

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT ITC SP22-11

Title	Action Requested
Criminal Procedure: Criminal Protective Orders and Firearm Relinquishment Orders	Review and submit comments by October 11, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise forms CR-160, CR-161, and CR-162	March 1, 2023
Proposed by	Contact
Criminal Law Advisory Committee Hon. Brian M. Hoffstadt, Chair	Sarah Fleischer-Ihn, 415-865-7702 sarah.fleischer-ihn@jud.ca.gov

Executive Summary and Origin

The Criminal Law Advisory Committee recommends revisions to two mandatory Judicial Council criminal protective orders to (1) reflect statutory changes to the definition of firearm in Penal Code section 16520(b), with an impact on Penal Code section 136.2 and Code of Civil Procedure section 527.9; (2) reflect statutory changes adding “reproductive coercion” as an example of “coercive control” in Family Code section 6320; (3) be consistent with similar provisions in the civil protective orders; and (4) improve the forms’ useability and accuracy. The committee circulated proposed revisions to the two mandatory criminal protective orders from April to May 2022 and is now proposing further revisions to those forms in light of the recent statutory changes. The committee also recommends revisions to a mandatory Judicial Council order to surrender firearms in domestic violence criminal cases to reflect statutory changes to the definition of firearms as described above and to be consistent with previously circulated proposed revisions to the criminal protective orders.

Background

Forms CR-160 and CR-161 are mandatory Judicial Council forms used to provide protective orders in criminal cases. *Criminal Protective Order—Domestic Violence* (form CR-160) was first approved as an optional municipal court criminal protective order form in 1998. The order has been revised several times to reflect statutory changes and to add warnings and notices for both defendants and law enforcement. In 2007, *Criminal Protective Order—Other Than Domestic Violence* (form CR-161) was spun off from form CR-160 based on concern from the Attorney General’s task force on domestic violence cases that including all types of criminal protective

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.

orders on one form resulted in domestic violence (DV) orders not being entered into the relevant DV registries and databases.

Mandatory *Order to Surrender Firearms in Domestic Violence Case* (CR-162) was adopted in 2007 to comply with statutory changes that allowed the court to issue an order prohibiting firearm possession in domestic violence cases without issuing a criminal protective order. (Pen. Code, § 136.2(a)(1)(G)(ii)(I).) This form was suggested by the Attorney General’s task force on domestic violence cases.

Forms CR-160, CR-161, and CR-162 were last substantively revised, effective July 1, 2014, in response to a rule of court that addresses firearm relinquishment hearings and legislation that expanded court authority to issue criminal protective orders, authorized courts to order electronic monitoring in specified circumstances, prescribed a new firearm relinquishment option, and clarified enforcement priorities for no-contact orders in criminal and civil protective orders. The forms were revised more recently to incorporate nonsubstantive technical amendments to reflect renumbered statutes and avoid gendered pronouns.

Prior Circulation

A proposal to revise forms CR-160 and CR-161 circulated for public comment from April to May 2022.¹ Those proposed revisions were to reflect statutory changes to Family Code section 6320 regarding enjoined actions and former Penal Code section 30405(a)(1)² prohibiting possession of firearm precursor parts and to include a nonbinary gender option, improve consistency with the data fields in the California Restraining and Protective Order System (CARPOS), clarify protective order expiration dates, and add additional provisions for protected persons from Penal Code section 136.2. The committee also recommended several revisions to the forms’ content, format, instructions, and advisements to make them easier to understand, complete, and enforce.

The Proposal

The proposal would further revise the two criminal protective order forms to incorporate statutory changes, add language on terminating orders, and be consistent with similar provisions in the civil protective orders. The proposal would also add a check box to form CR-161 to allow a court to issue a criminal protective order in a non–domestic violence elder abuse case under Penal Code section 368(*l*). Additionally, the proposal revises form CR-162 to incorporate statutory changes, include a nonbinary gender option, clarify protective order expiration dates, and be consistent with the firearm and ammunition prohibitions and exemptions in the mandatory criminal protective orders.

¹ See Judicial Council of Cal., Advisory Com. Invitation to Comment, *Criminal Procedure: Criminal Protective Orders* (SPR22-08), www.courts.ca.gov/documents/spr22-08.pdf.

² Penal Code section 30405 was repealed before its July 1, 2022 effective date by AB 1621.

Firearms definition

Effective June 30, 2022, Assembly Bill 1621 (Stats. 2022, ch. 76) expands the definition of a firearm as used in Penal Code section 136.2 and Code of Civil Procedure section 527.9 to include completed frames and receivers and “firearm precursor parts.” (Pen. Code, §§ 16520(b)(1), (24) & 16531(a).) The change is intended to include “ghost guns” (unserialized and untraceable firearms that can be bought online and assembled at home) in the list of items that restrained people cannot possess and must surrender. AB 1621 also amended the definition of firearm precursor parts to mean “any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted.” (Pen. Code, § 16531(a).)³

AB 1621 superseded a prior bill (Assem. Bill 1057; Stats. 2021, ch. 682) which would have added firearm parts to the definition of firearm under specified Family Code and Penal Code sections. To implement AB 1057 in civil domestic violence restraining orders and gun violence forms, the Family and Juvenile Law Advisory Committee and Civil and Small Claims Advisory Committee recommended referring to receivers, frames, and firearm precursor parts as “firearm parts” and further defining a firearm part as a “receiver, frame, or unfinished receiver or frame, as defined in Penal Code section 16531.”⁴ The two committees believe the same changes to the forms needed to implement AB 1057 would be appropriate to implement AB 1621 and the Judicial Council has approved that language.⁵ The Criminal Law Advisory Committee also recommends using the same terminology in forms CR-160, CR-161, and CR-162 for consistency and comprehensibility.

To reflect this legislative change, the committee recommends revising item 8 on firearms and ammunition prohibitions on both forms CR-160 (DV protective order) and CR-161 (non-DV

³ Former section 16531(a):

(a) As used in this part, “firearm precursor part” means a component of a firearm that is necessary to build or assemble a firearm and is described in either of the following categories:

(1) An unfinished receiver, including both a single part receiver and a multiple part receiver, such as a receiver in an AR-10- or AR-15-style firearm. An unfinished receiver includes a receiver tube, a molded or shaped polymer frame or receiver, a metallic casting, a metallic forging, and a receiver flat, such as a Kalashnikov-style weapons system, Kalashnikov-style receiver channel, or a Browning-style receiver side plate.

(2) An unfinished handgun frame.

⁴ AB 1057 did not add firearm precursor parts to the definition of a firearm as used in Penal Code section 136.2, so the criminal protective orders were not impacted.

⁵ See Judicial Council of Cal., Advisory Com. Rep., *Domestic Violence: Rule and Form Changes to Implement New Laws* (Sept. 20, 2022), p. 4, <https://jcc.legistar.com/View.ashx?M=F&ID=11229751&GUID=A9339929-3ABD-4F35-BE6D-672A0C40FAD0>; Judicial Council of Cal., Advisory Com. Rep., *Protective Orders: Gun Violence Forms Implementing Statutory Amendments Permitting Remote Appearances and Modifying the Definition of Firearms* (Sept. 20, 2022), p. 3, <https://jcc.legistar.com/View.ashx?M=F&ID=11205465&GUID=ACE8A41E-6217-4FC9-9B8A-E3ED80D7145F>.

protective order) to also refer to “firearm parts (receiver, frame, or unfinished receiver or frame, as defined in Penal Code section 16531).” The committee also recommends additional minor revisions to the item by adding the time and department to the subitem noticing a hearing and revising the title to add “guns.” The committee recommends similar revisions to item 4 of *Order to Surrender Firearms in Domestic Violence Case—CLETS-CPO* (form CR-162).

Reproductive coercion

Effective January 1, 2022, Senate Bill 374 (Stats. 2021, ch. 135) added “reproductive coercion” as a form of coercive control under Family Code section 6320(c)(5). To implement SB 374, and in light of comments received in the earlier circulation, the committee recommends revising the domestic violence criminal protective order (form CR-160) to include examples of reproductive coercion, as included in Family Code section 6320(c)(5). The civil domestic violence protective order proposal includes the same language.

Pretrial expiration date

To flag the need for a further court order to terminate a pretrial order, the committee recommends adding language to item 4 on forms CR-160 and CR-161 stating “To terminate, courts must use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).” The committee recommends a similar revision to item 2 on form CR-162.

Elder abuse protective order checkbox on form CR-161

A deputy district attorney requested that the non-DV criminal protective order (form CR-161) include a box for postconviction protective orders issued under Penal Code section 368(I) in elder abuse cases. The DV criminal protective order (form CR-160) currently includes a box for these orders, so this addition would allow courts to issue the orders in a non-DV elder abuse context as well.

Revisions to form CR-162

In addition to revisions to incorporate AB 1621, the committee recommends the following revisions, previously circulated as proposed revisions to the criminal protective orders and still being recommended for those forms, to *Order to Surrender Firearms in Domestic Violence Case—CLETS-CPO* (form CR-162).

Gender-neutral pronouns

The Judicial Council’s Rules Committee has directed advisory committees, in revising all Judicial Council rules and forms, to use gender-neutral pronouns where legally possible and include a nonbinary option for gender identity questions. Accordingly, the committee recommends changing references to the restrained person’s “sex” on the order to “gender” and including a nonbinary gender option.

Default expiration dates

The order currently states: “This order expires on (*date*): . If no date is listed, this order expires three years from date issuance.” The committee recommends deleting the three-year expiration default, because it appears overbroad as it relates to pretrial orders, which should

terminate on sentence or dismissal (see *People v. Stone* (2004) 123 Cal.App.4th 153, 160 [order must be “limited to the pendency of the criminal proceeding”]). The committee recommends a revision to clarify that if no date is listed, the order remains in effect until further court order.

Other changes

The committee also recommends (1) deleting the field for the defendant’s age, because age is not a data field in CARPOS and the defendant’s date of birth is already included; (2) reordering the fields identifying the defendant so that the order is similar to that on forms CR-160 and CR-161; (3) deleting repetitive language on the firearm prohibitions; and (4) moving information on the consequences of possessing a firearm and relinquishment requirements from the Warnings and Notices section to item 4 on firearm, firearm parts, and ammunition prohibitions.

List of proposed revisions

Criminal Protective Order—Domestic Violence (*form CR-160*)

The proposal would revise form CR-160 as follows:⁶

- Item 4, Expiration date
 - Add language stating that “[t]o terminate, courts must use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).”
- Item 8, No firearms or ammunition
 - Rename as “No firearms (guns), firearm parts, or ammunition”;
 - Replace prohibition on guns with “firearms, firearm parts (receiver, frame, or unfinished receiver or frame, as defined in Penal Code section 16531)”;
 - Add “firearm parts” to all references to firearms, except in item 8e on limited exemptions;
 - Replace references to guns with “firearms and firearm parts”;
 - Add fields to indicate the time and location of the review hearing.
- Item 11, Order not to abuse
 - Add to the definition of coercive control: “reproductive coercion, meaning controlling someone’s reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone’s contraception, birth control, pregnancy, or access to health information.”

Criminal Protective Order—Other Than Domestic Violence (*form CR-161*)

The proposal would revise form CR-161 as follows:

⁶ Highlights on attached forms CR-160 and CR-161 show the changes proposed in this circulation. The proposed changes from the prior circulation are so comprehensive that they are not highlighted.

- Order check box
 - Add a check box for postconviction protective orders issued under Penal Code section 368(l) in elder abuse cases.
- Item 4, Expiration date
 - Add language stating that “[t]o terminate, courts must use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).”
- Item 8, No firearms or ammunition
 - Rename as “No firearms (guns), firearm parts, or ammunition”;
 - Replace prohibition on guns with “firearms, firearm parts (receiver, frame, or unfinished receiver or frame, as defined in Penal Code section 16531)”;
 - Add “firearm parts” to all references to firearms, except in item 8e on limited exemptions;
 - Replace references to guns with “firearms and firearm parts”; and
 - Add fields to indicate the time and location of the review hearing.

Order to Surrender Firearms in Domestic Violence Case (*form CR-162*)

The proposal would revise form CR-162 as follows:

- Defendant’s information
 - Change “sex” to “gender” and add a gender nonbinary option;
 - Delete field asking for defendant’s age; and
 - Reorder identification fields for consistency with forms CR-160 and CR-161.
- Item 2, Expiration date
 - Replace language stating a three-year default expiration date if no date is listed with language stating that “[i]f no date is listed, this order remains in effect until further court order and that [t]o terminate, courts must use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).”
- Item 4, Court Orders
 - Add “firearm parts (receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531)” or “firearm parts” to all references to firearms, except under item 4e on limited exemptions;
 - Create a new subsection on firearm and firearm parts relinquishment;
 - Create a new subsection on exemptions, add language regarding work-related requirements to the limited exemption provision reflecting Code of Civil Procedure section 527.9(f), and add language that even if exempt under California law, the

- defendant may be subject to federal prosecution for possessing or controlling a firearm, similar to the proposed language in the criminal protective orders;
 - Incorporate firearm-related warnings addressed to the defendant from the Warnings and Notices section of the current form; and
 - Add fields to indicate the time and location of the review hearing.
- Notices
 - Rename “Warnings and Notices” to “Notices”; and
 - Remove repetitive language regarding firearm-related warnings and language moved to Item 4.

Alternatives Considered

The committee did not consider the alternative of taking no action, determining that it was important to adopt the forms to implement legislative change.

An earlier, January 1, 2023, effective date was considered for the new forms, because the forms are mandatory and the new law is already in effect. However, the committee concluded that in order to give courts time to make necessary changes to their case management systems, the later date should be recommended.

Fiscal and Operational Impacts

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the newly revised forms. In addition, costs would be incurred to make and replace paper forms packets.

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?

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 three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation, or would January 1 be a better effective date?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Forms CR-160, CR-161, and CR-162, at pages 9–16

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> <h1 style="margin: 0;">DRAFT</h1> <h2 style="margin: 0;">Not approved by the Judicial Council</h2>
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
CRIMINAL PROTECTIVE ORDER—DOMESTIC VIOLENCE (CLETS-CPO) <input type="checkbox"/> ORDER PENDING TRIAL (Pen. Code, § 136.2) <input type="checkbox"/> MODIFICATION <input type="checkbox"/> PROBATION CONDITION ORDER (Pen. Code, § 1203.097(a)(2)) ORDER UPON CONVICTION: <input type="checkbox"/> PENAL CODE, § 136.2(i) <input type="checkbox"/> PENAL CODE, § 273.5(j) <input type="checkbox"/> PENAL CODE, § 368(l) <input type="checkbox"/> PENAL CODE, § 646.9(k)	CASE NUMBER:

This order may take precedence over other conflicting orders; see item 4 on page 4.

1. **Restrained person**
 *Name: _____ *Gender: M F Nonbinary *Race: _____
 *Date of birth: _____ Height: _____ Weight: _____ Hair color: _____ Eye color: _____
2. **Protected person**
 *Name: _____ *Gender: M F Nonbinary Age: _____
3. **Additional protected persons**

*Name	*Gender	Relationship to person in item 2
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- a. The court finds that the protected person's family members have been targeted or harmed by the defendant (finding required for postconviction orders issued under Penal Code section 136.2(i)).
- b. The court finds by clear and convincing evidence that the above named percipient witnesses have been harassed by the defendant (finding required for postconviction orders issued under Penal Code section 136.2(i)(2)).

(For items 1, 2, and 3: 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.)

4. **Expiration date**
 - a. For pretrial orders, this order remains in effect until further court order. **To terminate, courts must use Notice of Termination of Protective Order in Criminal Proceeding (form CR-165).**
 - b. For postconviction orders, this order expires on (date): _____ . (Postconviction orders under Penal Code sections 136.2(i), 368(l), 273.5(j), and 646.9(k) may be valid for up to 10 years.)

5. **Hearing**
 This proceeding was heard on (date): _____ at (time): _____
 by (judicial officer): _____

6. **Personal service**
 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.

7. The court finds good cause to grant a protective order. See items 8–17.

To the defendant

- If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine.
- It is a felony to take or hide a child in violation of this order.
- Traveling across state or tribal boundaries with the intent to violate the order may be punishable as a federal offense. (18 U.S.C. § 2261(a)(1).)

DEFENDANT:	CASE NUMBER:
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8. **No firearms (guns), firearm parts, or ammunition**

- a. The defendant must not own, possess, buy or try to buy, receive or try to receive, or in any other way get any firearms, firearm parts (receiver, frame, or unfinished receiver or frame, as defined in Penal Code section 16531), or ammunition. Possession of firearms, firearms parts, or ammunition while this order is in effect may subject the defendant to state or federal prosecution and may include jail or prison time and/or a fine.
- b. Within 24 hours of receiving this order, the defendant must turn in to local law enforcement, or sell to or store with a licensed gun dealer, any firearms and firearm parts owned by the defendant or within the defendant's immediate possession or control.
- c. Within 48 hours of receiving this order, the defendant must file a receipt with the court showing that all firearms and firearm parts have been turned in, sold, or stored.
- d. The court finds good cause to believe that the defendant has a firearm and firearm parts within their immediate possession or control and sets a review hearing for (date): _____ (time): _____ (dept): _____ to ascertain whether the defendant has complied with the firearm and firearm parts relinquishment requirements of Code of Civil Procedure section 527.9 (Cal. Rules of Court, rule 4.700).
- e. Limited exemption: The court has made the necessary findings to grant an exemption under Code of Civil Procedure section 527.9(f). Under California law, the defendant is not required to relinquish this firearm (specify make, model, and serial number of firearm): _____ but must only have it during scheduled work hours and to and from their place of work. Even if exempt under California law, the defendant may be subject to federal prosecution for possessing or controlling a firearm.

9. **No dissuading victim or witness (for pretrial orders issued under Penal Code section 136.2(a)(1))**

The defendant must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing, testifying, or making a report to any law enforcement agency or person.

10. **No obtaining addresses (for orders issued under Penal Code section 136.2)**

- a. The defendant must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardians unless good cause exists otherwise.
- b. The court finds good cause not to make this order.

11. **Order to not abuse**

Defendant must not harass, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy or damage personal or real property, disturb the peace of, keep under surveillance, annoy by phone or other electronic means (including repeatedly contact), impersonate (on the internet, electronically, or otherwise), or block movements of the protected persons named above.

- "Disturb the peace of" means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- "Coercive control" means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, activities, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status; and reproductive coercion, meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to related health information.

12. **No-contact order**

Defendant must not contact the protected persons named above, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means. Contact through an attorney under reasonable restrictions set by the court does not violate this order.

13. **Stay-away order**

Defendant must stay at least _____ yards away from the protected person and their

- a. home b. job or workplace c. vehicle d. other protected person in item 3
- e. other locations:

DEFENDANT:	CASE NUMBER:
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14. **Exceptions**

Defendant may have peaceful contact with the protected persons named above, as an exception to the no-contact and stay-away orders in items 12 and 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 of this order is signed.

The restrained and protected persons should always carry a certified copy of the most recent order issued by the family, juvenile, or probate court.

15. **Protected animals**

a. The protected persons named above are given the exclusive care, possession, and control of the animals listed below:

Name:	Type of animal:	Breed (optional):	Color (optional):
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- b. Defendant must not take, transfer, sell, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the animals listed above.
- c. Defendant must not come within _____ yards of the animals listed above.

16. **Electronic monitoring**

Defendant must be placed on electronic monitoring for *(specify length of time)*:
(Not to exceed 1 year from the date of this order. Pen. Code, § 136.2(a)(1)(G)(iv), (i)(3).)

17. **Recordings**

The protected person in item 2 may record communications made by the person in item 1 that violate this order.

18. **Other orders**

Executed on *(date)*:

JUDICIAL OFFICER

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 states of the 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.**

DEFENDANT:	CASE NUMBER:
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Instructions for Law Enforcement

1. Start Date and End Date of Order

This order starts on the date it was issued by a judicial officer.

This order ends as ordered in item 4 on page 1 of this order.

- Orders under Penal Code section 136.2(a) are valid as long as the court has jurisdiction over the case. They are not valid after imposition of a county jail or state prison commitment. (*People v. Stone* (2004) 123 Cal.App.4th 153.)
- Orders issued under Penal Code sections 136.2(i)(1), 273.5(j), 368(l), 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, county jail, or subject to mandatory supervision or if imposition of sentence is suspended and the defendant is placed on probation.
- Orders under Penal Code section 1203.097(a)(2) are probationary orders, and the court has jurisdiction as long as the defendant is on probation.
- To terminate this protective order, courts should use form CR-165, *Notice of Termination of Protective Order in Criminal Proceeding (CLETS-CANCEL)*.

2. If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

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 Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

- **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.
- **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 12 is an example of a no-contact order.
- **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 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. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
- **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment) then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Peace Officer Firearm Prohibition Exemption

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).)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> DRAFT Not approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE (CLETS-CPO) (Pen. Code, §§ 136.2, 136.2(i), 136.2(l) and 646.9(k)) ORDER <input type="checkbox"/> Pen. Code, § 136.2 <input type="checkbox"/> MODIFICATION PENDING TRIAL: ORDER UPON <input type="checkbox"/> Pen. Code, § 136.2(i) <input type="checkbox"/> Pen. Code, § 646.9(k) CONVICTION: <input type="checkbox"/> Pen. Code, § 368(l)	CASE NUMBER:

1. Restrained person

*Name: _____ *Gender: M F Nonbinary *Race: _____
 *Date of birth: _____ Height: _____ Weight: _____ Hair color: _____ Eye color: _____

2. Protected person

*Name: _____ *Gender: M F Nonbinary Age: _____

3. Additional protected persons

*Name _____ *Gender _____ Relationship to person in item 2 _____

- a. The court finds that the protected person's family members have been targeted or harmed by the defendant (finding required for postconviction orders issued under Penal Code section 136.2(i)).
- b. The court finds by clear and convincing evidence that the above named percipient witnesses have been harassed by the defendant (finding required for postconviction orders issued under Penal Code section 136.2(i)(2)).

(For items 1, 2, and 3: 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.)

4. Expiration date

- a. For pretrial orders, this order remains in effect until further court order. **To terminate, courts must use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).**
- b. For postconviction orders, this order expires on (date): _____ . (Postconviction orders under Penal Code sections 136.2(i) and 646.9(k) may be valid for up to 10 years.)

5. Hearing

This proceeding was heard on (date): _____ at (time): _____
 by (judicial officer): _____

6. Personal service

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.

7. The court finds good cause to grant a protective order. See items 8–15.

To the defendant

- If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine.

8. No firearms (guns), firearm parts, or ammunition

- a. The defendant must not own, possess, buy or try to buy, receive or try to receive, or in any other way get any **firearms, firearm parts (receiver, frame, or unfinished receiver or frame, as defined in Penal Code section 16531), or ammunition.** Possession of firearms, firearms parts, or ammunition while this order is in effect may subject the defendant to state or federal prosecution and may include jail or prison time and/or a fine.

DEFENDANT:	CASE NUMBER:
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8. b. Within 24 hours of receiving this order, the defendant must turn in to local law enforcement, or sell to or store with a licensed gun dealer, any **firearms or firearm** parts owned by the defendant or within the defendant's immediate possession or control.
- c. Within 48 hours of receiving this order, the defendant must file a receipt with the court showing that **all firearms and firearm parts** have been turned in, sold, or stored.
- d. The court finds good cause to believe that the defendant has a firearm **and firearm parts** within their immediate possession or control and sets a review hearing for *(date)*: *(time)*: *(dept)*: to ascertain whether the defendant has complied with the firearm **and firearm parts** relinquishment requirements of Code of Civil Procedure section 527.9 (Cal. Rules of Court, rule 4.700).
- e. Limited exemption: The court has made the necessary findings to grant an exemption under Code of Civil Procedure section 527.9(f). Under California law, the defendant is not required to relinquish this firearm *(specify make, model, and serial number of firearm)*: but must only have it during scheduled work hours and to and from their place of work. Even if exempt under California law, the defendant may be subject to federal prosecution for possessing or controlling a firearm.
9. **No dissuading victim or witness (for pretrial orders issued under Penal Code section 136.2(a)(1))**
The defendant must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing, testifying, or making a report to any law enforcement agency or person.
10. **No obtaining addresses (for orders issued under Penal Code section 136.2)**
- a. The defendant must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardians unless good cause exists otherwise.
- b. The court finds good cause not to make this order.
11. **Order to not abuse**
Defendant must not harass, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy or damage personal or real property, disturb the peace of, keep under surveillance, annoy by phone or other electronic means (including repeatedly contact), impersonate (on the internet, electronically, or otherwise), or block movements of the protected persons named above.
12. **No-contact order**
Defendant must not contact the protected persons named above, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means. Contact through an attorney under reasonable restrictions set by the court does not violate this order.
13. **Stay-away order**
Defendant must stay at least _____ yards away from the protected person and their
- a. home b. job or workplace c. vehicle d. other protected person in item 3
- e. other locations:
14. **Exceptions**
Defendant may have peaceful contact with the protected persons named above, as an exception to the no-contact and stay-away orders in items 12 and 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 of this order is signed.
- The restrained and protected persons should always carry a certified copy of the most recent order issued by the family, juvenile, or probate court.
15. **Electronic monitoring**
Defendant must be placed on electronic monitoring for *(specify length of time)*:
(Not to exceed 1 year from the date of this order. Pen. Code, § 136.2(a)(1)(G)(iv), (i)(3).)
16. **Other orders**

Executed on *(date)*:_____
JUDICIAL OFFICER

DEFENDANT:	CASE NUMBER:
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Instructions for Law Enforcement

1. Start Date and End Date of Order

This order starts on the date it was issued by a judicial officer.

This order ends as ordered in item 4 on page 1 of this order.

- Orders under Penal Code section 136.2(a) are valid as long as the court has jurisdiction over the case. They are not valid after imposition of a county jail or state prison commitment. (*People v. Stone* (2004) 123 Cal.App.4th 153.)
- Orders issued under Penal Code sections 136.2(i)(1) 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, county jail, or subject to mandatory supervision or if imposition of sentence is suspended and the defendant is placed on probation.
- To terminate this protective order, courts should use form CR-165, *Notice of Termination of Protective Order in Criminal Proceeding (CLETS-CANCEL)*.

2. 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).

3. Conflicting Orders—Priority of Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

- **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.
- **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 12 is an example of a no-contact order.
- **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 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. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
- **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment) then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Peace Officer Firearm Prohibition Exemption

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).)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> DRAFT Not approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
ORDER TO SURRENDER FIREARMS IN DOMESTIC VIOLENCE CASE (CLETS - CPO) (Penal Code, § 136.2(a)(1)(G)(ii))	CASE NUMBER:
PERSON TO SURRENDER FIREARMS (<i>complete name</i>): Gender: <input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> Nonbinary Race: Date of birth: Ht.: Wt.: Hair color: Eye color:	

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 remains in effect until further court order.
 To terminate, courts must use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).
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. **GOOD CAUSE APPEARING, THE COURT ORDERS THAT THE ABOVE-NAMED DEFENDANT**
 - a. Must not own, possess, buy or try to buy, receive or try to receive, or in any other way get any firearms, firearm parts (receiver, frame, or unfinished receiver or frame, as defined in Penal Code section 16531), or ammunition. Possession of firearms, firearm parts, or ammunition while this order is in effect may subject the defendant to state or federal prosecution, and may include jail or prison time and/or a fine.
 - b. Within 24 hours of receiving this order, the defendant must turn in to local law enforcement, or sell to or store with a licensed gun dealer, any firearms or firearm parts owned by the defendant or within the defendant's immediate possession or control.
 - c. Within 48 hours of receiving this order, the defendant must file a receipt with the court showing that all firearms or firearm parts have been turned in, sold, or stored.
 - d. The court finds good cause to believe that the defendant has a firearm or firearm parts within their immediate possession or control and sets a review hearing for (*date*): _____ (*time*): _____ (*department*): _____ to ascertain whether the defendant has complied with the firearm and firearm parts relinquishment requirements of Code of Civ. Proc., § 527.9. (Cal. Rules of Court, rule 4.700.)
 - e. **Limited exemption:** The court has made the necessary findings to grant an exemption under Code of Civ. Proc., § 527.9(f). Under California law, the defendant is not required to relinquish this firearm (*specify make, model, and serial number of firearm*): _____ but must only have it during scheduled work hours and to and from their place of work. Even if exempt under California law the defendant may be subject to federal prosecution for possessing or controlling a firearm.

Executed on: _____ (DATE) _____ (SIGNATURE OF JUDICIAL OFFICER)

NOTICES

- This order is effective as of the date it was issued 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).
- Specified defendants may request an exemption from the firearm relinquishment requirements stated 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).)