

SCHOOL VIOLENCE & GUN VIOLENCE

School Violence (CCP §527.85)

Proof	TRO: <i>Reasonable proof</i> that student has suffered credible threat of violence made off campus, and great or irreparable harm would result to the student. (§527.85(e)) Injunction: Clear and convincing evidence of credible threat of violence off the school campus or facility (§527.85(j))	
Who Can Petition	Chief administrative officer or designee of private postsecondary educational institution (§527.85(a), §527.85(b)(5))	
Who Is Protected	<ul style="list-style-type: none"> • Student (adult currently enrolled in or applying for admission to postsecondary educational institution – defined as private institution of vocational, professional or postsecondary education per §52785(b)(5)) (§527.85(b)(7)), and • Family or household members of the student, upon showing of good cause (§527.85(d)), and • Other students at the campus or facility who are similarly situated, upon showing of good cause (§527.85(a)&(d)). 	
Grounds	Per §527.85(a), with written consent of student, school official may seek protection under this law if: <ul style="list-style-type: none"> • Student has suffered credible threat of violence from any individual, and • Credible threat of violence, while made off campus/facility, can reasonably be construed to be carried out or have been carried out at school campus/facility, and • Respondent’s conduct is not allowable as legitimate labor dispute permitted by CCP §527.3 (§527.85(c)), and • Respondent is not engaged in any constitutionally protected activity (§527.85(c)). 	
Definitions	<i>Credible threat of violence:</i> a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose. (§527.85(b)(3)) <i>Course of conduct:</i> pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including any of the following (§527.85(b)(2)): <ul style="list-style-type: none"> • Following or stalking (per Penal Code §646.9) student to or from school; following student during school hours. • Entering the school campus or facility. • Making telephone calls to student. • Sending correspondence by any means, including, use of the public/private mails, interoffice mail, fax, or email. 	
Orders	Temporary Restraining Order	Injunction
	<ul style="list-style-type: none"> • Personal conduct orders (§527.85(b)(8)(A)) • Stay away orders (§527.85(b)(8)(A)) • Other restraints to effectuate court’s orders (§527.85(b)(8)(B)) • Firearms/ammo: no own/possess; relinquish (§527.85(s)) 	<ul style="list-style-type: none"> • All TRO orders
Duration	21 days; 25 days good cause (§527.85(k)(1));	Up to 3 years (§527.85(k)(1)); if silent, 3 years; (§527.85(k)(2)).
	Duration of renewal: For not more than three years, upon request of party; without showing of further violence or threats; may be brought at any time within three months before the expiration of the order. (§527.85(k)(1))	
Continuance	Respondent entitled to one continuance for reasonable time (§527.85(o)); either party for good cause (§527.85(p))	
Notice	Ex Parte: may be issued ex parte pursuant to CCP §527 (§527.85(b)(8)) TRO: personal service at least 5 days before hearing (§527.85(m))	
Modification	Personally serve protected party at least 16 days in advance of hearing (CCP §1005(b)) to terminate or modify restraining order prior to expiration date; protected party may waive notice. (§527.85(k)(3))	
Fees	Filing: No filing fee for petition that alleges that respondent has 1) threatened violence against student, 2) stalked student, or 3) acted or spoken in manner that has placed student in reasonable fear of violence. (§527.85(w)) No fee for filing response. (§527.85(w))	
	Service: No fee for service by sheriff if 1) order based on stalking, or 2) order based on credible threat of violence. (§527.85(x))	

Gun Violence (Penal Code §18100 et seq.)

Statutes are found in Penal Code, but process to obtain a Gun Violence Restraining Order (GVRO) is a civil proceeding. (PC §18100)

	Temp Emergency GVRO – §18125 (like EPO)	Ex Parte GVRO – §18150 (like TRO)	GVRO Order After Hearing – §18170
Proof	<i>Reasonable cause to believe that</i> 1) there is immediate and present danger that restrained party will hurt self or other with firearm, and 2) TRO necessary to prevent personal injury because less restrictive alternatives have been ineffective or are inadequate/ inappropriate (§18125(a))	<i>Substantial likelihood that</i> 1) restrained party poses significant danger in near future of hurting self or others with firearm, and 2) ex parte RO is necessary to prevent personal injury because less restrictive alternatives are ineffective or inadequate/inappropriate (§18150(b))	<i>Clear and convincing evidence that</i> 1) restrained party poses significant danger in near future of hurting self or others with firearm, and 2) GVRO is necessary to prevent personal injury because less restrictive alternatives are ineffective or are inadequate/ inappropriate (§18175(b))
Who/How Petition	Law enforcement only. (§§18125, 18130); written or oral petition per §1526. (§18145)	Law enforcement or immediate family; written or oral petition. (§§18150(a)(1),(b))	Law enforcement or immediate family; written petition. (§18170(a))
Duration	21 calendar days (§18125(b); hearing per §18175 to be held w/in 21 days. (§18148)	21 calendar days; hearing per §18175 to be held within 21 days (§18165)	One year (§18175(d))
Factors Court Shall Consider §18155(b)	<ul style="list-style-type: none"> • Recent threat of violence toward self or other (§18155(b)(1)(A)&(B)) • Violation of EPO issued under Fam Code, or violation of CH, EA or DV order (§18155(b)(1)(C)&(D)) • Conviction under PC §29805 (prohibiting post-conviction possession of firearm) (§18155(b)(1)(E)) • Pattern of violent acts or threats in last year to self or others (§18155(b)(1)(F)) • Other evidence of “increased risk for violence” (eg, using, brandishing; prior felony arrest; RO violations; drug offenses) 		
Definitions	<i>Immediate family member</i> (defined by PC §422.4(b)(3)): spouse, whether by marriage or not, domestic partner, parent, child, any person related by consanguinity or affinity w/in 2 nd degree, or any other person who regularly resides in household, or who, w/in prior six months, regularly resided in the household. (§ 18150(a)(2))		
Orders	<ul style="list-style-type: none"> • Prohibit and enjoin person from having custody/control of, owning, purchasing, possessing or receiving any firearms or ammunition (§18120(a)). Ammunition includes PC § 16890 “magazine” (§18100(b)). • No stay away provisions; no personal conduct orders; no move-out orders. • Surrender firearms/ammo immediately to requesting officer, or w/in 24 hours of service; file proof w/in 48 hours (§18120(b)) 		
Notice	Code is silent regarding what notice is due.		
Termination	Restrained party can request early expiration; if no longer clear & convincing evidence, court shall terminate. (§18185)		
Renewal	For not more than one year, upon request of law enforcement or family member, at any time w/in 3 months of expiration if clear and convincing evidence that §18175(b)(1) & (2) continue to be true, considering 18155(b)(1) evidence. (§18190)		