

## TYPES OF RESTRAINING ORDERS

Type of Order	Statutory Authority <sup>^</sup>	Grounds for Issuance/Enforcement	Expiration	Criminal Charges for Violation
Emergency Protective Order (EPO)* ‡	FC 6240-6273	Reasonable grounds to believe that an adult or child is in danger of domestic violence.  Applicant - Law Enforcement	5 court days up to 7 total days from the date of issuance.	PC 273.6
Domestic Violence Prevention Order (DVPO)* ‡	FC 6300-6388	Reasonable proof of a recent past act or acts of abuse and victim expresses fear; parties are in domestic relationship.  Applicant – Victim	After a hearing, the order is good for a period of up to 5 years, and may be renewed.	PC 273.6
Stalking: EPO* ‡	PC 646.91	Reasonably grounds to believe that a person is in immediate and present danger of being stalked.  Applicant - Law Enforcement	5 court days up to 7 total days from the date of issuance.	PC 166, 646.9
Stalking: Order Post Conviction	PC 646.9(k)	Seriousness of facts before the court, probability of future violations, and the safety of the victim and his or her immediate family.  Issued by sentencing court.	Up to 10 years.	PC 646.9(b)
Criminal Court Protective Orders* ‡ †	PC 136.2	Reasonable cause to believe that actual intimidation has occurred or is reasonably likely to occur.  Applicant – District Attorney	Up to 10 years PC 273.5(i); but see <i>People v. Stone</i> $\Phi$	PC 136.1, 166(c)(1)
Civil Harassment Restraining Orders* ‡	CCP 527, 527.6	Clear and convincing evidence that unlawful harassment exists.  Applicant - Victim	TRO available for 15 days, and following a hearing, an injunction is valid for up to 3 years, and may be renewed.	PC 273.6, PC 166(a)(4)
Workplace Violence Protective Orders*	CCP 527.8	Clear and convincing evidence that the defendant engaged in unlawful violence or made a credible threat of violence upon an employee.  Applicant - Employer	TRO available for 15 days, and following a hearing, an injunction is valid for up to 3 years, and may be renewed.	PC 273.6
Foreign State and Tribal Orders	Full faith and credit per FC 6401-6404	Jurisdiction must authorize a person to seek enforcement of a valid foreign or tribal order.		Enforced using California procedure. See FC 6402.
Elder Abuse Protective Orders*	WIC 15657.03	Reasonable proof of past acts of abuse of the petitioning elder or dependent adult. See WIC 15610.07.  Applicant - Victim	TRO available per CCP 527. After a hearing, an order is valid for up to 3 years, and may be renewed.	PC 273.6
Dependency Court	WIC 213.5 (a) – (l)	Proof by application and any attachments, additional declarations or documentary evidence, file, or testimony. Criminal court is only court which may issue a contrary order.	<i>Ex parte</i> TRO available WIC 213.5 (a) – (c) for 15 or 20 days. After hearing, expiration determined by court up to three years	PC 273.6

\* These orders contain gun restrictions on the restrained party pursuant to PC 12021(g)(1-2). For Foreign State or Tribal Orders, gun restrictions are enforceable if the issuing court had the authority to prohibit such action.

‡ These orders contain mandatory arrest provisions for violating the order pursuant to PC 836(c)(1).

$\Phi$  *People v. Stone* (2004) 123 Cal. App. 4th. 153. *Stone* held that 136.2's application is limited to the pendency of a criminal proceeding. Such orders may be issued only by courts with jurisdiction over the criminal proceeding, and only to victims or witnesses who have suffered harm, intimidation or dissuasion.

† Criminal Court Protective Orders take precedence over any other order outstanding against the defendant.

**Protective/Restraining Order forms may be obtained at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms)**

FC = Family Code    PC = Penal Code    CCP = Code of Civil Procedure    WIC = Welfare and Institutions Code