

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

455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee  
Hon. Elihu M. Berle, Chair  
Case Management Subcommittee, Hon. Robert B. Freedman, Chair  
Patrick O'Donnell, Committee Counsel, 415-865-7665,  
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DATE: September 28, 2005

SUBJECT: Application for Emergency Protective Order (revise form EPO-001)  
(Action Required)

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Issue Statement

A law enforcement officer may prepare an application for an emergency protective order in a case involving domestic violence, child abuse, or elder or dependent adult abuse. An officer may also prepare an application in a workplace violence or civil harassment case *if the case involves stalking*. A Judicial Council form application and order has been adopted for use in all such cases.

The issue has been raised whether references to civil harassment and workplace violence on the multipurpose form are confusing. It has been suggested that the *Application for Emergency Protective Order (CLETS)* (form EPO-001) would be clearer if the references to civil harassment and workplace violence on the form and the footers were eliminated, but the statements concerning stalking retained.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2006, revise *Application for Emergency Protective Order* (form EPO-001) to eliminate the references to civil harassment and workplace violence on the form and to make certain technical changes.

Revised form EPO-001 is attached at pages 4–5.

### Rationale for Recommendation

Form EPO-001 was adopted to implement the laws on emergency protective orders. (See Fam. Code, § 6240 et seq.; Pen. Code, § 646.91.) Family Code section 6250 authorizes the issuance of ex parte emergency protective orders in cases involving a danger of domestic violence, child abuse or abduction, or elder or dependent adult abuse. That statute does not extend to cases involving civil harassment or workplace violence.

However, ex parte emergency protective orders are also authorized under Penal Code section 646.91, where a peace officer asserts reasonable grounds to believe that a person is in immediate and present danger of being stalked. This statute further provides that an emergency protective order may include a harassment protective order described in Code of Civil Procedure section 527.6 or a workplace violence protective order described in section 527.8. Thus, if a case involves stalking, an emergency protective order may be granted in a civil harassment or a workplace violence case.

The present emergency protective order form is legally accurate. Yet it does not indicate sufficiently clearly the distinction between the emergency orders issued under the Family Code in domestic violence and child or elder abuse cases, and those issued under the Penal Code in civil harassment and workplace violence cases. The form does distinguish between these types of cases by indicating that the emergency protective order may concern “stalking (including workplace violence or civil harassment).” But this may mislead persons—including the police officers who use the application form—to believe that the order applies to all forms of civil harassment or workplace violence, not just those involving stalking.

A court commissioner who uses the form regularly expressed a concern that the references to civil harassment and workplace violence on form EPO-001 can be confusing. She recommended that the form be revised to delete the specific references to workplace violence and civil harassment, while retaining the statements concerning stalking. The committee agreed with this suggestion. It has clarified the form by leaving the term “stalking” in the form, but removed the references to “civil harassment” and “workplace violence” in both the text and the footers.

### Alternative Actions Considered

The form might be left unchanged. But the committee thought it would be better to revise it as proposed to reduce confusion about its use. The committee also considered the comments discussed below and agreed with some of the recommended revisions to the form.

### Comments From Interested Parties

The revised form was circulated for public comment in the spring of 2005. Ten comments were received on the proposal. The commentators included a judge, a commissioner, an attorney with the Department of Justice, and several court administrators. A chart summarizing the comments is attached at pages 6–8.

Most of the commentators agreed with the proposed revisions to form EPO-001. However, a family law program manager stated that she thought it would be better to keep the information about civil harassment and workplace violence on the form. The committee disagreed. It concluded that the majority of commentators were correct that deleting the references to civil harassment and workplace violence would make the form clearer.

An attorney with the Department of Justice supported the revisions but suggested several technical changes, including modifying the footer and putting page numbers on the two pages of the form. The committee agreed that these technical changes should be made. The form has been modified to include these changes.

### Implementation Requirements and Costs

Some costs will be incurred in making the revised form available.

### Attachments

APPLICATION FOR EMERGENCY PROTECTIVE ORDER (CLETS)

EPO-001

(Name): \_\_\_\_\_ has provided the information in items 1-5.

LAW ENFORCEMENT CASE NUMBER:

1. PERSONS TO BE PROTECTED (insert names of all persons to be protected by this order):

2. PERSON TO BE RESTRAINED (name):

Sex:  M  F Ht.: \_\_\_\_\_ Wt.: \_\_\_\_\_ Hair color: \_\_\_\_\_ Eye color: \_\_\_\_\_ Race: \_\_\_\_\_ Age: \_\_\_\_\_ Date of birth: \_\_\_\_\_

3. The events that cause the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse (other than solely financial abuse), or stalking are (give facts and dates; specify weapons):

4.  The person to be protected lives with the person to be restrained and requests an order that the restrained person move out immediately from the address in item 9.

5. a.  The person to be protected has minor children in common with the person to be restrained, and a temporary custody order is requested because of the facts alleged in item 3. A custody order  does  does not exist.

b.  The person to be protected is a minor child in immediate danger of being abducted by the person to be restrained because of the facts alleged in item 3.

6.  A child welfare worker or probation officer has advised the undersigned that a juvenile court petition  has already been filed.  will be filed.  will NOT be filed.

7.  Adult Protective Services has been notified.

8. Judicial Officer (name): \_\_\_\_\_ was contacted on (date): \_\_\_\_\_ at (time): \_\_\_\_\_

The judicial officer granted the Emergency Protective Order that follows.

By: \_\_\_\_\_

(PRINT NAME OF LAW ENFORCEMENT OFFICER)



(SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: \_\_\_\_\_ Telephone No.: \_\_\_\_\_ Badge No.: \_\_\_\_\_

EMERGENCY PROTECTIVE ORDER (See reverse for important notices)

9. To restrained person (name): \_\_\_\_\_

a.  You must not contact, molest, harass, attack, strike, threaten, sexually assault, batter, telephone, send any messages to, follow, stalk, destroy any personal property of, or disturb the peace of each person named in item 1.

b.  You must  stay away at least \_\_\_\_\_ yards from each person named in item 1.  stay away at least \_\_\_\_\_ yards from  move out immediately from

(address): \_\_\_\_\_

10.  (Name): \_\_\_\_\_ is given temporary care and control of the following minor children of the parties (names and ages): \_\_\_\_\_

11. Reasonable grounds for the issuance of this order exist and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking.

12. THIS EMERGENCY PROTECTIVE ORDER WILL EXPIRE AT 5:00 P.M. ON: \_\_\_\_\_

13. To protected person: If you need protection for a longer period of time, you must request restraining orders at (court name and address):

INSERT DATE OF FIFTH COURT DAY OR SEVENTH CALENDAR DAY, WHICHEVER IS EARLIER; DO NOT COUNT DAY THE ORDER IS GRANTED

PROOF OF SERVICE

14. Person served (name): \_\_\_\_\_

15. I personally delivered copies to the person served as follows: Date: \_\_\_\_\_ Time: \_\_\_\_\_ Address: \_\_\_\_\_

16. At the time of service I was at least 18 years of age and not a party to this cause.  I am a California sheriff or marshal.

17. My name, address, and telephone number are (this does not have to be server's home telephone number or address):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_



(TYPE OR PRINT NAME OF SERVER)

(SIGNATURE OF SERVER)

# EMERGENCY PROTECTIVE ORDER WARNINGS AND INFORMATION

EPO-001

**VIOLATION OF THIS ORDER IS A MISDEMEANOR PUNISHABLE BY A \$1,000 FINE, ONE YEAR IN JAIL, OR BOTH, OR MAY BE PUNISHABLE AS A FELONY. PERSONS SUBJECT TO A RESTRAINING ORDER ARE PROHIBITED FROM OWNING, POSSESSING, PURCHASING, RECEIVING, OR ATTEMPTING TO PURCHASE OR RECEIVE A FIREARM (PENAL CODE SECTION 12021(g)). SUCH CONDUCT IS SUBJECT TO A \$1,000 FINE AND IMPRISONMENT OR BOTH. THIS ORDER SHALL BE ENFORCED BY ALL LAW ENFORCEMENT OFFICERS IN THE STATE OF CALIFORNIA WHO ARE AWARE OF OR SHOWN A COPY OF THE ORDER. UNDER PENAL CODE SECTION 13710(b), "THE TERMS AND CONDITIONS OF THE PROTECTION ORDER REMAIN ENFORCEABLE, NOTWITHSTANDING THE ACTS OF THE PARTIES, AND MAY BE CHANGED ONLY BY ORDER OF THE COURT."**

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**To the restrained person:** This order will last until the date and time in item 12 on the reverse. The protected person may, however, obtain a more permanent restraining order from the court. You may seek the advice of an attorney as to any matter connected with this order. The attorney should be consulted promptly so that the attorney may assist you in responding to the order.

**A la persona bajo restricción judicial:** Esta orden durará hasta la fecha y hora indicadas en el punto 12 al dorso. La persona protegida puede, sin embargo, obtener una Orden de entredicho (restricción judicial) más permanente de la corte. Usted puede consultar a un abogado en conexión con cualquier asunto relacionado con esta orden. Debe consultar al abogado sin pérdida de tiempo para que él o ella le pueda ayudar a responder a la orden.

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**To the protected person:** This order will last only until the date and time noted in item 12 on the reverse. If you wish to seek continuing protection, you will have to apply for an order from the court at the address in item 13, or you should apply to the court in the county where you live if it is a different county and the violence is likely to occur there. You may apply for a protective order free of charge. In the case of an endangered child, you may also apply for a more permanent order at the address in item 13, or if there is a juvenile dependency action pending you may apply for a more permanent order under section 213.5 of the Welfare and Institutions Code. In the case of a child being abducted, you may apply for a *Child Custody Order* from the court at the address in item 13. You may seek the advice of an attorney as to any matter connected with your application for any future court orders. The attorney should be consulted promptly so that the attorney may assist you in making your application. You do not have to have an attorney to get the protective order.

**A la persona protegida:** Esta orden durará sólo hasta la fecha y hora indicadas en el punto 12 al dorso. Si usted desea que la protección continúe, tendrá que solicitar una orden de la corte en la dirección indicada en el artículo 13, o tendrá que hacer la solicitud ante la corte del condado donde usted vive, si se trata de un condado diferente y es probable que la violencia ocurra allí. La solicitud de la orden de protección es gratis. En el caso de que un niño o una niña se encuentre en peligro, puede solicitar una orden más permanente en la dirección indicada en el artículo 13 o, si hay una acción legal pendiente de tutela juvenil, puede solicitar una orden más permanente conforme a la sección 213.5 del código titulado en inglés **Welfare and Institutions Code**. En el caso del secuestro de un niño o una niña, usted puede solicitar de la corte una Orden para la guarda del niño o de la niña (*Child Custody Order*), en la dirección indicada en el artículo 13 de este formulario. Puede consultar a un abogado en conexión con cualquier asunto relacionado con las solicitudes de órdenes de la corte que usted presente en el futuro. Debe consultar un abogado sin pérdida de tiempo para que él o ella le pueda ayudar a presentar su solicitud. Para obtener la orden de protección no es necesario que un abogado le represente.

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**To law enforcement:** Penal Code section 13710(c) provides that, upon request, law enforcement shall serve the party to be restrained at the scene of a domestic violence incident or at any time the restrained party is in custody. The officer who requested the emergency protective order, while on duty, shall carry copies of the order. The emergency protective order shall be served upon the restrained party by the officer, if the restrained party can reasonably be located, and a copy shall be given to the protected party. A copy also shall be filed with the court as soon as practicable after issuance. The availability of an emergency protective order shall not be affected by the fact that the endangered person has vacated the household to avoid abuse. A law enforcement officer shall use every reasonable means to enforce an emergency protective order issued pursuant to this subdivision. A law enforcement officer acting pursuant to this subdivision shall not be held civilly or criminally liable if he or she has acted in good faith with regard thereto.

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**If a child is in danger of being abducted:** This order will last only until the date and time noted in item 12 on the reverse. You may apply for a child custody order from the court.

**En el caso de peligro de secuestro de un niño o de una niña:** Esta orden será válida sólo hasta la hora y fecha indicadas en el punto 12 al dorso. Usted puede solicitar de la corte una Orden para la guarda del niño o de la niña (*Child Custody Order*).

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*This emergency protective order is effective when made. This order shall expire not later than the close of judicial business on the fifth day of judicial business or the seventh calendar day following the day of its issue. A protective order issued in a criminal case on form CR-160 or MC-220 takes precedence in enforcement over any conflicting civil court order.*

**SPR05-18**  
**Application for Emergency Protective Order (revise form EPO-001)**

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Ms. Grace Andres Program Manager–Family Law Superior Court of California, County of Solano Fairfield	N	N	I believe it would be more confusing to remove the information on “(Civil Harassment or Workplace Violence).”	The committee disagreed. It believes the form will be clearer if it only refers to stalking.
2.	Ms. Louise Fightmaster Commissioner Superior Court of California, County of Sonoma Santa Rosa	A	N	No specific comment.	No response required.
3.	Ms. Linda Gorham Court Manager Superior Court of California, County of San Francisco	A	N	No specific comment.	No response required.
4.	Ms. Keri Griffith Court Program Manager Superior Court of California, County of Ventura	A	N	No specific comment.	No response required.
5.	Ms. Peggy Kelly DVROS Field Representative California Department of Justice Sacramento	A	N	1. Please add “EPO” at the bottom of pages 1 and 2 after the term CLETS. The footer would read: “EMERGENCY PROTECTIVE ORDER (CLETS-EPO).” This will assist law enforcement and the superior courts in entering the “type” of order correctly into the Domestic Violence Restraining Order System (DVROS). The revised DV-110, DV-130, and JV-250 order forms have already added this information on the July 1, 2005 revisions of the forms. This will also add consistency to the forms.  2. Please place page numbering on this order, at	1. The committee agreed. This revision has been made to the form.  2. The committee agreed. This

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				the bottom, right hand side, page 1 of 2, and on the back page, page 2 of 2. There are law enforcement agencies and courts that do not realize there is a page 2 to this order. The firearms provisions are located on page 2 of this order and that information is critical to the correct entry of firearms restrictions into the DVROS. Forms DV-110, DV-130, CH-120, CH-140, etc. are numbered in this fashion already and this will add consistency to the forms and also make it clear to all parties there is more than one to the order.	revision has been made to the form.
6.	Superior Court of California, County of Los Angeles	A	Y	No specific comment.	No response required.
7.	Mr. Stephen V. Love Executive Officer Superior Court of California, County of San Diego	A	N	No specific comment.	No response required.
8.	Hon. Dennis E. Murray Presiding Judge of the Superior Court of California, County of Tehama Red Bluff	A	N	The changes are needed to help avoid confusion and misunderstandings.	The committee agreed.
9.	Hon. Kathleen O'Connor Judge of the Superior Court of California, County of Yuba Marysville	A	N	The reference to stalking only clarifies the EPO.	The committee agreed.
10.	Mr. Dean Zipser President	A	Y	No specific comment.	No response required.

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	Orange County Bar Association Irvine				