.2(k), which has no sunset provision. Judicial Council of Cal., Staff Rep., *Civil Practice and Procedure: Remote Appearances* (July 24, 2023), *https://jcc.legistar.com/View.ashx?M=M&ID=1115295&GUID=2C41992A-D45E-4756-86C6-64F12B256198*.

Alternatives considered

Staff did not consider the alternative of taking no action because the rules will not reflect current law unless they are amended.

Fiscal and Operational Impacts

Any impacts are the result of the statutory change to the sunset provision, not the rule amendments themselves, which merely reflect that change. Staff anticipates that this proposal will have minimal impact because it merely extends the existing suspension of rules 3.670, 5.9, 5.324, 5.531, and 5.900.

Attachments and Links

1. Cal. Rules of Court, rules 3.670, 5.9, 5.324, 5.531, and 5.900, at pages 4–5
2. Link A: Assem. Bill 170 (Stats. 2024, ch. 51), *https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB170*

DRAFT

Rules 3.670, 5.9, 5.324, 5.531, and 5.900 of the California Rules of Court are amended, effective January 1, 2026, to read:

Title 3. Civil Rules

Rule 3.670. Telephone appearance

(a) * * *

(b) Application

Subdivisions (c) through (i) of this rule are suspended from January 1, 2022, to January 1, ~~2026~~ 2027, during which time the provisions in rule 3.672 apply in their place. This rule applies to all general civil cases as defined in rule 1.6 and to unlawful detainer and probate proceedings.

(c)–(o) * * *

Title 5. Family and Juvenile Rules

Rule 5.9. Appearance by telephone

(a) Application

Subdivisions (b) through (d) of this rule are suspended from January 1, 2022, to January 1, ~~2026~~ 2027. During that time, the provisions in rule 3.672 apply in their place. This rule applies to all family law cases, except for actions for child support involving a local child support agency and cases governed by the Indian Child Welfare Act. Rule 5.324 governs telephone appearances in governmental child support cases. Welfare and Institutions Code section 224.2(k) governs telephone appearances in cases under the Indian Child Welfare Act.

(b)–(d) * * *

Rule 5.324. Telephone appearance in title IV-D hearings and conferences

(a) Purpose

This rule is suspended from January 1, 2022, to January 1, ~~2026~~ 2027. During that time, the provisions in rule 3.672 apply in its place.

(b)–(k) * * *

Rule 5.531. Appearance by telephone (§ 388; Pen. Code, § 2625)

(a) Application

Subdivisions (b) and (c) of this rule are suspended from January 1, 2022, to January 1, ~~2026~~ 2027. During that time, the applicable provisions in rule 3.672 or Welfare and Institutions Code sections 224.2(k) or 679.5, and any rules implementing those statutes, govern remote appearances and proceedings in juvenile court. The standards in (b) apply to any appearance or participation in court by telephone, videoconference, or other digital or electronic means authorized by law.

(b)–(c) * * *

Rule 5.900. Nonminor dependent—preliminary provisions (§§ 224.1(b), 295, 303, 366, 366.3, 388, 391, 607(a))

(a)–(d) * * *

(e) Telephone appearance

Paragraph (1) below is suspended from January 1, 2022, to January 1, ~~2026~~ 2027. During that period, the juvenile dependency provisions in rule 3.672 apply in its place.

(1)–(3) * * *

(f) * * *

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: September 11, 2025

Rules Committee action requested [Choose from drop-down menu below]:
Submit to JC (without circulating for comment)

Title of proposal: Rules and Forms: Miscellaneous Technical Changes to CARE Act Rule and Adoption, CARE Act, and Sheriff Service Forms

Proposed rules, forms, or standards (include amend/revise/adopt/approve)*:*
Amend Cal. Rules of Court, rule 7.2221; revise forms ADOPT-050-INFO, ADOPT-205, ADOPT-206, CARE-105, CARE-106, CARE-107, CARE-110, CARE-111, and SER-001

Committee or other entity submitting the proposal:
Judicial Council staff

Staff contact (name, phone and email)*: Sarah Jacobvitz, 415-865-4533, sarah.jacobvitz@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 22, 2024; amended November 26, 2024
Project description from annual agenda: 13. Project Title: Rules and Forms: Miscellaneous Technical Changes
Project Summary: 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/Early Implementation: *If requesting July 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)* 8/5/2025
  ☒ approved by Office Director (or Designee) (*name*) Audrey Fancy
  on (date) 8/6/2025

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.

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 25-159
For business meeting on October 24, 2025

Title
Rules and Forms: Miscellaneous Technical Changes to CARE Act Rule and Adoption, CARE Act, and Sheriff Service Forms

Rules, Forms, Standards, or Statutes Affected
Amend Cal. Rules of Court, rule 7.2221; revise forms ADOPT-050-INFO, ADOPT-205, ADOPT-206, CARE-105, CARE-106, CARE-107, CARE-110, CARE-111, and SER-001

Recommended by
Michelle Curran, Administrative Director
Judicial Council

Report Type
Action Required

Effective Date
January 1, 2026

Date of Report
August 20, 2025

Contact
Sarah Jacobvitz, 415-865-4533
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Tyler Shill, 415-865-4571
tyler.shill@jud.ca.gov

Executive Summary

Judicial Council staff have identified errors in one rule of court and seven Judicial Council forms resulting from typographical mistakes, changes resulting from legislation, and previous rule amendments and forms revisions. Judicial Council staff recommend making the necessary corrections to avoid causing confusion for court users, clerks, and judicial officers.

Recommendation

Judicial Council staff recommend that the Judicial Council, effective January 1, 2026:

1. Amend California Rules of Court, rule 7.2221 to add headings to subdivisions (a)-(c);

2. Revise *How to Adopt a Child in California* (form ADOPT-050-INFO) to replace "child, if over 12" with "child, if 12 or older" on pages 2, 3, and 4 and to replace "over the age of 12" with "12 or older" on page 6, to change the wording of one sentence and the formatting of one citation, and to make other minor typographical corrections;

3. Revise *Declaration Confirming Parentage in Stepparent Adoption* (form ADOPT-205) to replace references to form ADOPT-200 with references to form ADOPT-203 because that form is now required to petition for stepparent adoption;

4. Revise *Declaration Confirming Parentage in Stepparent Adoption: Gestational Surrogacy* (form ADOPT-206) to replace references to form ADOPT-200 with references to form ADOPT-203 because that form is now required to petition for stepparent adoption;

5. Revise *Order for CARE Act Report* (form CARE-105) to remove specific reference to form CARE-100 in item 1 because that form is no longer the only petition option;

6. Revise *Notice of Order for CARE Act Report* (form CARE-106) to remove specific reference to form CARE-100 in item 4(b) because that form is no longer the only petition option;

7. Revise *Proof of Personal Service of Notice of Order for CARE Act Report* (form CARE-107) to remove specific reference to form CARE-100 in item 3 because that form is no longer the only petition option;

8. Revise *Notice of Initial Appearance—CARE Act Proceedings* (form CARE-110) to remove specific reference to form CARE-100 in item 5(a) because that form is no longer the only petition option;

9. Revise *Proof of Personal Service of Notice of Initial Appearance—CARE Act Proceedings* (form CARE-111) to remove specific reference to form CARE-100 in item 3 because that form is no longer the only petition option; and

10. Revise *Request for Sheriff to Serve Court Papers* (SER-001) to specify that a party asking for service by the sheriff can turn in their papers in person or submit them electronically.

The proposed amended rule and revised forms are attached at pages 5–25.

Relevant Previous Council Action

The Judicial Council has previously acted on rule 7.2221 and forms ADOPT-050-INFO, CARE-105, CARE-106, CARE-107, CARE-110, and CARE-111. This proposal involves minor corrections to these forms.

The Judicial Council adopted form SER-001, effective January 1, 2024, to implement the provisions of Assembly Bill 2791 (Stats. 2022, ch. 417) that became operative on January 1, 2024.

Analysis/Rationale

How to Adopt a Child in California (form ADOPT-050-INFO)

The recommended revisions to form ADOPT-050-INFO are necessary to conform the information sheet's content with two mandatory forms, *Adoption Agreement* (form ADOPT-210)

and *Contact After Adoption Agreement* (form ADOPT-310). Form ADOPT-050-INFO incorrectly states that "children over 12" must sign these mandatory forms. However, the form language should be "children 12 years of age or older," as required by statute and as reflected in both council-approved mandatory forms.[1]

The wording of one sentence on page 1 was also changed to improve clarity and flow, and the formatting of a citation to a federal statute on page 6 was changed to adhere to the guidelines outlined in the *California Style Manual*. Minor typographical errors throughout the form were also corrected.

Declaration forms for confirming parentage in stepparent adoption cases

The recommended revisions to *Declaration Confirming Parentage in Stepparent Adoption* (form ADOPT-205) and *Declaration Confirming Parentage in Stepparent Adoption: Gestational Surrogacy* (form ADOPT-206) are necessary to reflect recent council action, specifically the adoption of *Stepparent Adoption Request* (form ADOPT-203), effective July 1, 2025, for mandatory use in stepparent adoption cases. Previously, *Adoption Request* (form ADOPT-200) was used to petition for stepparent adoptions. The recommended revisions to form ADOPT-205 and form ADOPT-206 replace outdated references to form ADOPT-200 with references to new mandatory form ADOPT-203.

CARE Act rule and forms

The recommended amendment to rule 7.2221 is a formatting change to add headings to subdivisions (a), (b), and (c) of the rule, which were inadvertently omitted from the rule.

The recommended revisions to the CARE Act forms are technical in nature and necessary to reflect recent council action, specifically amendments to rule 7.2221 to allow an alternative petition option and the adoption of *Petition to Begin CARE Act Proceedings by Licensed Behavioral Health Professional Only* (form CARE-102) as an alternative petition option. The forms reference *Petition to Begin CARE Act Proceedings* (form CARE-100) as the only petition option. However, form CARE-102 was adopted as a new form, effective July 1, 2025, as an alternative petition option to form CARE-100. The recommended revisions to forms CARE-105, CARE-106, CARE-107, CARE-110, and CARE-111 remove references to *Petition to Begin CARE Act Proceedings* (form CARE-100) and replace them with "the petition filed to begin these proceedings," or similar language.

***Request for Sheriff to Serve Court Papers* (form SER-001)**

The recommended revisions to *Request for Sheriff to Serve Court Papers* (form SER-001) are needed to implement Assembly Bill 2791 (Stats. 2022, ch. 417), which went into effect on January 1, 2023. AB 2791 added several sections to the Government Code concerning service of court papers in civil actions by the sheriff or marshal. The legislation added two different versions of section 26666.5 to the Government Code—one that is operative between January 1, 2024, and January 1, 2026, and one that is operative on and after January 1, 2026. Accordingly,

[1] Fam. Code, § 8616.5.

throughout 2024 and 2025 a marshal or sheriff must accept the transmission of form SER-001 and certain court papers by email, fax, or in-person delivery *only* in cases where a litigant has been granted a fee waiver or is otherwise exempt by law from paying fees for service. However, starting January 1, 2026, a marshal or sheriff must accept transmission of these documents by email, fax, or in-person delivery in all cases.[2] By specifying that any person asking for service can submit these documents electronically, the proposed revisions reflect the law as it will operate on January 1, 2026.

Policy implications

There are no policy implications to this proposal.

Comments

This proposal was not circulated for public comment because the changes are within the council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

Alternatives considered

Judicial Council staff considered not updating the forms this year and waiting until other revisions were required to each of the forms to update them, but rejected this approach because the errors could lead to confusion.

Fiscal and Operational Impacts

Operational impacts are expected to be minor. The proposed revisions should not have fiscal or operational costs other than the costs of replacing outdated forms, including reproduction costs if courts or other users provide hard copies of any of the forms recommended for revision.

Attachments and Links

1. Cal. Rules of Court, rule 7.2221, at page 5
2. Forms ADOPT-050-INFO, ADOPT-205, ADOPT-206, CARE-105, CARE-106, CARE-107, CARE-110, CARE-111, and SER-001, at pages 6–25
3. Link A: Assem. Bill 2791 (Stats. 2022, ch. 417), *https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2791*

[2] Gov. Code, § 26666.5(a).

DRAFT

Rule 7.2221 of the California Rules of Court is amended, effective January 1, 2026, to read:

Rule 7.2221. Papers to be filed (§ 5975)

(a) Alternative petitions to begin CARE Act proceedings

A petition to commence CARE Act proceedings must be made on *Petition to Begin CARE Act Proceedings* (form CARE-100) or, if the petitioner is a licensed behavioral health professional as defined in section 5971(*l*), on *Petition to Begin CARE Act Proceedings by Licensed Behavioral Health Professional Only* (form CARE-102).

(b) Documentation required to support *Petition to Begin CARE Act Proceedings*

If using *Petition to Begin CARE Act Proceedings* (form CARE-100), the petition must include either:

(1) A completed *Mental Health Declaration—CARE Act Proceedings* (form CARE-101); or

(2) The evidence described in section 5975(d)(2).

(c) Documentation required to support *Petition to Begin CARE Act Proceedings by Licensed Behavioral Health Professional Only*

If using *Petition to Begin CARE Act Proceedings by Licensed Behavioral Health Professional Only* (form CARE-102), the documentation in subdivision (b) is not required.

DRAFT

ADOPT-050-INFO How to Adopt a Child in California

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: selfhelp.courts.ca.gov/adoptions.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.

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 service provider (ASP).

    The ASP is an individual or an adoption agency licensed and certified by the State of California. Their role is to explain to the birth parent their rights in the adoption process (before "placing" the child with you) and to 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.
- 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.

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

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.

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	*Stepparent Adoption Request*	This tells the judge about you and the child you are adopting.
• ADOPT-210	*Adoption Agreement*	This tells the judge that you and the child, if 12 or older, agree to the adoption. Fill it out, but do not sign it until the judge asks you to sign it.
• ADOPT-215	*Adoption Order*	The judge signs this form if your adoption is approved.
• ICWA-010(A)	*Indian Child Inquiry Attachment*	This lets the judge know that you have asked whether the child may be an Indian child.
• ICWA-020	*Parental Notification of Indian Status*	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)	*Declaration Confirming Parentage in Stepparent Adoption*	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)	*Declaration Confirming Parentage in Stepparent Adoption: Gestational Surrogacy*	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 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.

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	*Adoption Request*	This tells the judge about you and the child you are adopting.
• ADOPT-210	*Adoption Agreement*	This tells the judge that you and the child, if 12 or older, agree to the adoption. Fill it out, but do not sign it until the judge asks you to sign it.
• ADOPT-215	*Adoption Order*	The judge signs this form if your adoption is approved.
• ADOPT-230	*Adoption Expenses*	This lets the judge know what payments were made that relate to the child you are adopting.
• ICWA-010(A)*	*Indian Child Inquiry Attachment*	This lets the judge know that the required questions have been asked to determine whether the child may be an Indian child.
• ICWA-020*	*Parental Notification of Indian Status*	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	*Adoption Request*	This tells the judge about you and the child you are adopting.
• ADOPT-210	*Adoption Agreement*	This tells the judge that you and the child, if 12 or older, agree to the adoption. Fill it out, but do not sign it until the judge asks you to sign it.
• ADOPT-215	*Adoption Order*	The judge signs this form if your adoption is approved.
• ADOPT-230	*Adoption Expenses*	This lets the judge know what payments were made that relate to the child you are adopting.
• ICWA-010(A)	*Indian Child Inquiry Attachment*	This lets the judge know that you have asked whether the child may be an Indian child.
• ICWA-020	*Parental Notification of Indian Status*	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.

☐ 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. [25 U.S.C. § 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 age 12 or older.

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 parent or 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.

Your name: _____

Case Number:

Declaration Confirming Parentage in Stepparent Adoption

☐ This form is attached to form ADOPT-203, *Stepparent Adoption Request*.

This optional form may be attached to form ADOPT-203 if the adopting parent was married to or in a state-registered domestic partnership with the parent who gave birth to the child at the time the child was born. You may instead attach a declaration in another format containing substantially the same information. The birth parent and the adopting parent must complete separate declarations.

1 I *(write your name)* _____ declare as follows:

2 Relationship between the birth parent and the adopting parent seeking to confirm parentage *(check one):*

a. ☐ I am the parent who gave birth to the child to be adopted. I married or entered into a state-registered domestic partnership (including a domestic partnership or civil union from out-of-state that is legally equivalent to a marriage) with the adopting parent who is seeking to confirm parentage *(name of adopting parent seeking to confirm parentage)* _____ and we remain in that union.

b. ☐ I am the adopting parent seeking to confirm parentage. I married or entered into a state-registered domestic partnership with the parent who gave birth *(name of parent who gave birth to the child to be adopted)* _____ and we remain in that union.

3 We were married/registered as domestic partners on *(date you entered into your earliest union)* _____, before our child was born. A copy of our marriage certificate, registered domestic partner certificate, or certificate of out-of-state domestic partnership or civil union is attached.

4 Our child *(name of child to be adopted)* _____ was born on *(date)* _____. A copy of our child's birth certificate is attached.

5 ☐ Our child was conceived through assisted reproduction in compliance with Family Code section 7613 as described below (*Describe how your child was conceived and whether you used a known or unknown donor. A letter from your sperm bank or a written donor agreement verifying conception by assisted reproduction should be attached. If you used a known donor without a sperm bank or written donor agreement, you should seek legal advice before submitting this form):*

Your name: _____ **Case Number:**

6 ☐ *If there are any other persons who are or may be the child's parents, describe these persons' relationship to the child, including their names, the ways in which these persons act as a parent to the child, and whether these persons consent to the adoption:* _____

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 your name *Sign name*

Your name: _____ Case Number:

Declaration Confirming Parentage in Stepparent Adoption: Gestational Surrogacy

☐ This form is attached to form ADOPT-203, *Stepparent Adoption Request.*

This optional form may be attached to form ADOPT-203 if the adopting parent was married to or in a state-registered domestic partnership or equivalent civil union with the parent who established parentage through a gestational surrogacy process. You may instead attach a declaration in another format containing substantially the same information. The legal parent through surrogacy and the adopting parent must complete separate declarations.

1 I *(write your name)* _____ declare as follows:

2 Relationship between the legal parent and the adopting parent seeking to confirm parentage *(check one):*

a. ☐ I am the parent of a child born through a gestational surrogacy process. Only my parentage was established through the Uniform Parentage Act or another proceeding related to the surrogacy. Before the birth of the child, I married, or entered into a state-registered domestic partnership (including a domestic partnership or civil union from out-of-state that is legally equivalent to a marriage) with, the adopting parent who is seeking to confirm parentage, *(name)* _____, and we remain in that union.

b. ☐ I am the adopting parent seeking to confirm parentage. Before the birth of the child, I married, or entered into a state-registered domestic partnership (including a domestic partnership or civil union from out-of-state that is legally equivalent to a marriage) with, the parent whose parentage has been established for a child born through a gestational surrogacy process, *(name)* _____ , and we remain in that union.

3 We were married/registered as domestic partners on *(date you entered into your earliest union)* _____ before our child was born. A copy of our marriage certificate, registered domestic partner certificate, or certificate of out-of-state domestic partnership or civil union is attached.

4 Our child *(name of child to be adopted)* _____ was born on *(date)* _____ outside of the state of California. A copy of our child's birth certificate is attached.

5 ☐ Our child was conceived through a gestational surrogacy process. (*Describe how your child was conceived.)*

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

6 ☐ If there are any other persons who are or may be the child's parents, describe these persons' relationship to the child, including their names, the ways in which these persons act as parents to the child, and whether these persons consent to the adoption:

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 your name *Sign your name*

CONFIDENTIAL

CARE-105

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	*FOR COURT USE ONLY*
NAME:		
FIRM NAME:		
STREET ADDRESS:		
CITY:	STATE: ZIP CODE:	**DRAFT** **Not approved by** **the Judicial Council** **CARE-105.v6.081125**
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:		
CARE ACT PROCEEDINGS FOR *(name):* RESPONDENT		
ORDER FOR CARE ACT REPORT		CASE NUMBER:

1. The court has read and reviewed the petition filed by petitioner
   (name):
   (address):
   on *(date):* asking the court to begin CARE Act proceedings for respondent
   (name):
   (address, if known):
2. The court has found that the petition has made a prima facie showing that the respondent is or may be eligible to participate in the CARE Act process. A copy of the petition and all attachments are included with this order.

The court orders as follows:

3. The following county agency *(name):*
   or its designee must contact and engage the respondent and, no later than *(date):* ,
   file with the court a written report that includes the following information:
   a. Respondent's county of residence;
   b. A determination whether respondent meets or is likely to meet the CARE Act eligibility requirements;
   c. The outcome of the county's efforts to engage respondent during the period before the report deadline above;
   d. Conclusions and recommendations about respondent's ability to voluntarily engage in services;
   e. The information, including protected health information, necessary to support the determinations, conclusions, and recommendations in the report; and
   f. Other:
4. Before engaging the respondent and preparing the report, the county agency named in item 3 or its designee must use *Notice of Order for CARE Act Report* (form CARE-106) to serve notice of this order on petitioner, respondent, and respondent's counsel as provided in California Rules of Court, rule 7.2235(a).
5. The court has, by separate order, appointed the following attorney to represent the respondent at all stages of these CARE Act proceedings.
   a. Name:
   b. Firm name:
   c. Street address:
   d. Mailing address *(if different):*
   e. Email address:
   f. Telephone number: g. Fax number:

Date:

JUDICIAL OFFICER

CONFIDENTIAL

CARE-106

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):*	*FOR COURT USE ONLY* **DRAFT** **Not approved by the Judicial Council** **CARE-106.v6.072925**
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CARE ACT PROCEEDINGS FOR *(name)*: RESPONDENT	
NOTICE OF ORDER FOR CARE ACT REPORT	CASE NUMBER:

1. Petitioner *(name):*

2. Respondent *(name):*

3. The court has ordered *(name of county agency):*
   or its designee to engage the respondent and, no later than *(date):* , file with the court a written report that includes all of the following information:
   a. The respondent's county of residence;
   b. A determination whether the respondent meets, or is likely to meet, the criteria necessary to participate in the CARE Act process;
   c. The outcome of efforts made to voluntarily engage the respondent;
   d. Conclusions and recommendations about the respondent's ability to voluntarily engage in services; and
   e. The information, including protected health information, necessary to support the determinations, conclusions, and recommendations in the report.

4. Attached to this notice, as required by California Rules of Court, rule 7.2235(a), are
   a. a copy of *Order for CARE Act Report* (form CARE-105) issued by the court in this proceeding on *(date):* ,
   b. a copy of the petition filed on *(date):* to begin these proceedings, and
   c. *Information for Respondents—About the CARE Act* (form CARE-060-INFO).

Date:

(TYPE OR PRINT NAME OF COUNTY AGENCY REPRESENTATIVE)

(SIGNATURE OF COUNTY AGENCY REPRESENTATIVE)

CONFIDENTIAL

CARE-107

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*):	***FOR COURT USE ONLY*** **DRAFT** **Not approved by the Judicial Council** **CARE-107.v5.072925**
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CARE ACT PROCEEDINGS FOR *(name):* RESPONDENT	
PROOF OF PERSONAL SERVICE OF NOTICE OF ORDER FOR CARE ACT REPORT	CASE NUMBER:

1. I am at least 18 years old and not a party to this action.

2. I served *Notice of Order for CARE Act Report* (form CARE-106) by personally delivering a copy as follows:
   a. Respondent *(name):*
   b. Address *(specify location):*
   c. On *(date):* at *(time):*

3. ☐ I personally delivered with *Notice of Order for CARE Act Report* a copy of *Order for CARE Act Report* (form CARE-105), the petition filed to begin these proceedings, and *Information for Respondents—About the CARE Act* (form CARE-060-INFO).

4. My name, address, telephone number, and, if applicable, county of registration and number, are *(specify):*

5. I am *(check all that apply):*
   a. ☐ not a registered California process server.
   b. ☐ a registered California process server.
   c. ☐ a California sheriff or marshal.
   d. ☐ an employee or independent contractor of a registered California process server.
   e. ☐ exempt from registration. (Bus. & Prof. Code, § 22350(b).)

6. ☐ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

7. ☐ I am a California sheriff or marshal, and I certify the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF DECLARANT)

(SIGNATURE OF DECLARANT)

CONFIDENTIAL

CARE-110

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	*FOR COURT USE ONLY*
NAME:		
FIRM NAME:		**DRAFT** **Not approved by the Judicial Council** **CARE-110.v5.072925**
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:		
CARE ACT PROCEEDINGS FOR *(name)*:		
RESPONDENT		
NOTICE OF INITIAL APPEARANCE—CARE ACT PROCEEDINGS		CASE NUMBER:

1. Petitioner *(name):*

2. Respondent *(name):*

3. The court will hold an initial appearance (a hearing) in the CARE Act proceedings for respondent named above.

   Hearing Date → Date: Time:
   Dept.: Room:
   Name and address of court, if different from above:

4. The court has appointed an attorney to represent the respondent in the CARE Act proceedings. The name and contact information of the appointed attorney is:
   Name:
   Mailing Address:
   Phone: Email:

5. A copy of each of the following documents is included with this form.
   a. The petition filed to begin these proceedings;
   b. *Information for Respondents—About the CARE Act* (form CARE-060-INFO);
   c. *Notice of Respondent's Rights—CARE Act Proceedings* (form CARE-113); and
   d. Any report ordered under Welfare and Institutions Code section 5977(a)(3)(B).

6. ☐ The court ordered the county behavioral health agency, under Welfare and Institutions Code section 5977(a)(3)(A), to submit a report within 14 court days of the order setting the initial appearance. A copy of that report
   ☐ is included with this notice form ☐ will be provided to all parties no later than the date of the initial appearance.

7. Number of pages attached _____

Date:

(TYPE OR PRINT NAME OF COUNTY BEHAVIORAL HEALTH DIRECTOR OR DESIGNEE)

(SIGNATURE OF COUNTY BEHAVIORAL HEALTH DIRECTOR OR DESIGNEE)

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* for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

CONFIDENTIAL

CARE-111

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	*FOR COURT USE ONLY*
NAME:		
FIRM NAME:		**DRAFT** **Not approved by** **the Judicial Council** **CARE-111.v7.072925**
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:		
CARE ACT PROCEEDINGS FOR *(name):*		
RESPONDENT		
PROOF OF PERSONAL SERVICE OF NOTICE OF INITIAL APPEARANCE—CARE ACT PROCEEDINGS		CASE NUMBER:

1. I am at least 18 years old and not a party to this action.
2. I served *Notice of Initial Appearance—CARE ACT Proceedings* (form CARE-110) by personally delivering a copy as follows:
   a. Respondent *(name):*
   b. Address *(specify location):*
   c. On *(date):* at *(time):*
3. ☐ I personally delivered with *Notice of Initial Appearance—CARE Act Proceedings* a copy of the petition filed to begin these proceedings, *Notice of Respondent's Rights—CARE Act Proceedings* (form CARE-113), and *Information for Respondents—About the CARE Act* (form CARE-060-INFO),
   ☐ and the report ordered under Welfare and Institutions Code section 5977(a)(3).
4. My name, address, telephone number, and, if applicable, county of registration and number, are *(specify)*:
5. I am *(check all that apply):*
   a. ☐ not a registered California process server.
   b. ☐ a registered California process server.
   c. ☐ a California sheriff or marshal.
   d. ☐ an employee or independent contractor of a registered California process server.
   e. ☐ exempt from registration. (Bus. & Prof. Code, § 22350(b).)
6. ☐ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
7. ☐ I am a California sheriff or marshal, and I certify the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF DECLARANT)

(SIGNATURE OF DECLARANT)

SER-001 Request for Sheriff to Serve Court Papers

Instructions: Each county in California has a sheriff (and sometimes a marshal's office) that can serve different types of court papers, including restraining orders. Note that the sheriff cannot guarantee that they will be successful in finding the person you need served, but they will try to serve based on the information you put on this form.

- Complete this form for each set of papers you need served. You must complete a separate form for each person you need served.
- Find out where the person you need served is located. Give your papers to the sheriff or marshal's office in that county.
- You may have to pay for service of some court papers. For more information, see page 5 of this form, or go to selfhelp.courts.ca.gov/sheriff-serves.
- Do not use this form if you are asking the sheriff to enforce a wage garnishment order on an employer. Instead, use forms WG-001, *Application for Earnings Withholding Order*, and WG-035, *Confidential Statement of Judgment Debtor's Social Security Number*.
- If you want the sheriff to enforce a writ or levy, complete this form and form SER-001A, *Special Instructions for Writs and Levies—Attachment*.

CONFIDENTIAL

To Court Clerk: Do not file this form.

Sheriff File Number *(for sheriff to complete, if needed):*

Fill in case number:

Court Case Number:

All information is required unless it is listed as optional or does not apply to your case.

1 To the Sheriff or Marshal of *(name of county):* _____

2 Your Information

a. Your name *(party requesting service):* _____

b. Your lawyer's information *(if you have one)*
Name: _____
Firm name: _____

c. Court case name: _____
(example: Garcia v. Smith)

d. Contact information for the sheriff or marshal to reach you
(Give an address where you can receive mail regularly, like a post office box, a Safe at Home address, or another safe address. If you have a lawyer, give the lawyer's information.)
Address to receive mail: _____
City: _____ State: _____ Zip: _____
Telephone number *(optional):* _____ Email address *(optional):* _____

CONFIDENTIAL

This is not a court form. Do not file with the court.

Court Case Number:

3 Information About Person or Entity You Want Served

(Check a or b)

a. ☐ I ask the sheriff to serve a person *(complete section below)*

(1) Name of person: _____

Nicknames or aliases *(optional):* _____

(2) Telephone number *(optional):* _____

(3) Can you describe the person?

☐ No, I do *not* have any information about the person's description.

☐ Yes *(complete the section below with any information you have):*

Gender: ☐ Male ☐ Female ☐ Nonbinary

Height: _____ Weight: _____ Hair color: _____ Eye color: _____

Date of birth or age *(give estimate, if unknown):* _____

Race/Ethnicity: _____

Special marks or features *(tattoos, scars, etc.):* _____

Vehicle *(type, model, year, color, plate number):* _____

☐ *Check here if you are including a picture of the person.*

(4) Do you know of any safety or accessibility issues?

☐ No

☐ Yes *(complete the section below with any information you have):*

The person *(check all that apply):*

☐ Has a gun or other weapon.
☐ Has a history of violence or abuse.
☐ Has special training *(examples: military, first responder).*
☐ Is deaf or hard of hearing.
☐ Does not speak English *(list language):* _____
☐ Is on probation or parole.
☐ Has an aggressive animal.
☐ Has mental health issues.
☐ Add any other information about safety or accessibility that you know about:

_____

_____

b. ☐ I ask the sheriff to serve an entity *(examples: business or government agency)*

(1) Name and type of entity: _____

Telephone number *(optional):* _____

(2) If there is a specific person who should be served, give name: _____

(3) If there is an agent for service of process, give name: _____

(4) List any safety or accessibility issues *(examples: weapons, aggressive animals, language barrier):*

_____

CONFIDENTIAL

This is not a court form. Do not file with the court.

4 Address Where Person or Entity Should Be Served

(The sheriff typically serves during normal business hours. Check with the sheriff's office for the exact times.)

Address: _____ ☐ Home ☐ Business

City: _____ State: _____ Zip: _____

Gate code or special instructions: _____

Best time to serve at this address *(example: 8 a.m.–noon):* _____

☐ *Check here if the person is in jail or prison (give name of facility):* _____

Alternate address *(optional)*

(If the person cannot be found at the address listed above, some sheriffs may try a second address if it's in the same county. If you have a second address for the person you want served, complete the section below.)

Address: _____ ☐ Home ☐ Business

City: _____ State: _____ Zip: _____

Gate code or special instructions: _____

Best time to serve at this address *(example: 8 a.m.–noon):* _____

5 Information About Your Request

a. What type of court papers are you giving the sheriff to serve *(examples: summons, restraining order, eviction, small claims, bank levy, or writ of attachment)?*

_____

b. List all forms or court papers you want served on the person in 3 a. *(optional).*
(Note: You can list each form by its form number (example: FL-100, SC-100). If there is no form number, give the title of the document. The court may have ordered you to serve certain papers. Look at the court's order and list all forms required. If you do not know which papers you need to serve, ask a lawyer, or contact your local self-help center for free information.)

_____
_____
_____
_____
_____
_____

c. Is there a court hearing (court date)?

☐ I don't know
☐ No
☐ Yes *(if yes, give date of hearing):* _____

CONFIDENTIAL

This is not a court form. Do not file with the court.

5 d. Is there a deadline for service?

- ☐ I don't know
- ☐ No
- ☐ Yes *(if yes, give deadline):* _____

e. Has the court allowed you to serve your court papers in another way besides personal service *(example: substituted service)?*

- ☐ I don't know
- ☐ No
- ☐ Yes *(if yes, include a copy of the order allowing another type of service)*

f. Is there any other information you want or need to give to the sheriff to serve your court papers?

- ☐ No
- ☐ Yes *(if yes, give information below):*

_____
_____
_____
_____
_____
_____
_____
_____

6 Enforcement of Writ or Levy

If you want the sheriff to enforce a writ or levy, you must complete form SER-001A, *Special Instructions for Writs and Levies—Attachment*, and turn it in with this form.

(Only complete this section if you want the sheriff to enforce a writ or levy.)

Do you want the sheriff to both serve your court papers and act as levying officer?

- ☐ Yes
- ☐ No. I only want the sheriff to act as levying officer. A registered process server has or will serve my papers.

Your Signature *(party asking for service, or their lawyer)*

Date: _____

_____ ▶ _____

Type or print your name | *Sign your name (may be electronic)*

CONFIDENTIAL

This is not a court form. Do not file with the court.

Your Next Steps

- Find out if you need to pay a fee for service by asking the court's self-help center, a lawyer, or the sheriff's office. Here are some situations where you **do not** need to pay for service:
  - If you have a fee waiver in your case (fee waiver granted by a judge on form FW-003 or FW-005).
  - If you are serving a domestic violence, elder abuse, or gun violence restraining order.
  - If you have a civil harassment, workplace violence, or school violence restraining order based on a credible threat of violence or stalking.

- Give this form and a copy of all the court papers you need served to the sheriff or marshal, including a copy of a fee waiver (if you have one). You can turn in your papers in person or send them electronically.

- You should get a form back from the sheriff.
  - If the sheriff was able to serve your court papers, you should receive a form (called a proof of service). **Make sure you get a copy from the sheriff and file it with the court**. Note that if there is a court stamp at the top right corner of the first page, it has already been filed and you do not need to file it with the court.
  - If the sheriff was unable to serve your court papers, you should receive a form (sometimes called declaration of due diligence) that tells you that service was unsuccessful and will give details about when the sheriff tried to serve the person. If the sheriff was unable to serve your papers, you can ask a lawyer or court's self-help center about your next steps.

- To find your local court self-help center, go to selfhelp.courts.ca.gov/. 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. Services are free.

To Sheriff or Marshal

- This form is confidential and must not be made public.
- Any papers submitted with this form should be served and listed on the applicable proof of service form.
- Note that (5) b is optional and may help to identify documents that should have been submitted but were not received by your office.
- Under Government Code section 26666.2, once you've received a completed copy of this form and forms for service, you must attempt service unless:
  - Any order submitted does not have a judge's signature or other representation of a judge's signature; clerk's endorsement; or court stamp, seal, or other court endorsement; or
  - A court case number is not listed on the order, summons, or other notice.

CONFIDENTIAL

This is not a court form. Do not file with the court.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: September 11, 2025

Rules Committee action requested [Choose from drop-down menu below]:
Submit to JC (without circulating for comment)

Title of proposal: Rules and Forms: Miscellaneous Technical Changes

Proposed rules, forms, or standards (include amend/revise/adopt/approve)*:*
Amend rules 1.31, 4.200, and 4.201; revise forms DE-305, DV-115-INFO, EJ-140-INFO/SC-136-INFO, FL-640-INFO, FL-680, FL-683, GC-333, GC-334, RT-120-INFO, SC-136, SC-200-INFO, UD-110H, UD-110P, UD-115, and WV-610

Committee or other entity submitting the proposal:
Judicial Council staff

Staff contact (name, phone and email)*: Eric Long, 415-865-7691, eric.long@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*): N/A
Project description from annual agenda: N/A

Out of Cycle/Early Implementation: *If requesting July 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 proposal was not circulated for public comment because it is noncontroversial, involves technical revisions, and is therefore within the Judicial Council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

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)* August 14, 2025
  ☒ approved by Office Director (or Designee) (*name*) Michael Giden
  on (date) August 20, 2025

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

REPORT TO THE JUDICIAL COUNCIL

Item No.: 25-156
For business meeting on October 24, 2025

Title
Rules and Forms: Miscellaneous Technical Changes

Rules, Forms, Standards, or Statutes Affected
Amend Cal. Rules of Court, rules 1.31, 4.200, and 4.201; revise forms DE-305, DV-115-INFO, EJ-140-INFO/SC-136-INFO, FL-640-INFO, FL-680, FL-683, GC-333, GC-334, RT-120-INFO, SC-136, SC-200-INFO, UD-110H, UD-110P, UD-115, and WV-610

Recommended by
Michelle Curran, Administrative Director
Judicial Council

Report Type
Action Required

Effective Date
January 1, 2026

Date of Report
August 20, 2025

Contact
Eric Long, 415-865-7691
eric.long@jud.ca.gov

DRAFT

Executive Summary

Various members of the judicial branch, members of the public, and Judicial Council staff have identified errors in the California Rules of Court and Judicial Council forms resulting from input errors, as well as minor changes needed to conform to changes in law or previous council actions. Judicial Council staff recommend making the necessary corrections to ensure that the rules and forms conform to law and to avoid causing confusion for court users, clerks, and judicial officers.

Recommendation

Judicial Council staff recommend that the council, effective January 1, 2026:

1. Amend rule 1.31(c) to add “Alternative Mandatory Form” as a shortened identifier for “Form Adopted for Alternative Mandatory Use”;

2. Amend rule 4.200 to correct the form number of *Juror Questionnaire for Criminal Cases*;

3. Amend rule 4.201 to italicize *Juror Questionnaire for Criminal Cases* and correct its form number;

4. Revise *Affidavit re Real Property of Small Value* (form DE-305) to conform the language in the certificate of acknowledgment on page 2 precisely to the language required by section 1189 of the Civil Code and to modify the form's footer to conform to updated style guidelines;

5. Revise *How to Ask for a New Hearing Date* (form DV-115-INFO) at item 3, to correctly reference item 7 on form DV-116;

6. Revise *Information on Debtor's Examinations Regarding Consumer Debt* (form EJ-140-INFO/SC-136-INFO) to correct the identification of the party in item 3 giving their financial information in writing ("judgment debtor") and to make other minor modifications;

7. Revise *Information Sheet: Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income or Earning Capacity* (form FL-640-INFO), to correct the footer to indicate the information sheet is revised effective January 1, 2026, and to make other minor modifications;

8. Revise *Notice of Motion* (form FL-680) and *Order to Show Cause* (form FL-683) to correct references to the title of *Disability Accommodation Request*, update links, and to make other minor modifications;

9. Revise *Ex Parte Application for Order Authorizing Completion of Capacity Declaration—HIPAA* (form GC-333) and *Ex Parte Order re Completion of Capacity Declaration—HIPAA* (form GC-334) to correct the titles of recently retitled forms and to make other minor modifications to conform to updated style guidelines;

10. Revise *How Can I Respond to a Petition for Retail Crime Restraining Order?* (form RT-120-INFO) to correct the statute cited in the footer and to correct a typographical error;

11. Revise *Application and Order to Produce Financial Statement or Appear for Examination—Consumer Debt* (form SC-136) to correct a typographical error on the notice on the last page and the statute cited in the footer, as well as other minor modifications;

12. Revise *What to Do After the Court Decides Your Small Claims Case* (form SC-200-INFO) to correct the title of *Notice of Motion to Vacate Judgment and Declaration*;

13. Revise *Judgment—Unlawful Detainer Habitable Premises Attachment* (form UD-110H) and *Judgment—Unlawful Detainer Partial Eviction Attachment* (form UD-110P) to renumber the forms' items to start at 1, and to modify the footers to conform with updated style guidelines;

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14. Revise *Stipulation for Entry of Judgment* (form UD-115) to correct the title of *Judgment—Unlawful Detainer Habitable Premises Attachment*; and

15. Revise *Notice of Hearing on Request to Modify/Terminate Workplace Violence Restraining Order* (form WV-610) to correct the title of *Disability Accommodation Request*.

The revised rules and forms are attached at pages 4–38.

Relevant Previous Council Action

The Judicial Council has acted on these rules and forms previously. This proposal addresses minor corrections of items that were inadvertently or incorrectly included in the prior action.

Analysis/Rationale

The changes to these rules and forms are technical in nature and necessary to correct inadvertent errors or incorrect references. They are needed to ensure that the rules and forms are correct and conform to the law.

Policy implications

There are no policy implications to this proposal.

Comments

Public comments were not solicited for this proposal because the recommendation is within the Judicial Council's purview to approve without circulation.

Alternatives considered

None.

Fiscal and Operational Impacts

Operational impacts are expected to be minor. The proposed revisions may result in reproduction costs if courts provide hard copies of any of the forms recommended for revision. Because the proposed changes are technical corrections, case management systems are unlikely to need updating to implement them.

Attachments and Links

1. Cal. Rules of Court, rules 1.31, 4.200, and 4.201, at page 4
2. Forms DE-305, DV-115-INFO, EJ-140-INFO/SC-136-INFO, FL-640-INFO, FL-680, FL-683, GC-333, GC-334, RT-120-INFO, SC-136, SC-200-INFO, UD-110H, UD-110P, UD-115, and WV-610, at pages 5–38

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Rules 1.31, 4.200, and 4.201 of the California Rules of Court are amended, effective January 1, 2026, to read:

Rule 1.31. Mandatory forms

(a)–(b) * * *

(c) Identification of mandatory forms

Forms adopted by the Judicial Council for mandatory use bear the words "Form Adopted for Mandatory Use," "Mandatory Form," ~~or~~ "Form Adopted for Alternative Mandatory Use," or "Alternative Mandatory Form" in the lower left corner of the first page.

(d)–(g) * * *

Rule 4.200. Pre–voir dire conference in criminal cases

(a) * * *

(b) Written questions

The court may require counsel to submit in writing, and before the conference, all questions that counsel requests the court to ask of prospective jurors. This rule applies to questions to be asked either orally or by written questionnaire. The *Juror Questionnaire for Criminal Cases* (form ~~MC-002~~ JURY-002) may be used.

Rule 4.201. Voir dire in criminal cases

To select a fair and impartial jury, the judge must conduct an initial examination of the prospective jurors orally, or by written questionnaire, or by both methods. The ~~Juror Questionnaire for Criminal Cases~~ *Juror Questionnaire for Criminal Cases* (form ~~MC-002~~ JURY-002) may be used. After completion of the initial examination, the court must permit counsel to conduct supplemental questioning as provided in Code of Civil Procedure section 223.

DE-305

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO.:
After recording, return to:
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:

FOR RECORDER'S USE ONLY

ESTATE OF *(name):*

DECEDENT

CASE NUMBER:

AFFIDAVIT RE REAL PROPERTY OF SMALL VALUE

FOR COURT USE ONLY

DRAFT
Not approved by the Judicial Council

1. The decedent *(name):*
   died on *(date):*
   at *(city, state):*
2. At least **six months** have passed since the decedent's death. *(Attach a certified copy of the decedent's death certificate.)*
3. a. ☐ The decedent was domiciled in this county at the time of death.
   b. ☐ The decedent was **not** domiciled in California at the time of death, but the decedent died owning real property in this county.
4. The **gross value,** on the date of the decedent's death, of all real property in the decedent's estate located in California, as shown by the attached inventory and appraisal—excluding the real property described in Probate Code section 13050—did not exceed *(check one):*
   a. ☐ **$55,425** *(decedent died before April 1, 2022).*
   b. ☐ **$61,500** *(decedent died on or after April 1, 2022, and before April 1, 2025. Form DE-300 is attached as required by law).*
   c. ☐ **$69,625** *(decedent died on or after April 1, 2025. Form DE-300 is attached as required by law).*
5. a. The **legal description** and the Assessor's Parcel Number of the particular item of the decedent's real property claimed by the declarant(s) are provided on an attached page titled Attachment 5a [legal description of real property]. *(Copy legal description **exactly** from deed or other legal instrument.)*
   b. The decedent's interest in this real property is *(specify):*
6. Name and address of each guardian or conservator of the decedent's estate at time of death: ☐ none ☐ are as follows:*****

Name	Address

   ☐ Additional guardians or conservators are identified in Attachment 6.
   *(***** You must deliver a copy of this affidavit and all attachments in any manner provided in Probate Code section 1215 to each guardian or conservator named above. You may use Judicial Council form POS-030 for proof of mailing, form POS-020 for proof of personal delivery, or form POS-050 for proof of electronic delivery.)*
7. An inventory and appraisal of all of the decedent's **real property** in California is attached. The appraisal was made by a probate referee appointed by the State Controller for the county in which the property is located. *(You must prepare the inventory on Judicial Council forms DE-160 and DE-161. You may select any probate referee appointed for the county to perform the appraisal. A list of all probate referees, shown by county, is available at www.sco.ca.gov/eo_probate_contact.html. Each court also has a list of referees appointed for its county. Check with the probate referee or consult an attorney if you need help preparing the inventory.)*
8. a. ☐ No proceeding for administration of decedent's estate is now being or has been conducted in California.
   b. ☐ The decedent's personal representative has consented in writing to the use of the procedure provided by Probate Code section 13200 et seq. *(Attach a copy of the consent and a copy of the personal representative's letters of administration.)*

ESTATE OF *(name)*: DECEDENT	CASE NUMBER:

9. Funeral expenses, expenses of last illness, and all known unsecured debts of the decedent have been paid. ***(NOTE:** You may be personally liable for decedent's unsecured debts up to the fair market value of the real property and any income you receive from it.)*

10. The declarant—or a trust or other entity, on behalf of which the declarant is acting—is, or all declarants together constitute, the successor of the decedent (as defined in Probate Code section 13006) to the decedent's interest in the property described in item 5, and no other person or entity has a superior right to the decedent's interest in that property, because the declarant is:
    a. ☐ ***(if decedent left a will)*** the sole beneficiary or all the beneficiaries who succeeded to the property under the decedent's will. *(Attach a copy of the will.)*
    b. ☐ ***(if decedent died without a will)*** the sole person or all the persons who succeeded to the property under Probate Code sections 6401 and 6402.

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)

Date:

(TYPE OR PRINT NAME)*

▶ (SIGNATURE OF DECLARANT)

☐ SIGNATURES OF ADDITIONAL DECLARANTS ATTACHED

*** A declarant claiming on behalf of a trust or other entity should also state the name of the entity that is a beneficiary under the decedent's will and declarant's capacity to sign on behalf of the entity (trustee, chief executive officer, etc.).**

CERTIFICATE OF ACKNOWLEDGMENT

(NOTE: Do not use a small strip of paper to attach an additional certificate of acknowledgment to this page. If you need one or more additional certificates of acknowledgment, attach each one to this form on a separate, full-sized 8-1/2 by 11-inch page.)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA, COUNTY OF *(specify):*

On *(date):* , before me *(name and title):*

personally appeared *(name of each):*

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(SIGNATURE OF NOTARY PUBLIC)

(NOTARY SEAL)

(SEAL)

CLERK'S CERTIFICATE

I certify that the foregoing, including any attached certificates of acknowledgment and any attached legal description of the property (but excluding other attachments), is a true and correct copy of the original affidavit on file in my office. *(Certified copies of this affidavit do not include the (1) death certificate, (2) will, or (3) inventory and appraisal. (See Prob. Code, § 13202.))*

Date: Clerk, by _____ , Deputy

DV-115-INFO How to Ask for a New Hearing Date

1 You may need to ask for a new court date if:

- You are the **protected party** and are unable to have form DV-109, *Notice of Court Hearing*, and other papers served in time before your court date.
- You are the **restrained party** and it is your first time asking the court to reschedule your court date.
- You have a good reason for needing a new court date (the court may grant your request to reschedule your court date on a showing of "good cause").

2 What does form DV-115 do?

Use form DV-115 to ask the court to reschedule your court date. If your court date is rescheduled and a *Temporary Restraining Order* (form DV-110) was granted, that order will be extended until the end of your new court date, unless the court decides to modify or terminate it. "Extend" means to keep any temporary orders in effect until the new court date.

3 Follow these steps:

- Fill out all of form DV-115.
- Fill out items 1 through 2 on form DV-116, *Order on Request to Continue Hearing.*
- The judge will need to review your papers. In some courts, you must give your papers to the clerk. Ask the court clerk for information on how you ask the judge to review your papers.
- After you turn in your forms as required by your local court, check with the clerk's office to see if the judge approved (granted) your request to reschedule your court date.
- If the judge signed form DV-116, you will have a new court date. If the judge did NOT sign the form, you should go to court at the date, time, and location that is on form DV-109.
- Next, file both forms DV-115 and DV-116 with the clerk. The clerk will make up to three file-stamped copies for you. Keep at least one copy to bring to your court date.
- The other party must be served a copy of the court papers as described in item 7 on form DV-116.
- Ask the person who serves the papers to complete a proof of service form and give it to you. If service was in person, use form DV-200, *Proof of Personal Service*. If service was by mail, use form DV-250, *Proof of Service by Mail*. Make two copies of the completed forms.
- File the completed and signed proof of service form with the clerk's office before your court date.
- If the court reschedules your court date and extends the expiration date of the temporary restraining order to the end of your new court date, the clerk will send the restraining order to law enforcement or CLETS for you. CLETS is a statewide computer system that lets police know about the order.

4 Go to your court date

- Take at least two copies of your documents and filed forms to your court date. Include a copy of the filed proof of service form.Your documents may include exhibits, declarations, and financial statements, and the court may enter them into evidence at its discretion.
- If the protected party does not go to the court date, the temporary domestic violence restraining orders will expire on the date and time of the court date. If the restrained party does not go to the court date, the court can still make orders against them that can last for up to five years.

5 Need 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: **1-800-799-7233 (TDD: 1-800-787-3224).** It's free and private. They can help you in more than 100 languages.

GENERAL INFORMATION

The process described in this information sheet applies when a judgment awarded on or after January 1, 2025, concerns consumer debt. The judgment can be awarded in a small claims case or another type of civil case. This information sheet tells the judgment creditor (the person or business that won the case and is owed money) how to ask for a debtor's examination in a case where the judgment concerns consumer debt. It also tells the judgment debtor (the person or business that owes the money) how they can respond to that request by providing written information instead of going to court. (Code Civ. Proc., § 708.111.)

If the judgment is not for consumer debt or was not awarded on or after January 1, 2025, do not use the forms or procedures that are described in this information sheet.

Go to selfhelp.courts.ca.gov/civil-lawsuit/judgment for information on collecting and paying money judgments.

1 How can I tell if a judgment concerns consumer debt?

Consumer debt means debt for money, property, insurance, or services that are primarily for personal, family, or household purposes. Consumer debt **does not include** rental debt; judgments for unpaid wages, damages, or penalties owed to an employee; or debts incurred due to, or obtained by, tortious or fraudulent conduct.

Look at the judgment issued by the court to find out if it concerns consumer debt:

- **Small Claims Cases:** If you received *Notice of Entry of Judgment* (form SC-130 or SC-200), the form will say the judgment includes an amount "concerning consumer debt (Code Civ. Proc., § 708.111)." Look at item 10 on form SC-130 or item 9 on form SC-200.
- **Other Civil Cases:** If you received *Judgment* (form JUD-100), item 7 will say the judgment includes an amount "concerning consumer debt (Code Civ. Proc., § 708.111)." If the judgment was not issued on a Judicial Council form, you will need to figure out if the judgment includes an amount that concerns consumer debt.

2 What is a debtor's examination?

When the final court order at the end of a lawsuit (the judgment) orders one person or business to pay money to another person or business, sometimes the judgment creditor wants information to help them collect it (enforce the judgment). The judgment creditor can ask the court to order the judgment debtor to come to court and give information under oath about what they earn (income) or own (assets). This is called a "debtor's examination." This information can help the judgment creditor find out whether they can take the money they are owed from the judgment debtor's income or assets.

3 How do I use this information sheet?

- **Judgment Creditors:** If the court ordered the other party to pay you money, you are the **judgment creditor**. This information sheet explains how you can ask the court to order a debtor's examination and respond if the judgment debtor gives their financial information in writing:
  - Which form should I use to ask for a debtor's examination? Read 4.
  - How do I complete, file, and serve the form to ask for a debtor's examination? Read 5 and 6.
  - How do I respond to *Notice of Financial Statement—Consumer Debt* (form EJ-143)? Read 7–10.
- **Judgment Debtors:** If the court ordered you to pay money to the other party, you are the **judgment debtor**. This information sheet describes how to respond to forms you receive from the judgment creditor:
  - What do I do if I receive form EJ-141 or form SC-136? Read 12.
  - How do I provide my financial information in writing? Read 13–17.
  - What do I do if I receive *Notice of Motion and Motion to Require Examination—Consumer Debt* (form EJ-146)? Read 18.
  - What do I do if I receive *Application and Order to Require Examination After Submission of Financial Statement* (form EJ-147)? Read 19.
- If you have a disability or need help to understand English, read page 8.

INFORMATION FOR THE JUDGMENT CREDITOR

This part of the information sheet is for the judgment creditor (the person or business who won the case and is owed money) in a case concerning consumer debt. It tells them how to ask for a debtor's examination.

4 Which form should I use to ask for a debtor's examination in my case?

If your case is **not** a small claims case and you want to ask the court to order a debtor's examination, complete *Application and Order to Appear for Examination—Consumer Debt* (form EJ-141).

If your case is a **small claims case**, you can use either form EJ-141 or *Application and Order to Produce Financial Statement or Appear for Examination—Consumer Debt* (form SC-136):

- Use form SC-136 if the judgment debtor has not sent you a completed *Judgment Debtor's Statement of Assets* (form SC-133) and you want the court to require them to do so. The judgment debtor must send you form SC-133 if they do not pay within 30 days after the court clerk mailed or handed them the *Notice of Entry of Judgment* (form SC-130 or SC-200). Form SC-136 requires the judgment debtor to personally appear in court with a completed form SC-133 and answer questions about their money and property.
- If you want the judgment debtor to come to court for a debtor's examination, and you do not wish to enforce your right to receive form SC-133, or you already received form SC-133, then use form EJ-141.

If the court has previously ordered the judgment debtor to appear for examination and you want to ask for another examination date, read item 11.

Use *Application and Order for Appearance and Examination* (form AT-138/EJ-125), and do **not** use form EJ-141 or SC-136, if:

- You want to ask for a debtor's examination and the judgment is **not** for consumer debt, **or**
- You want to ask for an examination of someone who is not the judgment debtor, even if the judgment is for consumer debt.

5 How do I complete and file form EJ-141 or form SC-136?

To complete *Application and Order to Appear for Examination—Consumer Debt* (form EJ-141) or *Application and Order to Produce Financial Statement or Appear for Examination—Consumer Debt* (form SC-136), follow these steps:

- Fill out item 1 (the judgment debtor's name) on page 1 and all the items in the "Application for This Order" section on page 2 of the form.
- Contact the court clerk about setting a hearing date, time, and location. When setting the hearing date, make sure you will have enough time to serve the form, as explained in item 6. Enter the hearing date, time, and location you received from the clerk in the "Hearing Date" section on page 1.
- Sign and date the form.
- Make at least one copy of the completed form for your records. You will need to bring a copy with you to the hearing.

After you complete form EJ-141 or form SC-136, file the completed original form with the court. You must pay a filing fee unless you are eligible for a fee waiver.

6 How do I serve form EJ-141 or form SC-136?

Serve (give) a copy of completed form EJ-141 or SC-136 on the judgment debtor by following the steps below. The order for the judgment debtor to come to court for an examination cannot be enforced unless you complete all these steps:

- The form must be served at least **30 days** before the date of the examination.
- Have a copy of the form served on the judgment debtor in person by a sheriff, marshal, or registered process server. If you are using form EJ-141, the form can also be served by the person appointed in item 3 of that form.
- You must file the original proof of service with the court. Ask your court if they have a deadline for filing the proof of service. For more information about serving and proof of service, read selfhelp.courts.ca.gov/civil-lawsuit/judgment/collect/ask-debtor-exam-consumer-debt.

If you want to ask the sheriff to serve your form, you can use *Request for Sheriff to Serve Court Papers* (form SER-001). If you were given a fee waiver in the case, the sheriff will serve the papers for you at no cost.

When serving form EJ-141 or form SC-136 on the judgment debtor, you must include blank copies of all the following forms:

- *Information on Debtor's Examinations Regarding Consumer Debt* (form EJ-140-INFO/SC-136-INFO),
- *Financial Statement—Consumer Debt* (form EJ-144),
- *Notice of Financial Statement—Consumer Debt* (form EJ-143),
- *Exemptions From the Enforcement of Judgments* (form EJ-155), and
- *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156).

7 What do I do if I receive *Notice of Financial Statement—Consumer Debt* (form EJ-143)?

The judgment debtor does not have to appear at the scheduled debtor's examination if they respond to your request by filing *Notice of Financial Statement—Consumer Debt* (form EJ-143) with the court and serving you with a copy of that form and a completed *Financial Statement—Consumer Debt* (form EJ-144) no later than 15 days before the examination.

If the judgment debtor checked item 2 on *Notice of Financial Statement—Consumer Debt* (claiming that all of their money and property are exempt from enforcement of judgment), the court will cancel the scheduled debtor's examination. If after reading *Financial Statement—Consumer Debt* you still want to hold a debtor's examination, you can complete, serve, and file *Notice of Motion and Motion to Require Examination—Consumer Debt* (form EJ-146).

8 How do I complete *Notice of Motion and Motion to Require Examination—Consumer Debt* (form EJ-146)?

Notice of Motion and Motion to Require Examination—Consumer Debt (form EJ-146) asks the court to order the judgment debtor to come to court for an examination even though they provided *Financial Statement—Consumer Debt* (form EJ-144).

You will need to complete your *Notice of Motion and Motion to Require Examination—Consumer Debt* in time to file it with the court no more than **15 days** after the judgment debtor filed *Notice of Financial Statement—Consumer Debt* (form EJ-143).

To complete *Notice of Motion and Motion to Require Examination—Consumer Debt*, follow these steps:

- Contact the clerk of the court about setting a hearing date, time, and place. When setting the hearing date, make sure you will have enough time to serve form EJ-146, as explained in item 9.
- Complete items 1–7 on *Notice of Motion and Motion to Require Examination—Consumer Debt*. In item 7, explain why you think an examination of the judgment debtor is needed even though they provided a financial statement.
- If the judgment you are trying to enforce concerns debt secured by real property or personal property, complete items 8 and 9.
- If you do not wish to appear at the hearing on your motion, check the box in item 10. If you do not appear, the court will decide based on your *Notice of Motion and Motion to Require Examination—Consumer Debt*, the judgment debtor's *Financial Statement—Consumer Debt*, and the arguments the judgment debtor makes at the hearing.
- Sign and date the form. If you have an attorney, they must also sign and date the form.
- Make a copy of the completed form to serve on the judgment debtor.
- Make at least one copy of the completed form for your records. If you appear at the hearing, you will need to bring a copy of the completed form with you.

9 How do I serve and file form EJ-146?

After you complete *Notice of Motion and Motion to Require Examination—Consumer Debt* (form EJ-146), serve (give) a copy of the completed form on the judgment debtor by following these steps:

- Someone who is not one of the people involved in the lawsuit must serve the papers on the judgment debtor.
- *Notice of Motion and Motion to Require Examination—Consumer Debt* must be served at least **16 court days** before the hearing if it is personally served. If the notice is sent by fax, express mail, or other method of overnight delivery, the 16-court-day period is increased by 2 calendar days. If the notice is served by mail from and to an address within California, the 16-court-day period is increased by 5 calendar days. Electronic service may be allowed (consent is required before electronically serving the judgment debtor if they do not have an attorney) and extends the time for service by 2 court days. For more information on the time to serve the notice and electronic service, read Code of Civil Procedure sections 708.111(d)(3), 1005, and 1010.6 (available at leginfo.legislature.ca.gov).
- Have the server fill out and sign a proof of service. Proof of service forms are available at courts.ca.gov/rules-forms/find-your-court-forms.

In addition to serving form EJ-146, you must also file the completed original form by following these steps:

- File the completed original *Notice of Motion and Motion to Require Examination—Consumer Debt* with your original signature. You must pay a filing fee unless you are eligible for a fee waiver.
- Include a copy of the judgment debtor's completed *Financial Statement—Consumer Debt* (form EJ-144) with your filing.
- File *Notice of Motion and Motion to Require Examination—Consumer Debt* and the copy of the judgment debtor's *Financial Statement—Consumer Debt* with the court no more than **15 days** after the judgment debtor filed *Notice of Financial Statement—Consumer Debt* (form EJ-143).
- You must file the original proof of service with the court. Ask your court if they have a deadline for filing the proof of service.

If you go to the hearing on your motion for examination, bring a completed copy of form EJ-146 and a copy of the judgment debtor's *Financial Statement—Consumer Debt* (form EJ-144). You should also bring a copy of *Application and Order to Require Examination After Submission of Financial Statement—Consumer Debt* (form EJ-147). Complete all of form EJ-147 except for the hearing date and time on page 1. If the court grants your motion for an examination, the judicial officer may want to sign form EJ-147 at the hearing to schedule the examination.

10 What do I do after the hearing on my motion to require examination?

If the court has heard your motion to require examination and ruled that the judgment debtor must appear for an examination, you must complete and file *Application and Order to Require Examination After Submission of Financial Statement—Consumer Debt* (form EJ-147) to schedule the examination ordered by the court. There is no fee to file form EJ-147.

You must serve form EJ-147 on the judgment debtor at least **30 days** before the date of the hearing. You can serve form EJ-147 by mail. Electronic service may be allowed (consent is required before electronically serving the judgment debtor if they do not have an attorney; read Code of Civil Procedure section 1010.6 for more information on electronic service). Personal service is not required.

11 What if I want to ask for another examination of the judgment debtor?

If the court ordered the judgment debtor to come to court for an examination after you filed *Application and Order to Appear for Examination—Consumer Debt* (form EJ-141) or *Application and Order to Produce Financial Statement or Appear for Examination—Consumer Debt* (form SC-136) and then the examination is canceled for any reason, you cannot file another application to examine that judgment debtor until one year from the date you filed your previous application.

To ask for a second examination of the judgment debtor, use form EJ-141. Do not use form SC-136.

INFORMATION FOR THE JUDGMENT DEBTOR

This part of the information sheet is for the judgment debtor (the person or business who lost the case and owes money) in a case concerning consumer debt. It tells them how they can respond to an order to appear in court to answer questions about money they earn and property they own.

(12) What do I do if I receive form EJ-141 or form SC-136?

If you receive *Application and Order to Appear for Examination—Consumer Debt* (form EJ-141) or *Application and Order to Produce Financial Statement or Appear for Examination—Consumer Debt* (form SC-136), you must either appear in court for the examination at the time and place listed in item 2 on that form **or** provide your financial information in writing (see steps below) to the judgment creditor. You do not have to appear in court for the examination if you provide your financial information in writing to the judgment creditor and file a notice with the court no later than 15 days before the examination.

If you do not appear in court for the examination or provide your financial information in writing, the court may make you pay the judgment creditor's reasonable attorney's fees and costs.

(13) How do I provide my financial information in writing?

To provide your financial information in writing to the judgment creditor, follow these steps:

- Complete and serve *Financial Statement—Consumer Debt* (form EJ-144) as explained in (14) and (15). A copy of this form should have been included with the form EJ-141 or form SC-136 you received from the judgment creditor.
- Complete, serve, and file *Notice of Financial Statement—Consumer Debt* (form EJ-143) and the proof of service for form EJ-144, as explained in (16). A copy of form EJ-143 should have been included with the form EJ-141 or form SC-136 you received from the judgment creditor.

You can get also get copies of forms EJ-143 and EJ-144 from courts.ca.gov/rules-forms/find-your-court-forms or the self-help center at your local court.

(14) How do I complete *Financial Statement—Consumer Debt* (form EJ-144)?

To complete *Financial Statement—Consumer Debt* (form EJ-144), follow these steps:

- Read the entire form to see the information it asks for.
- Do not include bank account numbers or other account numbers on the form.
- To fill out items 1 and 2, decide if any of your income or assets are exempt (cannot be collected by a judgment creditor). (Read (15), "How do I figure out if my income or assets are exempt?")
- Fill out the other items on the form. If you checked the box in item 2 (indicating that some or all of your money or property is exempt because it is needed to support you, your spouse, or persons who depend on you and your spouse for support), you will need to provide information about your spouse or dependents in some items on the form. The instructions for each item will tell you if you need to do so.
- Sign and date the form.
- If you checked the box in item 2, your spouse must also sign and date the form, unless you and your spouse live separate and apart.
- Make at least one copy of the completed form to keep for your records. You will need to bring a completed copy of the form with you if you are ordered to appear in court. (Read item (17), "What happens after I provide my financial information in writing?")

After you complete form EJ-144, you must serve (give) the original signed form EJ-144 on the judgment creditor **no later than 15 days** before the examination (the date and time listed in item 2 on the form EJ-141 or form SC-136 you received from the judgment creditor).

Do not file form EJ-144 with the court.

Before serving form EJ-144, read item (16), "How do I complete *Notice of Financial Statement—Consumer Debt* (form EJ-143)." The instructions for serving form EJ-144 are the same as for serving form EJ-143, and you can serve forms EJ-143 and EJ-144 at the same time.

15 How do I figure out if my income or assets are exempt?

Some types of money you earn (income) and money and property you own (assets) are exempt, meaning they cannot be collected by a judgment creditor.

To figure out if any of your money or property is exempt, read *Exemptions From the Enforcement of Judgments* (form EJ-155). A copy of this form should be included with the form EJ-141 or form SC-136 you received from the judgment creditor. You can also get a copy of this form from courts.ca.gov/rules-forms/find-your-court-forms or from the self-help center at your local court.

Form EJ-155 lists different kinds of money and property that are exempt. You will need to look for each type of money and property you have in the list. Not all types of money and property are exempt, so some of the money or property you have might not be listed on form EJ-155.

If any of your money or property is listed on form EJ-155, you will need to figure out how much of it is exempt. For some types of money and property, only a specific dollar amount is exempt. For other types, the entire amount or value is exempt. And for other types, the exempt amount depends on your situation.

To figure out the exempt amount of each type of money and property you have, read *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156). A copy of this form should be included with the form EJ-141 or form SC-136 you received from the judgment creditor. You can also get a copy of this form from courts.ca.gov/rules-forms/find-your-court-forms or from the self-help center at your local court.

Form EJ-156 lists the exempt amounts for some types of money and property. If the money or property you have is not listed on form EJ-156, then you will need to read the specific law (the code and section number) listed for that type of money or property on form EJ-155. For example, form EJ-155 lists Code of Civil Procedure (CCP) section 704.070 as the code and section number for "cash."

You can get a copy of the California laws listed on form EJ-155 at leginfo.legislature.ca.gov. The sections of the United States Code that provide exemptions (shown as "USC" on form EJ-155) can be found at uscode.house.gov/.

Some types of money and property are exempt if they are needed to support the basic needs of you and your family. The law for these types will say they are "exempt to the extent necessary for the support of the judgment debtor and the spouse and dependents of the judgment debtor." Under those laws, the exempt amount is the amount needed to support your basic needs and the basic needs of your spouse or anyone who depends on you or your spouse for support.

After you have figured out if any of your money or property is exempt, complete items 1 and 2 on the *Financial Statement—Consumer Debt* (form EJ-144):

- If none of your money or property is exempt, check box 1a.
- If all of your money or property is exempt, check box 1b.
- If some, but not all, of your money or property is exempt, check box 1c.
- If any of your money or property is exempt because it is needed to support the basic needs of you and your family, check the box in item 2.

16 How do I complete *Notice of Financial Statement—Consumer Debt* (form EJ-143)?

Do not fill out *Notice of Financial Statement—Consumer Debt* (form EJ-143) until after you complete *Financial Statement—Consumer Debt* (form EJ-144).

To complete *Notice of Financial Statement—Consumer Debt*, follow these steps:

- Enter the name and address of the judgment creditor. You can use the address the judgment creditor provided on form EJ-141 or form SC-136.
- In item 1, enter the date, time, and location of the examination scheduled by the court. This is the information listed in item 2 on the form EJ-141 or SC-136 that you received from the judgment creditor.

- Check the box in item 2 if you also checked box 1b on your *Financial Statement—Consumer Debt* (form EJ-144), which says that all of your income and assets are exempt.
- Make a copy of the completed form to serve on (give to) the judgment creditor.
- Make at least one copy of the completed form for your records. You will need to bring a completed copy of the form with you if you are ordered to appear in court. (Read (17), "What happens after I provide my financial information in writing?")
- Serve (give) a copy of the completed *Notice of Financial Statement—Consumer Debt* (form EJ-143) on the judgment creditor. Form EJ-143 can be served by mail. Electronic service may be allowed (consent is required before electronically serving the judgment creditor if they do not have an attorney; read Code of Civil Procedure section 1010.6 for more information on electronic service). You can serve form EJ-143 at the same time as form EJ-144.
- Someone who is not one of the people involved in the lawsuit must serve the papers if they are served personally or by mail. Have the server fill out and sign a proof of service. Proof of service forms are available at courts.ca.gov/rules-forms/find-your-court-forms.
- File completed form EJ-143 with the court. You must file the completed original form EJ-143 with your original signature. When you file EJ-143, you must also file the completed original proof of service for form EJ-144. If you file forms EJ-143 and EJ-144 at the same time, you can use the same proof of service for both.
- If you have a separate proof of service for form EJ-143, you must file that proof of service with the court. Ask your court if there is a filing deadline.

You must file form EJ-143 and the proof of service for form EJ-144 **no later than 15 days** before the date of the examination (shown in item 2 of the form EJ-141 or form SC-136 you received from the judgment creditor).
If you do not file form EJ-143 and the proof of service for form EJ-144 by this deadline, you must attend the examination at the time and place listed in item 2 on *Application and Order to Appear for Examination—Consumer Debt* (form EJ-141) or *Application and Order to Produce Financial Statement or Appear for Examination—Consumer Debt* (form SC-136).

(17) What happens after I provide my financial information in writing?

If you served and filed *Notice of Financial Statement—Consumer Debt* (form EJ-143) and a proof of service for *Financial Statement—Consumer Debt* (form EJ-144) no later than 15 days before the date of the examination, you do not have to appear for the examination at the time and place listed in item 2 on *Application and Order to Appear for Examination—Consumer Debt* (form EJ-141) or *Application and Order to Produce Financial Statement or Appear for Examination—Consumer Debt* (form SC-136).

If you checked item 2 on form EJ-143, the court will cancel the examination. If the court cancels the examination, the judgment creditor can object by filing *Notice of Motion and Motion to Require Examination—Consumer Debt* (form EJ-146).

(18) What do I do if I receive *Notice of Motion and Motion to Require Examination—Consumer Debt* (form EJ-146)?

Notice of Motion and Motion to Require Examination—Consumer Debt (form EJ-146) asks the court to order you to come to court for an examination even though you have provided your financial information in writing. On that form, the judgment creditor will explain why they think an examination is needed.

The court will hold a hearing at the date and time listed in item 2 on form EJ-146 to decide if an examination is needed. You must appear at the hearing.

The hearing is your opportunity to explain why you think the information on your *Financial Statement—Consumer Debt* (form EJ-144) is enough and why the judgment creditor does not need to ask you questions at an examination. Take a copy of your completed *Notice of Financial Statement—Consumer Debt* (form EJ-143) and *Financial Statement—Consumer Debt* (form EJ-144) with you to the hearing.

19 What do I do if I receive *Application and Order to Require Examination After Submission of Financial Statement—Consumer Debt* (form EJ-147)?

If the court decides that an examination is needed after hearing the judgment creditor's *Notice of Motion and Motion to Require Examination—Consumer Debt* (form EJ-146), you will receive *Application and Order to Require Examination After Submission of Financial Statement—Consumer Debt* (form EJ-147) from the judgment creditor. Form EJ-147 schedules your examination, which is when you appear in court to provide information about your money and property. You must appear on the date and time listed in item 2 on form EJ-147.

At court on the day of the examination, the court will call the case. You will be administered an oath as if you were testifying in court. Then, typically, the court will tell you and the judgment creditor where you can meet privately to conduct the examination. The judgment creditor will ask you questions about your money and property.

If you do not appear at the time and place listed in item 2 on form EJ-147, the court may make you pay the judgment creditor's attorney's fees and costs.

OTHER INFORMATION

This part of the information sheet is for the judgment creditor and the judgment debtor.

20 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 *Request for Interpreter* (form INT-300) 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.

21 What if I have a disability?

If you have a disability and need accommodation while you are at court, you can use *Disability Accommodation Request* (form MC-410) to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see *How to Request a Disability Accommodation for Court* (form MC-410-INFO).

FL-640-INFO Information Sheet: Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income or Earning Capacity

INSTRUCTIONS

Who can use this form?

Either parent or the local child support agency can use this form.

Fill out this form yourself if you do not have an attorney to represent you. If you have an attorney, your attorney will need to fill out this form.

What do I use this form for?

Use this form to ask the court to cancel (set aside) a default judgment that is based on earning capacity or presumed income.

A **default judgment** is made when a party does not file an Answer and does not show up to court.

Earning capacity is used when the court does not have information about a parent's income, or the court believes the parent is underemployed. Before January 1, 2026, courts used **presumed income** when actual income was unknown, which was minimum wage at 40 hours every week.

You can only use this form if your actual income or earning capacity was different from the amount of earning capacity or presumed income that was used to make a decision about child support.

Is there a deadline to ask for a judgment to be canceled or set aside?

Yes, you must file this request within **two years** from the date that the first child support payment made by wage garnishment was received by the local child support agency.

How do I fill out this form?

① Fill out the **caption**. The caption is the box at the top left of the first page. Put your name, address, and telephone number in the top left part of the box if they are not already there. You will also need to put information about the local child support agency, the other parent, case number, and the court name and address in the caption. Look at *Judgment Regarding Parental Obligations (Governmental)* (form FL-630) in your case to help you fill out this information.

② Contact the court clerk to ask for a hearing date. You can find information about how to contact the court at courts.ca.gov/find-my-court.htm.

③ Fill out an ***Income and Expense Declaration*** **(form FL-150)** or ***Financial Statement (Simplified)*** **(form FL-155)** to give the court information about your current income and expenses. Attach this form to the Motion.

Find forms FL-150 and FL-155 at courts.ca.gov/forms.htm.

④ You may fill out a *Declaration About Parent's Income or Earning Capacity During Judgment Periods* (FL-643) to give the court information about your actual income and expenses during the time period covered by the Judgment.

Find form FL-643 at courts.ca.gov/documents/fl643.pdf.

⑤ You might also want to attach *Answer to Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental)* (form FL-610) to give the court more information. Talk to a lawyer or your family law facilitator for more information.

⑥ Fill out your contact information so the court can get in touch with you about this motion.

⑦ Sign and date your Motion.

⑧ Fill out the box at the top of the second page. Use the same information printed in the caption box on page 1 of form FL-640. Make sure to leave the rest of the page blank. You **do not** fill out this page. The person who serves the Motion will fill this out. Look at the "What do I do after I fill out the form?" section of these instructions for more information.

What do I do after I fill out the form?

① Make copies.

Fill out the box at the top of the second page. Use the same information printed in the caption box on page 1 of form FL-640. Make at least 3 copies of the papers: one for yourself, one to send to the local child support agency, and one to send to the other parent if the other parent is a party in the case.

② Have someone give a copy of the Motion to the local child support agency and the other parent if necessary.

The local child support agency and, in some situations, the other parent must be given a copy of any documents that you file. This is called service. You **cannot** serve your own Motion.

To serve these documents, you must ask someone who is 18 or older and not a part of the case to mail or hand deliver the documents to the local child support agency. If the other parent is a part of the case, the person serving the motion must also mail or hand deliver them to the other parent. If the documents are mailed to the other parent, the person serving the documents will need to state on the proof of service how the mailing address of the other parent was verified as their current address.

If you do not know the other parent's current mailing address, the person serving the documents can mail extra copies of the documents to the local child support agency. They will send the copies to the other parent. The local child support agency must receive the documents **at least 30 days before the hearing** if you want them to send the Motion to the other parent.

The person who serves the Motion will need to fill out the "Proof of Service" section on page 2 of the form.

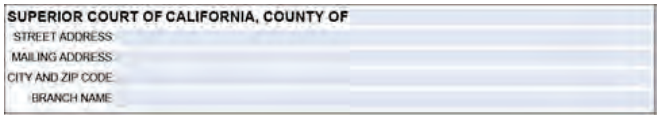
③ File your Motion with the court.

There is no fee to file this Motion.

You can file in person, by mail, or electronically (if available at your court).

If you file in person:

Take your original Notice and Motion form and your copies to the court. Look at the top of the Notice and Motion in your case to find the court's address:

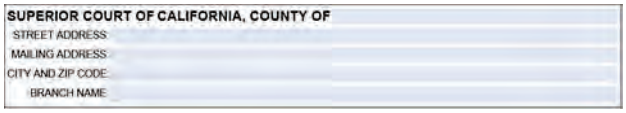

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
STREET ADDRESS:
MAILING ADDRESS:
CITY AND ZIP CODE:
BRANCH NAME:

Give your original Motion form and copies to the court clerk. The clerk will:

- Stamp your forms; and
- Keep the original and give the copies back to you.

If you file by mail:

- Mail your original Motion form and your copies to the court. Look at the top of the Notice and Motion in your case to find the court's address:


SUPERIOR COURT OF CALIFORNIA, COUNTY OF
STREET ADDRESS:
MAILING ADDRESS:
CITY AND ZIP CODE:
BRANCH NAME:

- Send a self-addressed stamped envelope with your forms. If you do not include a self-addressed stamped envelope, you will have to go to the courthouse to pick up your copies.

You may be able to file electronically:

- Look at your court's website to see if you can file electronically. Visit courts.ca.gov/find-my-court.htm.

What happens next?

Go to your court hearing.

If you do not go, the court may not cancel and recalculate the child support order in your case.

How can I get free help?

Every county has a family law facilitator that can:

- Explain the legal process;
- Give you free legal forms; and
- Help you fill out court papers.



Depending on your county, the facilitator may help you in person, online, or by phone. You can find the facilitator in your county here: courts.ca.gov/selfhelp-facilitators.htm.

Ask for a *Disability Accommodation Request*.



If you have a disability and need an accommodation while you are at court, you can use form MC-410 to make your request. For more information, see form MC-410-INFO.

GOVERNMENTAL AGENCY *(under Fam. Code, §§ 17400, 17406):*	*FOR COURT USE ONLY*
TELEPHONE NO.: FAX NO. *(Optional):* EMAIL ADDRESS *(Optional):* ATTORNEY FOR *(Name):*	DRAFT Not Approved by Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	
NOTICE OF MOTION ☐ **JUDGMENT** ☐ **MODIFICATION** ☐ **Child Support** ☐ **Health Care** ☐ **Injunctive Order** ☐ **Other:**	CASE NUMBER:

1. TO *(name):*

2. **READ THE ATTACHED REQUEST FORM.** A hearing on the motion for the relief requested will be held as follows:

   a. Date: Time: ☐ Dept.: ☐ Div.: ☐ Room:

   b. Address of court is ☐ same as noted above ☐ other *(specify):*

3. Supporting attachments:
   a. Completed *Request for Order and Supporting Declaration* (form FL-684) and blank *Response to Governmental Notice of Motion or Order to Show Cause* (form FL-685)
   b. ☐ Financial information and blank *Income and Expense Declaration* (form FL-150)
   c. ☐ *Earning Capacity Factors Attachment* (form FL-302)
   d. ☐ Points and authorities
   e. ☐ *Order for Genetic (Parentage) Testing* (form FL-627) **(If the respondent or other parent/party ignores this order, the issue of parentage may be decided against them.)**
   f. ☐ Other *(specify):*

4. ☐ NOTICE: IF YOU WISH TO HAVE A TRIAL, YOU MUST APPEAR AT THE HEARING ON THIS REQUEST.

Date:

(TYPE OR PRINT NAME) (SIGNATURE OF ATTORNEY)

ORDER

IT IS ORDERED THAT

5. Time for ☐ service ☐ hearing is shortened. Service must be on or before *(date):*
6. Any responsive declaration must be served on or before *(date):*
7. ☐ Petitioner ☐ Respondent ☐ Other parent/party is restrained from transferring, encumbering, hypothecating, concealing, or in any way disposing of the following property *(describe):*
8. ☐ Other *(specify):*
9. Number of pages attached:

Date:

JUDICIAL OFFICER

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:

NOTICE

This case may be referred to a court commissioner for hearing. By law court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case will act as a temporary judge unless, before the hearing, you or any other party objects to the commissioner acting as a temporary judge. The court commissioner may still hear your case to make findings and a recommended order. If you do not like the recommended order, you must object to it within 10 court days; otherwise, the recommended order will become a final order of the court. If you object to the recommended order, a judge will make a temporary order and set a new hearing.

Child support is based on your ability to pay, which may include your income, earning capacity, expenses, and lifestyle. The amount of child support can be large and can continue until the children reach age 18. You should give the court information about your income and expenses, and any specific circumstances that may affect your ability to earn. If you do not, the support order will be based on other information given to the court. If the child support amount in the proposed judgment is based on your earning capacity, and you do not appear at the hearing after failing to file an *Answer* (form FL-610), the court will enter a judgment without your input.

You do not have to pay any fee to file your *Response to Governmental Notice of Motion or Order to Show Cause (Governmental)* (form FL-685) and your completed *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155). You must file any documents with the court and have the copies served at least 9 court days before the hearing date to the local child support agency and the other party unless ordered otherwise. Add 5 calendar days if the motion is served by mail within California. (See Code of Civil Procedure section 1005 for other situations.) To determine court days and calendar days, go to selfhelp.courts.ca.gov/child-support/LCSA-Hearing-Notice/Respond.

PROOF OF SERVICE BY MAIL

1. I am at least 18 years of age, **not a party to this cause,** and a resident of or employed in the county where the mailing took place.
2. My residence or business address is:

3. I served a copy of this motion by enclosing it in a sealed envelope and depositing the envelope ☐ directly in the U.S. mail with postage paid OR ☐ at my place of business for same-day collection and mailing with the U.S. mail, following our business practices, with which I am readily familiar.
   a. Date of deposit:
   b. Place of deposit *(city and state):*
   c. Addressed as follows:

4. The address for each individual identified in item 3 was
   a. ☐ verified by the California Child Support Enforcement System (CSE) as the current primary mailing address on file.
   b. ☐ Other *(specify):*
5. 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 PERSON WHO SERVED MOTION)

Request for Accommodations
Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five court days before the trial. Contact the clerk's office or go to courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

GOVERNMENTAL AGENCY *(under Fam. Code, §§ 17400, 17406):*	*FOR COURT USE ONLY*
TELEPHONE NO.: FAX NO. *(Optional):* EMAIL ADDRESS *(Optional):* ATTORNEY FOR *(Name):*	DRAFT Not Approved by Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	
ORDER TO SHOW CAUSE FOR ☐ **MODIFICATION** ☐ **Child Support** ☐ **Health Care** ☐ **Injunctive Relief** ☐ **Other:**	CASE NUMBER:

1. To *(name):*
2. YOU ARE ORDERED TO APPEAR IN THIS COURT AS FOLLOWS TO GIVE ANY LEGAL REASON WHY THE RELIEF SOUGHT IN THE ATTACHED APPLICATION SHOULD NOT BE GRANTED.

   a. Date: Time: ☐ Dept.: ☐ Room:

   b. Address of court is ☐ same as noted above ☐ other *(specify):*

3. a. IT IS FURTHER ORDERED that a completed *Request for Order and Supporting Declaration (Governmental)* (form FL-684), or equivalent application order form, a **blank** *Response to Governmental Notice of Motion or Order to Show Cause (Governmental)* (form FL-685), and the following must be served with this order:
      (1) ☐ Financial information and blank *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155)
      (2) ☐ Points and authorities
      (3) ☐ *Order for Genetic (Parentage) Testing* (form FL-627)
      (4) ☐ Other *(specify):*

   b. (1) ☐ Time for ☐ service ☐ hearing is shortened. Service must be on or before *(date):*
      Any responsive declaration must be served on or before *(date):*
      (2) ☐ Petitioner ☐ Respondent ☐ Other parent/party
      is restrained from transferring, encumbering, hypothecating, concealing, or in any way disposing of the following property *(describe):*
      (3) ☐ Other *(specify):*

Date:

JUDICIAL OFFICER

NOTICE

This case may be referred to a court commissioner for hearing. By law, court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case will act as a temporary judge unless, before the hearing, you or any other party objects to the commissioner acting as a temporary judge. The court commissioner may still hear your case to make findings and a recommended order. If you do not like the recommended order, you must object to it within 10 court days; otherwise, the recommended order will become a final order of the court. If you object to the recommended order, a judge will make a temporary order and set a new hearing.

Child support is based on your ability to pay, which may include your income, earning capacity, expenses, and lifestyle. The amount of child support can be large and can continue until the children reach age 18. You should give the court information about your income, expenses, and any other circumstances that may affect your ability to earn. If you do not, the support order will be based on other information given to the court.

You do not have to pay any fee to file your *Response to Governmental Notice of Motion or Order to Show Cause (Governmental)* (form FL-685) and your completed *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155). You must file any documents with the court and serve copies at least 9 court days before the hearing date to the local child support agency and the other party unless ordered otherwise. Add 5 calendar days if you serve by mail within California. (See Code of Civil Procedure section 1005 for other situations.) To determine court and calendar days, go to selfhelp.courts.ca.gov/child-support/LCSA-Hearing-Notice/Respond.

Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five court days before the trial. Contact the clerk's office or go to courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	*FOR COURT USE ONLY*
NAME:		
FIRM NAME:		
STREET ADDRESS:		
CITY:	STATE: ZIP CODE:	
TELEPHONE NO.:	FAX NO.:	
EMAIL ADDRESS:		
ATTORNEY FOR *(name):*		

DRAFT
Not approved by the Judicial Council

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
STREET ADDRESS:
MAILING ADDRESS:
CITY AND ZIP CODE:
BRANCH NAME:

CASE NUMBER:

CONSERVATORSHIP OF THE ☐ PERSON ☐ ESTATE OF
(name):
PROPOSED CONSERVATEE

CONSERVATORSHIP PETITION HEARING DATE:

EX PARTE APPLICATION FOR ORDER AUTHORIZING COMPLETION OF CAPACITY DECLARATION—HIPAA*

TIME: DEPT.:

1. Applicant *(name):*
has filed a petition for the appointment of a conservator for the above-named proposed conservatee. The petition is set for hearing on *(date):* at *(time):* in ☐ Dept.: ☐ Rm.:

2. The petition requests *(check all that apply):*
   a. ☐ A finding that the proposed conservatee should be excused from attending the hearing on the petition.
   b. ☐ Exclusive authority to consent to medical treatment for the proposed conservatee.
   c. ☐ Authority to make placement or medication decisions related to a major neurocognitive disorder (such as dementia).
   d. ☐ Appointment of a conservator of the estate.
   e. ☐ Other *(specify):*

3. Applicant has requested *(name each declarant):*

to complete, sign, and deliver to applicant, for use to support the petition, a
☐ *Confidential Capacity Assessment and Declaration—Probate Conservatorship* (form GC-335)
☐ and an *Everyday Activities Attachment to Confidential Capacity Assessment and Declaration—Probate Conservatorship* (form GC-335A) (the Declaration) concerning the medical condition or mental capacity of *(name of proposed conservatee):*

4. The proposed conservatee has not consented to the disclosure of any private medical information that would be disclosed by the completed Declaration.

5. Applicant requests this court to authorize each declarant named in item 3 to complete, sign, and deliver the Declaration to applicant within 15 days of the declarant's receipt of the court's order.

6. Applicant requests this court to dispense with notice of hearing on this application.

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 APPLICANT'S NAME)

▶ (APPLICANT'S SIGNATURE)

* The federal Health Insurance Portability and Accountability Act of 1996. Use this form with *Ex Parte Order re Completion of Capacity Declaration—HIPAA* (form GC-334).

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):*	*FOR COURT USE ONLY* **DRAFT** **Not approved by the Judicial Council**
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CONSERVATORSHIP OF THE ☐ PERSON ☐ ESTATE OF *(name):* PROPOSED CONSERVATEE	CASE NUMBER: CONSERVATORSHIP PETITION HEARING DATE:
EX PARTE ORDER RE COMPLETION OF CAPACITY DECLARATION—HIPAA*	TIME: DEPT.:

1. Attached to this order is a *Confidential Capacity Assessment and Declaration—Probate Conservatorship* (form GC-335)
   ☐ and an *Everyday Activities Attachment to Confidential Capacity Assessment and Declaration—Probate Conservatorship* (form GC-335A) (the Declaration).

2. Applicant *(name):*
   having applied for an order authorizing the declarant(s) named in item 5 to complete, sign, and return the Declaration for the purpose specified in item 6, and good cause appearing:

THE COURT FINDS

3. Notice of the hearing on the application should be dispensed with and the application should be granted.

4. A petition for the appointment of a conservator has been filed in this proceeding by *(name of petitioner):*

   This petition is set for hearing on *(date):* at *(time):* in ☐ Dept.: ☐ Rm.:

5. Declarant *(name each):*

   has been requested to complete and sign the Declaration for the purpose specified in item 6.

6. Petitioner proposes to use the Declaration to provide evidence to support *(check all that apply):*
   a. ☐ A finding that the proposed conservatee should be excused from attending the hearing on the petition.
   b. ☐ A request for exclusive authority to consent to medical treatment for the proposed conservatee.
   c. ☐ A request for authority to make placement and medication decisions related to treatment of a major neurocognitive disorder (including dementia).
   d. ☐ The appointment of a conservator of the estate.
   e. ☐ Other *(specify):*

* The federal Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191).

CONSERVATORSHIP OF *(name):* PROPOSED CONSERVATEE	CASE NUMBER:

THE COURT ORDERS

7. Notice of hearing on the application is dispensed with.

8. Each declarant named below is authorized to complete, sign, and deliver to the attorney or other person whose address appears at the top of page 1 of this order the original of the Declaration, consisting of:
   a. *Confidential Capacity Assessment and Declaration—Probate Conservatorship* (form GC-335) *(name each authorized declarant):*

   b. ☐ and *Everyday Activities Attachment to Confidential Capacity Assessment and Declaration—Probate Conservatorship* (form GC-335A) *(name each authorized declarant):*

   regarding *(name of proposed conservatee):*
   to enable the Court to determine whether the proposed conservatee should be excused from attending the hearing on the appointment of a conservator or the proposed conservator should be granted certain powers over the person or estate of the proposed conservatee.

9. Use of the Declaration is governed by the disclosure safeguards in the regulations of the federal Department of Health and Human Services (45 C.F.R. §§ 160 & 164) under HIPAA, and no use other than what is permitted in those regulations is permitted by this order.

10. The completed and signed original of the Declaration must be returned to the attorney or other person whose address appears at the top of this order within 15 days after its receipt by the declarant authorized to complete and sign it.

11. Other orders *(specify):*

Date:

JUDICIAL OFFICER

CERTIFICATION

I certify that this document, including any attachments, is a correct copy of the original on file in my office.

Date: Clerk, by _____, Deputy

(SEAL)

RT-120-INFO How Can I Respond to a Petition for Retail Crime Restraining 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 retail crime restraining order?

It is a court order that prohibits you from doing certain things and going to certain places. It can be issued after a criminal conviction or as a civil order after two or more arrests or citations for certain retail theft crimes. This information sheet covers civil orders only.

Do I need a lawyer?

Having a lawyer is recommended, but it is not required. You are entitled to court-appointed counsel. If you wish to request court-appointed counsel, fill out items (1), (2), and (3) on form RT-120. You can also ask the court clerk about free and low-cost legal services and self-help centers in your county.

What does the order do?

The court can order a person not to enter or be on the grounds of a business.

Who can ask for a retail crime restraining order?

- A prosecuting attorney
- A city attorney
- A lawyer for the county counsel
- A lawyer representing a retail business

I've been served with a petition for retail crime restraining order. 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.

What if I don't agree with the request?

If you disagree with the orders the person is asking for, fill out form RT-120, *Response to Petition for Retail Crime Restraining Order*, 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 courts.ca.gov/rules-forms/find-your-court-forms. Your lawyer 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, who is not involved in this case, mail a copy of completed form RT-120 to the person who asked for the order. (This is called "service by mail.")

The person who serves the form by mail should fill out form POS-030, *Proof of Service by First-Class Mail—Civil.* 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. Even if you do not file a response you should go to court on the date listed on form RT-109, *Notice of Court Hearing*. If you do not go to the hearing, the judge can make orders against you without you being present.

How long does the order last?

Any order issued at the hearing can last up to two years.

What if I don't obey the order?

The police can arrest you. You may go to jail and have to pay a fine.

Will I see the person who asked for the order at the court hearing?

Yes. Assume that the business that is asking for the order will send someone to the hearing. Do not talk to that person unless the judge says that you can.

Do I have to pay a filing fee?

Yes, but 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. Also, if you are eligible for a fee waiver, you can ask the sheriff or marshal to serve your papers for free. If you are not eligible for free service, you may pay the sheriff or marshal to serve your papers.

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.

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.

Can I agree with the business to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the person who requested the order 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.*

For help in your area, contact:

[Local information may be inserted.]

NAME AND ADDRESS OF COURT:

SMALL CLAIMS CASE NO.:

SC-136

FOR COURT USE ONLY

DRAFT
08/26/2025
NOT
APPROVED BY
COUNCIL

PLAINTIFF/DEMANDANTE *(name and street address of each)*:

Telephone No.:

DEFENDANT/DEMANDADO *(name and street address of each)*:

Telephone No.:

☐ See attached sheet for additional plaintiffs and defendants.

ORDER TO PRODUCE FINANCIAL STATEMENT OR APPEAR FOR EXAMINATION—CONSUMER DEBT
(Small Claims)

Instructions to the judgment creditor (the party who won the case and is owed money) for completing this form:

- Use this form if you are a judgment creditor in a small claims case and *Notice of Entry of Judgment* (form SC-130 or SC-200) says the judgment includes an amount concerning consumer debt.
- Complete the application on page 2 to ask the court to require the judgment debtor (the person or business that lost the case and owes money) to come to court with a completed *Judgment Debtor's Statement of Assets* (form SC-133) and answer questions about their money and property.
- Read *What to Do After the Court Decides Your Small Claims Case* (form SC-200-INFO) for help choosing the correct form and for information about steps you must take after the court decides your case.

1. TO JUDGMENT DEBTOR *(name):*

2. YOU ARE ORDERED

   a. to pay the judgment and file proof of payment (a canceled check or money order or cash receipt, and a written declaration that shows full payment of the judgment, including postjudgment costs and interest) with the court before the hearing date shown in the box below, **OR**

   b. to provide information about your money and property. You must do so by choosing one of the two options listed below:

      (1) Serve a completed *Financial Statement—Consumer Debt* (form EJ-144) on the judgment creditor and file a completed *Notice of Financial Statement—Consumer Debt* (form EJ-143) and a proof of service for form EJ-144 with the court; **OR**

      (2) Personally appear in this court on the date and time shown below and bring with you a completed *Judgment Debtor's Statement of Assets* (form SC-133).

      If you personally appear in court, you will be required to answer questions about your money and property and explain why you did not complete and mail form SC-133 to the judgment creditor in a timely manner. *(You should have sent it within 30 days after* Notice of Entry of Judgment *(form SC-130) was mailed or handed to you by the clerk.)*

Hearing Date → Date: _____ Time: _____

Dept.: _____ Room: _____

Name and address of court, if different from above:

3. This order may be served by a sheriff, marshal, or registered process server.

Date:

_____
(SIGNATURE OF JUDGE)

This order must be served no less than 30 days before the date set for the examination.

IMPORTANT NOTICE ON PAGE 3

4. Judgment creditor (the person who won the case) *(name)*: applies for an order requiring judgment debtor (the person or business who lost the case and owes money) *(name)*: to:
   a. Pay the judgment, **OR**
   b. Provide information about judgment debtor's money and property by either
      (1) serving a completed *Financial Statement—Consumer Debt* (form EJ-144) on judgment creditor and filing a completed *Notice of Financial Statement—Consumer Debt* (form EJ-143) with the court; **OR**
      (2) personally appearing in this court with a completed *Judgment Debtor's Statement of Assets* (form SC-133), explaining why judgment debtor did not pay the judgment or complete and mail form SC-133 to judgment creditor within 30 days after *Notice of Entry of Judgment* (form SC-130 or SC-200) was mailed or handed to judgment debtor, and answering questions about judgment debtor's money and property.

5. I, judgment creditor, state the following:
   a. Judgment debtor has not paid the judgment.
   b. Judgment debtor either did not file an appeal, or the appeal has been dismissed, or judgment debtor lost the appeal.
   c. Judgment debtor either did not file a motion to vacate, or the motion to vacate has been denied.
   d. More than 30 days have passed since *Notice of Entry of Judgment* was mailed or handed to judgment debtor.
   e. I have not received a completed *Judgment Debtor's Statement of Assets* (form SC-133) from judgment debtor.
   f. Judgment debtor resides or has a place of business in this county or within 150 miles of the place of examination.

6. ☐ *Notice of Entry of Judgment* (form SC-130 or SC-200) says the judgment includes an amount "concerning consumer debt (Code Civ. Proc., § 708.111)."

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) ▶ (DECLARANT)

INSTRUCTIONS FOR APPLICANT

Most counties are required to have a Small Claims Advisor to give free legal information in small claims cases.

1. Use this form if you are a judgment creditor (the court ordered the other side to pay you money) in a small claims case, *Notice of Entry of Judgment* (form SC-130 or SC-200) says the judgment includes an amount concerning consumer debt, and the judgment was entered on or after January 1, 2025.
   - If the judgment does **not** concern consumer debt, use *Application and Order to Produce Statement of Assets and to Appear for Examination* (form SC-134) or *Application and Order for Appearance and Examination* (form EJ-125).
   - If you only want to ask the court to order the judgment debtor to come to court for an examination (answering questions about their money and property) and you do **not** want to enforce your right to receive a completed *Judgment Debtor's Statement of Assets* (form SC-133), use *Application and Order to Appear for Examination—Consumer Debt* (form EJ-141).
   - If you want to ask for a second examination of this judgment debtor, use *Application and Order to Appear for Examination—Consumer Debt* (form EJ-141). Do not use form SC-136 to ask for a second examination.

2. Read *Information on Debtor's Examinations Regarding Consumer Debt* (form EJ-140-INFO) for help choosing the correct form, instructions on how to complete and file this form, and information on how the judgment debtor can respond.

3. If you want to be able to ask the court to enforce the order on the judgment debtor, you must have a copy of this form and a blank copy of the forms listed below served on the judgment debtor in person by a sheriff, marshal, or registered process server at least **30 calendar days** before the date of the hearing, and have a proof of service filed with the court.
   - *Judgment Debtor's Statement of Assets* (form SC-133)
   - *Information on Debtor's Examinations Regarding Consumer Debt* (form EJ-140-INFO/SC-136-INFO)
   - *Financial Statement—Consumer Debt* (form EJ-144)
   - *Notice of Financial Statement—Consumer Debt* (form EJ-143)
   - *Exemptions From the Enforcement of Judgments* (form EJ-155)
   - *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156)

4. You must attend the hearing unless the judgment has been paid. Bring a copy of your completed form SC-136 with you to the hearing.

NOTICE TO JUDGMENT DEBTOR

If you fail to appear at the time and place specified in this order, the court may make an order requiring you to pay the reasonable attorney's fees and costs incurred by the judgment creditor in this proceeding.

Instead of appearing at the examination, you may file a notice of judgment debtor's financial affidavit in a form prescribed by the court (form EJ-143) and signed under penalty of perjury and serve copies of all filed documents and the financial affidavit (form EJ-144) on the judgment creditor no later than 15 days prior to the date set for the examination. (This option is the same as option 2b(1) on page 1.)



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 courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civil Code, § 54.8.)

SC-200-INFO What to Do After the Court Decides Your Small Claims Case

First, read the court's decisions on *Notice of Entry of Judgment* (either form SC-130 or form SC-200). It will tell you the court's judgment in this case. **Then read this form.** It will help you protect or enforce your rights, whether you won or lost the case.

> ***Warning!*** You may lose important rights if you do not act within 30 days after the court handed or mailed you *Notice of Entry of Judgment*. If the court mailed *Notice of Entry of Judgment,* the date of mailing is on *Clerk's Certificate of Mailing* that came with the notice.

If the court did not award you any money on a claim that you filed… The court's decision on your claim is *normally* final. You cannot appeal the decision on your own claim, but you may be allowed to ask the court to correct a mistake in the judgment.

If the court ordered you to pay money…

You are the *judgment debtor*. The law requires you to pay the judgment. You **can:**

- Pay the judgment creditor directly;
- Pay the court (to do so, file form SC-145, *Request to Pay Judgment to Court*); or
- Ask the court to let you make payments (to do so, file form SC-220, *Request to Make Payments*).

If any payment is not made in full and on time, the judgment creditor may notify the court to cancel the payment plan and the entire unpaid balance will become due and collectible.

Warning! **If you do not pay the judgment or file** an appeal or a motion to vacate (cancel) or correct the judgment **within 30 days** after *Notice of Entry of Judgment* was handed or mailed to you, your wages, money, and property can be taken to pay the claim. You may also have to pay interest. If your case involves an auto accident on a California highway, the Department of Motor Vehicles (DMV) can suspend your driver's license.

After you pay the judgment in full, you can ask the judgment creditor to file a form saying the judgment is paid. (See form SC-290, *Acknowledgment of Satisfaction of Judgment*.) If the judgment creditor does not do this, they may have to pay you damages and a penalty.

If you disagree with the judgment ordering you to pay money and you went to the small claims trial, you can appeal that decision. (You cannot appeal the decision on your own claim.) To do so, file form SC-140, *Notice of Appeal*, within 30 days after *Notice of Entry of Judgment* was handed or mailed to you. There will be a new trial in the superior court on all claims in the case. Each side will present evidence again. This time, each side can have a lawyer at the trial.

(Continued on page 2)

If the court ordered the other side to pay *you*…

You are the *judgment creditor*. **You** must collect your judgment. The court will not collect it for you. Some steps you can take to collect your money are summarized below. For more information, go to selfhelp.courts.ca.gov/small-claims/after-trial/if-you-win.

Important! The judgment debtor has **30 days** after being handed or mailed *Notice of Entry of Judgment* to appeal or pay or ask the court to cancel or correct the judgment. You cannot take legal steps to collect the judgment during this time.

Ask the judgment debtor to pay you the money. If the judgment debtor cannot afford to pay the judgment all at once, consider offering to take payments. If your claim was for possession of property, ask the judgment debtor to return the property to you.

If the judgment debtor does not pay, you can find out about the debtor's income or property that the sheriff can take to satisfy the judgment.

- If the debtor does not pay within 30 days after the court clerk delivered or mailed *Notice of Entry of Judgment*, the debtor must send you form SC-133, *Judgment Debtor's Statement of Assets*. This form will tell you what money and property the debtor has that may be used to pay the judgment.
- **If the debtor does not send you the completed form SC-133,** you can file form SC-134, *Application and Order to Produce Statement of Assets and to Appear for Examination*. In this form, you can also ask the court to award you your attorney fees, expenses, and other appropriate relief. If *Notice of Entry of Judgment* says the judgment includes an amount "concerning consumer debt," file form SC-136, *Application and Order to Produce Financial Statement or Appear for Examination—Consumer Debt*, instead of form SC-134.

(Continued on page 2)

If the court ordered you to pay money… *(continued)*

If you disagree with the judgment ordering you to pay money, and you did not go to the trial, you can ask the court to vacate (cancel) the judgment. To do so, file form SC-135, *Notice of Motion to Vacate Judgment and Declaration*, **within 30 days*** after *Notice of Entry of Judgment* was handed or mailed to you. If the court denies your request, you have until 10 days from the date the notice of denial is mailed to file an appeal.

Exception:* If the claim against you was not properly served, you have **180 days from the date that you found out (or should have found out) about the judgment against you to file a request to cancel the judgment.

Unless you pay the judgment or file an appeal or a motion as discussed above, you must complete form SC-133, *Judgment Debtor's Statement of Assets*, and deliver it to the judgment creditor within 30 days after the clerk delivered or mailed *Notice of Entry of Judgment*.

Warning! If you do not deliver the completed form SC-133, the court can order you to pay attorney fees and impose other penalties.

If the court ordered the other side to pay ***you…*** *(continued)*

- **If the debtor *does* send you form SC-133, you can still have the debtor come to court to answer questions** about income and property. To do so, file form EJ-125, *Application and Order for Appearance and Examination*. If *Notice of Entry of Judgment* says the judgment includes an amount "concerning consumer debt," file form EJ-141, *Application and Order to Appear for Examination—Consumer Debt*, instead of form EJ-125.
- To obtain the judgment debtor's financial records from another person or a company at a hearing, fill out form SC-107, *Small Claims Subpoena and Declaration*, take it to the small claims court clerk to be issued, and then have it served.

Once you know about the judgment debtor's income and property, you can ask the sheriff to take that property to pay you. (Property that may be taken includes wages, bank accounts, automobiles, business property, and rental income.) To do so, fill out and ask the court clerk to issue form EJ-130, *Writ of Execution*. Then, take the form to the sheriff's office with a description of the debtor's property.

You can also put a lien on the judgment debtor's house or other real estate. To do so, fill out and ask the court clerk to issue form EJ-001, *Abstract of Judgment—Civil and Small Claims*. Then, take or mail the *Abstract* to the county recorder's office in the county where you think the debtor owns real property. If the judgment debtor sells, refinances, or buys real property in that county, your judgment should be paid from the debtor's funds.

After the judgment has been paid in full, you must fill out an *Acknowledgment of Satisfaction of Judgment* and file it with the court clerk. If *Abstract of Judgment—Civil and Small Claims* (form EJ-001) has not been recorded, you may use form SC-130 or form SC-290. If an abstract has been recorded, use form EJ-100.

Warning! If you do not file an *Acknowledgment of Satisfaction of Judgment*, you may have to pay the judgment debtor damages and a penalty.

You may need to pay fees to the court, the county recorder's office, or the sheriff for filing, issuing, and recording papers and doing the other things discussed above. Sometimes, you can ask the court to order the other side to repay you for these expenses.

Need help? For free help, contact your county's small claims advisor:
[local info here]

Or visit selfhelp.courts.ca.gov/small-claims-advisor.

PLAINTIFF: DEFENDANT:	CASE NUMBER:

JUDGMENT—UNLAWFUL DETAINER HABITABLE PREMISES ATTACHMENT

1. **Conditional judgment.** Plaintiff breached the covenant to provide habitable premises to defendant.

a. ☐ Defendant must pay plaintiff a reduced rent because of the breach in the amount and for the period shown below. *(Specify each defect on a separate line, the month or months (or other period) that the defect existed, and the percentage or amount of the reduced rent as a result of the defect to arrive at the reasonable value of the premises for the period that the defect or defects existed.)*

Month and year defect existed	Defect	Reasonable rental value is reduced by *(specify percentage)* or *(specify amount)*	Reduced monthly rent due
(1)		% $	$
(2)		% $	$
(3)		% $	$
(4)		% $	$
(5)		% $	$
☐ Continued on *Attachment* 7a (form MC-025).			
		Total rent due in the 3-day notice is now *(specify):*	$

b. ☐ Defendant is entitled to attorney fees *(specify):* $ and costs *(specify):* $.

c. ☐ Defendant is the prevailing party if defendant pays plaintiff *(specify total rent in item 7a, less any attorney fees and costs in item 7b):* $ by p.m. on *(date):* at *(address):*

d. ☐ Judgment will be entered for defendant when defendant has complied with item 7c shown

☐ by defendant's filing of a declaration under penalty of perjury (see form MC-030), with proof of service on the plaintiff, OR

☐ at a hearing that has been set in this court as follows:

Date:	Time:	Dept.:	Room:

(1) ☐ Defendant must continue to pay rent after expiration of the 3-day notice if the defendant continues in possession of the premises in the amount of: $ per month. The total rent at item 7a is the corrected amount under the 3-day notice.

(2) ☐ Plaintiff must repair the defects described in item 7a. The court retains jurisdiction over the case until those repairs are made. Rent remains reduced in the amount of *(specify monthly rent):* $ until the repairs are made.

(3) ☐ Rent will increase to *(specify monthly rent):* $ the day after

☐ plaintiff files a declaration under penalty of perjury (see form MC-030), with proof of service on the defendant, stating that all the repairs have been made OR

☐ it is established that all the repairs have been made at a hearing set in this court as follows:

Date:	Time:	Dept.:	Room:

PLAINTIFF: DEFENDANT:	CASE NUMBER:

1. e. ☐ Plaintiff is the prevailing party if defendant fails to comply with items 7c and 7d.

f. ☐ Judgment will be entered for plaintiff

☐ when plaintiff files a declaration under penalty of perjury (see form MC-030), with proof of service on the defendant, that the amount in item 7c has not been paid, OR

☐ at a hearing that has been set in the court as follows:

Date:	Time:	Dept.:	Room:

(1) ☐ Past-due rent *(item 7a)*	$
(2) ☐ Holdover damages*	$
(3) ☐ Attorney fees *(item 7b)*	$
(4) ☐ Costs *(item 7b)*	$
(5) ☐ Other *(specify):*	$
(6) **TOTAL JUDGMENT**	$

***Use one of the following formulas: From expiration of the 3-day notice to

☐ today's date ☐ date the premises were vacated *(specify number of days)* times

☐ *(specify reduced monthly rent: $* *times 0.03228 (12 months divided by 365 days).)*

☐ *(specify reduced rent per month divided by 30): $*

= Total holdover damages

g. ☐ Plaintiff is awarded possession of the premises located at *(street address, apartment, city, and county):*

h. ☐ The rental agreement is canceled. ☐ The lease is forfeited.

2. ☐ **Other** *(specify):*

PLAINTIFF: DEFENDANT:	CASE NUMBER:

JUDGMENT—UNLAWFUL DETAINER PARTIAL EVICTION ATTACHMENT

1. **Partial eviction.** A partial eviction is issued.

a. ☐ The court finds the following:

(1) The proceeding involves a residential premises.

(2) The complaint includes a cause of action based on an act of abuse or violence against a tenant, a tenant's immediate family member, or a tenant's household member.

(3) Defendant *(name each):*

has invoked Code of Civil Procedure section 1161.3(d)(2) as an affirmative defense.

(4) There is documentation evidencing abuse or violence against defendant *(name each):*

or a member of their immediate family or household perpetrated by defendant *(name each):*

Based on the above findings, the court orders as follows:

b. (1) Defendant *(name each):*

is not guilty of an unlawful detainer and is not liable to landlord for any amount related to the unlawful detainer.

(2) ☐ To remain in the tenancy, the defendants must not permit or invite the perpetrator of abuse or violence to live in the dwelling unit.

c. ☐ Defendant *(name each):*

is guilty of an unlawful detainer and is

(1) ordered to be immediately removed and barred from the dwelling unit.

(2) ☐ liable for damages, including holdover damages, court costs, lease termination fees, or attorney's fees, as provided in item 6.

(3) ☐ permanently barred from entering any portion of the residential premises.

d. The plaintiff is ordered to change the locks and to provide the remaining occupants with the new key.

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NUMBER:	*FOR COURT USE ONLY*
NAME:		
FIRM NAME:		
STREET ADDRESS:		
CITY:	STATE: ZIP CODE:	**DRAFT**
TELEPHONE NO.:	FAX NO.:	**08/26/2025**
EMAIL ADDRESS:		
ATTORNEY FOR *(name):*		**NOT APPROVED BY COUNCIL**
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
PLAINTIFF:		
DEFENDANT:		
STIPULATION FOR ENTRY OF JUDGMENT (Unlawful Detainer)		CASE NUMBER:

1. IT IS STIPULATED by plaintiff *(name each):* and defendant *(name each):*

2. ☐ Plaintiff ☐ Defendant *(specify name):* is awarded
   a. ☐ possession of the premises located at *(street address, apartment number, city, and county):*
   b. ☐ cancellation of the rental agreement. ☐ forfeiture of the lease.
   c. ☐ past due rent $
   d. ☐ total holdover damages $
   e. ☐ attorney fees $
   f. ☐ costs $
   g. ☐ deposit of $ ☐ See item 3.
   h. ☐ other *(specify):*
   i. Total $ to be paid by ☐ *(date):* ☐ installment payments (see item 5)

3. ☐ Deposit. If not awarded under item 2g, then plaintiff must
   a. ☐ return deposit of $ to defendant by *(date):*
   b. ☐ give an itemized deposit statement to defendant within three weeks after defendant vacates the premises (Civ. Code, § 1950.5).
   c. ☐ mail the ☐ deposit ☐ itemized statement to the defendant at *(mailing address):*

4. ☐ A writ of possession will issue immediately, but there will be no lockout before *(date):*

5. ☐ AGREEMENT FOR INSTALLMENT PAYMENTS
   a. Defendant agrees to pay $ *on the (specify day)* day of each month beginning *on (specify date)* until paid in full.
   b. If any payment is more than *(specify)* days late, the entire amount in item 2i will become immediately due and payable plus interest at the legal rate.

6. a. ☐ Judgment will be entered now.
   b. ☐ Judgment will be entered only upon default of payment of the amount in item 2i or the payment arrangement in item 5a. The case is calendared for dismissal on *(date and time)* in department *(specify)* unless plaintiff or defendant otherwise notifies the court.
   c. ☐ Judgment will be entered as stated in *Judgment—Unlawful Detainer Habitable Premises Attachment* (form UD-110H), which is attached.
   d. ☐ Judgment will be entered as stated in item 7.

PLAINTIFF: DEFENDANT:	CASE NUMBER:

7. ☐ Plaintiff and defendant further stipulate as follows *(specify):*

8. a. **The parties named in item 1 understand that they have the right to (1) have an attorney present and (2) receive notice of and have a court hearing about any default in the terms of this stipulation.**

b. Date:

(TYPE OR PRINT NAME)	▶ (SIGNATURE OF PLAINTIFF OR ATTORNEY)
(TYPE OR PRINT NAME)	▶ (SIGNATURE OF PLAINTIFF OR ATTORNEY)

☐ Continued on *Attachment* 8b (form MC-025).

c. Date:

(TYPE OR PRINT NAME)	▶ (SIGNATURE OF DEFENDANT OR ATTORNEY)
(TYPE OR PRINT NAME)	▶ (SIGNATURE OF DEFENDANT OR ATTORNEY)
(TYPE OR PRINT NAME)	▶ (SIGNATURE OF DEFENDANT OR ATTORNEY)

☐ Continued on *Attachment* 8c (form MC-025).

9. IT IS SO ORDERED.

Date:

JUDICIAL OFFICER

WV-610

Notice of Hearing on Request to ☐ Modify ☐ Terminate Workplace Violence Restraining Order

Clerk stamps date here when form is filed.

Party seeking order completes items (1) and (2).

(1) Party Seeking Modification/Termination

a. Your Full Name: _____

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.)*

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) Other Party

a. Full Name: _____

b. 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 unless terminated by the court.

Hearing Date → Date: _____ Time: _____

Dept.: _____ Room: _____

Name and address of court if different from above:

_____

_____

_____

_____

(4) Service on Other Party

a. Someone age 18 or older—**not you**—must serve a copy of the following forms on the other party or parties:

- WV-600, *Request to Modify/Terminate Workplace Violence Restraining Order*;
- WV-610, *Notice of Hearing on Request to Modify/Terminate Workplace Violence Restraining Order* (this form);
- WV-620, *Response to Request to Modify/Terminate Workplace Violence Restraining Order* (blank copy).

The forms must be served on the other party _____ days before the hearing.

b. **If you are the Respondent: You must have the Protected Person personally served with these forms. This requirement of personal service on the Protected Person is not a justification for you to violate the terms of the restraining order.** You must also serve the Petitioner employer. Service on the employer may be by mail.

c. **If you are the Petitioner employer and you are requesting modification or termination other than at the request of the Protected Person: You must have the Protected Person personally served with these forms.** You must also serve the Respondent. Service on the Respondent may be by mail.

d. **If you are the Protected Person:** The Respondent and Petitioner employer may be served with these forms by mail.

e. The person who serves the forms must fill out either form WV-200, *Proof of Personal Service*, or form WV-250, *Proof of Service of Response by Mail* (or both). Have the person who served sign the original. Take the signed original proof-of-service form back to the court clerk for filing or bring it with you to the hearing. For help with personal service, see form WV-200-INFO, *What Is "Proof of Personal Service"?*.

Date: _____ Clerk, by _____, Deputy

To the Other Party:

If you wish to make a written response to this request to modify or terminate the current workplace violence restraining order, you may fill out form WV-620, *Response to Request to Modify/Terminate Workplace Violence 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 other party at the address in ①at least _____ days before the hearing. Also file form WV-250, *Proof of Service of Response by Mail*, with the court before the hearing.

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 for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Notice of Hearing on Request to Modify/Terminate Workplace Violence Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____

Clerk, by _____, Deputy