

EMERGENCY PROTECTIVE ORDERS (EPO)

Emergency Protective Orders (EPO) have enforcement precedence over other restraining/protective orders. To prove the necessity for an EPO, the party requesting an EPO must establish “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 AND 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 (Family Code §6251; Penal Code § 646.91).

The grounds for issuance of an EPO include: person in immediate and present danger of domestic violence based on person’s allegation of recent abuse or threat of abuse (Family Code § 6203 defines abuse) (Fam. Code § 6250(a)); or 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)); or child in immediate and present danger of abduction by parent or relative based on reasonable belief that person has intent to abduct or flee jurisdiction or an allegation of recent threat to abduct or flee jurisdiction (Fam. Code § 6250(c)); or 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; or person in immediate danger of stalking based on allegation that she/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 immediate family (Penal Code §646.91; Fam. Code §6274); or school/campus peace officer asserts reasonable grounds to believe there is a demonstrated threat to campus safety.

The required relationship for issuance of an EPO based on domestic violence (Fam. Code §6211) is one of: spouse/former spouse; or cohabitant/former cohabitant per (Fam. Code §6209) or dating/engagement partner (current or

former) per Fam. Code §6210; or party with whom person has child(ren); or child of party or child subject to paternity action; or consanguinity or affinity to 2nd degree (parents, grandparents, siblings, children).

The fact that the endangered person has left the household to avoid abuse does not affect availability of EPO (Fam. Code § 6254).

The EPO can impose: personal conduct; stay away; residence exclusion; temporary care/control of child of endangered party and restrained party; temporary care/control of endangered child or other children in family or household with parent or guardian of endangered child; temporary care/control of child in danger of abduction; WIC 15657.03 orders to protect elders or dependent adults; prohibition on action to get address or location of protected party or their members, caretakers or guardian (unless good cause exists to not make this order).

EPO's expire upon earlier of (a) close of business on 5th court date after issuance or (b) 7th calendar day following date of issuance.

Once an EPO is granted, the police can serve the order on respondent if he/she can be located and gives copy to protected party. The EPO is also entered by law enforcement into the Department of Justice database.