



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 25-084

For business meeting on April 25, 2025

Title

Protective Orders: New Civil Retail Crime
Restraining Order

Report Type

Action Required

Effective Date

July 1, 2025

Date of Report

March 28, 2025

Contact

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Rules, Forms, Standards, or Statutes Affected

Amend Cal. Rules of Court, rules 1.51,
3.1160, and 3.1162; adopt forms RT-100,
RT-109, RT-115, RT-116, RT-120, and
RT-130; approve forms RT-100-INFO and
RT-120-INFO

Recommended by

Civil and Small Claims Advisory Committee
Hon. Donald J. Proietti, Chair

Executive Summary

The Civil and Small Claims Advisory Committee recommends amending three rules of the California Rules of Court, adopting six Judicial Council forms for mandatory use, and approving two information sheets in a new forms series to implement recent legislation creating a new restraining order based on two or more alleged acts of retail crime.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective July 1, 2025:

1. Amend California Rules of Court, rules 1.51, 3.1160, and 3.1162 to apply existing procedural provisions for civil restraining orders to new retail crime restraining orders, including mandatory use of *Confidential Information for Law Enforcement* (form CLETS-001), service deadlines, briefing alternatives, and service requirements for those who appear at hearings remotely;

2. Adopt *Petition for Retail Crime Restraining Order* (form RT-100), *Notice of Court Hearing* (form RT-109), *Request to Continue Hearing* (form RT-115), *Order on Request to Continue Hearing* (form RT-116), *Response to Petition for Retail Crime Restraining Order* (form RT-120), and *Retail Crime Restraining Order* (form RT-130) for mandatory use in retail crime restraining order proceedings; and
3. Approve *How Do I Get an Order to Prohibit Retail Crime?* (form RT-100-INFO) and *How Can I Respond to a Petition for Retail Crime Restraining Order?* (form RT-120-INFO) as optional information sheets for use in retail crime restraining order proceedings.

The proposed amended rules and new forms are attached at pages 8–31.

Relevant Previous Council Action

Rule 1.51 was adopted effective January 1, 2011, to provide direction to the public and the courts on how *Confidential Information for Law Enforcement* (form CLETS-001) was to be used, who had access to the information on it, and how long courts had to retain the form. That rule was last amended in 2018 to include out-of-state, tribal court, Canadian, and gun violence protective orders to its provisions. The council adopted a predecessor rule to rule 3.1160 in the 1980s to provide procedural provisions for civil harassment restraining orders. The rule has been amended over the years to add types of protective orders to its provisions and was last amended in 2022 to reflect alternative service options for civil harassment restraining order actions. Rule 3.1162 was adopted effective January 1, 2024, to provide clarity for service requirements if the restrained party appeared remotely at the hearing where a protective order issued and has not been amended since.

As required by statute, the council provides forms and instructions for use in protective order matters. The forms have been revised when changes to the law required revisions and in response to suggestions from the public, judicial officers, and court professionals. The council has not previously adopted or approved forms for retail crime restraining orders as such orders only became part of California law in 2024.

Analysis/Rationale

In 2024 the Legislature enacted Assembly Bill 3209 (Stats. 2024, ch. 169),¹ which created retail crime restraining orders. Specifically, under Penal Code section 490.8(e),² an attorney representing a retail establishment, a prosecuting attorney, a city attorney, or county counsel may request a restraining order against somebody who has been arrested or cited at least two times for committing certain offenses.³ A restraining order prohibiting the respondent from entering the

¹ AB 3209 is available at https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB3209.

² Unless otherwise stated, all further statutory references are to the Penal Code.

³ These offenses are shoplifting (§ 459.5); any theft, including a violation of section 487 or 488, from a retail establishment; organized retail theft (§ 490.4); vandalism of a retail establishment (§ 594); or any assault or battery of a retail establishment employee, including a violation of section 240, 242, or 245.

retail establishment for up to two years may be issued if the court finds by a preponderance of the evidence both that the respondent committed the offenses and that there is a substantial likelihood that the individual will return to the retail establishment. If the retail establishment is part of a chain or franchise, the court may also prohibit entry to other locations of the retail establishments within a specified geographic range. Before issuing an order, the court must consider whether the retail establishment is the only place that sells basic life necessities within one mile of where the respondent lives or otherwise creates an undue hardship for the respondent.

In addition to creating the new retail crime restraining orders, AB 3209 also provides, under Family Code section 6380, that the California Department of Justice be immediately notified of specified information about an issued retail crime restraining order. The transmittal of such information for other restraining orders is currently achieved through the California Law Enforcement Telecommunications System (CLETS) and the California Restraining and Protective Order System (CARPOS).

Recommended forms

To implement AB 3209, the committee recommends adoption and approval of a new civil retail crime prevention form series, with forms designated by the prefix “RT.”⁴ The recommended form series includes a petition and information sheet, a notice of hearing, a request for continuance, an order on the request for continuance, a response and information sheet, and an order form.⁵ The recommended forms follow the naming and numbering conventions, and the structure, of existing restraining order forms.

Because of statutory differences for the new retail crime restraining orders, however, the recommended forms differ from existing forms in several significant ways. For example, the respondent may request court-appointed counsel on the response form (form RT-120).⁶ Relatedly, recommended *Request to Continue Court Hearing* (form RT-115) and the corresponding order (form RT-116) include the respondent not yet receiving appointed counsel as a reason for continuance. Additionally, because a retail crime restraining order is based on the respondent having been arrested or cited for crimes and responding to such allegations may result in self-incrimination, the recommended response (form RT-120) provides a warning that any response may be used in a criminal proceeding against them and requests less information than other protective order response forms. Another nuance in the law that is reflected on the proposed response is that the court must consider whether the retail establishment is the only

⁴ Section 490.8 also provides that a court sentencing a defendant for the specified offenses may restrain the defendant from entering the retail establishment for a period of up to two years. The Judicial Council’s Criminal Law Advisory Committee is recommending a new form to implement such restraining orders; the form is available on the agenda for the April 25, 2025, Judicial Council meeting at <https://jcc.legistar.com/Calendar.aspx>.

⁵ The committee does not recommend an information sheet to accompany the request for continuance and related order at this time because a significant portion of the information on the corresponding information sheet for other protective orders does not apply to retail crime restraining orders.

⁶ See Pen. Code, § 490.8(e)(3).

place that sells basic life necessities within one mile of the respondent's residence or whether the order otherwise creates undue hardship.⁷

The recommended petition (form RT-100) is similarly tailored to collect information that the petitioner must show for an order to issue. Specifically, in items 5 and 6, the petitioner must list the respondent's two arrests or citations and describe the respondent's conduct in those incidents, and, in item 7, the petitioner must explain why they believe the respondent is likely to return to the retail establishment. The petition also includes a checkbox to indicate whether the retail establishment is part of a chain or franchise and identifies the attorney filing the petition.

Among the most substantive differences between the proposed new forms and existing protective order forms is what is not included. Since Penal Code section 490.8(e) does not provide for temporary restraining orders, firearm relinquishment, or recovery of court costs or attorney's fees, the forms are silent on those issues. Additionally, since retail crime restraining order petitions can only be brought by government attorneys (who are not subject to a filing fee) and retail establishments, the recommended petition does not include information about fee waivers.⁸

Proposed rule amendments

In addition to recommending the adoption and approval of the new forms, the committee also recommends rule amendments to implement AB 3209. Specifically, retail crime restraining orders would be added to the provisions of current California Rules of Court, rule 1.51, which require restraining order petitioners to fill out and provide *Confidential Information for Law Enforcement* (form CLETS-001) to the court.⁹ The committee additionally recommends inclusion of retail crime restraining orders in California Rules of Court, rules 3.1160 and 3.1162, which set out certain procedural requirements for requesting protective orders, including requiring personal service of the petition at least five days before the hearing, allowing responses to petitions to be written or oral, and providing courts discretion to continue hearings.¹⁰ Similarly, existing rule 3.1162 provides that if the respondent appears at a hearing on a restraining order through the use of remote technology and has received actual notice of the restraining order, no additional proof of service is required for enforcement of the order. The committee recommends that such provisions also apply to retail crime restraining orders.

⁷ See Pen. Code, § 490.8(d).

⁸ An item to request a fee waiver has been included on the response as it is possible that respondent would be entitled to a fee waiver.

⁹ Rule 1.51 currently refers to form CLETS-001 using its previous title, *Confidential CLETS Information*. The committee recommends updating the rule with the current title and form number in rule 1.51(a) and referencing only the form number in subsequent subdivisions.

¹⁰ Given that the response form in retail crime restraining orders is also used to request court-appointed counsel, the committee proposes excluding responses for such restraining orders from the provisions of the second sentence of rule 3.1160(d), which prohibits a continuance if a response is provided to the petitioner at least two days before the hearing.

Policy implications

The forms and rule amendments in this proposal implement new law that creates a new category of restraining orders. Accordingly, the key policy implications for this proposal are ensuring that council forms reflect the law correctly and are not misleading to parties. The recommended forms use language consistent with the new statute and other Judicial Council protective orders to promote uniformity across forms to make them more accessible and understandable. The new forms help implement Goal I, “Access, Fairness, Diversity, and Inclusion,” of the Judicial Council’s strategic plan by making the retail crime restraining order process as easy to complete as possible.

Comments

The committee solicited public comments on this proposal from December 6, 2024, to January 6, 2025, as part of the council’s regular winter 2025 invitation-to-comment cycle. Seven comments were received: Four were from superior courts, one was from an operations analyst at a superior court, one was from a county bar association, and one was from the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee (TCPJAC/CEAC Joint Rules Subcommittee). All but one of the commenters agreed with the proposal or agreed with the proposal if modified. One commenter did not indicate agreement or disagreement. The substantive comments and the committees’ responses are summarized below. A chart of all comments received and the committee’s responses is attached at pages 32–42.

Respondent’s right against self-incrimination

Many of the comments received focus on concerns about the respondent’s Fifth Amendment right against self-incrimination. While several comments agree with the committee’s recommendation from the invitation to comment to not include a “Justification or Excuse” item on the response form, the commenters made other specific suggestions to address concerns about self-incrimination. Those suggestions include adding a warning to items on the response form that information provided may be used in criminal proceedings; providing an explanation of rights such as the right to remain silent and the right to counsel; removing the item where the respondent can agree to certain orders requested and must specify which ones; and retaining the item where the respondent can allege that the restraining order would create undue hardship but not requiring explanation of such hardship.

To mitigate concerns about self-incrimination by the respondent and to avoid providing legal advice, the committee recommends adding a warning before item 5b on form RT-120 where the respondent may explain why they disagree with the orders requested without a detailed explanation of rights. The recommended warning in item 5b states: “You may but are not required to explain below why you disagree with the orders requested. **Any statements you make may be used in a criminal prosecution against you.**” Additionally, the committee recommends not including on the form an item allowing the respondent to agree to certain orders and not others or requiring an explanation for the allegation in item 5a that the restraining order creates undue hardship for the respondent. With these items not included on the response, the

only item where the respondent can provide an explanation contains the previously mentioned warning in bold.

Filing fees and fees to serve

One superior court that commented on the proposal stated that “a clarifying statement [on the petition] regarding filing and service fees would be helpful for court users and staff.” The committee does not recommend including information about filling fees on the petition because petitions can be filed only by government attorneys, who would not be charged a fee, and attorneys representing retail establishments, who are unlikely to be eligible for a fee waiver. Similarly, the recommended petition does not include information about free service by the sheriff or marshal. In light of this comment, however, the committee has modified the proposed item on the response form about fee waivers because it may be useful to respondents. Specifically, the committee recommends including a request on the response that the sheriff or marshal serve the respondent’s papers for free because of eligibility for a fee waiver. A similar notice has also been included on the information sheet that accompanies the response form.

Form modifier

Although a formal comment was not submitted, staff from the California Department of Justice (DOJ) requested that the council use a form modifier of no more than two letters because the DOJ uses a three-letter code in CARPOS. The forms circulated for comment with the modifier “RCP,” which could be confused with the CARPOS code. Accordingly, the committee recommends that the new recommended forms use the modifier “RT.”

Alternatives considered

Because the Legislature created a new type of restraining order, the committee did not consider taking no action. The committee did consider developing a combined order form for both civil and criminal (postconviction) retail crime restraining orders but concluded that such an approach may be confusing to litigants and present challenges for entering information into CARPOS through CLETS. The committee also considered recommending the approach taken by the Criminal Advisory Committee (CLAC) regarding Penal Code section 490.8(e)(6)(B), which permits the court to prohibit the restrained person from entering or being present at additional locations of the retail establishment “within a specified geographic range.” In response to a specific comment, CLAC modified the recommended order form for criminal retail crime restraining orders to allow the court to designate a county as the geographic range within which the restrained party may not enter or be present at locations of the retail establishment. The Civil and Small Claims Advisory Committee concluded, however, that while such designation may be appropriate for criminal orders, including a geographic range in miles and listing the addresses of the locations of the prohibited retail establishments is appropriate for civil orders.

The committee additionally considered proposing a separate rule of court on procedure for retail crime restraining orders, but ultimately concluded that similar procedures for all restraining orders is preferable. Finally, as discussed above in the comments section, the committee considered several options for the content of the response form to address the respondent’s right against self-incrimination.

Fiscal and Operational Impacts

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the new forms and amended rules. Courts will also incur costs to incorporate the new forms into the paper or electronic processes. The new restraining order type may also result in additional costs to courts as respondents are entitled to court-appointed representation, but such costs are the result of legislation and not form or rule changes.

Attachments and Links

1. Cal. Rules of Court, rules 1.51, 3.1160, and 3.1162, at pages 8–9
2. Forms RT-100, RT-100-INFO, RT-109, RT-115, RT-116, RT-120, RT-120-INFO, and RT-130, at pages 10–31
3. Chart of comments, at pages 32–42
4. Link A: Assem. Bill 3209 (Stats. 2024, ch. 169),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB3209

Rules 1.51, 3.1160, and 3.1162 of the California Rules of Court are amended, effective July 1, 2025, to read:

Rule 1.51. California Law Enforcement Telecommunications System (CLETS) information form

(a) Confidential CLETS information form to be submitted to the court

A person requesting protective orders under Code of Civil Procedure section 527.6, 527.8, or 527.85; Family Code section 6320, 6404, or 6454; Penal Code section 490.8 or sections 18100–18205; or Welfare and Institutions Code section 213.5 or 15657.03 must submit to the court with the request a completed ~~Confidential CLETS Information form~~ Confidential Information for Law Enforcement (form CLETS-001).

(b) Confidentiality of the form

~~The Confidential CLETS Information form~~ Form CLETS-001 is confidential, and access to the information on the form is limited to the persons listed in (c).

(c) Access to information on the form

~~The Confidential CLETS Information form~~ Form CLETS-001 must not be included in the court file. After the form is submitted to the court, only the following persons may have access to the information on the form:

(1)–(2) * * *

(d) Amendment of the form

A person requesting protective orders or the person’s attorney may submit an amended ~~Confidential CLETS Information form~~ form CLETS-001 as a matter of right to provide updated or more complete and accurate information.

(e) Retention and destruction of the form

(1) When a ~~Confidential CLETS Information form~~ form CLETS-001 is submitted to the court, the court, if a temporary restraining order or order after hearing is entered, may:

(A)–(B) * * *

(2)–(3) * * *

Rule 3.1160. Requests for protective orders to prevent civil harassment, workplace violence, private postsecondary school violence, retail crime, and elder or dependent adult abuse

(a) Application

This rule applies to requests for protective orders under Code of Civil Procedure sections 527.6, 527.8, and 527.85; Penal Code section 490.8; and Welfare and Institutions Code section 15657.03.

(b)–(c) * * *

(d) Response

The response to a request for a protective order may be written or oral, or both. Except for a request under Penal Code section 490.8, if a written response is served on the petitioner or, if the petitioner is represented, on the petitioner’s attorney at least two days before the hearing, the petitioner is not entitled to a continuance on account of the response.

(e) * * *

Rule 3.1162. Service requirement for respondents who appear remotely

(a) Application of rule

This rule applies to protective orders issued under Code of Civil Procedure sections 527.6, 527.8, and 527.85; Penal Code sections 490.8 and 18100–18205; and Welfare and Institutions Code section 15657.03.

(b) * * *

This petition must be filed by an attorney as required by Penal Code section 490.8(e). Also fill out *Confidential Information for Law Enforcement* (form [CLETS-001](#)) with as much information as you know.

DRAFT

02/20/2025

Not approved by
the Judicial Council**1 Retail Establishment**

Name: _____

DBA (if applicable): _____

Address: _____

City: _____ State: _____ Zip: _____

☐ This establishment is a chain or franchise.

Fill in court name and street address:

Superior Court of California, County of _____

2 Attorney Filing Petition

a. Name: _____

is a ☐ Prosecuting Attorney☐ City Attorney☐ County Counsel☐ Attorney Representing a Retail Establishment

b. State Bar No.: _____

Office or Firm Name: _____

c. Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Court fills in case number when form is filed.

Case Number: _____

3 Respondent (Person From Whom Protection Is Sought)

Full Name: _____ Age: _____

Address (if known): _____

City: _____ State: _____ Zip: _____

4 Venue

Why are you filing in this county? (Check all that apply):

a. ☐ The respondent lives in this county.b. ☐ The retail establishment is located in this county.c. ☐ Other (specify): _____**This is not a Court Order.**

7

Explain why you believe respondent is likely to return to the retail establishment.

- ☐ Response is stated in Attachment 7.

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

8

- a. I ask the court to order the respondent **not** to enter the retail establishment named in (2), be present on the grounds of the retail establishment named in (2), or be present on any parking lot next to and used for the retail establishment named in (2).
- b. ☐ The retail establishment named in (2) is a chain or franchise. I ask the court to include all retail establishments in the chain or franchise located in the State of California within _____ miles of the address provided in (2) to be included in the order. Those establishments are located at the following addresses (*list addresses*):

- ☐ Additional addresses are listed in Attachment 8.

9

I ask the court to make the following additional orders (*specify*):

- ☐ Additional orders requested are stated in Attachment 9.

This is not a Court Order.

Case Number:

10 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name

Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Name of retail establishment

Signature

Title

This is not a Court Order.

RT-100-INFO How Do I Get an Order to Prohibit Retail Crime?

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

What is a retail crime restraining order?

It is a court order that prohibits an individual from going to a specific business or locations of a business chain or franchise, based on prior crimes committed or alleged to have been committed by the individual.

A retail crime restraining order may be issued in a criminal or civil case. These instructions address retail theft restraining orders in the civil context only.

Can I get a retail crime restraining order?

A retail business can ask for a retail crime restraining order if somebody has been arrested two or more times for shoplifting, theft, vandalism, or assault or battery of a business employee with the same retail establishment and the person who was arrested is likely to return to the business. A prosecuting attorney, a city attorney, county counsel, or a lawyer representing the business must file the petition for a retail crime restraining order.

How will the order help me?

The court can order a person not to enter or be on the grounds of a business.

In a retail theft case, the court cannot:

- Order a person to pay money that they owe you
- Order someone to move out of rental property that you own
- Order someone to stop creating a nuisance

If you need these remedies, you must file a civil action.

Do I need a lawyer?

Yes. Only lawyers may ask for retail crime restraining orders.

What forms do I need to get the order?

Your lawyer must fill out all of form [RT-100](#), *Petition for Retail Crime Restraining Order* and form [CLETS-001](#), *Confidential Information for Law Enforcement*. If they need attachments, they may use form [MC-025](#). They must also fill out items 1, 2, and 3 on form [RT-109](#), *Notice of Court Hearing*.

Where can I get these forms?

Your lawyer can get the forms from legal publishers or from the California Courts website at courts.ca.gov/rules-forms/find-your-court-forms. Your lawyer also may be able to find them at your local courthouse or county law library.

What do I need to get the order?

Your lawyer must go to the superior court in the county where the business is located or where the person to be restrained lives. At the court, your lawyer should ask where to file a request for a retail crime restraining order.

After your lawyer files a request with the court clerk, the clerk will give your lawyer a hearing date on the *Notice of Court Hearing* form.

How long does the order last?

A retail crime restraining order could last up to two years.

How will the person to be restrained know about the order?

Someone age 18 or older, who is not involved in this case, must serve (give) the person to be restrained a copy of the order. The server should then fill out form [POS-020](#), *Proof of Personal Service—Civil*, and give it to your lawyer to file with the court.

What if the restrained person does not obey the order?

Call the police. The restrained person can be arrested and charged with a crime.

Do I have to go to court?

Your lawyer must go to court on the date provided by the clerk.



Do I need to bring a witness to the court hearing?

Witnesses are not required, but it helps to have more proof of the arrests and the likelihood of the person returning than just your word. The court may or may not let witnesses speak at the hearing. So, if possible, your lawyer should bring their statements under oath to the hearing. (Your lawyer can use form [MC-030](#), *Declaration*, for this.)

Can I agree with the restrained person to cancel the order?

No. Once the order is issued, only the judicial officer can change or cancel it. Your lawyer or the restrained person would have to file a request with the court to cancel the order.

For help in your area, contact:

[Local information may be inserted.]

What happens after the hearing?

If the court grants the restraining order, the judicial officer may ask your lawyer to fill out form [RT-130](#), *Retail Crime Restraining Order*, and return it to the court.

What if I have a disability?

If you have a disability and need an accommodation while you are at court your lawyer can use form [MC-410](#), *Disability Accommodation Request*, to make your request. Your lawyer can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO](#), *How to Request a Disability Accommodation for Court*.

What if I don't speak English?

When you file your papers, have your lawyer ask the clerk if a court interpreter is available. Your lawyer can also use form [INT-300](#), *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to selfhelp.courts.ca.gov/request-interpreter.

DRAFT

02/20/2025

Not approved by the
Judicial Council**1 Retail Establishment**

Name: _____

DBA (if applicable): _____

2 Attorney Filing Petition

a. Name: _____

State Bar No.: _____

Firm or Office Name: _____

b. Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of _____

Fill in case number:

Case Number: _____

3 Respondent

Full Name: _____

*The court will complete the rest of this form.***4 Notice of Hearing****A court hearing is scheduled on the request for restraining order against the respondent:****Hearing
Date**

→ Date: _____ Time: _____

Dept.: _____ Room: _____

Name and address of court if different from above:

_____**To the person in ③:**

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order, which could last up to two years. After you receive a copy of the order, you could be arrested if you violate the order.

5 Service of Documents by Petitioner

At least ☐ five ☐ _____ days before the hearing, someone age 18 or older—not anyone involved in the case—must personally give (serve) a court file-stamped copy of this form RT-109 to the respondent along with a copy of all the forms indicated below:

- a. RT-100, *Petition for Retail Crime Restraining Order* (file-stamped)
- b. [RT-120](#), *Response to Petition for Retail Crime Restraining Order* (blank form)
- c. [RT-120-INFO](#), *How Can I Respond to a Petition for Retail Crime Restraining Order?*
- d. ☐ Other (*specify*): _____

Date: _____

Judicial Officer

To the Petitioner:

- The court cannot make the restraining orders after the court hearing unless the respondent has been personally given (served) a copy of your request. To show that the respondent has been served, the person who served the forms must fill out a proof of service form. Form POS-020, *Proof of Personal Service—Civil*, may be used. File the completed form with the court before the hearing, and bring a copy with you to the court hearing.
- Your attorney must attend the hearing if you want the judge to make any of the orders you requested on form RT-100, *Petition for Retail Crime Restraining Order*. Bring any evidence or witnesses you have.
- For more information, read form RT-100-INFO, *How Do I Get an Order to Prohibit Retail Crime?*

To the Respondent:

- If you want to respond to the request for orders in writing, file form [RT-120](#), *Response to Petition for Retail Crime Restraining Order*, and have someone age 18 or older—**not you or anyone involved in the case**—mail it to the petitioner.
- The person who mailed the form must fill out a proof of service form. Form POS-030, *Proof of Service by First-Class Mail—Civil*, may be used. File the completed form with the court before the hearing, and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- You are entitled to representation by court-appointed counsel. You may request such representation on form RT-120, *Response to Petition for Retail Crime Restraining Order*.
- For more information, read form RT-120-INFO, *How Can I Respond to a Petition for Retail Crime Restraining Order?*

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to courts.ca.gov/rules-forms/find-your-court-forms for *Disability Accommodation Request* (form [MC-410](#)). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Clerk's Certificate

[seal]

Date: _____ Clerk, by _____, Deputy

Instructions: Use this form to ask the court to reschedule the court date listed on *Notice of Court Hearing* (form [RT-109](#)).

DRAFT**02/20/2025****Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:**1 My Information**

a. My name is: _____

b. I am the:

(1) ☐ **Petitioner** (*skip to 2*).(2) ☐ **Respondent** (*give your contact information below*).

Address where I can receive mail:

This address will be used by the court and other party to notify you in this case. If you want to keep your home address private, you can use another address like a post office box or another person's address, if you have their permission. If you have a lawyer, give your lawyer's address and contact information.

Address: _____

City: _____ State: _____ Zip: _____

My contact information (*optional*):

Telephone: _____ Fax: _____

Email Address: _____

Lawyer's information (*skip if you do not have one*):

Name: _____ State Bar No.: _____

Firm Name: _____

2 Information About My Case

a. The other party in my case is:

☐ Retail Establishment ☐ RespondentName (*see form RT-100*): _____b. I have a court date currently scheduled for (*date*): _____**This is not a Court Order.**

3 Why Does the Court Date Need to Be Rescheduled?

a. ☐ I am the petitioner, and I need more time to have the respondent personally served.

b. ☐ I am the respondent, and I have requested court-appointed counsel that has not been appointed yet.

c. ☐ Other reason: _____

Date: _____

Date: _____



New July 1, 2025

RT-115, Page 2 of 2

Clear this form

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02/20/2025

Not approved by
the Judicial Council

Complete ① and ② only.

① Retail Establishment: _____

② Respondent: _____

The court will complete the rest of this form

Fill in court name and street address:

Superior Court of California, County of _____

Fill in case number:

Case Number: _____

③ Next Court Date

- a.
- ☐
- The request to reschedule the court date is
- denied**
- .

Your court date is: _____

Your court date is not rescheduled because:

- b.
- ☐
- The request to reschedule the court date is
- granted**
- . Your court date is rescheduled for the date and time listed below. See ④–⑧ for more information.

Name and address of court, if different from above:

New
Court
Date→ Date: _____ Time: _____
Dept.: _____ Room: _____

④ Reason Court Date Is Rescheduled

- a.
- ☐
- There is good cause to reschedule the court date (
- check one*
-):

(1) ☐ The petitioner has not served the respondent.(2) ☐ Other: __________

- b.
- ☐
- The respondent requested court-appointed counsel that has not been appointed yet.

- c.
- ☐
- The court reschedules the court date on its own motion.

This is a Court Order.



5 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. ☐ **Retail Establishment**b. ☐ **Respondent**c. ☐ **Court**

(1) ☐ You do not have to serve the respondent because they, or their lawyer, were at the court date or agreed to reschedule the court date.

(2) ☐ You must have the respondent personally served with a copy of this order and a copy of all documents listed on form [RT-109](#), item **5**, by (date): _____

(3) ☐ You must have the respondent served with a copy of this order. This can be done by mail. You must serve by (date): _____

(4) ☐ Other: _____

(1) ☐ You do not have to serve the retail establishment because they, or their lawyer, were at the court date or agreed to reschedule the court date.

(2) ☐ You must have the retail establishment personally served with a copy of this order by (date): _____

(3) ☐ You must have the retail establishment served with a copy of this order. This can be done by mail. You must serve by (date): _____

(4) ☐ Other: _____

(1) ☐ Further notice is not required.

(2) ☐ The court will mail a copy of this order to all parties by (date): _____

(3) ☐ Other: _____

This is a Court Order.

6

☐ Other OrdersDate:
Judicial Officer**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to courts.ca.gov/rules-forms/find-your-court-forms for *Disability Accommodation Request* (form [MC-410](#)). (Civ. Code, § 54.8.)

Clerk's Certificate
[seal]

(Clerk will fill out this part.)
—Clerk's Certificate—

I certify that this *Order on Request to Continue Hearing* is a true and correct copy of the original on file in the court.

Date: Clerk, by , Deputy

This is a Court Order.

**Use this form to request court-appointed counsel and to
respond to the petition (form RT-100)**

- To request court-appointed counsel, fill out ①, ②a, and ③ of this form, sign the declaration on page 3, and take it to the court clerk. **Do not fill out the other items if you are requesting court-appointed counsel.**
- Have someone age 18 or older, who is not involved in this case, serve the person in ① by mail with a copy of this form and any attached pages.
- Read *How Can I Respond to a Petition for Retail Crime Restraining Order?* (form [RT-120-INFO](#)) for information about service and other next steps.

① Retail Establishment

Name (see form RT-100, item ①): _____

DBA (if applicable): _____

Write your hearing date, time, and place from
form RT-109, item ③, here:**Hearing
Date** →

Date: _____ Time: _____

Dept.: _____ Room: _____

DRAFT**02/20/2025****Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:**② Respondent**

a. Your Name: _____

b. Your Lawyer (if you have one for this case)

Name: _____ State Bar No.: _____

Firm Name: _____

c. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

③ ☐ Request for Counsel

I request court-appointed counsel to represent me in this case.



6 ☐ **No Fee for Filing and Service**

I request that I not be required to pay the filing fee and that the sheriff or marshal serve my papers for free because I am eligible for a fee waiver. (Form [FW-001](#), Request to Waive Court Fees, *must be filed separately.*)

7 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name

Sign your name

RT-120-INFO**How Can I Respond to a Petition for Retail Crime Restraining Order?**

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

What is a retail crime restraining order?

It is a court order that prohibits you from doing certain things and going to certain places. It can be issued after a criminal conviction or as a civil order after two or more arrests or citations for certain retail theft crimes. This information sheet covers civil orders only.

Do I need a lawyer?

Having a lawyer is recommended, but it is not required. You are entitled to court-appointed counsel. If you wish to request court-appointed counsel, fill out items ①, ②, and ③ on form RT-120. You can also ask the court clerk about free and low-cost legal services and self-help centers in your county.

What does the order do?

The court can order a person not to enter or be on the grounds of a business.

Who can ask for a retail crime restraining order?

- A prosecuting attorney
- A city attorney
- A lawyer for the county counsel
- A lawyer representing a retail business

I've been served with a petition for retail crime restraining order. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* tells you when to appear in court.

What if I don't agree with the request?

If you disagree with the orders the person is asking for, fill out form [RT-120](#), *Response to Petition for Retail Crime Restraining Order*, before your hearing date and file it with the court. If you need to include attachments, you can use form [MC-025](#). You can get the forms from legal publishers or from the California Courts website at courts.ca.gov/rules-forms/find-your-court-forms. Your lawyer also may be able to find them at your local courthouse or county law library.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older, who is not involved in this case, mail a copy of completed form RT-120 to the person who asked for the order. (This is called "service by mail.")

The person who serves the form by mail should fill out form [POS-030](#), *Proof of Service by First-Class Mail—Civil*. Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.

Should I go to the court hearing?

Yes. Even if you do not file a response you should go to court on the date listed on form [RT-109](#), *Notice of Court Hearing*. If you do not go to the hearing, the judge can make orders against you without you being present.

How long does the order last?

Any order issued at the hearing can last up to two years.

What if I don't obey the order?

The police can arrest you. You may go to jail and have pay a fine.

Will I see the person who asked for the order at the court hearing?

Yes. Assume that the business that is asking for the order will send someone to the hearing. Do not talk to that person unless the judge says that you can.

Do I have to pay a filing fee?

Yes, but if you cannot afford to pay the filing fee, ask the clerk how to apply for a fee waiver. Form [FW-001](#) is available for this purpose. Also, if you are eligible for a fee waiver, you can ask the sheriff or marshal to serve your papers for free. If you are not eligible for free service, you may pay the sheriff or marshal to serve your papers.



Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. You can use form [MC-030](#) for this.

What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300](#), *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to selfhelp.courts.ca.gov/request-interpreter.

Can I agree with the business to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the person who requested the order would have to file a request with the court to cancel the order.

What if I have a disability?

If you have a disability and need an accommodation while you are at court you can use form [MC-410](#), *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO](#), *How to Request a Disability Accommodation for Court*.

For help in your area, contact:

[Local information may be inserted.]

DRAFT

03/13/2025

Not approved by
the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Restrained Person

(Information that has a star (*) next to it is required to add this order into the California Restraining and Protective Order System. Please provide all known information.)

*Name: _____

*Gender: ☐ M ☐ F ☐ Nonbinary *Race: _____

*Date of Birth: _____ Age: _____

Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____

2 Protected Retail Establishment

Name: _____

Address: _____

☐ Additional addresses: The court finds that the retail establishment is part of a chain or franchise and includes the following additional establishments in the State of California within _____ miles of the address above: (list addresses):

☐ Additional addresses are listed in Attachment 2.

3 Expiration DateThis order expires on (date): _____ at (time): _____ ☐ a.m. ☐ p.m. ☐ midnight

If no expiration date is written here, this Order expires two years from the date of issuance.

4 Hearing

a. This proceeding was heard on (date): _____ at (time): _____
in Dept.: _____ by (judicial officer): _____

b. These people were at the hearing:

(1) ☐ The person in ①.(2) ☐ The lawyer for the retail establishment in ② (name): _____(3) ☐ The lawyer for the person in ① (name): _____☐ Additional persons present are listed at the end of this Order on Attachment 4.**This is a Court Order.**

5 Stay-Away Order

The restrained person must not:

- Enter the retail establishment named in ②.
- Be present on the grounds of the retail establishment named in ②.
- Be present on any parking lot next to and used for the retail establishment named in ②.

Not obeying this order can result in being arrested and charged with a crime and can include up to six months in jail.

6 Service

- a. ☐ The restrained person personally attended the hearing. No other proof of service is needed.
- b. ☐ The restrained person did not attend the hearing. Law enforcement or someone who is at least 18 years old and not a party to the action must personally serve a copy of this Order on the restrained person.

7 Number of pages attached to this Order, if any: _____

To the Petitioner for the Protected Retail Establishment:**8 Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). *(Check one):*

- a. ☐ The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. ☐ The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. ☐ By the close of business on the date that this Order is made, the petitioner for the protected retail establishment should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

- ☐ Additional law enforcement agencies are listed at the end of this Order on Attachment 8.

Date: _____

Judicial Officer

This is a Court Order.



Instructions for Law Enforcement**Enforcing the Restraining Order**

This Order is enforceable by any law enforcement agency that has received the Order, is shown a copy of the Order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing (see ④), the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

Start Date and End Date of Orders

This Order *starts* on the date next to the judge's signature on page 2 and *ends* on the expiration date in ③ on page 1.

Notice/Proof of Service

The law enforcement officer must first determine if the restrained person had notice of the order. If notice cannot be verified, the officer must advise the restrained person of the terms of the order and then enforce it. (Fam. Code, § 6383(e).)

Consider the restrained person served (given notice) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; *or*
- The restrained person was at the hearing or was informed of the order by an officer. An officer can obtain information about the contents of the order and proof of service in CARPOS.

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected party from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must also be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced.
3. *Criminal Protective Order (CPO)*: If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2), 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code section 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must also be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment, retail crime), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must also be enforced.

(Clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Retail Crime Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

W25-07

Protective Orders: New Civil Retail Crime Restraining Order (Amend Cal. Rules of Court, rules 1.51, 3.1160, and 3.1162; adopt forms RCP-100, RCP-109, RCP-115, RCP-116, RCP-120, and RCP-130; approve forms RCP-100-INFO and RCP-120-INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	Elizabeth Flores, Operations Analyst – Criminal Operations Superior Court of California, County of Orange Westminster	A	The proposed RCP-120 form, relating to items #4 or #5, should include a warning that the response provided may implicate the person in criminal proceedings.	In light of this suggestion and others on the topic, the committee recommends including the following language on item 5 of the response form where the respondent may explain why they disagree with the orders requested: “You may but are not required to explain below why you disagree with the orders requested. Any statements you make may be used in a criminal prosecution against you. ”
2.	Orange County Bar Association by Mei Tsang, President	AM	Does the proposal appropriately address the stated purpose? Yes.	The committee appreciates the information provided.
			Given the absence of several procedural requirements in Penal Code section 490.8, is it appropriate for civil retail crime restraining orders to be subject the procedural requirements of other restraining orders, particularly those found in rule 3.1160? <i>These include the following: Requiring personal service at least 5 days before the hearing, allowing responses to be written or oral, providing courts discretion to continue hearings, and adopting part of Rule 3.1162, which eliminates requirement for additional POS if Respondent appears remotely and has received actual notice.</i> Yes.	The committee appreciates the information provided.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

W25-07

Protective Orders: New Civil Retail Crime Restraining Order (Amend Cal. Rules of Court, rules 1.51, 3.1160, and 3.1162; adopt forms RCP-100, RCP-109, RCP-115, RCP-116, RCP-120, and RCP-130; approve forms RCP-100-INFO and RCP-120-INFO)

All comments are verbatim unless indicated by an asterisk (*).

Commenter	Position	Comment	Committee Response
		<p>Civil retail crime restraining orders require proof of arrest or citation for specific crimes. Responding to a petition for such an order may have implications for a subsequent criminal prosecution. What should be included in the response form (RCP-120) to balance a respondent's opportunity to be heard and the Fifth Amendment right against self-incrimination in a criminal case?</p> <p><u>Description of the issue from W25-07:</u> The response forms for other civil restraining orders contain an item in which the respondent can provide a justification or excuse for committing some or all of the actions that the petitioner accused them of committing. The committee considered including a similar item on form RCP 120 but concluded that since retail crime restraining orders are based on the commission of specified crimes it is best not to include an item asking the respondent to admit that they did some of the actions they are accused of and provide justification. The committee has included a request for specific comment about what should be included on the response form for retail crime restraining orders.</p> <p><u>Proposal:</u> Agree there should not be an item asking the respondent to admit they did some of the actions they are accused of and/or to provide justification. Instead, provide an explanation of rights, in a box similar to the boxed item included in item 1 of RCP-120. The explanation should state that a judge may consider justification for the conduct. It should also include a description of the right to remain silent, with a warning that any statements could be used against them in criminal proceedings and that justifications may constitute</p>	<p>In light of this suggestion and others on the topic, the committee no longer recommends inclusion of the following on the response form: item 4c where the respondent can agree to certain orders and not others and a required explanation for item 5a, where the respondent can allege that the order would create undue hardship for them. Additionally, the committee recommends including the following language on item 5 of the response form where the respondent may explain why they disagree with the orders requested: "You may but are not required to explain below why you disagree with the orders requested. Any statements you make may be used in a criminal prosecution against you." The committee does not recommend including other suggested language as it appears to be providing legal advice to the respondent.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

W25-07

Protective Orders: New Civil Retail Crime Restraining Order (Amend Cal. Rules of Court, rules 1.51, 3.1160, and 3.1162; adopt forms RCP-100, RCP-109, RCP-115, RCP-116, RCP-120, and RCP-130; approve forms RCP-100-INFO and RCP-120-INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			admissions. It should also include a description of the right to counsel and a suggestion that any justifications be discussed with counsel before submitting them. Finally, the statement should instruct that justifications may be provided on an Attachment form, which would provide the same explanation of rights at the top of the form.	
			On form RCP-120, the instruction at the top of page 2 ("If you are using this form to request court-appointed counsel, do not fill out any items below except the signature") should be highlighted.	In light of this comment and others on this issue, the committee recommends that the sentence, "Do not fill out the other items if you are requesting court-appointed counsel," on form RT-120 appear in bold font.
3.	Superior Court of California, County of Los Angeles by Robert Oftring, Chief Communications and External Affairs Officer	A	The following comments are representative of the Superior Court of California, County of Los Angeles, and do not represent or promote the viewpoint of any particular judicial officer or employee.	The committee appreciates the information provided.
			In response to the Judicial Council of California's proposal titled " ITC W25-07: Protective Orders: New Civil Retail Crime Restraining Order," the Superior Court of California, County of Los Angeles (Court), concurs that the proposal addresses its intended purpose.	The committee appreciates the information provided.
			The Court agrees that it is appropriate for civil retail crime restraining orders to be subject to the same procedural requirements of other restraining orders, particularly those found in rule 3.1160. It appears that providing the same procedural requirements is fundamentally consistent with ensuring due process.	The committee appreciates the information provided.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

W25-07

Protective Orders: New Civil Retail Crime Restraining Order (Amend Cal. Rules of Court, rules 1.51, 3.1160, and 3.1162; adopt forms RCP-100, RCP-109, RCP-115, RCP-116, RCP-120, and RCP-130; approve forms RCP-100-INFO and RCP-120-INFO)

All comments are verbatim unless indicated by an asterisk (*).

Commenter	Position	Comment	Committee Response
		To balance a respondent's opportunity to be heard with the Fifth Amendment right against self-incrimination, it is recommended that section #4(c) of the response form (RCP-120) be removed, as asking for additional information might invite self-incriminating statements. Additionally, section #5(a) should remain without requiring further explanation, given that the form necessitates declarations under penalty of perjury, which could expose respondents to prosecution if proven incorrect.	In light of this suggestion and others on the topic, the committee recommends removal of item 4c and the required explanation for item 5a.
		Proceedings outlined in the proposal will typically fall under the purview of the Court's Criminal Division. These proceedings will be assigned to the Civil Division only when there is an extant civil lawsuit in which the retail crime prevention restraining order request is filed. The Court anticipates this will happen infrequently unless retail establishments seek civil recoveries from shoplifters (as opposed to restitution in the criminal proceeding).	The committee appreciates the information provided.
		The Court's Criminal Division plans to meet with its relevant justice partners to discuss which entities would take on these types of cases in the future.	The committee appreciates the information provided.
		The Court does not anticipate cost savings. Instead, the Court believes this proposal will result in additional costs. The case management system will need to be updated to include the creation of new codes, which will incur some costs and require training for Court staff. Since there will be an increase in cases, there will also be additional costs incurred to accommodate them.	The committee appreciates the information provided.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

W25-07

Protective Orders: New Civil Retail Crime Restraining Order (Amend Cal. Rules of Court, rules 1.51, 3.1160, and 3.1162; adopt forms RCP-100, RCP-109, RCP-115, RCP-116, RCP-120, and RCP-130; approve forms RCP-100-INFO and RCP-120-INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			Additionally, the Court anticipates that implementation of this new law will also result in costs to counties for indigent defense. The Court also finds the process to obtain a restraining order, as outlined in AB 3209, to be different from current practice. For example, it is unclear when the hearing must be set and if there is appointment of counsel for the respondent.	The committee appreciates the information provided.
			Regarding implementation, two months from Judicial Council approval to the proposal's effective date seems appropriate. However, it is difficult to assess if this proposal will work well in courts of different sizes. The Court will be centralizing these protective orders, and it will depend on the volume of these cases to determine if it would work across courts of different sizes.	The committee appreciates the information provided.
4.	Superior Court of California, County of Orange, Civil Operations Management by Sean E. Lillywhite, Operations Analyst, Training & Analyst Group	NI	<p><i>On behalf of Civil Operations Management, County of Orange:</i></p> <p><u>Comments:</u> Form RCP-100 <i>Petition for Retail Crime Restraining Order</i> – Nowhere on the form are filing fees addressed. Since government agencies are exempt from filing fees and the statute is silent on filing fee requirements for an attorney representing a retail establishment, what is the guidance regarding filing fees pertaining to non-government entity filers on these petitions? For comparison on CH-100 at item 13 it states “No Fee for Filing or Service”; this information is on other harassment forms and allows parties of harassment to file without charge and get documents served by the Sheriff without charge. Are fees still waived for service by the sheriff on these petitions? A clarifying statement</p>	The committee does not recommend information about filling fees on form RT-100 since petitions can only be filed by government attorneys, who would not be charged a fee, and attorneys representing retail establishments, who are unlikely to be eligible for a fee waiver. The committee understands Government Code section 26720.5 and California Rules of Court, rule 3.55 to waive service fees by the sheriff or Marshal for litigants with fee waivers. The committee is unaware of any other statutory provisions that waive fees for retail crime restraining orders. In light of this suggestion the committee recommends including information

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W25-07

Protective Orders: New Civil Retail Crime Restraining Order (Amend Cal. Rules of Court, rules 1.51, 3.1160, and 3.1162; adopt forms RCP-100, RCP-109, RCP-115, RCP-116, RCP-120, and RCP-130; approve forms RCP-100-INFO and RCP-120-INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			regarding filing and service fees would be helpful for court users and staff.	about free service if a fee waiver is granted on the response form and the corresponding information sheet.
			RCP-120 <i>Response to Petition for Retail Crime Restraining Order</i> – Recommend making the last line of the first bullet bold. “Do not fill out the other items if you are requesting court-appointed counsel.”	In light of this comment and others on this issue, the committee recommends that such language on form RT-120 to appear in bold font.
			Also, this document has a “No Fee For Filing” checkbox on number six. Is the respondent required to pay a first appearance fee, if a fee waiver is not completed and granted?	The committee notes that provisions of Penal Code section 490.8 do not waive fees for respondents. Accordingly, it appears other existing statutory provisions on civil fees are controlling.
			RCP-120-INFO <i>Instructions for Respondents</i> – Under Do I need a lawyer? Section, recommend “...fill out items 1-3 and the signature page on form RCP-120” rather than just item 3. This might cause confusion and delayed processing.	In light of this comment, the committee recommends including “items 1, 2, and 3” in the section of form RT-120-INFO referenced in the comment.
			RCP-130 <i>Final Retail Crime Restraining Order</i> – On page 3, “Start Date and End Date of Orders” it states, “This Order starts on the date next to the judge’s signature on page 2 and ends on the expiration date in 3 on page 1.” Consider adding “If no expiration date is listed in 3 on page 1, the Order expires two years from the date next to the judge’s signature on page 2.”	The committee does not recommend the suggested change because item 3 of recommended form RT-130 already includes such language. Additionally, such a change would render form RT-130 inconsistent with other civil restraining order forms that do not include such language in the “Instructions for Law Enforcement.”

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

W25-07

Protective Orders: New Civil Retail Crime Restraining Order (Amend Cal. Rules of Court, rules 1.51, 3.1160, and 3.1162; adopt forms RCP-100, RCP-109, RCP-115, RCP-116, RCP-120, and RCP-130; approve forms RCP-100-INFO and RCP-120-INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
5.	Superior Court of California, County of San Bernardino by Brenda Martin Del Campo	A	Training would be needed for Judges, Supervisors (2 hours), clerks (1 day), and Judicial Assistants (1 day).	The committee appreciates the information provided.
			Revising processes and procedures would be needed for the clerk's office to process the new forms in odyssey. New procedures and macros would need to be created in clerk's edition for judicial assistants.	The committee appreciates the information provided.
			3 months from Judicial Council approval of this proposal until its effective date should be enough time for implementation.	The committee appreciates the information provided and notes that the recommended effective date is about two months from approval.
6.	Superior Court of California, County of San Diego by Mike Roddy, Executive Officer	AM	Q: Does the proposal appropriately address the stated purpose? A: Yes.	The committee appreciates the information provided.
			Q: Given the absence of several procedural requirements in Penal Code section 490.8, is it appropriate for civil retail crime restraining orders to be subject the procedural requirements of other restraining orders, particularly those found in rule 3.1160? Civil retail crime restraining orders require proof of arrest or citation for specific crimes. Responding to a petition for such an order may have implications for a subsequent criminal prosecution. What should be included in the response form (RCP-120) to balance a respondent's opportunity to be heard and the Fifth Amendment right against self-incrimination in a criminal case? A: Yes, it is appropriate for retail crime restraining orders to be subject to the procedural requirements for other types of civil restraining orders. In order to protect a Respondent's Fifth Amendment rights, a	The committee appreciates the information provided. In light of this comment and others on the topic the committee does not recommend inclusion of a justification or excuse item on form RT-120.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

W25-07

Protective Orders: New Civil Retail Crime Restraining Order (Amend Cal. Rules of Court, rules 1.51, 3.1160, and 3.1162; adopt forms RCP-100, RCP-109, RCP-115, RCP-116, RCP-120, and RCP-130; approve forms RCP-100-INFO and RCP-120-INFO)

All comments are verbatim unless indicated by an asterisk (*).

Commenter	Position	Comment	Committee Response
		“Justification or Excuse” item should not be included on form RCP-120.	
		Q: Would the proposal provide cost savings? If so, please quantify. A: No, the proposal will potentially result in additional costs to the court. As indicated in the Invitation, it is unclear who will bear the costs of appointed counsel and who will be appointed (i.e. public defender or a civil attorney).	The committee appreciates the information provided.
		Q: What would the implementation requirements be for courts for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? A: Preparing local procedures, potentially drafting local forms until the JC forms are adopted, case management configuration (e.g. calendars, event codes, etc.), and developing a process for appointment of counsel in civil actions.	The committee appreciates the information provided.
		Q: Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? A: Yes, provided final versions of the forms are provided at that time. This will allow the court to create local packets and train staff.	The committee appreciates the information provided.
		Q: How well would this proposal work in courts of different sizes?	The committee appreciates the information provided.

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			A: It appears that the proposal would work for courts of all sizes.	
			RCP-100: Propose removing “(if any)” following “”Lawyer’s name” on page 4 as the action must be filed by an attorney.	The committee recommends making this change.
			RCP-100-INFO: Since retail crime restraining orders may only be filed by an attorney, is there a need for the RCP-100-INFO? The form appears to be giving guidance to the retail establishment regarding what their attorney should do. For example: Do I need to bring a witness to the court hearing? “...So, if possible, your lawyer should bring their statements under oath to the hearing.”	The committee recommends approval of form RT-100-INFO to provide information on retail crime restraining orders to retail establishments that may benefit from the information.
			RCP-109: Item 5: Propose removing option for “ five ” days service as these actions do not provide for temporary orders.	The committee does not recommend making such a change because rule 3.1160 requires service within five days for several types of restraining orders regardless of whether a temporary restraining order has issued. The committee additionally notes that it recommends adding retail crime restraining orders to rule 3.1160.
			RCP-116: Propose that form include a clerk’s certificate for consistency.	The committee recommends making this change.
7.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee	AM	The JRS notes that the proposal is required to conform to a change of law.	The committee appreciates the information provided.

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(CEAC) (TCPJAC/CEAC Joint Rules Subcommittee) (JRS)		The JRS also notes the following impact to court operations: <ul style="list-style-type: none">• Impact on existing automated systems.• Results in additional training, which requires the commitment of staff time and court resources.• Increases court staff workload.• Impact on local or statewide justice partners.	The committee appreciates the information provided.
		In response to the Judicial Council of California's proposal titled ITC W25-07: Protective Orders: New Civil Retail Crime Restraining Order, we concur that the proposal addresses its intended purpose.	The committee appreciates the information provided.
		It is appropriate for civil retail crime restraining orders to be subject to the same procedural requirements of other restraining orders, particularly those found in rule 3.1160. It appears that providing the same procedural requirements is fundamentally consistent with ensuring due process.	The committee appreciates the information provided.
		To balance a respondent's opportunity to be heard with the Fifth Amendment right against self-incrimination, it is recommended that section #4(c) of the response form (RCP-120) be removed, as asking for additional information might invite self-incriminating statements. Additionally, section #5(a) should remain without requiring further explanation, given that the form necessitates declarations under penalty of perjury, which could expose respondents to prosecution if proven incorrect.	In light of this suggestion and others on the topic, the committee recommends removal of item 4c and the required explanation for item 5a. As circulated, item 4c allowed the respondent to agree to certain orders and provided space to specify which ones. Item 5a allows the respondent to assert, among other things, that the order creates undue hardship for the respondent, which the court is required to consider under the statute.

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			<p>Proceedings outlined in the proposal will typically fall under the purview of the Court’s Criminal Division. These proceedings will be assigned to the Civil Division only when there is an extant civil lawsuit in which the retail crime prevention restraining order request is filed. We anticipate this will happen infrequently unless retail establishments seek civil recoveries from shoplifters (as opposed to restitution in the criminal proceeding).</p>	<p>The committee appreciates the information provided.</p>
			<p>We do not anticipate cost savings. Instead, we believe this proposal will result in additional costs. The case management system will need to be updated to include the creation of new codes, which will incur some costs and require training for Court staff. Since there will be an increase in cases, there will also be additional costs incurred to accommodate them.</p>	<p>The committee appreciates the information provided.</p>
			<p>Additionally, we anticipate that implementation of this new law will also result in costs to counties for indigent defense. We also find the process to obtain a restraining order, as outlined in AB 3209, to be different from current practice. For example, it is unclear when the hearing must be set and if there is appointment of counsel for the respondent.</p>	<p>The committee appreciates the information provided.</p>
			<p>Regarding implementation, two months from Judicial Council approval to the proposal's effective date seems appropriate. However, it is difficult to assess if this proposal will work well in courts of different sizes. The Court will be centralizing these protective orders, and it will depend on the volume of these cases to determine if it would work across courts of different sizes.</p>	<p>The committee appreciates the information provided.</p>

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