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**AB-1243 Protective orders: elder and dependent adults.** (2021-2022)

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**Assembly Bill No. 1243**

**CHAPTER 273**

An act to amend, repeal, and add Section 15657.03 of the Welfare and Institutions Code, relating to protective orders.

[ Approved by Governor September 23, 2021. Filed with Secretary of State September 23, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1243, Blanca Rubio. Protective orders: elder and dependent adults.

Existing law authorizes an elder or dependent adult who has suffered abuse, or another person who is legally authorized to seek that relief on behalf of that elder or dependent adult, to seek a protective order and governs the procedures for issuing that order. Existing law defines protective order for purposes of these provisions to include an order enjoining a party from specified forms of abuse, including attacking, stalking, threatening, or harassing an elder or dependent adult, an order excluding a party from the elder or dependent adult's residence, or an order enjoining a party from specified behavior that the court determines is necessary.

This bill would include within the definition of protective order an order enjoining a party from isolating an elder or dependent adult. The bill would require certain requirements to be met for that order to be issued, including a showing by a preponderance of the evidence that the respondent's past act or acts of isolation of the elder or dependent adult prevented contact with the interested party and that the elder or dependent adult desires contact with the interested party, as specified. The bill would authorize the order to specify the actions to be enjoined, including enjoining the respondent from preventing an interested party from in-person or remote online visits, including telephone and online contact, with the elder or dependent adult. The bill would also include within the definition of protective order after notice and a hearing, a finding that specific debts were incurred as the result of financial abuse of the elder or dependent adult, as specified. The bill would make those provisions operative January 1, 2023. The bill would require the Judicial Council to revise or promulgate forms as necessary to implement those changes on or before February 1, 2023.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** (a) It is the intent of the Legislature to prevent domestic violence, including elder and dependent adult abuse, and particularly to preserve the physical and mental health of vulnerable Californians. During the COVID-19 pandemic, one of the biggest threats to vulnerable adults' mental health, and sometimes physical health, has been isolation. The typical protections against isolation that might exist, including community or senior centers, libraries, support groups, banks, and even some delivery services, either are not available or are not operated in the same way as they were before the pandemic.

(b) The Legislature finds and declares that one way perpetrators of domestic violence, including elder and dependent adult abuse, are able to continue with their abuse is by preventing trusted friends and family members from seeing or contacting a vulnerable adult. As the vulnerable adult is isolated, it becomes more and more difficult for others to identify signs of abuse. The

isolation also allows the perpetrator to potentially take over finances and hide any indications that they are doing so. The pandemic and resulting stay-at-home orders, as well as older adults' vulnerability to COVID-19, have amplified the need for additional protections, as well as creative ways to ensure older adults remain connected to their communities. A court order is not required for an elder or dependent adult to engage in visitation from anyone from whom the elder or dependent adult desires visitation.

(c) The Legislature further finds and declares that it is extremely important that the health and well-being of a vulnerable adult be front and center in any decision affecting them.

(d) It is the intent of the Legislature that the changes made by this act ensure that vulnerable adults are able to protect and preserve their physical and mental health, by making certain that these vulnerable adults are able to maintain important familial and social connections that they desire, and that a perpetrator does not cut off those relationships in an attempt to take advantage of the vulnerable adult.

**SEC. 2.** Section 15657.03 of the Welfare and Institutions Code is amended to read:

**15657.03.** (a) (1) An elder or dependent adult who has suffered abuse, as defined in Section 15610.07, may seek protective orders as provided in this section.

(2) A petition may be brought on behalf of an abused elder or dependent adult by a conservator or a trustee of the elder or dependent adult, an attorney-in-fact of an elder or dependent adult who acts within the authority of a power of attorney, a person appointed as a guardian ad litem for the elder or dependent adult, or other person legally authorized to seek the relief.

(3) (A) A petition under this section may be brought on behalf of an elder or dependent adult by a county adult protective services agency in either of the following circumstances:

(i) If the elder or dependent adult has suffered abuse as defined in subdivision (b) and has an impaired ability to appreciate and understand the circumstances that place the elder or dependent at risk of harm.

(ii) If the elder or dependent adult has provided written authorization to a county adult protective services agency to act on that person's behalf.

(B) In the case of a petition filed pursuant to clause (i) of subparagraph (A) by a county adult protective services agency, a referral shall be made to the public guardian consistent with Section 2920 of the Probate Code prior to or concurrent with the filing of the petition, unless a petition for appointment of a conservator has already been filed with the probate court by the public guardian or another party.

(C) A county adult protective services agency shall be subject to any confidentiality restrictions that otherwise apply to its activities under law and shall disclose only those facts as necessary to establish reasonable cause for the filing of the petition, including, in the case of a petition filed pursuant to clause (i) of subparagraph (A), to establish the agency's belief that the elder or dependent adult has suffered abuse and has an impaired ability to appreciate and understand the circumstances that place the elder or dependent adult at risk, and as may be requested by the court in determining whether to issue an order under this section.

(b) For purposes of this section:

(1) "Abuse" has the meaning set forth in Section 15610.07.

(2) "Conservator" means the legally appointed conservator of the person or estate of the petitioner, or both.

(3) "Petitioner" means the elder or dependent adult to be protected by the protective orders and, if the court grants the petition, the protected person.

(4) "Protective order" means an order that includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:

(A) An order enjoining a party from abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of, the petitioner, and, in the discretion of the court, on a showing of good cause, of other named family or household members or a conservator, if any, of the petitioner. On a showing of good cause, in an order issued pursuant to this subparagraph in connection with an animal owned, possessed, leased, kept, or held by the petitioner, or residing in the residence or household of the petitioner, the court may do either or both of the following:

(i) Grant the petitioner exclusive care, possession, or control of the animal.

(ii) Order the respondent to stay away from the animal and refrain from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

(B) An order excluding a party from the petitioner's residence or dwelling, except that this order shall not be issued if legal or equitable title to, or lease of, the residence or dwelling is in the sole name of the party to be excluded, or is in the name of the party to be excluded and any other party besides the petitioner.

(C) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A) or (B).

(5) "Respondent" means the person against whom the protective orders are sought and, if the petition is granted, the restrained person.

(c) An order may be issued under this section, with or without notice, to restrain any person for the purpose of preventing a recurrence of abuse, if a declaration shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse of the petitioning elder or dependent adult.

(d) Upon filing a petition for protective orders under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527 of the Code of Civil Procedure, except to the extent this section provides a rule that is inconsistent. The temporary restraining order may include any of the protective orders described in paragraph (4) of subdivision (b). However, the court may issue an ex parte order excluding a party from the petitioner's residence or dwelling only on a showing of all of the following:

(1) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(2) That the party to be excluded has assaulted or threatens to assault the petitioner, other named family or household member of the petitioner, or a conservator of the petitioner.

(3) That physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or a conservator of the petitioner.

(e) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

(f) Within 21 days, or, if good cause appears to the court, 25 days, from the date that a request for a temporary restraining order is granted or denied, a hearing shall be held on the petition. If no request for temporary orders is made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days, from the date that the petition is filed.

(g) The respondent may file a response that explains or denies the alleged abuse.

(h) The court may issue, upon notice and a hearing, any of the orders set forth in paragraph (4) of subdivision (b). The court may issue, after notice and hearing, an order excluding a person from a residence or dwelling if the court finds that physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or conservator of the petitioner.

(i) (1) In the discretion of the court, an order issued after notice and a hearing under this section may have a duration of not more than five years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed upon the request of a party, either for five years or permanently, without a showing of any further abuse since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the order.

(2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(3) If an action is filed for the purpose of terminating or modifying a protective order prior to the expiration date specified in the order by a party other than the protected party, the party who is protected by the order shall be given notice, pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure, of the proceeding by personal service or, if the protected party has satisfied the requirements of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code,

by service on the Secretary of State. If the party who is protected by the order cannot be notified prior to the hearing for modification or termination of the protective order, the court shall deny the motion to modify or terminate the order without prejudice or continue the hearing until the party who is protected can be properly noticed and may, upon a showing of good cause, specify another method for service of process that is reasonably designed to afford actual notice to the protected party. The protected party may waive the right to notice if that party is physically present in court and does not challenge the sufficiency of the notice.

(j) In a proceeding under this section, a support person may accompany a party in court and, if the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges to be a victim of abuse. The support person is not present as a legal adviser and may not provide legal advice. The support person may assist the person who alleges to be a victim of abuse in feeling more confident that the alleged abuse victim will not be injured or threatened by the other party during the proceedings if the person who alleges to be a victim of abuse and the other party are required to be present in close proximity. This subdivision does not preclude the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

(k) Upon the filing of a petition for protective orders under this section, the respondent shall be personally served with a copy of the petition, notice of the hearing or order to show cause, temporary restraining order, if any, and any declarations in support of the petition. Service shall be made at least five days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(l) A notice of hearing under this section shall notify the respondent that if the respondent does not attend the hearing, the court may make orders against the respondent that could last up to five years.

(m) The respondent shall be entitled, as a matter of course, to one continuance, for a reasonable period, to respond to the petition.

(n) (1) Either party may request a continuance of the hearing, which the court shall grant on a showing of good cause. The request may be made in writing before or at the hearing or orally at the hearing. The court may also grant a continuance on its own motion.

(2) If the court grants a continuance, any temporary restraining order that has been granted shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court. In granting a continuance, the court may modify or terminate a temporary restraining order.

(o) (1) If a respondent, named in an order issued under this section after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to the respondent at the most current address for the respondent that is available to the court.

(3) The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

"If you have been personally served with a temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this temporary restraining order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the following address:

If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at the hearing without substantive change and to find out the duration of that order, contact the clerk of the court."

(p) (1) Information on a protective order relating to elder or dependent adult abuse issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).

(2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of an order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the

business day on which the order, reissuance, extension, modification, or termination was made, to each law enforcement agency having jurisdiction over the residence of the petitioner, and to any additional law enforcement agencies within the court's discretion as are requested by the petitioner.

(3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of Section 6380 of the Family Code regarding any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:

(A) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(B) With the approval of the Department of Justice, entering the order or proof of service into CLETS directly.

(4) Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported abuse.

(5) An order issued under this section shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported abuse involving the parties to the proceeding. The petitioner shall provide the officer with an endorsed copy of the order and a proof of service, which the officer shall complete and send to the issuing court.

(6) Upon receiving information at the scene of an incident of abuse that a protective order has been issued under this section, or that a person who has been taken into custody is the respondent to that order, if the protected person cannot produce an endorsed copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(7) If the law enforcement officer determines that a protective order has been issued but not served, the officer shall immediately notify the respondent of the terms of the order and where a written copy of the order can be obtained, and the officer shall at that time also enforce the order. The law enforcement officer's oral notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 of the Penal Code.

(q) This section does not preclude either party from representation by private counsel or from appearing on the party's own behalf.

(r) There shall not be a filing fee for a petition, response, or paper seeking the reissuance, modification, or enforcement of a protective order filed in a proceeding brought pursuant to this section.

(s) Pursuant to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, a petitioner shall not be required to pay a fee for law enforcement to serve an order issued under this section.

(t) The prevailing party in an action brought under this section may be awarded court costs and attorney's fees, if any.

(u) (1) A person subject to a protective order under this section shall not own, possess, purchase, receive, or attempt to receive a firearm or ammunition while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms that the person owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.

(3) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm or ammunition while subject to a protective order issued under this section is punishable pursuant to Section 29825 of the Penal Code.

(4) This subdivision does not apply in a case in which a protective order issued under this section was made solely on the basis of financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

(v) In a proceeding brought under paragraph (3) of subdivision (a), all of the following apply:

(1) Upon the filing of a petition for a protective order, the elder or dependent adult on whose behalf the petition has been filed shall receive a copy of the petition, a notice of the hearing, and any declarations submitted in support of the petition. The elder or dependent adult shall receive this information at least five days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for provision of this information to the elder or dependent adult.

(2) The adult protective services agency shall make reasonable efforts to assist the elder or dependent adult to attend the hearing and provide testimony to the court, if that person wishes to do so. If the elder or dependent adult does not attend the

hearing, the agency shall provide information to the court at the hearing regarding the reasons why the elder or dependent adult is not in attendance.

(3) Upon the filing of a petition for a protective order and upon issuance of an order granting the petition, the county adult protective services agency shall take all reasonable steps to provide for the safety of the elder or dependent adult, pursuant to Chapter 13 (commencing with Section 15750), which may include, but are not limited to, facilitating the location of alternative accommodations for the elder or dependent adult, if needed.

(w) Willful disobedience of a temporary restraining order or restraining order after hearing granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(x) This section does not apply to any action or proceeding governed by Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code, Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, or Division 10 (commencing with Section 6200) of the Family Code. This section does not preclude a petitioner's right to use other existing civil remedies.

(y) The Judicial Council shall develop forms, instructions, and rules relating to matters governed by this section. The petition and response forms shall be simple and concise, and shall be used by parties in actions brought pursuant to this section.

(z) (1) When issuing a protective order pursuant to this section for abuse involving acts described in paragraph (1) or (2) of subdivision (a) of Section 15610.07, after notice and a hearing, the court may, if appropriate, also issue an order requiring the restrained party to participate in mandatory clinical counseling or anger management courses provided by a counselor, psychologist, psychiatrist, therapist, clinical social worker, or other mental or behavioral health professional licensed in the state to provide those services.

(2) The Judicial Council shall revise or promulgate forms as necessary to effectuate this subdivision on or before January 1, 2021.

(aa) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

**SEC. 3.** Section 15657.03 is added to the Welfare and Institutions Code, to read:

**15657.03.** (a) (1) An elder or dependent adult who has suffered abuse, as defined in Section 15610.07, may seek protective orders as provided in this section.

(2) (A) A petition may be brought on behalf of an abused elder or dependent adult by a conservator or a trustee of the elder or dependent adult, an attorney-in-fact of an elder or dependent adult who acts within the authority of a power of attorney, a person appointed as a guardian ad litem for the elder or dependent adult, or other person legally authorized to seek the relief.

(B) (i) Subject to clause (ii), if the petition alleges abuse of an elder or dependent adult in the form of isolation, the term "other person legally authorized to seek the relief" as used in subparagraph (A) includes an interested party as defined in paragraph (3) of subdivision (b).

(ii) Clause (i) shall apply only for the purpose of seeking an order enjoining isolation under subparagraph (E) of paragraph (5) of subdivision (b).

(3) (A) A petition under this section may be brought on behalf of an elder or dependent adult by a county adult protective services agency in either of the following circumstances:

(i) If the elder or dependent adult has suffered abuse as defined in subdivision (b) and has an impaired ability to appreciate and understand the circumstances that place the elder or dependent at risk of harm.

(ii) If the elder or dependent adult has provided written authorization to a county adult protective services agency to act on that person's behalf.

(B) In the case of a petition filed pursuant to clause (i) of subparagraph (A) by a county adult protective services agency, a referral shall be made to the public guardian consistent with Section 2920 of the Probate Code prior to or concurrent with the filing of the petition, unless a petition for appointment of a conservator has already been filed with the probate court by the public guardian or another party.

(C) A county adult protective services agency shall be subject to any confidentiality restrictions that otherwise apply to its activities under law and shall disclose only those facts as necessary to establish reasonable cause for the filing of the petition, including, in the case of a petition filed pursuant to clause (i) of subparagraph (A), to establish the agency's belief that the elder or dependent adult has suffered abuse and has an impaired ability to appreciate and understand the

circumstances that place the elder or dependent adult at risk, and as may be requested by the court in determining whether to issue an order under this section.

(b) For purposes of this section:

(1) "Abuse" has the meaning set forth in Section 15610.07.

(2) "Conservator" means the legally appointed conservator of the person or estate of the petitioner, or both.

(3) "Interested party" means an individual with a personal, preexisting relationship with the elder or dependent adult. A preexisting relationship may be shown by a description of past involvement with the elder or dependent adult, time spent together, and any other proof that the individual spent time with the elder or dependent adult.

(4) "Petitioner" means the elder or dependent adult to be protected by the protective orders and, if the court grants the petition, the protected person.

(5) "Protective order" means an order that includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:

(A) An order enjoining a party from abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of, the petitioner, and, in the discretion of the court, on a showing of good cause, of other named family or household members or a conservator, if any, of the petitioner. On a showing of good cause, in an order issued pursuant to this subparagraph in connection with an animal owned, possessed, leased, kept, or held by the petitioner, or residing in the residence or household of the petitioner, the court may do either or both of the following:

(i) Grant the petitioner exclusive care, possession, or control of the animal.

(ii) Order the respondent to stay away from the animal and refrain from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

(B) An order excluding a party from the petitioner's residence or dwelling, except that this order shall not be issued if legal or equitable title to, or lease of, the residence or dwelling is in the sole name of the party to be excluded, or is in the name of the party to be excluded and any other party besides the petitioner.

(C) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A) or (B).

(D) (i) After notice and a hearing only, a finding that specific debts were incurred as the result of financial abuse of the elder or dependent adult by the respondent. For purposes of this subparagraph, the acts that may support this order include, but are not limited to, the crimes proscribed by Section 530.5 of the Penal Code.

(ii) The finding pursuant to clause (i) shall not entitle the petitioner to any remedies other than those actually set forth in this section. The finding pursuant to clause (i) shall not affect the priority of any lien or other security interest.

(E) (i) After notice and a hearing only, an order enjoining a party from abusing an elder or dependent adult by isolating them. An order may be issued under this subparagraph to restrain the respondent for the purpose of preventing a recurrence of isolation if the court finds by a preponderance of the evidence, to the satisfaction of the court, that the following requirements are met:

(I) The respondent's past act or acts of isolation of the elder or dependent adult repeatedly prevented contact with the interested party.

(II) The elder or dependent adult expressly desires contact with the interested party. A court shall use all means at its disposal to determine whether the elder or dependent adult desires contact with the person and has the capacity to consent to that contact.

(III) The respondent's isolation of the elder or dependent adult from the interested party was not in response to an actual or threatened abuse of the elder or dependent adult by the interested party or the elder or dependent adult's desire not to have contact with the interested party.

(ii) The order may specify the actions to be enjoined, including enjoining the respondent from preventing the interested party from in-person or remote online visits with the elder or dependent adult, including telephone and online contact.

(iii) An order enjoining isolation under this section is not required for an elder or dependent adult to visit with anyone with whom the elder or dependent adult desires visitation.

(iv) An order enjoining isolation shall not be issued under this section if the elder or dependent adult resides in a long-term care facility, as defined in Section 9701, or a residential facility, as defined in Section 1502 of the Health and Safety Code. In those cases, action may be taken under appropriate federal law.

(v) An order enjoining isolation shall not be issued under this section if the elder or dependent adult is a patient of a health facility as defined in subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code. In those cases, action may be taken under other appropriate state or federal law.

(6) "Respondent" means the person against whom the protective orders are sought and, if the petition is granted, the restrained or enjoined person.

(c) Except as provided in subdivision (b), an order may be issued under this section, with or without notice, to restrain any person for the purpose of preventing a recurrence of abuse, if a declaration shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse of the petitioning elder or dependent adult.

(d) Upon filing a petition for protective orders under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527 of the Code of Civil Procedure, except to the extent this section provides a rule that is inconsistent. The temporary restraining order may include any of the protective orders described in paragraph (5) of subdivision (b). However, the court may issue an ex parte order excluding a party from the petitioner's residence or dwelling only on a showing of all of the following:

(1) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(2) That the party to be excluded has assaulted or threatens to assault the petitioner, other named family or household member of the petitioner, or a conservator of the petitioner.

(3) That physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or a conservator of the petitioner.

(e) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

(f) Within 21 days, or, if good cause appears to the court, 25 days, from the date that a request for a temporary restraining order is granted or denied, a hearing shall be held on the petition. If no request for temporary orders is made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days, from the date that the petition is filed.

(g) The respondent may file a response that explains or denies the alleged abuse.

(h) The court may issue, upon notice and a hearing, any of the orders set forth in paragraph (5) of subdivision (b). The court may issue, after notice and hearing, an order excluding a person from a residence or dwelling if the court finds that physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or conservator of the petitioner.

(i) (1) In the discretion of the court, an order issued after notice and a hearing under this section may have a duration of not more than five years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed upon the request of a party, either for five years or permanently, without a showing of any further abuse since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the order.

(2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(3) If an action is filed for the purpose of terminating or modifying a protective order prior to the expiration date specified in the order by a party other than the protected party, the party who is protected by the order shall be given notice, pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure, of the proceeding by personal service or, if the protected party has satisfied the requirements of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, by service on the Secretary of State. If the party who is protected by the order cannot be notified prior to the hearing for



modification or termination of the protective order, the court shall deny the motion to modify or terminate the order without prejudice or continue the hearing until the party who is protected can be properly noticed and may, upon a showing of good cause, specify another method for service of process that is reasonably designed to afford actual notice to the protected party. The protected party may waive the right to notice if that party is physically present in court and does not challenge the sufficiency of the notice.

(j) In a proceeding under this section, a support person may accompany a party in court and, if the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges to be a victim of abuse. The support person is not present as a legal adviser and may not provide legal advice. The support person may assist the person who alleges to be a victim of abuse in feeling more confident that the alleged abuse victim will not be injured or threatened by the other party during the proceedings if the person who alleges to be a victim of abuse and the other party are required to be present in close proximity. This subdivision does not preclude the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

(k) Upon the filing of a petition for protective orders under this section, the respondent shall be personally served with a copy of the petition, notice of the hearing or order to show cause, temporary restraining order, if any, and any declarations in support of the petition. Service shall be made at least five days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(l) A notice of hearing under this section shall notify the respondent that if the respondent does not attend the hearing, the court may make orders against the respondent that could last up to five years.

(m) The respondent shall be entitled, as a matter of course, to one continuance, for a reasonable period, to respond to the petition.

(n) (1) Either party may request a continuance of the hearing, which the court shall grant on a showing of good cause. The request may be made in writing before or at the hearing or orally at the hearing. The court may also grant a continuance on its own motion.

(2) If the court grants a continuance, any temporary restraining order that has been granted shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court. In granting a continuance, the court may modify or terminate a temporary restraining order.

(o) (1) If a respondent, named in an order issued under this section after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to the respondent at the most current address for the respondent that is available to the court.

(3) The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

"If you have been personally served with a temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this temporary restraining order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the following address:

If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at the hearing without substantive change and to find out the duration of that order, contact the clerk of the court."

(p) (1) Information on a protective order relating to elder or dependent adult abuse issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).

(2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of an order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, extension, modification, or termination was made, to each law enforcement agency having jurisdiction over the residence of the petitioner, and to any additional law enforcement agencies within the court's discretion as are requested by the petitioner.

(3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of Section 6380 of the Family Code regarding any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:

(A) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(B) With the approval of the Department of Justice, entering the order or proof of service into CLETS directly.

(4) Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported abuse.

(5) An order issued under this section shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported abuse involving the parties to the proceeding. The petitioner shall provide the officer with an endorsed copy of the order and a proof of service, which the officer shall complete and send to the issuing court.

(6) Upon receiving information at the scene of an incident of abuse that a protective order has been issued under this section, or that a person who has been taken into custody is the respondent to that order, if the protected person cannot produce an endorsed copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(7) If the law enforcement officer determines that a protective order has been issued but not served, the officer shall immediately notify the respondent of the terms of the order and where a written copy of the order can be obtained, and the officer shall at that time also enforce the order. The law enforcement officer's oral notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 of the Penal Code.

(8) This subdivision does not apply, and the protective order shall not be subject to the requirements of Section 6380 of the Family Code, if the protective order issued pursuant to this section was made solely on the basis of isolation unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

(q) This section does not preclude either party from representation by private counsel or from appearing on the party's own behalf.

(r) There shall not be a filing fee for a petition, response, or paper seeking the reissuance, modification, or enforcement of a protective order filed in a proceeding brought pursuant to this section.

(s) Pursuant to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, a petitioner shall not be required to pay a fee for law enforcement to serve an order issued under this section.

(t) The prevailing party in an action brought under this section may be awarded court costs and attorney's fees, if any.

(u) (1) A person subject to a protective order under this section shall not own, possess, purchase, receive, or attempt to receive a firearm or ammunition while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms that the person owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.

(3) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm or ammunition while subject to a protective order issued under this section is punishable pursuant to Section 29825 of the Penal Code.

(4) This subdivision does not apply in a case in which a protective order issued under this section was made solely on the basis of financial abuse or isolation unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

(v) In a proceeding brought under paragraph (3) of subdivision (a), all of the following apply:

(1) Upon the filing of a petition for a protective order, the elder or dependent adult on whose behalf the petition has been filed shall receive a copy of the petition, a notice of the hearing, and any declarations submitted in support of the petition. The elder or dependent adult shall receive this information at least five days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for provision of this information to the elder or dependent adult.

(2) The adult protective services agency shall make reasonable efforts to assist the elder or dependent adult to attend the hearing and provide testimony to the court, if that person wishes to do so. If the elder or dependent adult does not attend the

hearing, the agency shall provide information to the court at the hearing regarding the reasons why the elder or dependent adult is not in attendance.

(3) Upon the filing of a petition for a protective order and upon issuance of an order granting the petition, the county adult protective services agency shall take all reasonable steps to provide for the safety of the elder or dependent adult, pursuant to Chapter 13 (commencing with Section 15750), which may include, but are not limited to, facilitating the location of alternative accommodations for the elder or dependent adult, if needed.

(w) Willful disobedience of a temporary restraining order or restraining order after hearing granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(x) This section does not apply to any action or proceeding governed by Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code, Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, or Division 10 (commencing with Section 6200) of the Family Code. This section does not preclude a petitioner's right to use other existing civil remedies.

(y) (1) The Judicial Council shall develop forms, instructions, and rules relating to matters governed by this section. The petition and response forms shall be simple and concise, and shall be used by parties in actions brought pursuant to this section.

(2) On or before February 1, 2023, the Judicial Council shall revise or promulgate forms as necessary to implement the changes made by the act that added this paragraph.

(z) When issuing a protective order pursuant to this section for abuse involving acts described in paragraph (1) or (2) of subdivision (a) of Section 15610.07, after notice and a hearing, the court may, if appropriate, also issue an order requiring the restrained party to participate in mandatory clinical counseling or anger management courses provided by a counselor, psychologist, psychiatrist, therapist, clinical social worker, or other mental or behavioral health professional licensed in the state to provide those services.

(aa) This section shall become operative on January 1, 2023.