



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

W25-07

Title

Protective Orders: New Civil Retail Crime Restraining Order

Action Requested

Review and submit comments by January 6, 2025

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rules 1.51, 3.1160, and 3.1162; adopt forms RCP-100, RCP-109, RCP-115, RCP-116, RCP-120, and RCP-130; approve forms RCP-100-INFO and RCP-120-INFO

Proposed Effective Date

July 1, 2025

Contact

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Proposed by

Civil and Small Claims Advisory Committee
Hon. Donald J. Proietti, Chair

Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes amending three California Rules of Court, adopting six Judicial Council forms for mandatory use, and approving two information sheets in a new forms series to implement recent legislation creating a new civil retail crime restraining order.

Background

The Legislature recently enacted Assembly Bill 3209 (Stats. 2024, ch. 169) (Link A), which adds a section to the Penal Code on new retail crime restraining orders. Under Penal Code section 490.8(e), an attorney representing a retail establishment, a prosecuting attorney, a city attorney, or county counsel may petition for a retail crime restraining order against somebody who has been arrested or cited at least two times for committing certain offenses.¹ A civil restraining order prohibiting the respondent from entering the retail establishment for up to two years may

¹ These offenses are shoplifting (§ 459.5); any theft, including a violation of section 487 or 488, from a retail establishment; organized retail theft (§ 490.4); vandalism of a retail establishment (§ 594); or any assault or battery of a retail establishment employee, including a violation of section 240, 242, or 245.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

be issued if the court finds by a preponderance of the evidence both that the respondent committed the offenses they were arrested or cited for and that there is a substantial likelihood that the individual will return to the retail establishment. If the retail establishment is part of a chain or franchise, the court may also prohibit entry to other locations of the retail establishments within a specified geographic range. Before issuing an order, the court must consider whether the retail establishment is the only place that sells basic life necessities within one mile of where the respondent lives or otherwise creates an undue hardship for the respondent.

Several categories of restraining order already exist in the Code of Civil Procedure, the Penal Code, and the Family Code. As enacted, retail crime restraining orders differ from other types of restraining orders in several important ways. First, Penal Code section 490.8(e)(3) provides that respondents are entitled to representation by court-appointed counsel.² Second, retail crime restraining orders must be issued after a hearing, which forecloses the possibility of temporary restraining orders. Finally, section 490.8 is silent on firearm relinquishment, recovery of court costs or attorney's fees, whether respondent may file a response, the timing of required service, and when parties are entitled to continuances.

In addition to creating the new retail crime restraining orders, AB 3209 also provides, under Family Code section 6380, that the California Department of Justice be immediately notified of specified information about an issued retail crime restraining order. The transmittal of such information for other restraining orders is currently achieved through the California Law Enforcement Telecommunications System (CLETS) and the California Restraining and Protective Order System (CARPOS).

The Proposal

The committee proposes a new retail crime prevention form series, with forms designated by the prefix "RCP," and amendments to three rules of court to implement the new retail crime restraining order in Penal Code section 490.8(e).³ The changes proposed in this invitation to comment are urgently needed to conform to the law.

Forms

Specifically, the committee proposes a petition, a notice of hearing, a request for continuance, an order on the request for continuance, a response, and an order form,⁴ as well as information

² The statute does not address issues related to a court's appointment of counsel, such as expense or who may be appointed.

³ Section 490.8 also provides that a court sentencing a defendant for the specified offenses may restrain the defendant from entering the retail establishment for a period of up to two years. The Judicial Council's Criminal Law Advisory Committee is proposing a new form to implement such restraining orders; the invitation to comment is available at www.courts.ca.gov/policyadmin-invitationstocomment.htm.

⁴ The footer of the order form contains a three-digit identifier known as an order type that is provided by the Department of Justice for every protective order type issued in California. The identifier will be updated once it has been provided by the Department of Justice.

sheets to accompany the petition and response⁵ to implement the new law. To keep all restraining order forms as consistent as possible, the proposed forms follow the naming and numbering conventions, and the structure, of existing restraining order forms. In light of the differences in the governing statute, the proposed forms have several significant differences: they include new items addressing specific issues for retail crime restraining orders and omit inapplicable items.

Among those differences is the ability for a respondent to request court-appointed counsel on the proposed response (form RCP-120). That proposed form contains instructions to the respondent that if they are requesting appointment of counsel they should not fill out items on the response beyond party and contact information and the request for appointment. Relatedly, the proposed *Request to Continue Court Hearing* (form RCP-115) and the corresponding order (form RCP-116) include respondent not yet receiving appointed counsel as a reason for continuance. Another nuance in the proposed response is, under Penal Code section 490.8(d), item 5 on form RCP-116 allows a respondent to explain that the retail establishment is the only place that sells basic life necessities within one mile of their residence or otherwise creates undue hardship for them.

The proposed petition (form RCP-100) is also tailored to collect information that the petitioner must show for an order to issue. Specifically, in items 5 and 6, the petitioner must list the respondent's two arrests or citations and describe the respondent's conduct in those incidents. Similarly, in item 7, the petitioner must explain why they believe the respondent is likely to return to the retail establishment. The petition also includes a check box to indicate whether the retail establishment is part of a chain or franchise and identifies the attorney filing the petition.

Among the most substantive differences between the proposed forms and existing protective order forms is what is not included. Since Penal Code section 490.8(e) does not provide for temporary restraining orders, firearm relinquishment, or recovery of court costs or attorney's fees, the forms are silent as to all those issues. Additionally, since retail crime restraining order petitions can only be brought by government attorneys (who are not subject to a filing fee) and retail establishments, the petition does not include information about fee waivers.⁶

Rules

In order to facilitate the transmission of required information to the Department of Justice under Family Code section 6380, current California Rules of Court, rule 1.51 requires restraining order petitioners to fill out and provide *Confidential Information for Law Enforcement* (form

⁵ The committee does not propose an information sheet to accompany the request for continuance and related order at this time. A significant portion of the information on the corresponding information sheet for other protective orders does not apply to retail crime restraining orders.

⁶ An item to request a fee waiver was included on the response as it is possible that respondent would be entitled to one.

CLETS-001) to the court.⁷ Given that retail crime restraining orders are now subject to section 6380's requirements, the committee proposes including retail crime restraining orders in rule 1.51.⁸

Additionally, the committee proposes inclusion of retail crime restraining orders in California Rules of Court, rules 3.1160 and 3.1162. Existing rule 3.1160 sets out certain procedural requirements for requesting protective orders, including requiring personal service of the petition at least five days before the hearing, allowing responses to petitions to be written or oral, and providing courts discretion to continue hearings. Although Penal Code section 490.8 does not specifically apply the requirements in rule 3.1160 to retail crime restraining orders, the committee proposes amendments to the rule so that all restraining orders, including those for retail crime, have similar procedures and requirements.⁹

Similarly, existing rule 3.1162 provides that if the respondent appears at a hearing on a restraining order through the use of remote technology and has received actual notice of the restraining order, no additional proof of service is required for enforcement of the order. The committee proposes that such provisions also apply to retail crime restraining orders.

Alternatives Considered

The committee considered a combined order form for both civil and criminal (postconviction) retail crime restraining order forms. However, the committee decided against this approach because it may be confusing to litigants and present challenges for entering information into CARPOS through CLETS.

The committee additionally considered proposing a separate rule of court on procedure for retail crime restraining orders, but ultimately concluded that similar procedures for all restraining orders is preferable. Included in this proposal is a request for specific comment as to whether it is appropriate to have procedures for existing civil restraining orders apply to retail crime restraining orders.

The response forms for other civil restraining orders contain an item in which the respondent can provide a justification or excuse for committing some or all of the actions that the petitioner accused them of committing. The committee considered including a similar item on form

⁷ The rule currently refers to form CLETS-001 as *Confidential CLETS Information*, which is a previous title of form. The committee proposes updating rule 1.51 with the current title of the form and the form number in subdivision (a) and referencing only the form number in subsequent subdivisions.

⁸ Revisions to form CLETS-001 are not included in this proposal. The committee anticipates possible revisions to the CLETS form during the spring invitation-to-comment period and will include any recommendations to better align the form for retail crime restraining orders at that time.

⁹ Given that the response form in retail crime restraining orders is also used to request court-appointed counsel, the committee proposes excluding responses for such restraining orders from the provisions of the second sentence of rule 3.1160(d), which prohibits a continuance if a response is provided to the petitioner at least two days before the hearing.

RCP-120 but concluded that since retail crime restraining orders are based on the commission of specified crimes it is best not to include an item asking the respondent to admit that they did some of the actions they are accused of and provide justification. The committee has included a request for specific comment about what should be included on the response form for retail crime restraining orders.

Fiscal and Operational Impacts

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

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Given the absence of several procedural requirements in Penal Code section 490.8, is it appropriate for civil retail crime restraining orders to be subject the procedural requirements of other restraining orders, particularly those found in rule 3.1160?
- Civil retail crime restraining orders require proof of arrest or citation for specific crimes. Responding to a petition for such an order may have implications for a subsequent criminal prosecution. What should be included in the response form (RCP-120) to balance a respondent's opportunity to be heard and the Fifth Amendment right against self-incrimination in a criminal case?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- 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?
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rules 1.51, 3.1160, and 3.1162, at pages 7–8
2. Forms RCP-100, RCP-100-INFO, RCP-109, RCP-115, RCP-116, RCP-120, RCP-120-INFO, and RCP-130, at pages 9–30

3. Link A: Senate Bill 3209,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB3209

Rules 1.51, 3.1160, and 3.1162 of the California Rules of Court would be amended, effective July 1, 2025, to read:

1 **Rule 1.51. California Law Enforcement Telecommunications System (CLETS)**
2 **information form**

3
4 **(a) Confidential CLETS information form to be submitted to the court**

5
6 A person requesting protective orders under Code of Civil Procedure section 527.6,
7 527.8, or 527.85; Family Code section 6320, 6404, or 6454; Penal Code section
8 490.8 or sections 18100–18205; or Welfare and Institutions Code section 213.5 or
9 15657.03 must submit to the court with the request a completed ~~Confidential~~
10 ~~CLETS Information form~~ Confidential Information for Law Enforcement (form
11 CLETS-001).
12

13 **(b) Confidentiality of the form**

14
15 ~~The Confidential CLETS Information form~~ Form CLETS-001 is confidential, and
16 access to the information on the form is limited to the persons listed in (c).
17

18 **(c) Access to information on the form**

19
20 ~~The Confidential CLETS Information form~~ Form CLETS-001 must not be included
21 in the court file. After the form is submitted to the court, only the following persons
22 may have access to the information on the form:
23

24 (1)–(2) * * *

25
26 **(d) Amendment of the form**

27
28 A person requesting protective orders or the person’s attorney may submit an
29 amended ~~Confidential CLETS Information form~~ form CLETS-001 as a matter of
30 right to provide updated or more complete and accurate information.
31

32 **(e) Retention and destruction of the form**

33
34 (1) When a ~~Confidential CLETS Information form~~ form CLETS-001 is submitted
35 to the court, the court, if a temporary restraining order or order after hearing
36 is entered, may:
37

38 (A)–(B) * * *

39
40 (2)–(3) * * *

1 **Rule 3.1160. Requests for protective orders to prevent civil harassment, workplace**
2 **violence, private postsecondary school violence, retail crime, and elder or**
3 **dependent adult abuse**

4
5 **(a) Application**

6
7 This rule applies to requests for protective orders under Code of Civil Procedure
8 sections 527.6, 527.8, and 527.85; Penal Code section 490.8; and Welfare and
9 Institutions Code section 15657.03.

10
11 **(b)–(c) * * ***

12
13 **(d) Response**

14
15 The response to a request for a protective order may be written or oral, or both.
16 Except for a request under Penal Code section 490.8, if a written response is served
17 on the petitioner or, if the petitioner is represented, on the petitioner’s attorney at
18 least two days before the hearing, the petitioner is not entitled to a continuance on
19 account of the response.

20
21 **(e) * * ***

22
23
24 **Rule 3.1162. Service requirement for respondents who appear remotely**

25
26 **(a) Application of rule**

27
28 This rule applies to requests for protective orders issued under Code of Civil
29 Procedure sections 527.6, 527.8, and 527.85; Penal Code section 490.8 and sections
30 18100–18205; and Welfare and Institutions Code section 15657.03.

31
32 **(b) * * ***
33
34

This petition must be filed by an attorney as required by Penal Code section 490.8(e). Also fill out *Confidential Information for Law Enforcement* (form [CLETS-001](#)) with as much information as you know.

DRAFT**11/04/2024****Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:**1 Retail Establishment**

Name: _____

DBA (if applicable): _____

Address: _____

City: _____ State: _____ Zip: _____

 This establishment is a chain or franchise.**2 Attorney Filing Petition**

a. Name: _____

is a Prosecuting Attorney City Attorney County Counsel Attorney Representing a Retail Establishment

b. State Bar No.: _____

Office or Firm Name: _____

c. Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

3 Respondent (Person From Whom Protection Is Sought)

Full Name: _____ Age: _____

Address (if known): _____

City: _____ State: _____ Zip: _____

4 Venue

Why are you filing in this county? (Check all that apply):

a. The respondent lives in this county.b. The retail establishment is located in this county.c. Other (specify): _____**This is not a Court Order.**

5 Respondent's Arrests or Citations

Respondent was arrested or cited for shoplifting (Pen. Code, § 459.5), theft (Pen. Code, § 487 or 488), organized retail theft (Pen. Code, § 490.4), vandalism of a retail establishment (Pen. Code, § 594), or assault or battery of an employee of a retail establishment while that person was working at the retail establishment (Pen. Code, § 240, 242, or 245) by the following law enforcement agencies.

	<u>Law Enforcement Agency</u>	<u>Report No.</u>	<u>Statutory Basis</u>
(1)	_____	_____	_____
(2)	_____	_____	_____

Additional arrests or citations are included in Attachment 5.

6 Description of Respondent's Conduct

Describe respondent’s actions that led to the arrests or citations listed in 5. *(Provide details; tell what happened, who was involved, and identify any witnesses):*

Response is stated in Attachment 6.

This is not a Court Order.



7 Respondent's Likelihood of Return

Explain why you believe respondent is likely to return to the retail establishment.

Response is stated in Attachment 7.

8 Orders Requested

a. I ask the court to order the respondent **not** enter the retail establishment named in (2), be present on the grounds of the retail establishment named in (2), or be present on any parking lot next to and used for the retail establishment named in (2).

b. The retail establishment named in (2) is a chain or franchise. I ask the court to include all retail establishments in the chain or franchise located in the State of California within _____ miles of the address provided in (2) to be included in the order. Those establishments are located at the following addresses (*list addresses*):

Additional addresses are listed in Attachment 8.

9 Additional Orders Requested

I ask the court to make the following additional orders (*specify*):

Additional orders requested are stated in Attachment 9.

This is not a Court Order.



Case Number:

10 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)



Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Name of Retail Establishment



Signature

Title

This is not a Court Order.

RCP-100-INFO How Do I Get an Order to Prohibit Retail Crime?

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 an individual from going to a specific business or locations of a business chain or franchise, based on a prior crimes committed or alleged to have been committed by the individual.

A retail crime restraining order may be issued in a criminal or civil case. These instructions address retail theft restraining orders in the civil context only.

Can I get a retail crime restraining order?

A retail business can ask for a retail crime restraining order if somebody has been arrested two or more times for shoplifting, theft, vandalism, or assault or battery of a business employee with the same retail establishment and the person who was arrested is likely to return to the business. A prosecuting attorney, city attorney, county counsel, or a lawyer representing the business must file the petition for a retail crime restraining order.

How will the order help me?

The court can order a person not to enter or be on the grounds of a business.

In a retail theft case, the court cannot:

- Order a person to pay money that they owe you
- Order someone to move out of rental property that you own
- Order someone to stop creating a nuisance

If you need these remedies, you must file a civil action.

Do I need a lawyer?

Yes. Only lawyers may ask for retail crime restraining orders.

What forms do I need to get the order?

Your lawyer must fill out all of form [RCP-100](#), *Petition for Retail Crime Restraining Order* and form [CLETS-001](#), *Confidential Information for Law Enforcement*. If they need attachments, they may use form [MC-025](#). They must also fill out items 1, 2, and 3 on form [RCP-109](#), *Notice of Court Hearing*.

Where can I get these forms?

Your lawyer can get the forms from legal publishers or from the California Courts website at www.courts.ca.gov/forms. Your lawyer also may be able to find them at your local courthouse or county law library.

What do I need to get the order?

Your lawyer must go to the superior court in the county where the business is located or where the person to be restrained lives. At the court, your lawyer should ask where to file a request for a retail crime restraining order.

After your lawyer files a request with the court clerk, the clerk will give your lawyer a hearing date on the *Notice of Court Hearing* form.

How long does the order last?

A retail crime restraining order could last up to two years.

How will the person to be restrained know about the order?

Someone age 18 or older, who is not involved in this case, must serve (give) the person to be restrained a copy of the order. The server should then fill out form [POS-020](#), *Proof of Personal Service—Civil*, and give it to your lawyer to file with the court.

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?

Your lawyer must go to court on the date provided by the clerk.



Do I need to bring a witness to the court hearing?

Witnesses are not required, but it helps to have more proof of the arrests and the likelihood of the person returning than just your word. The court may or may not let witnesses speak at the hearing. So, if possible, your lawyer should bring their statements under oath to the hearing. (Your lawyer can use form [MC-030](#), *Declaration*, for this.)

Can I agree with the restrained person to cancel the order?

No. Once the order is issued, only the judicial officer can change or cancel it. Your lawyer or the restrained person would have to file a request with the court to cancel the order.

For help in your area, contact:
[Local information may be inserted.]

What happens after the hearing?

If the court grants the restraining order, the judicial officer may ask your lawyer to fill out form [RCP-130](#), *Retail Crime Restraining Order*, and return it to the court.

What if I have a disability?

If you have a disability and need an accommodation while you are at court your lawyer can use form [MC-410](#), *Disability Accommodation Request*, to make your request. Your lawyer 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*.

What if I don't speak English?

When you file your papers, have your lawyer ask the clerk if a court interpreter is available. Your lawyer 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.

Clerk stamps date here when form is filed.

DRAFT

11/04/2024

**Not approved by the
Judicial Council**

1 Retail Establishment

Name: _____

DBA (if applicable): _____

2 Attorney Filing Petition

a. Name: _____

State Bar No.: _____

Firm or Office Name: _____

b. 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:

3 Respondent

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 order against the respondent:

<div style="border: 1px solid black; border-radius: 15px; padding: 5px; display: inline-block;"> Hearing Date </div>	→ Date: _____	Time: _____	Name and address of court if different from above: _____ _____ _____
	Dept.: _____	Room: _____	

To the person in ③:

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to two years. After you receive a copy of the order, you could be arrested if you violate the order.



5 Service of Documents by Petitioner

At least five _____ days before the hearing, someone age 18 or older—not anyone involved in the case—must personally give (serve) a court file-stamped copy of this form RCP-109 to the respondent along with a copy of all the forms indicated below:

- a. RCP-100, *Petition for Retail Crime Restraining Order* (file-stamped)
- b. [RCP-120](#), *Response to Petition for Retail Crime Restraining Order* (blank form)
- c. [RCP-120-INFO](#), *How Can I Respond to a Petition for Retail Crime Restraining Order?*
- d. 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. To show that the respondent has been served, the person who served the forms must fill out a proof of service form. Form POS-020, *Proof of Personal Service—Civil*, may be used.
- Your attorney must attend the hearing if you want the judge to make any of the orders you requested on form RCP-100, *Petition for Retail Crime Restraining Order*. Bring any evidence or witnesses you have.
- For more information, read form RCP-100-INFO, *How Do I Get an Order to Prohibit Retail Crime?*

To the Respondent:

- If you want to respond to the request for orders in writing, file form [RCP-120](#), *Response to Petition for Retail Crime Restraining Order*, and have someone age 18 or older—**not you or anyone involved in the case**—mail it to the petitioner.
- The person who mailed the form must fill out a proof of service form. Form POS-030, *Proof of Service by First-Class Mail—Civil*, 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.
- You are entitled to representation by court-appointed counsel. You may request such representation on form RCP-120, *Response to Petition for Retail Crime Restraining Order*.
- For more information, read form RCP-120-INFO, *How Can I Respond to a Petition for Retail Crime Restraining Order?*

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms 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

Instructions: Use this form to ask the court to reschedule the court date listed on *Notice of Court Hearing* (form [RCP-109](#)).

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the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:**1 My Information**

a. My name is: _____

b. I am the:

(1) **Petitioner** (*skip to 2*).(2) **Respondent** (*give your contact information below*).

Address where I can receive mail:

This address will be used by the court and other party to notify you in this case. If you want to keep your home address private, you can use another address like a post office box or another person's address, if you have their permission. If you have a lawyer, give your lawyer's address and contact information.

Address: _____

City: _____ State: _____ Zip: _____

My contact information (*optional*):

Telephone: _____ Fax: _____

Email Address: _____

Lawyer's information (*skip if you do not have one*):

Name: _____ State Bar No.: _____

Firm Name: _____

2 Information About My Case

a. The other party in my case is:

 Retail Establishment RespondentName (*see form RCP-100*): _____b. I have a court date currently scheduled for (*date*): _____**This is not a Court Order.**

3 Why does the court date need to be rescheduled?

- a. I am the petitioner, and I need more time to have the respondent personally served.
- b. I am the respondent, and I have requested court-appointed counsel that has not been appointed yet.
- 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.

Clerk stamps date here when form is filed.

DRAFT

2024-11-04

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the Judicial Council**

Complete ① and ② only.

① **Retail Establishment:** _____

② **Respondent:** _____

_____ **The court will complete the rest of this form** _____

③ **Next Court Date**

a. The request to reschedule the court date is **denied**.

Your court date is: _____

Your court date is not rescheduled because:

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

b. The request to reschedule the court date is **granted**. Your court date is rescheduled for the day and time listed below. See ④–⑧ for more information.

Name and address of court, if different from above:

**New
Court
Date** →

Date: _____ Time: _____

Dept.: _____ Room: _____

④ **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. The respondent requested court-appointed counsel that has not been appointed yet.

c. The court reschedules the court date on its own motion.

This is a Court Order.



5 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Retail Establishment**

b. **Respondent**

c. **Court**

(1) You do not have to serve the respondent because they or their lawyer were at the court date or agreed to reschedule the court date.

(1) You do not have to serve the retail establishment 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 respondent personally served with a copy of this order and a copy of all documents listed on form [RCP-109](#), item **5**, by (date): _____

(2) You must have the retail establishment 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 respondent served with a copy of this order. This can be done by mail. You must serve by (date): _____

(3) You must have the retail establishment 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.



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

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT**11/04/2024****Not approved by
the Judicial Council****Use this form to request court-appointed counsel and to
respond to the petition (form RCP-100)**

- To request court-appointed counsel, fill out ①, ②a, and ③ of this form, sign the declaration on page 4, and take it to the court clerk. Do not fill out the other items if you are requesting court-appointed counsel.
- Have someone age 18 or older, who is not involved in this case, serve the person in ① by mail with a copy of this form and any attached pages. (Use form POS-030, Proof of Service by First-Class Mail—Civil.)

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 Retail Establishment**

Name (see form RCP-100, item ①):

DBA (if applicable):

Write your hearing date, time, and place from
form RCP-109, item ③, here:

Hearing Date →	Date: _____	Time: _____
	Dept.: _____	Room: _____

② Respondent

a. Your 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: _____

③ Request for Counsel

I request court-appointed counsel to represent me in this case.



If you are using this form to request court-appointed counsel, do not fill out any items below except the signature.

4 Orders

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. *(Specify why you disagree in item 5 below.)*
- c. I agree to the following orders *(specify below or in item 5 below):*

5 Reasons I Do Not Agree to the Orders Requested

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 5—Reasons I Disagree" as a title. You may use form [MC-025](#), Attachment.

- a. The retail establishment is the only place that sells food, pharmaceuticals, or other basic life necessities within one mile of where I live, or the order would otherwise create undue hardship for me. *(Explain):*



5 b. Other reasons *(explain)*:

Multiple horizontal lines for text entry.

6 **No Fee for Filing**

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.*)

7 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

▶ _____
Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name

▶ _____
Sign your name

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 item ③ on form RCP-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, or
- 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 [RCP-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 www.courts.ca.gov/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 RCP-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 [RCP-109](#), *Notice of Court Hearing*. If you do not go to the hearing, the judge can make orders against you without hearing from you.

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 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.



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.]

Clerk stamps date here when form is filed.

DRAFT

2024-11-04

**Not approved by
the Judicial Council**

1 Restrained Person

(Information that has a star () next to it is required to add this order into the California Restraining and Protective Order System. Please provide all known information.)*

*Name: _____
*Gender: M F Nonbinary *Race: _____
*Date of Birth: _____ Age: _____
Height: _____ Weight: _____
Hair Color: _____ Eye Color: _____

Fill in court name and street address:
Superior Court of California, County of

2 Protected Retail Establishment

Name: _____
Address: _____

Additional addresses: The court finds that the retail establishment is part of a chain or franchise and includes the following additional establishments in the State of California within _____ miles of the address above:

Court fills in case number when form is filed.
Case Number:

3 Expiration Date

This order expires on (date): _____ at (time): _____ a.m. p.m. midnight

If no expiration date is written here, this Order expires two years from the date of issuance.

4 Hearing

a. This proceeding was heard on (date): _____ at (time): _____
in Dept.: _____ by (judicial officer): _____

b. These people were at the hearing:

- (1) The person in ①.
- (2) The lawyer for the retail establishment in ② (name): _____
- (3) The lawyer for the person in ① (name): _____

Additional persons present are listed at the end of this Order on Attachment 4.

This is a Court Order.



5 Stay-away order

The restrained person must not:

- Enter the retail establishment named in ②.
- Be present on the grounds of the retail establishment named in ②.
- Be present on any parking lot next to and used for the retail establishment named in ②.

Not obeying this order can result in being arrested and charged with a crime and can include up to six months in jail.

6 Service

- a. The restrained person personally attended the hearing. No other proof of service is needed.
- b. The restrained person did not attend the hearing. Law enforcement or someone who is at least 18 years old and not a party to the action must personally serve a copy of this Order on the restrained person.

7 Number of pages attached to this Order, if any: _____

To the Petitioner for the Protected Retail Establishment:

8 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 for the protected retail establishment 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 8.

Date: _____

Judicial Officer

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 ④), 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 2 and *ends* on the expiration date in ③ on page 1.

Notice/Proof of Service

The law enforcement officer must first determine if the restrained person had notice of the order. If notice cannot be verified, the officer must advise the restrained person of the terms of the order and then enforce it. (Fam. Code, § 6383(e).)

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; or
- The restrained person was at the hearing 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.

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected party from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment, retail crime), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Retail Crime 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.