

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

### What is a “workplace violence protective order”?

Under California law (Code of Civil Procedure, section 527.8), courts can make orders to protect an employee from suffering unlawful violence or credible threats of violence at the workplace.

The court can order a person not to:

- Harass or threaten the employee;
- Contact or go near the employee; and
- Have a gun.

These orders will be enforced by law enforcement agencies.

### Who can get a workplace violence protective order?

**Employers** can obtain court orders prohibiting unlawful violence or credible threats of violence against their employees. To get an order under this law, the petitioner **must** be an employer. An employer is defined as:

- Every person engaged in any business or enterprise in this state that has one or more persons in service under any appointment, contract of hire, or apprenticeship, express or implied, oral or written, irrespective of whether such person is the owner of the business or is operating on a concessionaire or other basis. (Labor Code, § 350(a).)
- A federal, state, or local public agency; a city, county, district, or public corporation. (Code Civ. Proc., § 527.8(b)(3).)

Before completing the forms needed to obtain court orders under this statute, make certain you meet the definition of “employer” as defined above.

The statute differs from other California laws that allow victims of unlawful violence or credible threats of violence to ask the court for these orders **themselves**. If anyone other than the employer wishes to apply to the court for an order prohibiting harassment, see Form **CH-100-INFO**, *Can a Civil Harassment Restraining Order Help Me?*.

### Who can an employer protect under this law?

Under this statute, an employer can obtain a court order that lasts up to three years on behalf of an employee. The order can also protect certain family or household members of the employee and other employees at the employee’s workplace or at other workplaces of the employer.

California law defines “employees” as:

- Every person, including aliens and minors, rendering actual service in any business for an employer, whether gratuitously or for wages or pay, whether the wages or pay are measured by the standard of time, piece, task, commission, or other method of calculation, and whether the service is rendered on a commission, concessionaire, or other basis. (Labor Code, § 350(b).)
- Members of boards of directors and public officers.
- Volunteers or independent contractors who perform services for the employer at the employer’s work site.

The “respondent” is the person against whom **the employer is** requesting the protective order.

An employer may seek protection under this law if:

1. An employee has suffered unlawful violence or a credible threat of violence from any individual;
2. The unlawful violence was carried out in the workplace, or the threat of violence can reasonably be construed to be carried out in the workplace;
3. The respondent’s conduct is not allowable as part of a legitimate labor dispute as permitted by Code of Civil Procedure section 527.3; and
4. The respondent is not engaged in constitutionally protected activity.

### What forms must be used to get the order?

1. *Petition for Orders to Stop Workplace Violence (Petition)* (Form WV-100). This form tells the judge the facts of the petitioner’s case and what orders the petitioner and employee want the court to make.
2. **Confidential** *CLETS Information* (Form WV-102). This form will provide law enforcement agencies with the information needed to enforce any orders that are granted.
3. *Notice of Court Hearing* (Form WV-109). This form tells the parties when the hearing on the petition will be held.

4. *Temporary Restraining Order (TRO)* (Form WV-110). A TRO can be issued to provide protection to the employee until the hearing is held. It can be issued by the judge either with or without notice to the respondent.

5. *Restraining Order After Hearing to Stop Workplace Violence (Order)* (Form WV-130). This is the form signed by the court following the hearing. The order can last for up to three years depending on what the judge rules.

These forms are all **mandatory**—that is, they must be used in the workplace violence prevention proceeding.

6. *Proof of Personal Service* (Form WV-200). This form is used to show that the other party has been **served** with the petition and other forms as required by law.

### Where can I get these forms?

All of these forms are available from the court clerk's office or from legal publishers. The clerk of the court can tell you where to get the forms. You can also obtain them on the California courts website at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

### Do I need a lawyer?

The employer may be represented by a lawyer, but one is not required by law unless the employer is a corporation. Because the employer's lawyer will generally be representing the interests of the employee, the employee usually does not need his or her own lawyer. Whether or not the employer has a lawyer, the respondent may have one.

### What steps are needed to get the court orders?

1. Fill in the **Petition** (Form WV-100) completely and fill in items 1–3 of the *Notice of Court Hearing* (Form WV-109). If you are seeking a **TRO**, also fill out Form WV-110.
2. If you are seeking orders based on information from your employee and others and not based on what you have personally observed, you **must** have each of those persons complete a declaration to attach to the **Petition**. You may use Form MC-031, *Attached Declaration*.

3. Fill in Form WV-102, **Confidential** *CLETS Information*, with as much information as you know. If the judge grants the order, the information on this form will be entered into a statewide protective-order database that will be available to law enforcement agencies if the order needs to be enforced.

4. If you are applying for a **TRO**, fill out Form WV-110 completely. The petition and the declarations must give the details of the recent acts of violence or credible threats of violence and the problems they have caused your employee.

To obtain a **TRO**, you must notify the respondent of the request for the temporary order unless both of the following requirements are satisfied:

- a. It appears from facts shown on the petition that great or irreparable injury will result before the matter can be heard on notice; and
- b. You or your attorney certifies one of the following to the court under oath:
  - (1) That within a reasonable time before presenting the petition to the court to ask for a TRO, you informed the respondent or the respondent's attorney when and where the request for a TRO would be made.
  - (2) That you in good faith attempted but were unable to inform the respondent and the respondent's attorney, specifying the efforts made to contact them.
  - (3) That for reasons specified, you should not be required to inform the respondent or the respondent's attorney.

5. Take your original completed forms and copies to the clerk's office at the court. You will need at least three copies: one for you, one for the employee, and one to serve on the respondent. If there are other persons to be protected by the order, you will need additional copies of the **TRO**. A protected person will need a copy of the **TRO** if it is necessary to call the police. The clerk will file the originals, assign a case number, and return the copies "file-stamped" to you. The clerk will write your hearing date on the *Notice of Court Hearing* (Form WV-109).



6. If you are seeking a **TRO** (Form WV-110), the clerk will tell you where and how to present your proposed order to a judge for consideration and signature. The court will decide within 24 hours whether or not to make the order. Sometimes the court decides right away. Ask the clerk if you should wait or come back later, or if the *Notice of Court Hearing* and **TRO** will be mailed to you. If your request for a **TRO** is granted while you are still at the court, take the signed original back to the clerk to be filed.
7. If a **TRO** has been issued, ask the clerk whether you or your lawyer will need to deliver a file-stamped copy of the **TRO** to each law enforcement agency (police, marshal, or sheriff's office) that might be called on to enforce the order. If so, do so immediately.  
**If the court issues a TRO, it will last until the hearing date.**
8. If the employee does not speak English, when you file your papers ask the clerk if a court interpreter will be available for the hearing. You may have to pay a fee for the interpreter. If an interpreter will not be provided, bring someone to interpret. You cannot ask a child under 18 or anyone to be protected by the order to interpret.
9. Have the respondent personally **served** with copies of the **Petition** (Form WV-100), the *Notice of Court Hearing* (Form WV-109), the **TRO** (Form WV-110) (if issued), a blank **Response** (Form WV-120), and a blank *Proof of Service of Response by Mail* (Form WV-250). You **cannot** serve the respondent yourself. Service may be made by a licensed process server, the sheriff's department, or any person 18 years of age or older, other than you, the employee, or anyone to be protected by the order. For help with service, ask the court clerk for Form WV-200-INFO, *What Is "Proof of Personal Service"?*.
10. After the respondent has been personally **served**, the person who served the respondent must complete and sign the original *Proof of Personal Service* (Form WV-200). Take the signed original and copies back to the court clerk. The clerk will file the original and return "file-stamped" copies to you. Ask the clerk whether you should take a file-stamped copy to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.

**Service is essential. It tells the respondent about the order and the hearing. Without it, there cannot be a court hearing, and your temporary orders will no longer be good unless they are extended by the court. The respondent should be personally served immediately after the orders are signed by the judge, unless the court specifies a different time for service.**



11. Go to court on the date shown at item 4 on the *Notice of Court Hearing* (Form WV-109). You do not need to bring any witnesses, but it helps to have more proof of the violence or threats than just one person's word.

You can bring to the hearing:

- A written statement from witnesses made under oath
- Witnesses
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, e-mails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use Form MC-030, *Declaration*.)

The respondent has the right to attend the hearing, but he or she does not have the right to speak to the employee or to any other person seeking protection. If anyone is afraid, tell the court officer.

12. If the judge signs the **Order** (Form WV-130), ask the clerk to provide you with a file-stamped copy for each person to be protected. Ask the clerk whether you or your attorney will need to deliver a file-stamped copy of the **Order** to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.

13. If the respondent attended the hearing and heard the terms of the **Order** from the court, no additional proof of service is necessary. If the respondent did not attend the hearing, but the **Order** issued is the same as the TRO (except for the termination date), the **Order** may be served on the respondent by mail. File Form WV-220, *Proof of Service of Order After Hearing by Mail*. If the respondent did not attend the hearing and the **Order** differs from the TRO, arrange to have him or her personally **served** with a copy of the **Order**. File the completed *Proof of Personal Service* (Form WV-200) with the court. Give a file-stamped copy of the **Order** and proof of service to your employee and to each other protected person. Keep at least one copy for yourself.

14. Once the order is issued, the parties cannot agree to cancel the order. Only the judge can change or cancel it.

**WV-109 Notice of Court Hearing** Clerk stamps date here when form is filed.

① **Petitioner (Employer)**  
Name: \_\_\_\_\_

② **Employee in Need of Protection**  
Full Name: \_\_\_\_\_

③ **Respondent (Person From Whom Protection Is Sought)**  
Full Name: \_\_\_\_\_

The court will fill out the rest of this form.

**To the Respondent**

④ **Notice of Hearing**  
A court hearing is scheduled on the request for orders against you to stop harassment:

Name and address of court if different from above:

**Hearing** → Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Date: \_\_\_\_\_ Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

If you want to respond to the request for orders in writing, file Form WV-120, *Response to Petition for Orders to Stop Workplace Violence*. Whether or not you respond in writing, go to the hearing. You may tell the court why you agree or disagree with the orders requested. You may bring witnesses and other evidence. At the hearing, the court may make restraining orders against you that could last up to three years and may order you to sell or turn in any firearms or ammunition that you own or possess.

⑤ **Temporary Restraining Orders** (Any orders granted are on Form WV-110, served with this notice.)

a. Temporary Restraining Orders as requested in Form WV-100, *Petition for Orders to Stop Workplace Violence*, are (check only one box below):

(1)  All **GRANTED** until the court hearing.

(2)  All **DENIED** until the court hearing. (Reasons for denial are specified in item 5b, below.)

(3)  Partly **GRANTED** and partly **DENIED** until the court hearing. (Reasons for denial are specified in item 5b, below.)

b. Reasons that Temporary Restraining Orders as requested in Form WV-100, *Petition for Orders to Stop Workplace Violence*, for personal conduct or stay away are denied are:

(1)  The facts as stated in Form WV-100 do not show a credible threat of violence in sufficient detail.

(2)  Other (specify):  As stated on Attachment 5b.

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**This is a Court Order.**

Judicial Council of California, www.courts.ca.gov  
Revised January 1, 2012, Mandatory Form  
Code of Civil Procedure, § 527.6  
Approved by DCLJ
**Notice of Court Hearing**  
(Workplace Violence Prevention)
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15. If the respondent does not obey the order, call the police. The respondent can be arrested and charged with a crime.
16. The order can be enforced in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories. If the employee moves out of California, have him or her contact the new local police so that they will know about the 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 court days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons With Disabilities and Response* (Form MC-410). (Civil Code, § 54.8.)

**For help in your area, contact:**

[Local information may be inserted.]