

EMERGENCY PROTECTIVE ORDERS

EPO (Family Code §§6240 et seq)	
EPOs have enforcement precedence over other restraining/protective orders. (Penal Code §136.2(e)(2), Family Code §6405(b))	
Proof Fam Code §6251 Penal Code §646.91	<ul style="list-style-type: none"> Reasonable grounds to believe immediate and present danger of domestic violence, child abuse or abduction, elder or dependent abuse, or stalking or reasonable grounds to believe there is a demonstrated threat to campus safety, <i>and</i> EPO is necessary to prevent occurrence or recurrence of domestic violence, child abuse or abduction, elder or dependent abuse, stalking, or threat to campus safety.
Independent Grounds Fam Code §§6250, 6250.5 Penal Code §646.91	<ul style="list-style-type: none"> Person in immediate and present danger of domestic violence based on person's allegation of recent abuse or threat of abuse (see Fam Code §6203 for definition of abuse) (Fam Code §6250(a)), <i>or</i> Child in immediate and present danger of abuse by family or household member based on allegation of recent abuse or threat of abuse (Fam Code §6250(b)) <i>or</i> Child in immediate and present danger of abduction by parent or relative based reasonable belief that person has intent to abduct or flee jurisdiction or on allegation of recent threat to abduct or flee jurisdiction (Fam Code §6250(c)), <i>or</i> Elder or dependent adult in immediate and present danger of Welfare and Institutions Code §15610.07 abuse based on allegation of recent abuse or threat of abuse (Fam Code §6250(d)); but no EPO for financial abuse only, <i>or</i> Person in immediate danger of stalking¹ based on allegation that s/he has been willfully, maliciously, and repeatedly followed or harassed by another person who has made credible threat with intent to place person in reasonable fear for his/her safety or safety of immediately family; stalking does NOT require any particular relationship (Penal Code §646.91; Fam Code §6274), <i>or</i> School/campus peace officer asserts reasonable grounds to believe there is a demonstrated threat to campus safety, if MOU in place between school and local police jurisdiction (Fam Code §6250.5)
Required Relationship for EPO Based on Domestic Violence	<p>Per Fam Code §6211 domestic violence is abuse vs:</p> <ul style="list-style-type: none"> Spouse/former spouse, <i>or</i> Cohabitant/former cohabitant² per Fam Code §6209 <i>or</i> Dating/engagement partner³ (current or former) per Fam Code §6210, <i>or</i> Party with whom person has child, where male parent is presumed by UPA (Fam §7600 et seq.) <i>or</i> Child of party or child subject to UPA paternity action, where presumption applies, <i>or</i> Person related by consanguinity or affinity to 2nd degree (parents, grandparents, siblings, children)
Who Can Be Protected	Person and child(ren) in danger
Note	Fact that endangered person has left household to avoid abuse does not affect availability of EPO. (Fam Code §6254)
Orders Fam Code §§6252, 6252.5	<ul style="list-style-type: none"> Personal conduct (Fam Code §§6252(a), 6218(a), 6320); exclusive care of, and protection of animals Stay away (Fam Code §§6252(a), 6218(a), 6320) Residence exclusion (Fam Code §§6252(a), 6218(b), 6321) Temporary care/control of child of endangered party and restrained party (Fam Code §6252(b)) Temporary care/control of endangered child or other children in family or household with parent or guardian of endangered child (Fam Code §6252(c), Welfare and Institutions Code §213.5) Temporary care/control of child in danger of abduction (Fam Code §6252(d)) WIC §15657.03 orders to protect elders or dependent adults (Fam Code §6252(e)) Prohibition on action to get address or location of protected party or their family members, caretakers or guardian (unless good cause to not make this order) (Fam Code §6252.5)
Duration	Earlier of (a) close of business on 5 th court day after day of issuance or (b) 7 th calendar day following day of issuance. (Fam Code §6256)
Notice	Police personally serves respondent if can locate, and gives copy to protected party. (Fam Code §6271)
CLETS	Law enforcement officer shall enter EPO into DOJ database (Fam Code §6271(d)).
Priorities for Enforcement Penal Code §§ 136.2(c) and (e)	<ul style="list-style-type: none"> Emergency Protective Order (EPO), if more restrictive and if same parties Any no contact provision in any restraining order, whether criminal or civil A criminal protective order (CPO)

- Stalking (Penal Code §646.9)** – no requirement of a particular relationship
 - Willfully, maliciously and repeatedly following *or* willfully and maliciously harassing another person, *and*
 - Making credible threat with intent to place person in reasonable fear for his/her safety or safety of immediate family.
- Cohabitant (Fam Code §6209):** Person who regularly resides in household; social unit, not roommates or sub lessees. (*O’Kane v. Irvine* (1996) 47 CA4th 207)
- Dating relationship (Fam Code §6210):** Frequent, intimate association characterized by expectation of affection or sexual involvement independent of financial considerations.