

OPERATIONS COMMITTEE

OPERATIONAL ORDER NO. 10

December 16, 1999

**SUBJECT: EMERGENCY PROTECTIVE ORDER - REVISED**

**PURPOSE:** The Judicial Council of California has modified the Emergency Protective Order (EPO) (California Judicial Council Form No. 1295.90, Rev. 1/99) to address new legislation effective January 1, 1999. This Order advises officers of the revision to the EPO.

**PROCEDURE:** The procedure for completing an EPO remains the same. The EPO Form has been revised to include victims of workplace violence and civil harassment which are now included as grounds for protection under California Penal Code Section 646.91.

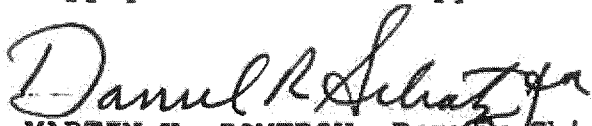
Workplace violence is defined as any violent physical actions, direct or implied threats to do harm to another or to property, verbally abusive or intimidating language or gestures, harassing or threatening communications, unauthorized possession of a weapon at the workplace, destructive or sabotaging actions, or pattern of unwanted or intrusive behavior against another which occur at the workplace.

Civil harassment may include any or all the above behaviors and/or actions, that do not occur at the workplace.

**INVESTIGATING OFFICER'S RESPONSIBILITY.** Officers completing an application for an EPO shall:

- \* Complete the EPO Form according to previous procedure as outlined in Office of Operations Order No. 2, dated March 19, 1992;
- \* If applicable, place a check in the "civil harassment" or "workplace violence" box, depending on whether the incident occurred at the workplace or not; and,
- \* Notify the Threat Management Unit, Detective Headquarters Division, when an officer obtains an EPO for workplace violence involving any City employee as the protected person.

**FORM AVAILABILITY:** The revised Emergency Protective Order, California Judicial Council, Form 1295.90, will be available for ordering from Supply Section. A copy is attached for duplication and use.

  
MARTIN H. POMEROY, Deputy Chief  
Chair, Operations Committee

Attachment

DISTRIBUTION "A"

APPLICATION FOR EMERGENCY PROTECTIVE ORDER (CLETS)

1295.90

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

LAW ENFORCEMENT CASE NUMBER:

1. PERSON(S) 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, stalking, workplace violence, or civil harassment 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  will be filed.  will NOT be filed.

7.  In accordance with Penal Code section 646.91, these orders are requested:  civil harassment  workplace violence

8. Phone call to (name of judicial officer): \_\_\_\_\_ 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

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, 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, stalking, workplace violence, or civil harassment.

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

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

INSERT DATE OF FIFTH FULL COURT DAY; DO NOT COUNT DAY THE ORDER IS GRANTED

PROOF OF SERVICE

13. Person served (name):

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

15. At the time of service I was at least 18 years of age and not a party to this cause.

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

California sheriff or marshal

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) (See reverse for important notices) (SIGNATURE OF SERVER)

## EMERGENCY PROTECTIVE ORDER WARNINGS AND INFORMATION

**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. PENAL CODE SECTION 12021(g) PROHIBITS ANY PERSON SUBJECT TO A RESTRAINING ORDER FROM PURCHASING OR ATTEMPTING TO PURCHASE OR OTHERWISE OBTAIN A FIREARM. 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 when the court opens. 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 cuando la corte abra. 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 on the reverse, when it opens, 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 on the reverse, 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 on the reverse side of this form. 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 al dorso cuando la corte abra, 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 al dorso 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 al dorso 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 the *Emergency Protective Order*. You may apply for a child custody order from the court, on the reverse side of this form.

**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 la Orden de protección de emergencia (*Emergency Protective Order*). Usted puede solicitar de la corte una Orden para la guarda del niño o de la niña (*Child Custody Order*), en la dirección indicada al dorso.

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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 following the day of its issue. An emergency protective order is also available to prevent the occurrence of child abuse.*

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