



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 20-064

For business meeting on September 25, 2020

Title

Protective Orders: Elder or Dependent Adult
Abuse Prevention Forms

Agenda Item Type

Action Required

Effective Date

January 1, 2021

Rules, Forms, Standards, or Statutes Affected

Revise forms EA-100, EA-120, and EA-130

Date of Report

August 14, 2020

Recommended by

Civil and Small Claims Advisory Committee
Hon. Ann I. Jones, Chair

Contact

Kristi Morioka, Attorney
916-643-7056
kristi.morioka@jud.ca.gov

Executive Summary

The Civil and Small Claims Advisory Committee recommends revising three mandatory elder or dependent adult abuse prevention forms to implement Assembly Bill 1396 (Obernolte; Stats. 2019, ch. 628), which provides that a court, when issuing an order for elder or dependent adult abuse prevention, may, if appropriate, also issue an order requiring the restrained party to attend clinical counseling or anger management courses.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2021:

1. Revise *Request for Elder or Dependent Adult Abuse Restraining Orders* (form EA-100);
2. Revise *Response to Request for Elder or Dependent Adult Abuse Restraining Orders* (form EA-120); and

3. Revise *Elder or Dependent Adult Abuse Restraining Order After Hearing* (CLETS-EAR or EAF) (form EA-130) to add the new orders that a judge may consider under Assembly Bill 1396.

The revised forms are attached at pages 8–26.

Relevant Previous Council Action

The Elder or Dependent Adult Abuse forms revised in this proposal, forms EA-100, EA-120, and EA-130, were adopted for mandatory use effective on January 1, 2012 and have been revised several times since then. The forms were last revised effective January 1, 2018 and prior to that in 2016. The prior revisions are not relevant to the current proposal.

Analysis/Rationale

Elder or dependent adult abuse is a significant problem for a large portion of the population in California. In 2009, the California Senate Office of Oversight and Outcomes reported that 13 percent of all complaints to the California Office of the State Long-Term Care Ombudsman involved abuse, gross neglect, or exploitation—over twice the national rate of 5 percent.¹ A bill to create a civil action for elder or dependent adult abuse prevention was passed in 1992 (Sen. Bill 679 (Mello); Stats. 1991, ch. 774). The author of AB 1396, Assembly Member Jay Obernolte (R-Hesperia), states that elder or dependent adult abuse prevention cases and domestic violence prevention cases are similar “in that almost 60% of elder and dependent adult abuse and neglect incidents, the perpetrator is a family member. However, in domestic violence cases more tools are available to prevent reoccurrence of the abuse.”²

The goal of AB 1396 is to help prevent ongoing elder and dependent adult abuse by giving judges the ability to order the restrained person to attend clinical counseling or to enroll in anger management courses.³

Different prevention tool provided in domestic violence restraining order cases

In domestic violence restraining order (DVRO) cases, a judge may order that the restrained person complete a certified 52-week batterer intervention program (BIP) that has been approved by the probation department.⁴ BIPs were created to address the unique challenges of DVRO cases. Courts can order a restrained person to attend a BIP in a civil DVRO case and that person is required, as a condition of probation, to complete a BIP if convicted of domestic violence in

¹ California Senate Office of Oversight and Outcomes, *California’s Elder Abuse Investigators: Ombudsmen Shackled by Conflicting Laws and Duties* (Nov. 3, 2009), p. 7, at <http://www.canhr.org/reports/2009/OmbudsmanReportSenateCA20091030.pdf>.

² Jay Obernolte, *Fact Sheet Assembly Bill 1396—Elder Abuse Prevention Programs* (no date), p. 1.

³ *Id.* at p. 1.

⁴ Fam. Code, § 6343.

criminal court. Until recently, the required length of certified programs was at least 52 weeks. Currently, there are six counties piloting alternative lengths of programming.⁵

AB 1396 does not include BIPs as a treatment option. Anger management courses generally do not address coercive behaviors and power dynamics as BIPs do. Instead, the focus is on preventing loss of control. AB 1396 also authorizes the court to order the restrained party to participate in clinical counseling, which *could* address mental health issues or substance abuse if they exist. As discussed in the comment chart, the Superior Court of San Diego County reports that some anger management courses in that county have substance abuse portions built into the curriculum.

Proposed form revisions

Request for Elder or Dependent Adult Abuse Restraining Orders (form EA-100) would be revised to add item 14a, which allows the protected person to request that the restrained party be ordered to attend clinical counseling or anger management courses. The statute requires specific provider types to deliver the clinical counseling or anger management courses, which are listed in this item. In response to public comments, the form would also be revised to add item 14b to allow the petitioner to explain why they are requesting an order for the restrained party to attend clinical counseling or an anger management course. Also added in response to public comments is an instruction that this item would only be applicable in cases of alleged physical abuse and not in cases with only alleged financial abuse. The form would be reorganized to move the description of abuse from item 10 to item 8 to draw attention to important information that should be closer to the beginning of the form. The items would be renumbered accordingly.

Response to Request for Elder or Dependent Adult Abuse Restraining Orders (form EA-120) would be revised to add an item with check boxes (item 7) for the respondent to indicate whether they agree or disagree with the orders requested by the protected person on form EA-100 or to agree to other orders. This item is modeled after existing items on form EA-120. This form would also be revised to include the same instruction as in EA-100—that this option is only applicable in cases of alleged physical abuse and not in cases with only alleged financial abuse. The items would be renumbered accordingly.

Elder or Dependent Adult Abuse Restraining Order After Hearing (CLETS-EAR or EAF) (form EA-130) would be revised to include an option (item 9) for the judge to order clinical counseling or an anger management course and a required date of scheduling or enrollment, or a default of 30 days if there is no date specified. In addition, there is an option to allow a judge to order a person to submit proof of completion of clinical counseling or an anger management course or to appear for a hearing on a specified date. The items would also be renumbered and references to the renumbered items revised accordingly.

⁵ Assembly Bill 372 (Stats. 2018, ch. 290) authorized the creation of alternative pilot programs.

Policy implications

The policy implications of this proposal arise from the legislation. The committee recommends revising the forms to include requests for orders for clinical counseling or an anger management course. The legislation requires revising the forms to include these items so that every petitioner has the opportunity to make this request.

Comments

The proposal circulated for public comment from April 10 to June 9, 2020, as part of the regular spring comment cycle. The committee received responses from eight commenters. One commenter, the Executive Committee of the Trusts and Estates Section of the California Lawyers Association (TEXCOM), agreed with the proposal. Three commenters, including one court, a court commissioner, and the head court record system clerk in the Los Angeles County Sheriff's Department, agreed with the proposal, if modified. The Orange County Bar Association (OCBA) did not agree with the entire proposal.⁶ Three commenters did not indicate a position on the proposal. A chart with the full text of the comments received and the committee's responses is attached at pages 27–38. The main comments and the committee's responses to these comments are discussed below.

Request for specific comments

The invitation to comment (ITC) asked the following specific questions about new item 14 on *Request for Elder or Dependent Adult Abuse Restraining Orders* (form EA-100):

1. Should form EA-100, new item 14, include an option for the petitioner to request either clinical counseling or anger management?
2. Should form EA-100, new item 14, include lines asking for the reasons why the petitioner is requesting clinical counseling or an anger management course?

Question 1—Include option for petitioner to request either clinical counseling or anger management. The responses to the first question were divided evenly between the six commenters, with three agreeing that the form should be revised to split the item into a request for clinical counseling and a request for anger management courses, and three disagreeing. The OCBA and two groups from the Superior Court of Orange County—the Family Law Division and the Training and Analyst Group (TAG)—wanted the item to be divided into separate requests. Three entities, the Superior Courts of San Diego and Riverside Counties and TEXCOM, said that the item should not be split into separate options. TEXCOM explained that a layperson should not be expected to know the difference between the two services and that adding a question for the petitioner to explain why they made the request would allow the judge to determine the best course of action.

There is an understanding among the commenters that clinical counseling and anger management address different problems and one or the other may be more appropriate given the situation. In

⁶ Specifically, the OCBA agreed with the changes on EA-120, agreed if modified with the revisions on EA-130, and disagreed with the proposed revisions on EA-100.

addition, it is likely that courses differ by county. The committee determined that each individual court may be best suited to know the remedies that are available locally to address the situation described in the petition, and therefore did not include an option for the petitioner to request an order for either clinical counseling or anger management, but instead left them together as a single request for either.

Question 2—Include a question asking why the petitioner wants to request anger management on form EA-100. Allowing the petitioner to explain why they are requesting an order that the restrained person attend clinical counseling or anger management courses would be accomplished by adding a question and blank response lines to new item 14 on the Request for Elder or Dependent Adult Abuse Restraining Orders (form EA-100). Five of the six commenters who responded to this question said that they wanted the question and response lines added. The commenter who did not want to add the question, the Superior Court of Riverside County, responded that the form should mimic the BIP items on the DVRO forms, and victims should not have to justify “why correction to the potential perpetrator [is] necessary.” The Superior Court of Orange County, Training and Analyst Group, explained that adding this item would provide the petitioner the opportunity to explain their request and to provide notice to the respondent of the reasons for the request so that the respondent can specifically address them on the response form and be better prepared for the hearing. The Superior Court of Orange County, Family Law Division, stated that it would be better to have an explanation in the same place as the request; otherwise, the petitioner might explain in item 21 (“Other information”).

The Superior Court of San Diego County commented that adding this question may assist the court in determining which of the two remedies is more appropriate. Prior to circulation for comment, the committee was concerned that adding this question and explanation lines might be problematic because parties might inadvertently include sensitive health information about the other party. They also said that most judges would inquire at a hearing about this issue before issuing the order, so asking for the information on the form is unnecessary. However, given the number of commenters who wanted this item, and the fact that each court operates differently and may not inquire about the same things at a hearing, the committee chose to make this revision.

Instruction added to new item. The OCBA suggests adding an instruction on forms EA-100, EA-120, and EA-130 that the remedies are only available in cases of physical abuse or deprivation of care as described in Welfare and Institutions Code section 15610.07(a)(1) and (2). The committee agreed with this proposed revision and added an information icon and new language to item 14 of form EA-100 and item 7 of form EA-120 that reads, “This item is only available in instances of alleged physical abuse or deprivation of care, not in cases with only alleged financial abuse.” The committee did not add this language to the order (form EA-130) because judges understand the order’s applicability and thus it would have been unnecessarily directive; in addition, there are no other instructions of this kind on this form.

Other comments. For the proposed new item on form EA-100 that would add an option to request clinical counseling or an anger management course, the Family Law Division of the

Superior Court of Orange County commented that the form should be revised by replacing “or” with “and/or” to allow the petitioner to request both types of relief concurrently. The committee determined that the statute does not allow for this option because it specifies “mandatory clinical counseling *or* anger management courses”⁷ (emphasis added).

The OCBA suggested adding a reference to the specific code section for this new option (clinical counseling and anger management courses) on each of the forms. However, the code section is already listed on the first page of all the forms, so no changes are needed.

Form EA-130, as sent out for public comment, would require the respondent to schedule an appointment for counseling or enroll in an anger management course by a specific date, or within 30 days if not specified. The legislation does not provide a specific enforcement mechanism, but the court has inherent authority to enforce its orders.⁸ If the judge wants to follow up on the completion of clinical counseling or the anger management course, the judge can require written proof of completion, and a court hearing, scheduled on form EA-130. The OCBA suggests adding a time limit within which the respondent is required to file proof of scheduling an appointment or enrolling in an anger management course; however, this would add an additional layer of enforcement for the court to follow up on. The committee did not choose to add this additional layer of enforcement to the court’s workload.

Grammatical and graphic edits were made to the forms as appropriate.

Alternatives considered

The committee considered revising two information sheets, *Can a Restraining Order to Prevent Elder or Dependent Adult Abuse Help Me?* (form EA-100-INFO) and *How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?* (form EA-120-INFO), to add information about the new types of orders, but determined that it is not necessary at this time, as the information sheets will remain accurate without these revisions.

Fiscal and Operational Impacts

The courts who responded to the ITC reported that some amount of training would be needed to implement the revised forms, including training counter staff and courtroom clerks. All three of the responding courts reported that they would have to establish new calendaring procedures, but that the cost and operational impacts from this proposal would be manageable. The Superior Court of Orange County, Family Law Division and TAG, and the Superior Court of San Diego County, agreed that three months from Judicial Council approval of this proposal until its effective date provides sufficient time for implementation. But the Superior Court of Riverside County said that three months would not be a sufficient amount of time given the court’s

⁷ Assembly Bill 1396 (Oberholte; Stats. 2019, ch. 628).

⁸ California courts have “fundamental inherent equity, supervisory, and administrative powers, as well as inherent power to control litigation before them.” In addition, “courts have inherent supervisory or administrative powers which enable them to carry out their duties, and which exist apart from any statutory authority.” (*Rutherford v. Owens-Illinois, Inc.* (1997) 16 Cal.4th 953, 967.)

prioritization of COVID-19 mitigation efforts. AB 1396, however, requires the forms to be effective January 1, 2021.

Attachments and Links

1. Forms EA-100, EA-120, and EA-130, at pages 8–26
2. Chart of comments, at pages 27–38
3. Attachment A: Jay Obernolte, *Fact Sheet Assembly Bill 1396—Elder Abuse Prevention Programs* (no date), at page 39
4. Link A: Assem. Bill 1396 (Obernolte; Stats. 2019, ch. 628),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1396

Request for Elder or Dependent Adult Abuse Restraining Orders

Clerk stamps date here when form is filed.

Read *Can an Elder or Dependent Adult Abuse Restraining Order Help Me?* (form EA-100-INFO) before completing this form. Also fill out *Confidential CLETS Information* (form CLETS-001) with as much information as you know.

1 Elder or Dependent Adult in Need of Protection

Full Name: _____

Sex: ☐ M ☐ F Age: _____**2 Person From Whom Protection Is Sought**

Full Name: _____

Address (if known): _____

City: _____ State: _____ Zip: _____

3 Person Requesting Order

Who is asking the court for protection? (Check a, b, or c):

a. ☐ The elder or dependent adult named in ①.

b. ☐ Name: _____
 conservator of the ☐ person ☐ estate ☐ person and estate
 of the person named in ①, appointed by (name of court): _____

Case No.: _____

c. ☐ Other (name) _____

(Show this person's legal authority to make this request on an attached sheet of paper. Write "Attachment 3c—Information About Person Requesting Protective Order" for a title. You may use form MC-025, Attachment.)

4 Contact Information

Contact information for the person asking the court for protection

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

Name: _____ State Bar No.: _____

Firm Name: _____

b. 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. The person in ① does not have to give telephone, fax, or e-mail.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

7/1/2020 DRAFT

Fill in court name and street address:

Superior Court of California, County of _____

Court fills in case number when form is filed.

Case Number: _____

This is not a Court Order.

5 Description of Protected Person

The person named in ① (check a or b):

- a. ☐ Is age 65 or older and a resident of California.
- b. ☐ Is a resident of California and an adult under age 65. This person has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights. (Briefly describe limitations on the attached sheet of paper or form MC-025. Write "Attachment 5b—Description of Protected Person" for a title.)

6 Additional Protected Persons

- a. Are you asking for protection for any other family or household members or for the conservator of the elder or dependent adult listed in ①? ☐ Yes ☐ No (If yes, list them):

Full Name	Sex	Age	Lives with you?	How are they related to you?
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

- ☐ Check here if there are more persons. Attach a sheet of paper and write "Attachment 6a—Additional Protected Persons" for a title. You may use form MC-025, Attachment.

- b. Why do these people need protection? (Explain below):

- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 6b—Why Others Need Protection" for a title.

7 Relationship of Parties

How does the person in ① know the person in ②? (Explain below):

- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7—Relationship of Parties" for a title.

This is not a Court Order.



8 Description of Abuse

a. Abuse means either:

- (1) Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or
- (2) The withholding by a caretaker of goods or services that are necessary to avoid physical harm or mental suffering.

b. Tell the court about the last time the person in **(2)** abused the person in **(1)**.(1) When did it happen? *(Provide date or estimated date):* _____

(2) Who else was there? _____

(3) Describe what happened below.

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8b(3)—Describe Abuse" for a title.(4) Was the abuse **solely financial abuse** unaccompanied by force, threat, harassment, intimidation, or any other form of abuse?☐ Yes, only financial abuse. ☐ No, the abuse included other forms of abuse described above.(5) Did the person in **(2)** use or threaten to use a gun or any other weapon?☐ Yes ☐ No *(If yes, explain below):*☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8b(5)—Use of Weapons" for a title.(6) Was the person in **(1)** harmed or injured as a result of the acts of abuse described above?☐ Yes ☐ No *(If yes, explain below):*☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8b(6)—Harm or Injury" for a title.(7) Did the police come? ☐ Yes ☐ NoIf yes, did they give the person in **(1)** or the person in **(2)** an Emergency Protective Order? ☐ Yes ☐ NoIf yes, the order protects *(check all that apply):*☐ the person in **(1)** ☐ the person in **(2)** ☐ the persons in **(6)**.*(Attach a copy of the order if you have one.)***This is not a Court Order.**

- 8 c. Is the person in ② a care custodian who deprived the person in ① of (kept from him or her, did not allow him or her to have or receive, or did not provide him or her with) goods or services that the person needed to avoid physical harm or mental suffering? ☐ Yes ☐ No

(If yes, describe below what the person was deprived of and how that affected him or her):

- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8c—Deprivation by Care Custodian" for a title.

- d. Has the person in ② abused the person in ① at other times?

☐ Yes ☐ No (If yes, describe prior incidents and provide dates below):

- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8d—Previous Abuse" for a title.

9 Venue

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

- a. ☐ The person in ② lives in this county.
 b. ☐ The person in ① was abused by the person in ② in this county.
 c. ☐ Other (specify): _____

10 Other Court Cases

- a. Has the person in ① or any of the persons named in ⑥ been involved in another court case with the person in ②? ☐ No ☐ Yes (If yes, specify the kind of each case and indicate where and when each was filed):

	Kind of Case	Filed in (County/State)	Year Filed	Case Number (if known)
(1)	<input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(2)	<input type="checkbox"/> Civil Harassment	_____	_____	_____
(3)	<input type="checkbox"/> Domestic Violence	_____	_____	_____
(4)	<input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(5)	<input type="checkbox"/> Paternity, Parentage, Child Custody	_____	_____	_____
(6)	<input type="checkbox"/> Eviction	_____	_____	_____
(7)	<input type="checkbox"/> Guardianship	_____	_____	_____
(8)	<input type="checkbox"/> Workplace Violence	_____	_____	_____
(9)	<input type="checkbox"/> Small Claims	_____	_____	_____
(10)	<input type="checkbox"/> Criminal	_____	_____	_____
(11)	<input type="checkbox"/> Other (specify): _____	_____	_____	_____

- b. Are there now any protective or restraining orders in effect relating to the person in ① or any of the persons named in ⑥ and the person in ②? ☐ No ☐ Yes (If yes, attach a copy if you have one.)

This is not a Court Order.



Check the orders you want. ☒**11 ☐ Personal Conduct Orders**

I ask the court to order the person in (2) **not** to do any of the following things to the person in (1) or to any person to be protected listed in (6):

- a. ☐ Physically abuse, financially abuse, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, harass, destroy the personal property of, or disturb the peace of the person.
- b. ☐ Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by e-mail, by text message, by fax, or by other electronic means.
- c. ☐ Other (specify):
☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 11c—Other Personal Conduct Orders" for a title.

The person in (2) will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.

12 ☐ Stay-Away Orders

a. I ask the court to order the person in (2) to stay at least _____ yards away from (check all that apply):

- (1) ☐ The elder or dependent adult in (1) .
- (2) ☐ The persons in (6) .
- (3) ☐ The home of the elder or dependent adult.
- (4) ☐ The job or workplace of the elder or dependent adult.
- (5) ☐ The vehicle of the elder or dependent adult.
- (6) ☐ Other (specify): _____

b. If the court orders the person in (2) to stay away from all the places listed above, will he or she still be able to get to his or her home, school, or job? ☐ Yes ☐ No (If no, explain below):

- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 12b—Stay-Away Orders" for a title.

This is not a Court Order.



13 ☐ **Move-Out Order**

I ask the court to order the person in (2) to move out from and not return to the residence at (address):

The person in (1) will suffer physical or emotional harm if the person in (2) does not leave the residence. The person in (2) is not named in the title or lease of the residence, either alone or with others beside the person in (1).


☐ I ask for this move-out order right away to last until the hearing, because:


a. The person in (2) assaulted or threatened the person in (1) ; and


b. The person in (1) has the right to live at the above residence. (Explain below):

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 13b—My Right to Residence" for a title.

14 ☐ **Order for Counseling or Anger Management Courses**

 This item is only available in instances of alleged physical abuse or deprivation of care, not in cases with only alleged financial abuse.

a.  Request the person in item (2) be ordered by the court to attend clinical counseling or anger management courses provided by a professional (a counselor, psychologist, psychiatrist, therapist, clinical social worker, or mental or behavioral health professional licensed in the state of California to provide counseling or anger management courses).

b.  Explain why you are requesting an order that the person in item (2) attend clinical counseling or anger management courses.

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 14b— Counseling or Anger Management" for a title.

15 **Guns or Other Firearms and Ammunition**

Does the person in (2) own or possess any guns or other firearms? ☐ Yes ☐ No ☐ I don't know

Unless the abuse is only financial, if the judge grants a protective order, the person in (2) will be prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a gun, other firearm, and ammunition while the protective order is in effect. The person in (2) will also be ordered to turn in to law enforcement, or sell to or store with a gun dealer, any guns or firearms within his or her immediate possession or control.

This is not a Court Order.



16 ☐ **Temporary Restraining Order**

I request that a Temporary Restraining Order (TRO) be issued against the person in **(2)** to last until the hearing. I am presenting form EA-110, *Temporary Restraining Order*, for the court's signature together with this *Request*.

Has the person in **(2)** been told that you were going to go to court to seek a TRO against them?

☐ Yes ☐ No (If you answered no, explain why below):

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 16—Temporary Restraining Order" for a title.

17 ☐ **Request to Give Less Than Five Days' Notice of Hearing**

You must have your papers personally served on the person in **(2)** at least five days before the hearing, unless the court orders a shorter time for service. (Read form EA-200-INFO, What Is "Proof of Personal Service"?, to learn about serving legal papers. Form EA-200, Proof of Personal Service, may be used to show the court that the papers have been served.)

If you want there to be less than five days between service and the hearing, explain why:

☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 17—Request to Give Less Than Five Days' Notice" for a title.

18 ☐ **Lawyer's Fees and Costs**

I ask the court to order payment of my ☐ lawyer's fees ☐ court costs.

The amounts requested are:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
<hr/>	\$ <hr/>	<hr/>	\$ <hr/>
<hr/>	\$ <hr/>	<hr/>	\$ <hr/>
<hr/>	\$ <hr/>	<hr/>	\$ <hr/>

☐ Check here if there are more items. Put the items and amounts on the attached sheet of paper or form MC-025 and write "Attachment 18—Lawyer's Fees and Costs" for a title.

19 ☐ **Possession and Protection of Animals**

I ask the court to order the following:

- a. ☐ That the person in **(1)** be given the sole possession, care, and control of the animals listed below, which they own, possess, lease, keep, or hold, or which reside in their household.
(Identify animals by, e.g., type, breed, name, color, sex.)
-
-
-

This is not a Court Order.



19 ☐ **Possession and Protection of Animals continued**

I request sole possession of the animals because *(specify good cause for granting order)*:

- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 19a—Possession of Animals" for a title.

- b. ☐ That the person in (2) must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

20 **No Fee to Serve Orders** *If you want the sheriff or marshal to serve (notify) the person in (2) about the orders for free, ask the court clerk what you need to do.***21** ☐ **Additional Orders Requested**


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

- ☐ Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 21—Additional Orders Requested" for a title.

22 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

 _____
Signature of person filling out this request

This is not a Court Order.

Response to Request for Elder or Dependent Adult Abuse Restraining Orders

Clerk stamps date here when form is filed.

7/1/2020 DRAFT

Use this form to respond to the Request (form EA-100)

- Read *How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?* (form EA-120-INFO) to protect your rights.
- Fill out this form and take it to the court clerk.
- Have someone age 18 or older—**not you**—serve the person requesting protection in ① by mail with a copy of this form and any attached pages. (Use form EA-250, Proof of Service of Response by Mail.)

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 Elder or Dependent Adult Seeking Protection

Name: _____

☐ Name of person asking for the protection, if different (This is the person named in item ③ of the request (form EA-100).)

② Person From Whom Protection Is Sought

a. Your Name: _____

Your Lawyer (if you have one for this case)

Name: _____ State Bar No.: _____

Firm Name: _____

b. 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 e-mail.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

Present your response and any opposition at the hearing. Write your hearing date, time, and place from form EA-109, item ③, here:

Hearing
Date

→ Date: _____ Time: _____

Dept.: _____ Room: _____

If you were served with a Temporary Restraining Order, you must obey it until the hearing. At the hearing, the court may make orders against you that last for up to five years.

③ ☐ Personal Conduct Orders

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. (Specify why you disagree in item ⑬ on page 4.)
- c. ☐ I agree to the following orders (specify below or in item ⑬ on page 4):

④ ☐ Stay-Away Orders

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. (Specify why you disagree in item ⑬ on page 4.)
- c. ☐ I agree to the following orders (specify below or in item ⑬ on page 4):




5 ☐ **Move-Out Orders**

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. *(Specify why you disagree in item (13) on page 4.)*
- c. ☐ I agree to the following orders *(specify below or in item (13) on page 4):*

6 ☐ **Additional Protected Persons**

- a. ☐ I agree that the persons listed in item (6) of form EA-100 may be protected by the order requested.
- b. ☐ I do not agree that the persons listed in item (6) of form EA-100 may be protected by the order requested.

7  **Order for Counseling or Anger Management Courses**

 This item is only available in instances of alleged physical abuse or deprivation of care, not in cases with only alleged financial abuse.

- a. ☐ I agree to the orders requested.
- b. ☐ I do not agree to the orders requested. *(Specify why you disagree in item (13) on page 4.)*
- c. ☐ I agree to the following orders *(specify below or in item (13) on page 4):*

8 **Guns or Other Firearms and Ammunition**

If you were served with form EA-110, *Temporary Restraining Order*, you cannot own or possess any guns, other firearms, or ammunition. (See item (8) of form EA-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms in your immediate possession or control within 24 hours of being served with form EA-110. You must file a receipt with the court. You may use form EA-800, *Proof of Firearms Turned In, Sold, or Stored*, for the receipt.

- a. ☐ I do not own or control any guns, firearms, magazines or ammunition.
- b. ☐ I ask for an exemption from the firearms prohibition under Code of Civil Procedure section 527.9(f) because carrying a firearm is a condition of my employment, and my employer is unable to reassign me to another position where a firearm is unnecessary. *(Explain):*
- ☐ Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 8b—Firearms Surrender Exemption" as a title. You may use form MC-025, Attachment.

- c. ☐ I have turned in my guns and firearms to the police or sold them to or stored them with a licensed gun dealer.
- A copy of the receipt ☐ is attached. ☐ has already been filed with the court.



Elder or Dependent Adult Abuse Restraining Order After Hearing

Person in ① must complete items ①, ②, and ③ only.

Clerk stamps date here when form is filed.

7/6/2020 DRAFT

① Elder or Dependent Adult Seeking Protection

- a. Full Name: _____
- ☐ Name of person asking for the protection, if different (*This is the person named in item ③ of the request (form EA-100).*)
- Full Name: _____
- Lawyer for person named above (*if any for this case*):
- Name: _____ State Bar No.: _____
- Firm Name: _____
- b. 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 e-mail.*)
- Address: _____
- City: _____ State: _____ Zip: _____
- Telephone: _____ Fax: _____
- E-Mail Address: _____

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 Restrained Person

Full Name: _____

Description

Sex: ☐ M ☐ F Height: _____ Weight: _____ Date of Birth: _____

Hair Color: _____ Eye Color: _____ Age: _____ Race: _____

Home Address (*if known*): _____

City: _____ State: _____ Zip: _____

Relationship to Protected Person: _____

③ ☐ Additional Protected Persons

In addition to the elder or dependent adult named in ①, the following family or household members or conservator of the elder or dependent adult named in ① are protected by the orders indicated below:

Full Name	Sex	Age	Lives with you?	Relation to Protected Person
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

☐ Check here if there are additional protected persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

④ Expiration Date

This Order, except for any award of lawyer's fees, expires at

Time: _____ ☐ a.m. ☐ p.m. ☐ midnight on (date): _____

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

This is a Court Order.



5 Hearing

- a. There was a hearing on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.
- b. These people were at the hearing:
- (1) ☐ The elder or dependent adult in need of protection
 - (2) ☐ The lawyer for the elder or dependent adult *(name)*: _____
 - (3) ☐ The person in ① asking for protection (if not the elder or dependent adult)
 - (4) ☐ The lawyer for the person in ① asking for protection *(name)*: _____
 - (5) ☐ The person in ②
 - (6) ☐ The lawyer for the person in ② *(name)*: _____
 - ☐ Additional persons present are listed at the end of this Order on Attachment 5.
- c. ☐ The hearing is continued. The parties must return to court on *(date)*: _____ at *(time)*: _____.

To the Person in ②:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

6 ☐ Personal Conduct Orders

- a. You must **not** do the following things to the elder or dependent adult named in ①
- ☐ and to the other protected persons listed in ③:
- (1) ☐ Physically abuse, financially abuse, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, harass, destroy personal property of, or disturb the peace of the person.
 - (2) ☐ Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by e-mail, by text message, by fax, or by other electronic means.
 - (3) ☐ Take any action to obtain the person's address or location. If this item (3) is not checked, the court has found good cause not to make this order.
 - (4) ☐ Other *(specify)*: _____
☐ Other personal conduct orders are attached at the end of this Order on Attachment 6a(4).
- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

7 ☐ Stay-Away Orders

- a. You **must** stay at least _____ yards away from *(check all that apply)*:
- (1) ☐ The elder or dependent adult in ①.
 - (2) ☐ Each person in ③.
 - (3) ☐ The home of the elder or dependent adult.
 - (4) ☐ The job or workplace of the elder or dependent adult.
 - (5) ☐ The vehicle of the elder or dependent adult.
 - (6) ☐ Other *(specify)*: _____

- b. This stay-away order does not prevent you from going to or from your home or place of employment.

This is a Court Order.

8

☐ **Move-Out Order**

You must immediately move out from and not return to *(address)*:

and must take only the personal clothing and belongings you need.

9

☐ **Order for Counseling or Anger Management**

a. The person in item ② is ordered to attend:

☐ clinical counseling for _____ *(specify number)* sessions; or

☐ an anger management course

provided by a professional (a counselor, psychologist, psychiatrist, therapist, clinical social worker, or mental or behavioral health professional licensed in the state of California to provide counseling or anger management courses).

b. The person in item ② must schedule clinical counseling or enroll in an anger management course by *(date)*: _____, or if no date is listed, within 30 days after this order is made. The person in item ② is ordered to file written proof of scheduling or enrollment with the court.

c. ☐ Written proof of completion of the ordered number of clinical counseling sessions or written proof of completion of the court-ordered anger management course must be filed with the court by

_____ *(date)* or the person in item ② must appear for a court date on

_____ *(date)* at _____ *(time)* in _____ Dept./Room.

10

☐ **No Guns or Other Firearms and Ammunition**

This Order must be granted unless the abuse is financial only.

a. **You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.**

b. If you have not already done so, you must:

- Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms in your immediate possession or control. This must be done within 24 hours of being served with this Order.
- File a receipt with the court within 48 hours of receiving this Order that proves that your guns or firearms have been turned in, sold, or stored. *(You may use form EA-800, Proof of Firearms Turned In, Sold, or Stored, for the receipt.)*

c. ☐ The court has received information that you own or possess a firearm.

d. ☐ The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in ② is not required to relinquish this firearm *(specify make, model, and serial number of firearm)*: _____

The firearm must be in his or her physical possession only during scheduled work hours and during travel to and from his or her place of employment. Even if exempt under California law, the person in ② may be subject to federal prosecution for possessing or controlling a firearm.

This is a Court Order.



11 Financial Abuse

This case ☐ does **not** ☐ does involve **solely financial abuse** unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

12 ☐ Possession and Protection of Animals

- a. ☐ The person in ① is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.

(Identify animals by, e.g., type, breed, name, color, sex.)

- b. ☐ The person in ② must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

13 ☐ Lawyer's Fees and Costs

You must pay to the person in ① the following amounts for ☐ lawyer's fees ☐ costs:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

☐ Additional amounts are attached at the end of this Order on Attachment 13.

14 ☐ Other Orders *(specify):*

☐ Additional orders are attached at the end of this Order on Attachment 14.

This is a Court Order.



To the Person in ①:**15 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, you or your lawyer 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 15.

16 Service of Order on Restrained Person

- a. ☐ The person in ② personally attended the hearing. No other proof of service is needed.
- b. ☐ The person in ① was at the hearing. The person in ② was not.
 - (1) ☐ Proof of service of form EA-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are the same as in form EA-110 except for the end date. The person in ② must be served with this Order. Service may be by mail.
 - (2) ☐ Proof of service of form EA-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are different from the orders in form EA-110. Someone—but not anyone in ① or ③—must personally serve a copy of this Order on the person in ②.

17 No Fee to Serve (Notify) Restrained Person

If the sheriff or marshal serves this Order, they will do so for free.

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

Date: _____



Judicial Officer

This is a Court Order.



Warning and Notice to the Restrained Person in ②:

You Cannot Have Guns or Firearms

If the court grants the orders in item ⑩ on page 3 (unless item 10d is checked), you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms that you have or control as stated in item ⑩. The court will require you to prove that you did so.

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, 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 Order

This order *starts* on the date next to the judge's signature on page 5. The order *ends* on the expiration date in item ④ on page 1.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- 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 informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

This is a Court Order.



Instructions for Law Enforcement**Conflicting Orders—Priority of Enforcement**

If more than one restraining order has been issued, the orders must be enforced in the following order of precedence: *(See Pen. Code, § 136.2; Fam. Code, §§ 6383(h)(2), 6405(b).)*

1. *EPO*: If one of the orders is an *Emergency Protective Order* (form EPO-001) and is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No-Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes a no-contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and enforceable.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Elder or Dependent Adult Abuse Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

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Protective Orders: Elder or Dependent Adult Abuse Prevention Forms

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

	Commenter	Position	Comment	Committee Responses
1.	Los Angeles County Sheriff's Department By Marie Hazlett, Head Court Record System Clerk	AM	Since the form is being revised. I suggest that the firearm provisions #10 and #11 be combined. #11 verbiage, "does not" or "does" involve solely financial is confusing and very often the wrong box is marked. #10 could have a box for "Granted" and a box for "Not Granted (case involves solely financial abuse)." This would make it clearer when and why the firearms provisions are not granted.	Thank you for your comment. This comment is outside of the scope of this proposal, but the committee may consider this in the future.
2.	Orange County Bar Association By Scott B. Garner, President	N	EA-100 Request for Elder or Dependent Adult Abuse Restraining Orders At new item 14, within the parenthetical phrase describing the requisite professional, it is suggested that the word "state," used in connection with "California," be capitalized. Request for Specific Comments • Does the proposal appropriately address the stated purpose? No. The proposed modifications to forms EA-100, EA-120, and EA-130 all reflect changes to the law brought about by AB 1396. These changes were codified in Wel. & Inst. Code section 15657.03(z), yet nowhere on any of the subject forms is the authority for these two new approaches, i.e., clinical counseling and anger management courses, referenced. It would seem helpful to the court, attorneys, and parties to have the code section setting forth these optional approaches specifically referenced on each of the subject forms.	The committee appreciates the comments from the Orange County Bar Association. The committee choose not to accept this suggestion because the phrase should be "in the state of California" (i.e., lowercase) when referring to the geographic location rather than the political entity. No response required. This information is included on each form in the bottom left corner of the first page.

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

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Protective Orders: Elder or Dependent Adult Abuse Prevention Forms

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	Commenter	Position	Comment	Committee Responses
			<p>Additionally, it is suggested that forms EA-100 and EA-120 and, perhaps, EA-130, contain a statement that these two optional approaches are available only in instances of alleged physical abuse, etc., or deprivation of care, etc., as fully described in Wel. & Inst. Code section 15610.07(a)(1) and (2), respectively, and not available for instances of alleged financial abuse. Making this distinction clear would seem helpful for the court, attorneys, and parties, in that financial abuse is a ground for obtaining other remedies on, and by the use of, the subject forms.</p> <ul style="list-style-type: none">• Should form EA-100, new item 14, include an option for the petitioner to request either clinical counseling or anger management? Yes (see comments below).• Should form EA-100, new item 14, include lines asking for the reasons why the petitioner is requesting clinical counseling or an anger management course? Yes (see comments below).	<p>The committee agrees with this suggestion and has incorporated it on forms EA-100 and EA-120. The committee concluded it was not necessary to include on form EA-130 because judges understand the order's applicability and thus it would have been unnecessarily directive.</p> <p>Committee response to Specific Question #1. The committee appreciates the responses to this specific question. The committee did not divide clinical counseling and anger management into two separate options. The comments were divided equally between those who wanted the question split into two options and those who did not. The committee determined that each individual court may be best suited to know the remedies that are available locally to address the situation described in the petition, and therefore did not include an option for the petitioner to request an order for either clinical counseling or anger management, but instead left them together as a single request.</p> <p>Committee response to Specific Question #2. In response to the public comments, the committee modified the form to add a question,</p>

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Protective Orders: Elder or Dependent Adult Abuse Prevention Forms

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	Commenter	Position	Comment	Committee Responses
			<p>Item 14 should include an option whereby the petitioner requests clinical counseling or an anger management course and make clear to the petitioner that there is a choice to be made between the two, per the statute. Further, because the two approaches are distinct and address distinct issues, the petitioner should be required to provide reasons which form the basis for the particular request. Accordingly, there should be lines provided where these reasons are to be set forth. It is believed necessary that item 14 contain the options and attendant reasoning so that the respondent would have sufficient and effective notice of the allegations and specific court order sought against them in order to make an informed response to item 7 of form EA-120, and to provide focused and relevant information on their behalf at item 13 of form EA-120.</p> <p>The Committee's concern as to whether a petitioner might understand the distinction between clinical counseling and anger management is noted, however, it is believed the differences could be, and should be, explained and described in both form EA-100-INFO and form EA-120-INFO. Further, it is suggested that forms EA-100-INFO and EA-120-INFO contain a description and explanation of a batterer intervention program which is available only by way of a domestic violence restraining order sought by request in the family law court. In that a spouse, significant other, or domestic partner may act in a manner which potentially subjects them to restraining orders for both domestic violence and elder abuse, the Information Sheets should detail why and how one applies for each. Including these</p>	<p>item 14b, that allows the petitioner to provide reasons why they are requesting clinical counseling or management courses and lines for the petitioner to fill in with their reasoning. This is for the judge to be able to gather information and use their knowledge of local resources to determine the appropriate remedy.</p> <p>This request, to modify the EA INFO sheets, is outside the scope of this proposal. The committee may address this in the future.</p>

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

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Protective Orders: Elder or Dependent Adult Abuse Prevention Forms

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	Commenter	Position	Comment	Committee Responses
			<p>explanations of counseling, course, and program would illustrate their differences, the understanding of which is critical to anyone, particularly the self-represented, in making a choice responsive to the need.</p> <p>It is understood that there is reluctance to modify forms EA-100-INFO and EA-120-INFO at this time, based on the Committee's assertion that the forms are slated for revision sometime in 2021, and that the forms are not yet obsolete. It is believed that the Information Sheets should be revised now in that they are, in fact, obsolete as they contain no information or explanation as to these two new approaches which have been available since January 1, 2020. Waiting to revise forms which do not contain information vital to critical decisions works a disservice to the parties, often self-represented, and poses actual risk to those who are to be protected by these orders.</p> <p>EA-120 Response to Request for Elder or Dependent Adult Abuse Restraining Orders</p> <p>The Orange County Bar Association agrees [with the proposal for this form].</p> <p>EA-130 Elder or Dependent Adult Abuse Restraining Order After Hearing</p> <p>At new item 9a., within the parenthetical phrase describing the requisite professional, it is suggested that the word "state," used in connection with "California," be capitalized.</p>	<p>See above.</p> <p>No response needed.</p> <p>The committee choose not to accept this suggestion because the phrase should be "in the state of California" (i.e., lowercase) when</p>

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

SPR20-064**Protective Orders: Elder or Dependent Adult Abuse Prevention Forms**

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

	Commenter	Position	Comment	Committee Responses
			<p>At new item 9b., though the order requires scheduling or enrollment within 30 days at most, there is no time limit stated as to when the respondent is to file the required proof of such scheduling or enrollment. Accordingly, it is suggested that the phrase, “within _____ days of scheduling or enrollment,” be added at the end of the last line of the item’s text.</p>	<p>referring to the geographic location rather than the political entity.</p> <p>After discussion the committee chose not to adopt this suggestion at this time because it imposes a responsibility on the court that is not required by statute.</p>
3.	Philip A. Pimentel Court Commissioner Superior Court of Tuolumne County	AM	<p>I would believe that the changes to the EA forms are made due to the large number of cases where the Elder person does not want to end all contact with the Restrained person, they merely want the Restrained person to get help.</p> <p>If the changes made are for this purpose, then why not also add that the court may require the Restrained person to enroll in and complete Substance and/or Alcohol Abuse programs as well. These issues are also common to the EA cases. thank you.</p>	The committee appreciates the feedback and comment. This suggestion is outside of the requirements for form changes required by AB 1396 (Obernolte; Stats. 2019, ch. 628) and outside the scope of this proposal.
4.	Superior Court of Orange County, Family Law Division		<p><input type="checkbox"/> EA-100 – Request for Elder or Dependent Adult Abuse Restraining Orders</p> <ul style="list-style-type: none"> Other than the comments made on the following questions, there no other issues to these modified forms. <p><input type="checkbox"/> EA-120 – Response to Request for Elder or Dependent Adult Abuse Restraining Orders</p> <ul style="list-style-type: none"> No comments. 	<p>The committee appreciates the comments from the court. No response required.</p> <p>No response required.</p>

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

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Protective Orders: Elder or Dependent Adult Abuse Prevention Forms

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

	Commenter	Position	Comment	Committee Responses
			<p><input type="checkbox"/> EA-130 – Elder or Dependent Adult Abuse Restraining Order After Hearing</p> <ul style="list-style-type: none">• #9 – Consider removing the word “or” in order to have the option to order both clinical counseling and anger management. <p><input type="checkbox"/> Does the proposal appropriately address the stated purpose?</p> <ul style="list-style-type: none">• Yes, it does. <p><input type="checkbox"/> Should form EA-100, new item 14, include an option for the petitioner to request either clinical counseling or anger management?</p> <ul style="list-style-type: none">• The form should give the petitioner the option to request either Clinical Counseling or Anger Management but also the option to say “and” or “or” giving them the option to request both types concurrently. <p><input type="checkbox"/> Should form EA-100, new item 14, include lines asking for the reasons why the petitioner is requesting clinical counseling or an anger management course?</p> <ul style="list-style-type: none">• That might be a good idea because the petitioner might use the lines in #21 to state his reasons. <p><input type="checkbox"/> 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</p>	<p>The committee chose not to adopt this suggestion because they thought it was appropriate to track the language of the statute.</p> <p>No response required.</p> <p>See above.</p> <p>See response to specific question #1 under commenter #2 above.</p>

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

SPR20-064

Protective Orders: Elder or Dependent Adult Abuse Prevention Forms

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

	Commenter	Position	Comment	Committee Responses
			<p>management systems, or modifying case management systems?</p> <ul style="list-style-type: none"> Counter staff and staff working e-Filing would need to be trained as they will receive the forms initially. Courtroom staff would need to be aware of the new order that are being requested. It does not appear that any docket codes would need to be modified. <p><input type="checkbox"/> Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <ul style="list-style-type: none"> Yes, 3 months would be sufficient time for implementation. <p><input type="checkbox"/> How well would this proposal work in courts of different sizes?</p> <ul style="list-style-type: none"> This shouldn't be an issue for different size courts. These types of order are already being given in domestic violence cases. 	<p>The committee appreciates the level of detail in this response. No additional response is required.</p> <p>No response required.</p> <p>No response required.</p>
5.	<p>Superior Court of Orange County, Training and Analyst Group (TAG) Team</p> <p>TAG@occourts.org</p>		<p>General Comments: Consider referencing CRC, rule 1.300 that requires services ordered include language access services be available in the language spoken by limited English proficient court users. Also, consider including a reference to fee waiver requests, as appropriate.</p> <p>1. Does the proposal appropriately address the stated purpose? Yes</p> <p>2. Should form EA-100, new item 14, include an option for the petitioner to request either clinical counseling or anger management? Yes.</p>	<p>The committee appreciates these comments. These additions may be considered by the committee in the future.</p> <p>No response required.</p> <p>See response to specific question #1 under commenter #2 above.</p>

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Protective Orders: Elder or Dependent Adult Abuse Prevention Forms

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	Commenter	Position	Comment	Committee Responses
			<p>3. Should form EA-100, new item 14, include lines asking for the reasons why the petitioner is requesting clinical counseling or an anger management course? Yes. This will provide the court context for the request. And since these documents are served on the respondent, the respondent can be better prepared for the hearing. Also, item 7 of the EA-120 affords the respondent the opportunity to specify the reasons for disagreeing with the proposed order. Therefore, the petitioner should be afforded the opportunity to specify the reasons why the order is being requested.</p> <p>4. 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? Legal Processing Specialists will need training on reviewing the forms for completeness. Courtroom Clerks will also need to be trained on processing and completing the forms, specifically the EA-130. New docket codes will be required, and clerks will need to be trained on how to use the docket codes, depending on what scenarios need to be captured. Training will take about 8-10 hours. Procedures/resources updates will also take about 8-10 hours.</p> <p>5. Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.</p>	<p>See response to specific question #2 under commenter #2 above.</p> <p>The committee appreciates this information.</p> <p>No response required.</p>

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			<p>6. How well would this proposal work in courts of different sizes?</p> <p>The proposal would work in courts of all size depending on resource availability. Larger courts may have access to more community-based resources than smaller courts; however, the volume of elder abuse cases is higher in larger counties, which may present case management challenges versus courts of smaller size.</p>	No response required.
6.	Superior Court of Riverside County By Susan Ryan	AM	<p>Should form EA-100, new item 14, include an option for the petitioner to request either clinical counseling or anger management?</p> <p>No. The item should just reflect anger management courses similar to that of batterers' intervention program.</p> <p>Clinical counseling is too broad and not specific as to the area necessary for counseling. Anger management courses already have some substance abuse portions built in and the court already has established providers.</p> <ul style="list-style-type: none"> • Should form EA-100, new item 14, include lines asking for the reasons why the petitioner is requesting clinical counseling or an anger management course? <p>No. It should mimic that of the domestic violence batterers' intervention program and not require the victim to justify why correction to the potential perpetrator is necessary.</p>	<p>The committee appreciates the comments from the Superior Court of Riverside County.</p> <p>See response to specific question #1 under commenter #2 above.</p> <p>See response to specific question #2 under commenter #2 above.</p>

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			<ul style="list-style-type: none"> 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? <p>Costs for self-help would be minimal. We would need to work with Judicial Council to ensure any modifications needed to our program.</p> <p>Cost for the court would vary. Costs would include training operational staff to handout and inform the public of the court approved anger management classes as well as time to file in completions or additional court supervision when a party does not complete the classes. What are the consequences when a party does not complete the anger management courses in a timely manner?</p> <ul style="list-style-type: none"> Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <p>No, given the court's prioritization of COVID Mitigation efforts.</p>	<p>The committee appreciates this information.</p> <p>The statute does not address this issue. The court has inherent powers to enforce the orders that they make, including the ability to order a return hearing to determine status of competition, as is listed on form EA-130.</p> <p>The committee appreciates the feedback, unfortunately, the statute requires these form revisions to be effective January 1, 2021.</p>
7.	Superior Court of San Diego County By Mike Roddy Court Executive Officer		<p>Does the proposal appropriately address the stated purpose?</p> <p>Yes.</p> <p>Should form EA-100, new item 14, include an option for the petitioner to request either clinical counseling or anger management?</p> <p>No, item 14 is sufficient.</p>	<p>The committee appreciates the comments from the court.</p> <p>No response required.</p>

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	Commenter	Position	Comment	Committee Responses
			<p>Should form EA-100, new item 14, include lines asking for the reasons why the petitioner is requesting clinical counseling or an anger management course?</p> <p>Yes, this may assist the court in determining which of the two is more appropriate.</p>	This response has been adopted, see answer to specific question #2 above under commenter #2.
			<p>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?</p> <p>Updating procedures, revising packets, training staff, and establishing a calendar to address status of completion.</p>	No response required.
			<p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>Yes, provided the final version of the forms are provided to courts at least 30 days prior to the effective date. This will give courts sufficient time to update procedures, configure local packets, and order printed stock.</p>	No response required.
			<p>How well would this proposal work in courts of different sizes?</p> <p>It appears that the proposal will work for courts of various sizes.</p>	No response required.

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	Commenter	Position	Comment	Committee Responses
8.	The Executive Committee of the Trusts and Estates Section of the California Lawyers Association (TEXCOM)	A	<p>The Executive Committee of the Trusts and Estates Section of the California Lawyers Association (TEXCOM) agrees with this proposal.</p> <p>TEXCOM responds as follows to the Request for Specific Comments:</p> <ul style="list-style-type: none">• Should form EA-100, new item 14, include an option for the petitioner to request either clinical counseling or anger management? <p>TEXCOM recommends that proposed new item 14 not be revised further to include an option for the petitioner to request either (1) clinical counseling or (2) anger management. The determination as to the appropriateness of which option should be selected is better left to the court. A lay person should not be required to make a judgment call between clinical counseling and anger management.</p> <ul style="list-style-type: none">• Should form EA-100, new item 14, include lines asking for the reasons why the petitioner is requesting clinical counseling or an anger management course? <p>Although TEXCOM believes the form should not be revised to include an option for the petitioner to request either (1) clinical counseling or (2) anger management, TEXCOM believes the form should include lines asking for the reasons a petitioner has requested an order for counseling or anger management courses, if item 14 as currently proposed is checked.</p>	<p>The committee appreciates the comments and feedback from the TEXCOM members.</p> <p>See response to specific question #1 under commenter #2 above.</p> <p>See response to specific question #2 under commenter #2 above.</p>

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FACT SHEET

JAY OBERNOLTE
Assemblyman, 33rd District



Assembly Bill 1396 – Elder Abuse Prevention Programs

SUMMARY

AB 1396 would help to prevent ongoing elder abuse by giving judges the option of ordering a restrained party to attend an elder abuse prevention program following the issuance of an Elder Abuse Restraining Order.

BACKGROUND

Elder abuse is a significant problem faced by a large portion of the elderly population both nationally and within California. The National Council on Aging reports that approximately 1 in 10 Americans aged 60+ have experienced some form of elder abuse, and that statistic does not include the substantial number of cases which go unreported. One study estimates that only 1 in 14 cases of abuse are reported to authorities.¹

This is particularly a problem in California, where the United States Census Bureau projects that the elderly population will have doubled by 2025 to 6.4 million – a larger growth rate than any other state. Our elder population also has a higher rate of reported elder abuse than any other state. In fact, in 2009 the California Senate Office of Oversight and Outcomes reported that 13% of all complaints to the California Office of the State Long Term Care Ombudsman involved abuse, gross neglect, or exploitation, which is over twice the national average.²

Elder abuse is similar to domestic violence in that in almost 60% of elder abuse and neglect incidents, the perpetrator is a family member. However, in

domestic violence cases more tools are available to prevent recurrence of the abuse. In California a domestic violence conviction results in a minimum sentence of three years of probation. As a condition of this probation an offender must complete a Batterers' Intervention Program.

A Batterers' Intervention Program is a combination of education and counseling that specifically focuses on the cause of abuse, the effects abuse has on a victim, and changes that must take place to prevent repeat violent offenses.

PROBLEM

Judges in California do not have a similar tool in place concerning cases of elder abuse, which increases the potential for violent behavior to continue. As there are many similarities between domestic violence and elder abuse, this type of program would be very beneficial in preventing future cases of elder abuse.

SOLUTION

AB 1396 gives judges the option of ordering the restrained party in an Elder Abuse Restraining Order to attend court approved anger management or clinical counseling similar to requirements currently mandated in cases of domestic violence, therefore providing judges another tool to help prevent ongoing elder abuse.

SUPPORT

Conference of California Bar Association (Sponsor)

CONTACT

Scott Terrell
(916) 319-2033
Scott.Terrell@asm.ca.gov

¹ <https://www.ncoa.org/public-policy-action/elder-justice/elder-abuse-facts/>

² <https://oag.ca.gov/bmfea/elder>