EMERGENCY PROTECTIVE ORDER (EPO) (Fam C §§6240–6274)
QUICK REFERENCE GUIDE

A peace officer, sheriff's officer, parole, or probation officer will make contact by phone requesting an EPO and will fill out the form on site (Fam C §6240; Pen C §646.91(b)). An EPO is available 24 hours a day/7 days a week (Fam C §6241). An EPO is valid only if it is issued by a judicial officer (Fam C §6250.3).
A prompt response to the requesting peace officer is critical to getting that officer back on patrol.

Does the EPO request meet statutory eligibility and proof requirements?

Who is eligible for an EPO?	**Facts/Standard of Proof (Fam C §6251; stalking, Pen C §646.91)** Reasonable grounds have been asserted that there is an immediate and present danger of:
Domestic violence perpetrated against a spouse/former spouse, registered domestic partner/former registered domestic partner, cohabitant or former cohabitant,* dating or engagement relationship,** parties who have a child together, child of the party or child subject to a paternity action, or any other person related by consanguinity or affinity in the second degree.*** (Fam C §§6250(a), 6211)	• Domestic violence based on person's allegation of recent abuse or threat of abuse. • The EPO is necessary to prevent the occurrence or recurrence of domestic violence.
Child abuse (Fam C §6250(b))	• Child abuse by a family or household member. • The EPO is necessary to prevent the occurrence or recurrence of child abuse.
Child abduction (Fam C §6250(c))	• Abduction by a parent or relative based on an allegation of recent attempt to abduct or flee the jurisdiction or a threat to abduct or flee. • The EPO is necessary to prevent the occurrence or recurrence of abduction.
Elder or dependent adult abuse (Fam C §6250(d))	• Abuse based on an allegation of recent abuse or threat of abuse. An EPO may not be issued solely on allegations of financial abuse. • The EPO is necessary to prevent the occurrence or recurrence of abuse.
Stalking (Pen C §646.91) (Stalking does not require that the parties have a personal relationship)	• Stalking based on the person's allegation that he or she has been willfully, maliciously, and repeatedly followed or harassed by another person. It must be a credible threat made with the intent to place the person who is the target of the threat in reasonable fear for his or her safety or the safety of their immediate family. • The EPO is necessary to prevent the occurrence or recurrence of stalking.

*Cohabitant is a person who regularly resides in the household (Fam C §6209). For example, sublessees of different units of a house, who shared some common areas of the house, but who had no romantic or friendly relationship and who were not even previously acquainted, were not cohabitants within the meaning of Family Code §6209. *O'Kane v Irvine* (1996) 47 CA4th 207, 212, 54 CR2d 549.
**A dating relationship as defined by Family Code §6210 means frequent, intimate associations characterized by the expectation of affection or sexual involvement independent of financial considerations.
***Related by blood or marriage, *e.g.*, grandparent, grandchild, brother/sister, parent, in-law.

Tip—Whether the respondent is in custody or the protected person left the home for safety reasons has no bearing on the availability of an EPO and should not be factored into the immediate and present danger determination.

Did you provide clear orders to the officer so that the EPO form is filled out properly?

Personal conduct restraints (Fam C §6252)	Cannot molest, attack, strike, stalk, threaten, sexually assault, batter, credibly impersonate (Pen C §528.5), falsely impersonate (Pen C §529), harass, telephone (including but not limited to annoying telephone calls as described in Pen C §653m), destroy personal property, contact (either directly or indirectly by mail or otherwise), or disturb peace of the party. The court, on a showing of good cause, can name other family or household members to be protected.
Stay Away (Fam C §6252)	Cannot come within a specified distance of the protected party and any named location TIP: Distance is discretionary, but standard distance is 100 yards.
Temporary care and control of a minor child (Fam C §6252)	TIP: Ask if there are existing custody orders. In a child abuse situation, ask if a juvenile court petition has been filed. This information will help you make an informed decision on who should be given temporary care and control of the minor child.
Residence Exclusion (Fam C §6252)	Immediate move out can be ordered if the protected party lives with the person to be restrained. The court may exclude a party from the dwelling only after 3 conditions have been met—see Fam C §6321(b)(1)–(3).
Firearms and Ammunition (Fam C §6389; Welf & I C §15657.03(t); Pen C §§646.91, 29825, 30305(a))	Automatic prohibition TIP: Ask the officer if firearms were observed, reported, searched for or seized as specified in item 10 on the EPO form.
Prohibited from taking action to locate protected party, or his or her family members, caretakers, or guardian (Fam C §6252.5; Pen C §§136.3(a), 646.91a)	Automatic prohibition
Duration (Fam C §6256; Pen C §646.91(g)(1), (2))	5 judicial business days or 7 calendar days maximum after EPO is issued. The count starts the day following the issuance of the EPO.

NOTE: A stalking EPO can include civil harassment and workplace violence protections (Pen C §646.91).

NOTE: An EPO takes precedence in enforcement over any other restraining or protective order, provided the EPO meets the following requirements: (1) The EPO is issued to protect one or more individuals who are already protected persons under another restraining or protective order; (2) the EPO restrains the individual who is the restrained person in the other restraining or protective order; and (3) the provisions of the EPO are more restrictive in relation to the restrained person than are the provisions of the other restraining or protective order. Pen C §136.2(c)(1); Fam C §6383(h)(2).

This is a quick reference guide. Please read the full detailed section in the Judges Guide to Domestic Violence Cases: California Protective Orders (Rev. 2014).

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