

# Judicial Council of California • Administrative Office of the Courts

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## INVITATION TO COMMENT

W14-05

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<b>Title</b>	<b>Action Requested</b>
Criminal Procedure: Criminal Protective Order Forms	Review and submit comments by January 24, 2016
<b>Proposed Rules, Forms, Standards, or Statutes</b>	<b>Proposed Effective Date</b>
Revise forms CR-160, CR-161, CR-162, and CR-165	July 1, 2014
<b>Proposed by</b>	<b>Contacts</b>
Criminal Law Advisory Committee Hon. Tricia Ann Bigelow, Chair	Arturo Castro, 415-865-7702 arturo.castro@jud.ca.gov  Eve Hershcopf, 415-865-7961 eve.hershcopf@jud.ca.gov

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### Summary and Origin

The Criminal Law Advisory Committee proposes revisions to the Judicial Council criminal protective order forms: *Criminal Protective Order—Domestic Violence* (form CR-160), *Criminal Protective Order—Other Than Domestic Violence* (form CR-161), *Order to Surrender Firearms in Domestic Violence Case* (form CR-162), and *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165), in response to recent legislation that expands court authority to issue criminal protective orders, prescribes a new firearm relinquishment option, and clarifies enforcement priorities for no-contact orders in criminal and civil protective orders. The committee also proposes several revisions to the format, content, and instructions to reduce confusion and update and enhance the information on the forms.

### Background

The criminal protective order forms (forms CR-160, CR-161, CR-162, and CR-165) are mandatory forms used by courts to issue and terminate protective and firearm relinquishment orders in criminal cases as authorized by statute. Forms CR-160, CR-161, and CR-165 were last revised in 2009; form CR-162 was last revised in 2007.

The proposed revisions were developed in conjunction with the Protective Orders Working Group, which includes members of the Criminal Law, Civil and Small Claims, Family and Juvenile Law, and Probate Advisory Committees. Several revisions were developed in response to recent legislation and a newly adopted rule of court. Other revisions were developed by the

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

committee and circulated for public comment in spring 2011. The committee, however, tabled the proposed revisions after the comment period to focus on work related to criminal justice realignment legislation enacted later that year. For ease of review, the committee is circulating *all* proposed revisions together and will consider all past comments in conjunction with any new comments received during this circulation period.

## The Proposal

### Revisions in response to recent legislation and new rule of court

The committee proposes the following revisions to the criminal protective order forms in response to recent legislation and rule 4.700 of the California Rules of Court:

- **Orders for up to 10 years.** In response to recent legislation<sup>1</sup> that amended Penal Code section 136.2 to authorize courts, at the time of sentencing in certain sex offense and domestic violence cases, to issue protective orders that may be valid for up to 10 years regardless of whether the defendant is placed on probation or given a prison or jail sentence, the committee proposes adding a check box to the headings of forms CR-160 and CR-161 for courts to indicate that the order was issued under newly added subdivision (i)(1) of Penal Code section 136.2, and adding reference to subdivision (i)(1) under the section entitled “Effective Date and Expiration Date of Orders” under the warning and notices on page 2 of both forms.
- **Electronic monitoring.** In response to recent legislation<sup>2</sup> that amended Penal Code section 136.2 to authorize courts, in counties that have adopted appropriate electronic monitoring policies, to order defendants to be placed on electronic monitoring for up to one year, the committee proposes adding check boxes on forms CR-160 (item 11) and CR-161 (item 10) for courts to make the new electronic monitoring orders.
- **Storing firearms.** In response to recent legislation<sup>3</sup> that amended Penal Code section 136.2 and added Penal Code section 29830 to authorize defendants, effective January 1, 2014, to store firearms with licensed firearm dealers for the duration of the protective order as an alternative to selling or surrendering the firearms, the committee proposes adding the storing option to the firearm relinquishment orders on forms CR-160 (item 8), CR-161 (item 7), and CR-162 (item 4), as well as to the warnings and notices on all three forms.
- **Enforcement priorities.** In response to recent legislation<sup>4</sup> that amended Penal Code section 136.2 and several other code sections to modify the enforcement priorities of certain conflicting criminal and civil protective orders effective July 1, 2014, the committee proposes replacing the current warnings about enforcement priorities on page 2 of forms CR-160 and CR-161 with the following:

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<sup>1</sup> [Senate Bill 723](#) (Pavley; Stats. 2012, ch. 155); [Assembly Bill 307](#) (Campos; Stats. 2013, ch. 291).

<sup>2</sup> [Assembly Bill 2467](#) (Hueso; Stats. 2012, ch. 513).

<sup>3</sup> [Assembly Bill 539](#) (Pan; Stats. 2013, ch. 739).

<sup>4</sup> [Assembly Bill 176](#) (Campos; Stats. 2013, ch. 263).

An *Emergency Protective Order* (form EPO-001) that has been issued protecting the protected person from the restrained person and is more restrictive than other restraining orders takes precedence in enforcement over all other restraining orders. (Pen. Code, § 136.2(c)(1)(A).) A no-contact order in any protective order has precedence in enforcement over any other restraining or protective order except an EPO. If none of the orders includes a no-contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. (Pen. Code, § 136.2(e)(2).) Any nonconflicting terms of the civil restraining order remain in effect and enforceable. If more than one family or other civil restraining order has been issued, the one that was issued last must be enforced.

- **Firearm relinquishment under rule 4.700.** Effective July 1, 2010, rule 4.700 of the California Rules of Court requires courts that issue criminal protective orders “to determine if there is good cause to believe that the defendant has a firearm within his or her immediate possession or control.” (Cal. Rules of Court, rule 4.700(c)(1).) If the court finds good cause to believe the defendant has a firearm, the court is required to set a hearing to ascertain whether the defendant has complied with the firearm relinquishment requirements of Code of Civil Procedure section 527.9. (Cal. Rules of Court, rule 4.700(c)(2).) To incorporate the firearm relinquishment procedures prescribed by rule 4.700, the committee proposes adding check boxes to forms CR-160 (item 8), CR-161 (item 7), and CR-162 (item 4) for courts to set firearm relinquishment review hearings under the rule, and for courts to apply the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f).

### **Previously Circulated Proposals**

The committee also proposes the following revisions, which were previously circulated in 2011:

- **Access to firearms.** To enhance public safety, the committee proposes adding a check box to forms CR-160 (item 6) and CR-161 (item 5) to notify law enforcement that the court has received information that the defendant may have access to a firearm or ammunition.
- **Protected party information.** To improve the ability of law enforcement to identify protected persons, the committee proposes adding data fields to forms CR-160 and CR-161 (item 4 on both forms) to include the gender and age of each protected person.
- **Peaceful contact exceptions.** To clarify the peaceful contact exceptions to the criminal protective orders, the committee proposes revising forms CR-160 (item 16) and CR-161 (item 14) to specify that restricted persons may have peaceful contact with protected persons for purposes of court-ordered visitation, not just for the safe exchange of children for court-ordered visitation as provided in the current forms. To create additional space on the forms, the committee also proposes consolidating the peaceful contact exceptions on current forms CR-160 (items 13 and 14) and CR-161 (items 12 and 13).

- **Termination of protective orders.** To conform with statutory requirements regarding how termination orders must be transmitted to the Department of Justice, the committee proposes revising item 3 on form CR-165 to track the language of Family Code section 6380(a). In addition, the committee proposes revising the advisement on the top of form CR-165 to clarify that the order does not also terminate other protective orders.
- **Unnecessary information.** To reduce confusion and remove unnecessary information, the committee also proposes deleting (a) the “CLETS Entry By” text box in the caption of forms CR-160, CR-161, and CR-162; (b) the “peace officer” data fields in the box under the captions used to describe the restrained person on forms CR-160, CR-161, and CR-162; (c) the form distribution key at the bottom of all forms; (d) the check boxes in the caption of form CR-165 used to identify the type of order being terminated; and (e) the “Arresting Agency” text box in the caption of form CR-165.

The proposal also includes several other minor, nonsubstantive revisions designed to improve the format and clarity of the forms’ content, including bolding the expiration date information in item 2 of forms CR-160, CR-161, and CR-162, and adding specific language to clarify the firearm relinquishment orders on forms CR-160 (item 8), CR-161 (item 7), and CR-162 (item 4).

### **Alternatives Considered**

The committee considered postponing the proposed revisions in light of the severe economic circumstances faced by courts. The committee, however, decided to propose the form revisions because several are required in response to recent statutory amendments. In addition, the committee believes that the proposed revisions will improve protective order proceedings by reducing confusion and updating and enhancing the information and instructions on the mandatory forms.

### **Implementation Requirements, Costs, and Operational Impacts**

Expected costs are limited to training and the production of new forms. No other implementation requirements or operational impacts are expected.

## Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on whether the proposal appropriately addresses the stated purpose.

- Is the proposed language describing the priority of orders sufficiently clear and accurate?
- Are any other changes necessary to make the forms consistent with the law?

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

1. *Criminal Protective Order—Domestic Violence* (form CR-160)
2. *Criminal Protective Order—Other Than Domestic Violence* (form CR-161)
3. *Order to Surrender Firearms in Domestic Violence Case* (form CR-162)
4. *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165)

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<b>FOR COURT USE ONLY</b>  <div style="text-align: center; border: 1px solid black; padding: 5px; background-color: yellow;"> <b>DRAFT</b>  <b>Not Approved by the</b>  <b>Judicial Council</b> </div>  CASE NUMBER:
<b>PEOPLE OF THE STATE OF CALIFORNIA</b> VS. DEFENDANT:	
<b>CRIMINAL PROTECTIVE ORDER—DOMESTIC VIOLENCE</b> <b>(CLETS - CPO) (Pen. Code, §§ 136.2, 1203.097(a)(2),</b> <b>273.5(j), 646.9(k), and 136.2(i)(1))</b> <input type="checkbox"/> ORDER UNDER PENAL CODE, § 136.2 <input type="checkbox"/> MODIFICATION <input type="checkbox"/> PROBATION CONDITION ORDER (Pen. Code, § 1203.097) <b>ORDER AT SENTENCING UNDER:</b> <input type="checkbox"/> PENAL CODE, § 273.5(j) <input type="checkbox"/> PENAL CODE, § 646.9(k) <input type="checkbox"/> PENAL CODE, § 136.2(i)(1)	

**This Order May Take Precedence Over Other Conflicting Orders, See Item 4 on Page 2.**

PERSON TO BE RESTRAINED (complete name):  
 Sex:  M  F    Ht.:    Wt.:    Hair color:    Eye color:    Race:    Age:    Date of birth:

1. This proceeding was heard on (date): \_\_\_\_\_ at (time): \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
by judicial officer (name): \_\_\_\_\_
  2. **This order expires on (date): \_\_\_\_\_ . If no date is listed, this order expires three years from date of issuance.**
  3.  Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.
  4. COMPLETE NAME, AGE, AND GENDER OF EACH PROTECTED PERSON:
  5.  For good cause shown, the court grants the protected persons named above the exclusive care, possession, and control of the following animals:
  6.  **The court has information that the defendant owns or has a firearm or ammunition, or both.**
- GOOD CAUSE APPEARING, THE COURT ORDERS THAT THE ABOVE-NAMED DEFENDANT**
7. must not harass, strike, threaten, assault (sexually or otherwise), follow, stalk, molest, destroy or damage personal or real property, disturb the peace, keep under surveillance, or block movements of the protected persons named above.
  8. **must not own, possess, buy or try to buy, receive or try to receive, or otherwise obtain a firearm or ammunition. The defendant must surrender to local law enforcement, or sell to or store with a licensed gun dealer, any firearm owned by the defendant or subject to his or her immediate possession or control within 24 hours after service of this order and must file a receipt with the court showing compliance with this order within 48 hours of receiving this order.**  
 The court finds good cause to believe that the defendant has a firearm within his or her immediate possession or control, and sets a review hearing for (date): \_\_\_\_\_ to ascertain whether the defendant has complied with the firearm relinquishment requirements of Code Civ. Proc., § 527.9. (Cal. Rules of Court, rule 4.700.)  
 The court has made the necessary findings and applies the firearm relinquishment exemption under Code Civ. Proc., § 527.9(f).
  9. must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing or testifying or making a report to any law enforcement agency or person.
  10. must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardian unless good cause exists otherwise.  The court finds good cause not to make the order in item 10.
  11.  **must be placed on electronic monitoring for (specify): \_\_\_\_\_ . (Not to exceed 1 year from the date of this order. Pen. Code, § 136.2(a)(7)(D)(i)(2)).**
  12.  must have no personal, electronic, telephonic, or written contact with the protected persons named above.
  13.  must have no contact with the protected persons named above through a third party, except an attorney of record.
  14.  must not come within \_\_\_\_\_ yards of the protected persons and animals named above.
  15.  must not take, transfer, sell, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the animals described in item 5.
  16.  may have peaceful contact with the protected persons named above, as an exception to the "no-contact" or "stay-away" provision in item 12, 13, or 14 of this order, only for the safe exchange of children and court-ordered visitation as stated in:  
 a.  the Family, Juvenile, or Probate court order in case number: \_\_\_\_\_ issued on (date): \_\_\_\_\_  
 b.  any Family, Juvenile, or Probate court order issued after the date this order is signed.
  17.  Other orders including stay-away orders from specific locations:
  18.  The protected persons may record any prohibited communications made by the restrained person.

Executed on: \_\_\_\_\_ (DATE) \_\_\_\_\_ (SIGNATURE OF JUDICIAL OFFICER) Department/Division: \_\_\_\_\_

## WARNINGS AND NOTICES

1. **VIOLATION OF THE ORDER IS SUBJECT TO CRIMINAL PROSECUTION.** Violation of this protective order may be punished as a misdemeanor, a felony, or a contempt of court. Taking or concealing a child in violation of this order may be a felony and punishable by confinement in state prison, a fine, or both. Traveling across state or tribal boundaries with the intent to violate the order may be punishable as a federal offense under the Violence Against Women Act, 18 U.S.C. § 2261(a)(1) (1994).
2. **NOTICE REGARDING FIREARMS.** Any person subject to a protective order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. The person subject to these orders must relinquish any firearms (by surrendering the firearm to local law enforcement, or by selling or storing it with a licensed gun dealer) and not own or possess any firearms during the period of the protective order. (Pen. Code, § 136.2(d).) Under federal law, the issuance of a protective order after hearing will generally prohibit the restrained person from owning, accepting, transporting, or possessing firearms or ammunition. A violation of this prohibition is a separate federal crime.

Specified defendants may request an exemption from the firearm relinquishment requirements set forth in item 8 on page 1 of this order. *The court must check the box under item 8 to order an exemption from the firearm relinquishment requirements.* If the defendant can show that the firearm is necessary as a condition of continued employment, the court may grant an exemption for a particular firearm to be in the defendant's possession only during work hours and while traveling to and from work. If a peace officer's employment and personal safety depend on the ability to carry a firearm, a court may grant an exemption that allows the officer to carry a firearm on or off duty but only if the court finds, after a mandatory psychological examination of the peace officer, that the officer does not pose a threat of harm. (Code Civ. Proc., § 527.9(f).)

### 3. ENFORCING THIS ORDER IN CALIFORNIA

- This order must be enforced in California by any law enforcement agency that has received the order or is shown a copy of the order or has verified its existence on the California Law Enforcement Telecommunications System (CLETS).
- Law enforcement must determine whether the restrained person had notice of the order. If notice cannot be verified, law enforcement must advise the restrained person of the terms of the order and, if the restrained person fails to comply, must enforce it. (Fam. Code, § 6383.)

### 4. CONFLICTING ORDERS--PRIORITY OF ORDERS

An *Emergency Protective Order* (form EPO-001) that has been issued protecting the protected person from the restrained person and is more restrictive than other restraining orders takes precedence in enforcement over all other restraining orders. (Pen. Code, § 136.2(c)(1)(A).) A no-contact order in any protective order has precedence in enforcement over any other restraining or protective order except an EPO. If none of the orders includes a no-contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. (Pen. Code, § 136.2(e)(2).) Any nonconflicting terms of the civil restraining order remain in effect and enforceable. If more than one family or other civil restraining order has been issued, the one that was issued last must be enforced.

5. **CERTIFICATE OF COMPLIANCE WITH VIOLENCE AGAINST WOMEN ACT (VAWA).** This protective order meets all Full Faith and Credit requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994). This court has jurisdiction over the parties and the subject matter, and the restrained person has been 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 United States, the District of Columbia, all tribal lands, and all U.S. territories, and shall be enforced as if it were an order of that jurisdiction.

### 6. EFFECTIVE DATE AND EXPIRATION DATE OF ORDERS

- These orders are effective as of the date they were issued by a judicial officer.
- These orders expire as ordered in item 2 on page 1 of this order.
- Orders under Penal Code section 136.2 are valid as long as the court has jurisdiction over the case. They are not valid after imposition of a local jail or state prison commitment. (See *People v. Stone* (2004) 123 Cal.App.4th 153.)
- Orders issued at sentencing under Penal Code section 136.2(i)(1), and orders under Penal Code sections 273.5(j) and 646.9(k), are valid for up to 10 years and may be issued by the court whether the defendant is sentenced to state prison or county jail or if imposition of sentence is suspended and the defendant is placed on probation.
- Orders under Penal Code section 1203.097 are probationary orders and the court has jurisdiction as long as the defendant is on probation. (Pen. Code, § 1203.097(a)(2).)
- To terminate this protective order, use form CR-165, *Notice of Termination of Protective Order in Criminal Proceeding (CLETS)*.

### 7. CHILD CUSTODY AND VISITATION

- Child custody and visitation orders may be established or modified in Family, Juvenile, or Probate court.
- Unless box a or b in item 16 on page 1 is checked, contact between the restrained and protected persons permitted by a Family, Juvenile, or Probate court order for child custody or visitation must not conflict with the provisions of this order.
- If box a or b in item 16 on page 1 is checked, the restrained and protected persons should always carry a certified copy of the most recent child custody or visitation order issued by the Family, Juvenile, or Probate court.

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i>  <div style="border: 1px solid black; padding: 5px; text-align: center; background-color: yellow;"> <b>DRAFT</b>  <b>Not Approved by the</b>  <b>Judicial Council</b> </div>
<b>PEOPLE OF THE STATE OF CALIFORNIA</b> VS.  DEFENDANT:	
<b>CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE</b> <b>(CLETS - CPO) (Pen. Code, §§ 136.2, 646.9(k), and 136.2(i)(1))</b> <input type="checkbox"/> ORDER UNDER PENAL CODE, § 136.2 <input type="checkbox"/> MODIFICATION <input type="checkbox"/> PROBATION CONDITION ORDER (Pen. Code, § 136.2) <b>ORDER AT SENTENCING UNDER:</b> <input type="checkbox"/> PENAL CODE, § 646.9(k) <input type="checkbox"/> PENAL CODE, § 136.2(i)(1)	CASE NUMBER:

PERSON TO BE RESTRAINED *(complete name)*:  
 Sex:  M  F    Ht.:    Wt.:    Hair color:    Eye color:    Race:    Age:    Date of birth:

1. This proceeding was heard on *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
 by judicial officer *(name)*: \_\_\_\_\_
2. **This order expires on *(date)*: \_\_\_\_\_ . If no date is listed, this order expires three years from date of issuance.**
3.  Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.
4. COMPLETE NAME, AGE, AND GENDER OF EACH PROTECTED PERSON:

5.  The court has information that the defendant owns or has a firearm or ammunition, or both.

**GOOD CAUSE APPEARING, THE COURT ORDERS THAT THE ABOVE-NAMED DEFENDANT**

6. must not harass, strike, threaten, assault (sexually or otherwise), follow, stalk, molest, destroy or damage personal or real property, disturb the peace, keep under surveillance, or block movements of the protected persons named above.
7. **must not own, possess, buy or try to buy, receive or try to receive, or otherwise obtain a firearm or ammunition. The defendant must surrender to local law enforcement, or sell to or store with a licensed gun dealer, any firearm owned by the defendant or subject to his or her immediate possession or control within 24 hours after service of this order and must file a receipt with the court showing compliance with this order within 48 hours of receiving this order.**  
 The court finds good cause to believe that the defendant has a firearm within his or her immediate possession or control and sets a review hearing for *(date)*: \_\_\_\_\_ to ascertain whether the defendant has complied with the firearm relinquishment requirements of Code Civ. Proc., § 527.9. (Cal. Rules of Court, rule 4.700.)  
 The court has made the necessary findings and applies the firearm relinquishment exemption under Code Civ. Proc., § 527.9(f).
8. must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing or testifying or making a report to any law enforcement agency or person.
9. must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardian unless good cause exists otherwise.  The court finds good cause not to make the order in item 9.
10.  must be placed on electronic monitoring for *(specify)*: \_\_\_\_\_ . (Not to exceed one year from the date of this order. Pen. Code, § 136.2(a)(7)(D)(i)(2).)
11.  must have no personal, electronic, telephonic, or written contact with the protected persons named above.
12.  must have no contact with the protected persons named above through a third party, except an attorney of record.
13.  must not come within \_\_\_\_\_ yards of the protected persons named above.
14.  may have peaceful contact with the protected persons named above, as an exception to the "no-contact" or "stay-away" provision in item 11, 12, or 13 of this order, only for the safe exchange of children and court-ordered visitation as stated in:
  - a.  the Family, Juvenile, or Probate court order in case number: \_\_\_\_\_ issued on *(date)*: \_\_\_\_\_
  - b.  any Family, Juvenile, or Probate court order issued *after* the date this order is signed.
15. Other orders including stay-away orders from specific locations:

16.  The protected persons may record any prohibited communications made by the restrained person.

Executed on: \_\_\_\_\_ (DATE) \_\_\_\_\_ (SIGNATURE OF JUDICIAL OFFICER) Department/Division: \_\_\_\_\_

## WARNINGS AND NOTICES

1. **VIOLATION OF THE ORDER IS SUBJECT TO CRIMINAL PROSECUTION.** Violation of this protective order may be punished as a felony, a misdemeanor, or contempt of court.
2. **NOTICE REGARDING FIREARMS.** Any person subject to a protective order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. The person subject to these orders must relinquish any firearms (by surrendering the firearm to local law enforcement, or by selling or storing it with a licensed gun dealer) and not own or possess any firearms during the period of the protective order. (Pen. Code, § 136.2(d).) Under federal law, the issuance of a protective order after hearing will generally prohibit the restrained person from owning, accepting, transporting, or possessing firearms or ammunition. A violation of this prohibition is a separate federal crime.

Specified defendants may request an exemption from the firearm relinquishment requirements set forth in item 7 on page 1 of this order. The court must check the box under item 7 to order an exemption from the firearm relinquishment requirements. If the defendant can show that the firearm is necessary as a condition of continued employment, the court may grant an exemption for a particular firearm to be in the defendant's possession only during work hours and while traveling to and from work. If a peace officer's employment and personal safety depend on the ability to carry a firearm, a court may grant an exemption that allows the officer to carry a firearm on or off duty but only if the court finds, after a mandatory psychological examination of the peace officer, that the officer does not pose a threat of harm. (Code Civ. Proc., § 527.9(f).)

### 3. ENFORCING THIS ORDER IN CALIFORNIA

- This order must be enforced in California by any law enforcement agency that has received the order or is shown a copy of the order or has verified its existence on the California Law Enforcement Telecommunications System (CLETS).
- Law enforcement must determine whether the restrained person had notice of the order. If notice cannot be verified, law enforcement must advise the restrained person of the terms of the order and, if the restrained person fails to comply, must enforce it. (Code Civil Proc., § 527.6.)

### 4. CONFLICTING ORDERS--PRIORITY OF ORDERS

An *Emergency Protective Order* (form EPO-001) that has been issued protecting the protected person from the restrained person and is more restrictive than other restraining orders takes precedence in enforcement over all other restraining orders. (Pen. Code, § 136.2(c)(1)(A).) A no-contact order in any protective order has precedence in enforcement over any other restraining or protective order except an EPO. If none of the orders includes a no-contact order, a protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. (Pen. Code, § 136.2(e)(2).) Any nonconflicting terms of the civil restraining order remain in effect and enforceable. If more than one family or other civil restraining order has been issued, the one that was issued last must be enforced.

### 5. EFFECTIVE DATE AND EXPIRATION DATE OF ORDERS

- These orders are effective as of the date they were issued by a judicial officer.
- These orders expire as ordered in item 2 on page 1 of this order.
- Orders under Penal Code section 136.2 are valid as long as the court has jurisdiction over the case. They are not valid after imposition of a state prison commitment. (See *People v. Stone* (2004) 123 Cal.App.4th 153.)
- Orders issued at sentencing under Penal Code section 136.2(i)(1), and orders under Penal Code section 646.9 are valid for up to 10 years and may be issued by the court whether the defendant is sentenced to state prison or county jail or if imposition of sentence is suspended and the defendant is placed on probation. (Pen. Code, §§ 136.2(i)(1), 646.9(k).)
- To terminate this protective order, use form CR-165, *Notice of Termination of Protective Order in Criminal Proceeding (CLETS)*.

### 6. CHILD CUSTODY AND VISITATION

- Child custody and visitation orders may be established or modified in Family, Juvenile, or Probate court.
- Unless box a or b in item 14 on page 1 is checked, contact between the restrained and protected persons permitted by a Family, Juvenile, or Probate court order for child custody or visitation must not conflict with the provisions of this order.
- If box a or b in item 14 on page 1 is checked, the restrained and protected persons should always carry a certified copy of the most recent child custody or visitation order issued by the Family, Juvenile, or Probate court.

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY  <div style="border: 2px solid yellow; padding: 5px; display: inline-block; text-align: center;"> <b>DRAFT</b>  <b>Not Approved by the</b>  <b>Judicial Council</b> </div>
<b>PEOPLE OF THE STATE OF CALIFORNIA</b> vs. DEFENDANT:	
<b>ORDER TO SURRENDER FIREARMS IN DOMESTIC VIOLENCE CASE</b> <b>(CLETS - CPO)</b> <b>(Penal Code, §§ 136.2(a)(7)(B))</b>	CASE NUMBER:

PERSON TO SURRENDER FIREARMS *(complete name)*:  
 Sex:  M  F    Ht.:    Wt.:    Hair color:    Eye color:    Race:    Age:    Date of birth:

1. This proceeding was heard on *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_ by judicial officer *(name)*: \_\_\_\_\_
2. **This order expires on *(date)*:** \_\_\_\_\_ . **If no date is listed, this order expires three years from date of issuance.**
3.  Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.

**GOOD CAUSE APPEARING, THE COURT ORDERS THAT THE ABOVE-NAMED DEFENDANT**

4. **must not own, possess, buy or try to buy, receive or try to receive, or otherwise obtain a firearm or ammunition. The defendant must surrender to local law enforcement, or sell to or store with a licensed gun dealer, any firearm owned by the defendant or subject to his or her immediate possession or control within 24 hours after service of this order and must file a receipt with the court showing compliance with this order within 48 hours of receiving this order.**
  - The court finds good cause to believe that the defendant has a firearm within his or her immediate possession or control and sets a review hearing for *(date)*: \_\_\_\_\_ to ascertain whether the defendant has complied with the firearm relinquishment requirements of Code Civ. Proc., § 527.9. (Cal. Rules of Court, rule 4.700.)**
  - The court has made the necessary findings and applies the firearm relinquishment exemption under Code Civ. Proc., § 527.9(f).**

Executed on: \_\_\_\_\_ (DATE) \_\_\_\_\_ (SIGNATURE OF JUDICIAL OFFICER) Department/Division: \_\_\_\_\_

**NOTICES**

This order is effective as of the date it was signed by the judicial officer and expires as **ordered** in item 2.  
 This order is to be used ONLY when the court orders firearms relinquishment but does not make any other protective or restraining orders. Do NOT use in conjunction with other Criminal Protective Orders (form CR-160 or CR-161).

**NOTICE REGARDING FIREARMS.** Any person subject to a protective order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. The person subject to these orders must relinquish any firearms (by surrendering the firearm to local law enforcement, or by selling or storing it with a licensed gun dealer) and not own or possess any firearms during the period of the protective order. (Pen. Code, § 136.2(d).) Under federal law, the issuance of a protective order after hearing will generally prohibit the restrained person from owning, accepting, transporting, or possessing firearms or ammunition. A violation of this prohibition is a separate federal crime.

Specified defendants may request an exemption from the firearm relinquishment requirements set forth in item 4 of this order. *The court must check the box under item 4 to order an exemption from the firearm relinquishment requirements.* If the defendant can show that the firearm is necessary as a condition of continued employment, the court may grant an exemption for a particular firearm to be in the defendant's possession only during work hours and while traveling to and from work. If a peace officer's employment and personal safety depend on the ability to carry a firearm, a court may grant an exemption that allows the officer to carry a firearm on or off duty but only if the court finds, after a mandatory psychological examination of the peace officer, that the officer does not pose a threat of harm. (Code Civ. Proc., § 527.9(f).)

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY  <b>DRAFT</b> <b>Not Approved by the</b> <b>Judicial Council</b>  CASE NUMBER:
<b>PEOPLE OF THE STATE OF CALIFORNIA</b> vs. DEFENDANT:	
<b>NOTICE OF TERMINATION OF PROTECTIVE ORDER IN CRIMINAL PROCEEDING (CLETS)</b> (Penal Code, §§ 136.2, 273.5(j), 646.9(k), 1203.097(a)(2), and 136.2(i)(1))	

**NOTICE: THIS TERMINATION ORDER DOES NOT ALSO TERMINATE EXISTING FAMILY, JUVENILE, OR PROBATE COURT ORDERS.**

**ORDER**

**1. THE COURT ORDERS:**

Effective (today's date): \_\_\_\_\_, the Protective Order in the above-entitled case and issued on (date): \_\_\_\_\_, restraining (name of restrained person): \_\_\_\_\_, listing as protected person(s): \_\_\_\_\_,

**is terminated.**

- 2. This termination order supersedes all prior protective orders in the above-entitled case.
- 3. The court or its designee must ensure that this order is electronically transmitted to the Department of Justice within one business day by either:
  - a.  transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS); or
  - b.  entering the order into CLETS directly, but only with the approval of the Department of Justice.
- 4.  The prosecuting agency is to notify the protected person(s) of this order.

Executed on: \_\_\_\_\_ (DATE) \_\_\_\_\_ (SIGNATURE OF JUDICIAL OFFICER) Department/Division: \_\_\_\_\_