

California Domestic Violence Law Compendium 2018



CALIFORNIA
**PARTNERSHIP TO END
DOMESTIC VIOLENCE**

Together, We're Stronger.



Produced by

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What Is This Document?

This Compendium provides attorneys, advocates, and survivors of domestic violence (DV) with brief descriptions of some of the most relevant California laws affecting DV survivors and their families. These include statutes, constitutional provisions, and resolutions—which can be found online (<https://leginfo.legislature.ca.gov/faces/codes.xhtml>); and rules of court—which can also be found online (<http://www.courts.ca.gov/rules.htm>). This document is only informational and **is NOT legal advice**. If you have any legal questions, please contact an attorney. *Please note that text in italics and bold has been newly enacted.*



Who We Are: The California Partnership to End Domestic Violence (the Partnership) is California's recognized domestic violence coalition, representing over 1,000 advocates, organizations, and allied individuals across the state. Working at the local, state, and national levels for nearly 40 years, the Partnership believes that by sharing resources and expertise, advocates and policymakers can end domestic violence. Every day we inspire, inform, and connect all those concerned with this issue, because together we're stronger.

Our Vision: A California free from domestic violence.

Our Mission: The Partnership promotes the collective voice of a diverse coalition of organizations and individuals, working to eliminate all forms of domestic violence. As an advocate for social change, we advance our mission by shaping public policy, increasing community awareness, and strengthening our members' capacity to work toward our common goal of advancing the safety and healing of victims, survivors and their families.



Who We Are: Family Violence Appellate Project (FVAP) is the first and only nonprofit organization in California dedicated to representing low-income domestic violence survivors in civil legal appeals cases, for free. FVAP helps survivors throughout California to appeal and overturn dangerous trial court decisions that leave them or their children at risk of ongoing abuse. FVAP works to change California law, using the appellate court system to set new legal precedent that prioritizes the safety and well-being of survivors and their children.

Our Vision: A California free from domestic violence.

Our Mission: By holding California courts accountable to the safety and well-being of abuse survivors, we're making sure California law does what it's supposed to—keep families safe. Our goal is to empower survivors through the court system, and ensure that they and their children can live in safe, healthy environments, free from abuse.

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CALIFORNIA STATE CONSTITUTION

Article I: Declaration of Rights

§28 Crime victims' bill of rights

BUSINESS & PROFESSIONS CODE

Training Standards

§4980.57 Therapists must take continuing education course in spousal or partner abuse assessment, detection and intervention strategies, community resources, cultural factors, and same-gender abuse dynamics

Barbering and Cosmetology Act

§7314.3 State Board of Barbering and Cosmetology must establish a Health and Safety Advisory Committee to provide the board with advice and recommendations on health and safety issues, which include ensuring licensees are aware of basic labor laws and how to ensure licensees have awareness about physical and sexual abuse their clients may experience; *sunsets 1/1/20*

§7314.5 ***Board may promote awareness of physical and sexual abuse by certain means***

§7319.7 ***Licensee or applicant who has completed awareness training in course required by section 7389 not mandated reporter***

§7389 Board must develop or adopt a health and safety course on covering hazardous substances, ***basic labor laws, and physical & sexual assault awareness***—which shall be taught in schools approved by the board

Firearms

§7574.14 Exemption to offense for transportation of firearm where firearm may be carried concealed, or loaded, or openly carried unloaded

§7582.2 Exemptions for security guards and honorably retired peace officers

CIVIL CODE

Unruh Civil Rights Act

§51 Definition of “gender” includes person’s gender identity and expression; gender identity and expression among enumerated characteristics protected

Right to Sue an Abuser in a Civil Suit

§52.4 Any person subjected to gender-motivated violence may bring civil action for damages against any responsible party

§52.5 Victims of human trafficking may bring action for actual damages, compensatory damages, punitive damages, injunctive relief, and attorney fees and costs; victim can be awarded treble damages up to \$10,000; 7 year statute of limitations to bring suit, can be tolled for certain circumstances

§1708.6 Person is liable for tort of DV if plaintiff proves defendant inflicted injury

§1708.7 Stalking includes pattern of conduct intended to place plaintiff under surveillance and includes the intent to follow, alarm, or harass the plaintiff plaintiff may show emotional distress

§1708.85 Civil right of action for distribution of revenge porn; ***strengthened confidentiality for victims***

Disclosure of Personal Information

- §1798.79.8 Definitions of “personally identifying information” and “victim service provider”
- §1798.79.9 Victim service providers prohibited from being required to reveal personally identifying information of clients
- §1798.79.95 Injunctive relief

Deduction of Emigration and Transportation Costs to US from Wages

- §1670.7 Contract deducting from wages cost of emigration and transportation to US void as against public policy

Tenancy

- §1941.5 Requires landlord to change locks; tenant can change locks without permission
- §1941.6 Same as § 1941.6; applies when restrained and protected parties in same unit
- §1946.7 Tenant or household member who is victim of DV, sexual assault, stalking, or human trafficking may terminate tenancy after proper notice to landlord; return of security deposit; notice to terminate tenancy must be given within 180 days of date of protective order; protective orders, statements from tenant and by health practitioner or counselor/caseworker included in list of accepted documentation for which tenant may terminate tenancy; tenant must give 14 days notice

CODE OF CIVIL PROCEDURE

Incidental Powers and Duties of Courts

- §128 Powers of court; contempt when victim of DV refuses to testify

Miscellaneous Provisions Respecting Courts of Justice

- §185 Authorizes court to issue unofficial translation of DV restraining orders; Judicial Council to make available in other languages specific forms relating to domestic violence protective orders
- §340.3 Bars civil actions against defendants convicted of murder or attempted murder who are paroled because of showing to Board of Prison Terms that defendant was victim of intimate partner battering

Time for Commencing Civil Actions

- §340.15 Action for damages suffered as result of DV: within 3 years or within 3 years of date one reasonably should have discovered that an injury or illness resulted

Youth Restraining Orders

- §372 Minors 12+ can request ROs without guardian ad litem, parent, or attorney

Civil Harassment Orders

- §527.6 Harassment; temporary restraining order (RO) and civil harassment orders (CHOs); procedure, including time until hearing, reissuance, duration of orders after hearing, transmission to law enforcement/CLETS; minors as parties; forms; firearms; DV; support person; service fees, costs and attorney fees; punishment; court may issue injunction protecting other named family or household members who reside with harassed person; early termination of protective order requires notice to protected party; ***minor applicants can petition to keep certain personal information confidential, subject to balancing test by court***

Employer Initiated Restraining Orders

- §527.8 Employer may seek TRO and injunction on behalf of employee who suffered violence or threat of violence at workplace (WVRO); court must deny or continue hearing to modify or terminate action if notice requirement not met
- §527.85 Chief administrator or employee of postsecondary educational institution may seek TRO on behalf of student, volunteers, employees re entire campus; court can authorize another method of service reasonably designed to afford actual notice to protected party
- §527.9 Persons subject to non-DVRO protective orders must relinquish firearms within 24 hours, unless court grants exemption based on restrained party's employment
- §527.10 Persons subject to CHO or WVRO protective orders may not obtain address or location of protected party; includes location of persons protected by workplace violence protection orders

Tenancy

- §1161 Defines "unlawful detainer"; presumption batterer committed nuisance on premises, so batterer can be evicted
- §1161.3 DV, sexual assault, stalking, or human trafficking cannot be cause to terminate or fail to renew residential tenancies; affirmative defense to unlawful detainer

Contempt

- §1218 Contempt procedures; prosecutors may initiate contempt action against party failing to comply with court order under the DVPA
- §1219 Imprisonment to compel performance of acts; exemption of sexual assault and DV victims who refuse to testify; court has authority to refer DV victim who refuses to testify to DV counselor before finding victim in contempt; communications between victim and counselor remain confidential under Evidence Code §1037.2

Change of Names

- §1277 Name change; filing; publications; if petitioner is in Safe at Home program and name change is to avoid DV, name may be listed as confidential on petition; exempts actions for legal name changes by sexual assault victims from legal requirement for publication in newspaper of general circulation or public posting; requires court to keep confidential current legal name of petitioner and prohibits name from being published in court's calendars, indexes, or register of actions; petitioner may request records be sealed

CALIFORNIA RULES OF COURT

Family and Juvenile Rules

- Rule 5.18 Court may reserve jurisdiction on an issue it cannot hear until later
- Rule 5.110 Summons; restraining order
- Rule 5.215 DV protocol for Family Court Services
- Rule 5.230 Requires all court-appointed child custody evaluators and investigators to complete DV training; establishes training standards
- Rule 5.381 Modification of child custody, visitation, and support orders in DVPA cases
- Rule 5.386 Procedures for filing tribal court protective order
- Rule 5.445 Court communication protocol for DV and child custody orders

EDUCATION CODE

Equity in Schools and Defining Gender

- §200 In public schools, gender, gender identity, and gender expression, among others, **including immigration status**, are protected categories against discrimination
- §210.7 Definitions of “gender” and “gender expression”
- §47605.6 Parameters of these definitions for charter schools

Safe Place to Learn Act

- §234 Local educational agencies must work to reduce discrimination, harassment, violence, intimidation, and bullying
- §234.1 Local educational agencies must adopt policies to address the policy concerns in § 234, and with particular focus on protected characteristics, including, among others, gender **and immigration status**; state Department of Education shall monitor and enforce
- §234.2 Schools must provide resources and information online and displayed in school, relating to discrimination, harassment, bullying, and cyber sexual bullying

The Learning Communities for School Success Program

- §33430 Implements Learning Communities for School Success Program (funding and assistance) from the Safe Neighborhoods and Schools Act

School Curriculum

- §33544 When “Health Framework for California Public Schools” is revised after 1/1/16, the commission shall consider including comprehensive information for grades 9-12, inclusive, on sexual harassment and violence
- §33545 When framework revised after 1/1/15, the commission shall consider including information on sexual abuse and trafficking prevention
- §33546 When framework revised after 1/1/17, the commission shall consider including information for K-8 on developing healthy relationships

Bullying

- §48900 Students may be suspended or expelled for cyberbullying, cyber sexual bullying, or other listed means

Courses of Study, Grades 7 to 12

- §51223.3 State Board of Education shall add safety instructions and self-defense in next revision, after 1/1/11, of physical education framework for grades 7-12
- §51934 Sexual health education for grades 7-12 shall include information about and resources for adolescent relationship abuse, IPV, sexual assault and harassment, sex and human trafficking, among others; **includes early warning signs of abuse and prevalence of, and prevention strategies for, human trafficking**

Student Safety

- §67380 Specified postsecondary institutions must record certain crimes, including violent crime and sexual assault
- §67832 State Auditor must include in audit evaluation of institutions’ compliance with state law governing crime reporting, development and implementation of student safety policies and procedures

- §67383 Specified postsecondary institutions must forward crime reports to the appropriate law enforcement agency
- §67386 To receive state funds, postsecondary institutions must have protocols to address sexual assault and DV, including education re affirmative consent

Student Residency Requirements

- §68122 Students who are victims of trafficking, domestic violence, and other serious crimes exempt from paying nonresident tuition at California State University and Community Colleges, can apply for all financial aid programs and scholarships

ELECTIONS CODE

Registration

- §2166.5 Voter information registration confidential for participant in Safe at Home Program for victims of DV, sexual assault, and stalking

EVIDENCE CODE

Definitions

- §240 Defines “unavailable” witness, e.g., witnesses who persistently refuse to testify despite being found in contempt; court may admit statement from unavailable witness when offered against party whose wrongdoing is cause of unavailability

Interpreters and Translators

- §756 Courts authorized to provide free court interpreter in any civil action or proceeding, regardless of income of parties; priority for family matters and DV-related cases in assigning interpreters

Evidentiary Privileges

- §912 Waiver of privilege; adds DV victim-counselor privilege to list of evidentiary privileges that may be waived if holder of privilege discloses information or provides consent
- §917 Presumption that certain communications are confidential, including communication made in course of sexual assault victim-counselor or DV victim-counselor relationship
- §952 Confidential communication between client and lawyer; communication does not lose privilege if communicated by electronic means

Domestic Violence Victim-Counselor Privilege

- §1037 “Victim” defined
- §1037.1 “Domestic violence counselor” defined; qualifications; definition of “domestic violence victim service organization,” ***includes non-shelter-based programs, higher education programs***
- §1037.2 Confidential communication: any information including written or oral communication; compulsion of disclosure by court; claim of privilege
- §1037.3 Child abuse; reporting
- §1037.4 “Holder of the privilege” defined; includes guardian or conservator unless guardian or conservator is accused of perpetrating DV against victim
- §1037.5 Privilege or refusal to disclose communication; claimants specified in § 901

- §1037.6 Claim of privilege by counselor
- §1037.7 “Domestic violence” as defined in Family Code § 6211
- §1037.8 Informing DV victims of limitations of confidentiality; may be given orally
- §1038 Human trafficking victim-caseworker privilege; human trafficking victim may refuse to disclose confidential communications between victim and human trafficking caseworker

Evidence Affected or Excluded by Extrinsic Policies

- §1107 Expert witness testimony on DV and its effects; allows expert testimony on nature and effect of domestic abuse in criminal actions; specifies that definition of “abuse” includes certain crimes
- §1107.5 Expert testimony admissible by prosecution or defense regarding effects of human trafficking on trafficking victims, including nature and effect of physical, emotional, or mental abuse on beliefs, perceptions, or behavior of victims
- §1109 Previous DV, child abuse, or elder abuse can be used to prove current abuse; requires evidentiary hearing under § 352
- §1370 Exceptions to hearsay rule including certain statements to health care providers
- §1390 Evidence from unavailable witness admissible if witness unavailable as result of defendant’s wrongdoing

FAMILY CODE

Definitions

- §70 “Date of separation” defined

General Provisions

- §297.5 “Spouse” includes domestic partners

Ex Parte Temporary Restraining Orders

- §215 Notice for post-judgment modification request can be served by mail
- §217 Family courts required to receive live testimony at family law hearing unless good cause or stipulation
- §241 Granting temporary order without notice
- §242 Orders must be heard within 21 days, or 25 days with good cause
- §243 Readiness for hearing; service time on respondent 5 days prior to hearing if TRO issued without notice; if issued with notice, service time 15 days
- §244 Precedence for hearing and trial
- §245 Reissuance of restraining order; respondent has one continuance as a matter of right; court can grant either party a continuance for good cause
- §246 Time limits on issuance or denial of restraining order
- §298 Distribution of forms and LGBT-specific DV brochure to same-sex registrants, fees for filing domestic partnership; requirements for filing as domestic partner
- §298.5 Filing declaration of domestic partnership with Secretary of State

Marriage Licenses

- §358 Brochure on DV given to marriage license applicants, available to domestic partners; Secretary of State will develop LGBT-specific DV brochure for domestic partners

Relation of Spouses

- §720 Spouses promise to give each other mutual respect, fidelity, and support
§721 Spouses are generally in a confidential fiduciary relationship and must deal with each other in good faith; one cannot take unfair advantage of the other

Family Conciliation Courts

- §1815 Qualifications of supervising and associate counselors
§1816 Requires continuing instruction in DV for counselors and mediators: Judicial Council to develop standards for training
§1833 Contents of petition
§1834 Assistance in filing petition; coextensive jurisdiction in DV cases

Attorney's Fees Early in Case

- §2030 Orders for party to pay to ensure other party's access to legal representation
§2031 Court must rule on motions made under §2030 within 15 days

Ex Parte Orders

- §2040 Summons to contain TRO restricting movement of child and disposal or transfer of assets, notice requirements for use of community property for attorney's fees; no restraint of certain testamentary and other instruments
§2045 Ex parte protective and restraining orders

Orders After Notice and Hearing and Orders Included in Judgment

- §2047 Protective orders issuable after notice and hearing; mutual protective order
§2049 Protective orders included in judgment

Dissolution of Marriage and Legal Separation

- §2335 Evidence of specific acts of misconduct
§2603.5 Community estate personal injury damages; judgments for civil damages for DV may be enforced against abusive spouse's share of community property

Custody of Children

Definitions

- §3002 "Joint custody" defined
§3003 "Joint legal custody" defined
§3004 "Joint physical custody" defined
§3006 "Sole legal custody" defined
§3007 "Sole physical custody" defined

General Provisions

- §3011 Factors considered, including domestic abuse, in determining best interest of child; if custody or visitation granted to alleged abuser, court must specify reason and custody or visitation orders must be specific; court must also consider either parent's habitual or continued abuse of prescribed controlled substances; child custody evaluation may be considered by court only if conducted in accordance with minimum requirements

Right to Custody of Minor Child

- §3020 Legislative findings; health, safety, and welfare of children primary concern in determining best interest of child; policy to assure minor children have contact with both parents; child abuse and DV detrimental to children

§3021	Application; non-parent can be denied custody or visitation in a DVPA action
§3027	Court may take temporary steps to protect child's safety when child sexual abuse alleged during child custody proceeding
§3027.1	Monetary sanction if false accusation of child abuse or neglect made in child custody proceeding
§3027.5	Prohibits placing parent on supervised visitation or denying custody or visitation solely because parent lawfully reported suspected sexual abuse of child or sought mental health treatment of child; court authorized to limit custody or visitation if parent willfully and maliciously makes false report of child abuse
§3030	Custody and unsupervised visitation prohibited where person required to be registered as sex offender where victim was a minor unless court finds no significant risk to child and states its reasons for so finding in writing; no custody or visitation rights to person convicted of rape where child conceived as a result of rape; custody may be granted to parent convicted of murder where defendant makes showing of abuse or intimate partner battering
§3031	Custody order not to be inconsistent with emergency protective order, protective order, or other restraining order
§3040	Order of preference in awarding custody; when child removed from parents' physical custody, can be placed with parent, legal guardian, relative, or any other person the court deems suitable regardless of that person's immigration status
§3041	Additional requirements for custody award to non-parent
§3042	Court must consider wishes of minor child if appropriate age and if in best interest of child, or make findings on record; court may hear from minor 14+ during custody and visitation modification proceeding
§3044	Rebuttable presumption where person seeking custody has perpetrated DV; Factors; Finding; Evidence
§3046	When absence or relocation from residence is not factor in determining custody or visitation; includes actual acts or threatened DV by other party
§3048	Contents of child custody or visitation order; determination of risk of abduction
§3064	Limitation on ex parte order granting or modifying custody order; domestic violence or sexual abuse of child authorize court to grant or modify custody order on ex parte basis; notice required unless waiver granted
§3080	Presumption for joint custody where parents agree to this
§3081	Award of joint custody at court's discretion, absent agreement of parents
§3082	Statement by court of reasons for grant or denial of joint custody request upon request of a party
§3100	Visitation rights: visitation when protective order; transfer of children; confidentiality of shelter location; specific order of precedence for RO
§3101	Visitation rights of stepparent
§3103	Visitation rights of grandparent
§3110.5	Qualifications for child custody evaluator includes DV and child abuse training
§3111	Child custody evaluation may be considered by court only if conducted in accordance with minimum requirements
§3113	Separate meetings for DV cases mandated if victim requests this in custody evaluation process
§3118	Evaluation of child abuse allegation in contested custody or visitation proceeding
§3120	Spouse may seek custody of children of marriage without filing petition for dissolution of marriage or legal separation; court can order support or custody under parents' natural rights, child's best interests, and in interests of justice
§3134.5	District attorney can request, and court can grant, protective custody warrant to recover an unlawfully detained or concealed child, which may include an order to freeze assets of the party alleged to possess the child

- §3164 Qualifications of mediator includes DV training
- §3170 Family Court Services must adopt DV protocols; court shall set contested issues for mediation if it appears from the face of the filings to be custody case; *anyone may request custody case be set for mediation prior to any filings*
- §3181 Separate mediation where DV mandated if victim requests this, intake form must state this
- §3182 Exclusion of counsel or DV support person from mediation if mediator determines this is appropriate or necessary
- §3190 Court may require counseling for parents and child(ren), for no more than a year
- §3192 Judge may order separate counseling where DV order in effect

Supervised Visitation and Exchange Services

- §3200 Judicial Council shall develop standards for supervised visitation providers
- §3200.5 Standards for professional and non-professional supervised visitation providers
- §3201 Supervised visitation imposed by the court must meet the uniform standards for supervised visitation provides recommended by the Judicial Council
- §3203 Family court may establish and administer supervised visitation and exchange, education programs, and group counseling for parents and children
- §3204 Judicial Council shall administer grant funds for custody and visitation programs

Uniform Child Custody Jurisdiction and Enforcement Act

- §3402 Definitions; “child custody proceeding” includes protection from DV
- §3421 Jurisdiction requirements for a court to make initial custody determination
- §3424 Temporary emergency jurisdiction; includes cases involving DV
- §3427 Court may decline to exercise jurisdiction and decide that another state is more appropriate forum if DV has occurred, is likely to continue, and if other state could best protect parties and child, among other factors
- §3428 Court shall not decline to exercise jurisdiction because one parent took child if taking was result of DV
- §3429 Past addresses of child confidential if unknown to alleged perpetrator of DV

Spousal and Child Support During Pendency of Proceedings

- §3600 Support pending dissolution; orders for support must be consistent with §§ 4320 and 4325 (DV conviction)

Spousal Support

- §4320 Considerations in ordering spousal support, including, among others, evidence of DV, including a plea of no contest, and any other DV resulting in emotional distress; criminal conviction of abusive spouse shall be considered in reducing or eliminating support; and other factors the court deems just and equitable
- §4324 No support if supported spouse convicted of attempted murder, or soliciting the murder, of the other
- §4324.5 At request of injured spouse, court may define date of legal separation as date of incident giving rise to conviction, or earlier if court finds justification, for community property purposes—if dissolution petition filed before 5 years after conviction and any time served in custody or on probation or parole
- §4325 Criminal conviction for DV within 5 years prior to filing of dissolution, or anytime after: rebuttable presumption that spousal support should not be ordered; court may consider convicted spouse’s history as DV victim, and other factors, in rebutting presumption

Uniform Interstate Family Support Act

- §5700.312 If a party filing a petition under this Act, under oath alleges the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public—unless, after a hearing, the court orders disclosure to be in the interest of justice

Domestic Violence Prevention Act

Title and Definitions

- §6201 Application of definitions
§6203 “Abuse” defined
§6205 “Affinity” defined
§6209 “Cohabitant” defined
§6210 “Dating Relationship” defined
§6211 “Domestic Violence” defined
§6215 “Emergency Protective Order” defined
§6218 “Protective Order” defined

General Provisions

- §6220 Purposes of the Domestic Violence Prevention Act
§6221 Applications of division
§6222 Fees; no filing fee when application or other pleading seeks to obtain, modify, or enforce protective order if necessary to obtain or give effect to another protective order; no fees for filing subpoena
§6223 Considerations where custody or visitation order issues pursuant to Domestic Violence Protection Act
§6224 Required statements in order
§6225 Explicit statement of address not required on petition
§6226 Judicial Council forms and instructions to be used for these orders and pleadings
§6227 Remedies cumulative
§6228 Victim or personal representative of victim of DV, *sexual assault, stalking, human trafficking, or abuse of elder or dependent adult* may obtain free incident report copy
§6229 Minor under 12 with guardian ad litem may request or oppose request for TRO

Emergency Protective Orders

- §6240 Definitions
§6241 Designation of judicial officer to orally issue ex parte Emergency Protective Orders at all times
§6250 Grounds for ex parte Emergency Protective Order
§6250.3 Requirements for judicial officer to issue Emergency Protective Order
§6250.5 Persons able to issue Emergency Protective Orders include community college and school district police
§6251 Findings required to issue Emergency Protective Order
§6252 Orders that can be included in Emergency Protective Order
§6252.5 Persons subject to Emergency Protective Orders prohibited from taking any action to obtain address or location of protected party or their family, caretakers, or guardian
§6253 Contents of order
§6254 Emergency Protective Order available even if endangered person has left household to avoid abuse

- §6255 Issuance of ex parte Emergency Protective Order
- §6256 Emergency Protective Order ends the earlier of 7 calendar days or 5 court days
- §6257 Application for more permanent restraining order
- §6270 Reducing order to writing and signing order
- §6271 Law enforcement requirements for service, filing, and delivery of order
- §6272 Means of enforcement must be reasonable; officer protected from liability
- §6274 Emergency Protective Orders available for stalking
- §6275 Notice to protected person required

Protective Orders and Other Domestic Violence Prevention Orders

- §6300 Protective order may be issued if affidavit or additional information shows reasonable proof of past or current abuse
- §6301 Persons who may be granted restraining order: petition not denied because petitioner has vacated household or because, for married parties, survivor has not petitioned for dissolution or separation; length of time since most recent abuse not by itself determinative; court must look at totality of circumstances
- §6301.5 ***Minor applicants can petition to keep certain personal information confidential, subject to balancing test by court***
- §6302 Requirements for providing notice of hearings
- §6303 Support person for victim of DV
- §6304 Information to parties concerning terms and effect of order; respondent prohibited from owning, possessing, purchasing, or receiving firearm
- §6305 Conditions for issuance of mutual order; each party must present written evidence of DV on Judicial Council RO application form; written evidence of DV in responsive pleading not sufficient; court must make detailed findings of fact and conduct primary or dominant aggressor analysis in Penal Code § 836
- §6306 If courts have resources, prior to issuing protective order or when determining temporary custody and visitation, court shall conduct background search, consider results; information kept in separate confidential file; parties to be advised they can request information; court-appointed mediator/child custody evaluator has access to file; if outstanding warrant, law enforcement to be notified; court must also ensure that database search includes whether restrained party has registered firearm

Ex Parte Orders

- §6320 Orders enjoining party from assault, harassment, threats, violence, and impersonating another party; court may grant care, possession, or control of animal in protective order; may include order to stay away from animal
- §6320.5 Denying petition for ex parte order must include reasons; order denying jurisdictionally adequate petition must provide petitioner right to noticed hearing
- §6321 Orders excluding party from dwelling
- §6322 Order can enjoin additional specific behaviors
- §6322.5 Order prohibiting disclosure of identifying information
- §6322.7 Persons subject to DV Protective Orders prohibited from taking action to obtain address or location of protected party or their family
- §6323 Order determining temporary custody and visitation; if parent and child relationship not established, custody or visitation may be denied; how to establish parent and child relationship; court may accept stipulation by parties and enter judgment on paternity
- §6324 Order determining temporary use of property and payment of debts
- §6325 Restraints on community, quasi-community, and separate property of spouses

- §6325.5 Restraints on ability to make changes to any insurance held for the benefit of the parties and/or their children
- §6326 Time limits on issuance or denial of ex parte order

Orders Issuable After Notice and Hearing

- §6340 Orders that may be issued ex parte may also be issued after notice and hearing; if court includes provisions of custody, visitation, or support, these survive termination of protection order; denial of petition requires statement of reasons
- §6341 Payment of child support by presumed father; may order spousal support
- §6342 Order for restitution for loss of earnings, services, and out of pocket expenses due to injury, not including pain and suffering
- §6343 Court may order restrained person to participate in batterer’s program as approved by probation department, and if so the person must register by specified deadline and sign consent forms, including proof of enrollment for court, protected party, and their attorney; court shall develop resource list and provide it to each applicant for protective order
- §6344 Court may award attorney fees and costs to prevailing party
- §6345 Duration of personal contact, stay-away, and residence exclusion orders contained in court order; initial orders can last up to 5 years and may be renewed for 5 years or permanently, without further showing of abuse; if no expiration date, duration is 3 years. Notice requirement for early termination or modification of protective order
- §6346 Custody or visitation after action is filed to establish parent-child relationship
- §6347 Court may order protected party to maintain wireless phone number; requirements for separate order to wireless provider

Orders Included in Judgment

- §6360 Judgments that may include protective orders
- §6361 Statements required where order included in judgment; order for up to 5 years

Registration and Enforcement of Orders

- §6380 Electronic transmission of data to Department of Justice; Domestic Violence Retraining Order System
- §6381 Enforcement of order
- §6382 Information should be made available to officer responding to reported DV
- §6383 Service of protective order by law enforcement; specific priority of multiple orders; subject to Penal Code § 136.2: precedence to emergency protective order, then no-contact order, most recent criminal court order, and civil court order
- §6384 When personal service not required; form for actual notice
- §6385 Notice to Department of Justice; no liability for law enforcement, court, or DOJ if restrained party receives firearm
- §6386 Appointment of counsel and payments of fees and costs to enforce order
- §6387 Clerk to provide petitioner with copies of order
- §6388 Criminal penalty for willful violation of order
- §6389 Person subject to protective order prohibited from owning or possessing firearm, must relinquish any firearm immediately upon request of law enforcement, or within 24 hours of being served with protective order if no request to immediately surrender firearm is made; violation punishable by misdemeanor or felony; court may exempt peace officer if after psychological evaluation it finds that officer does not pose threat of harm

Uniform Interstate Enforcement of Domestic Violence Protection Orders Act

- §6401 Definitions
- §6402 Criteria for validity of out-of-state protection orders; protection orders issued by another state under anti-stalking laws must be enforced by California courts
- §6403 Law enforcement to enforce foreign protection order if probable cause it exists
- §6404 Registering foreign protection orders

Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act

- §6451 *Definitions*
- §6452 *Law enforcement requirements for enforcement of Canadian DVPOs*
- §6453 *Court orders to enforce (or not) Canadian DVPOs; requirements*
- §6454 *Registration of Canadian DVPOs*
- §6455 *Limitations on law enforcement liability*
- §6456 *Other remedies available*
- §6457 *Priority of enforcement when multiple orders in place*
- §6458 *Interaction with related federal law*
- §6459 *This part applicable to Canadian DVPOs issued before, on, or after—and to requests for enforcement continuing on, or arising after—1/1/18*

Relocation and Child Custody

- §7501 Affirms *In re Marriage of Burgess* (1996) 13 Cal.4th 25—proposed relocation by custodial parent presumed OK unless substantial change in circumstances of child requiring change in custody to preserve child’s best interests

Parent and Child Relationship: Uniform Parentage Act

- §7601 “Parent and child relationship” defined
- §7605 Orders for party to pay to ensure other party’s access to legal representation in proceeding related to establishing physical or legal custody or visitation
- §7710 Ex parte protective and other restraining orders during termination of parental rights in adoption proceedings
- §7720 After notice and hearing, court may issue protective orders in adoption proceedings, no mutual orders unless complies with § 6305
- §7730 Judgment in adoption proceedings may include protective order or RO

Freedom from Parental Custody and Control

- §7823 Neglected or cruelly treated child
- §7824 Parent under disability due to alcohol or controlled substance or moral depravity
- §7825 Parent convicted of felony, including child conceived via rape (Pen. Code, § 261)
- §7826 Parent declared developmentally disabled or mentally ill
- §7827 Parent mentally disabled

Family Law Facilitator Act

- §10005 Duties of Family Law Facilitator
- §10012 Right to separate sessions if history of DV

Department of Child Support Services

- §17212 Child support agency must remove identifying information from all pleading or documents submitted to court if protective order; state agencies must provide information to county child welfare agencies and county probation departments for use in identifying, locating, and notifying parents of children in juvenile court proceedings and certain other proceedings

GOVERNMENT CODE

California Prompt Payment Act

§927.1 California must pay penalties to grantees for late payments

Notice of Service of Protective Order

§6103.3 Notice by the sheriff to protected person by electronic means or telephone within 24 hours of service of process of any protective order or injunction

Address Confidentiality for Victims of Domestic Violence, Sexual Assault, and Stalking

§6205 General provisions; Safe at Home Program

§6205.5 Definitions

§6206 Confidentiality of address of victim of DV and stalking; requirements for DV victims; certification not required; Secretary of State can forward packages from government; minors can renew when turn 18; participants must live in CA

§6206.5 Loss or cancellation of certification; requirements if name change

§6206.7 Withdrawal, termination from program

§6208 Participant's address may be revealed after termination of certification only if termination resulted from program manager determining false information to conceal illegal or criminal activity; any person or business prohibited from posting online personal information of a participant, subject to civil penalties

§6209.5 ***Participants entitled to notice containing specified information in clear and conspicuous language, including using address designated by Secretary of State on real property deeds, change of ownership forms, and deeds of trust when purchasing or selling home***

§6215.10 ***Person, business, or association shall not publicly post online home address of program participant who has made written demand to not do so***

§6215.12 ***Additional notice requirements for Secretary of State***

Inspection of Public Records; California Public Records Act (PRA)

§6254 Exemption of particular records; victims of human trafficking may request that their names and those of immediate family members not become public record

§6254.30 DV victim presence in county not required to obtain records

§6254.4.5 ***Restricts public disclosure of video and audio recordings, held by law enforcement, depicting victims of sexual and domestic violence; victim and their family must be given copy upon request***

§6275 Certain listed statutes are exempt from disclosure by the PRA

§6276.12 Lists certain statutes exempt from PRA disclosure, ***including court files of revenge porn cases (Civ. Code, § 1708.85) for 60 days***

§6276.14 DV counselor and victim, confidentiality of communication exempt from PRA

Transparent Review of Unjust Transfers and Holds (TRUTH) Act

§7282 Definitions; ***amended to prohibit law enforcement from using resources to do certain things to further federal immigration enforcement***

§7282.5 Law enforcement has discretion to cooperate with federal immigration officials in certain ways; ***law enforcement prohibited from using resources to do certain things to further federal immigration enforcement***

§7283 Definitions

California Values Act

§7284	<i>Name of act</i>
§7284.2	<i>Legislative findings supporting California as a sanctuary state</i>
§7284.4	<i>Definitions</i>
§7284.6	<i>Prohibits law enforcement from using resources to do certain things to further federal immigration enforcement</i>
§7284.8	<i>State Attorney General must publish model policies on this act by Oct. 1, 2018</i>
§7284.10	<i>Requirements for how the Department of Corrections and Rehabilitation can interact with ICE</i>

Fundraising for Charitable Organizations

§12586	Report by charitable organizations on assets and administration; rules and regulations for reports; requirements when gross revenue is \$2 million or more
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Gender

§12920	Gender (including identity and expression) protected against discrimination in workplace; public policy reasons
§12921	Discrimination based on gender prohibited (see Civ. Code, § 51)
§12926	Definition of key terms such as “affirmative relief”

Unlawful Employment Practices

§12940	Defines unlawful employment practices, including discrimination based on enumerated characteristics, including sex, gender, and gender identity
§12945	Provides some rights and responsibilities of pregnant employees, including leave
§12945.2	Requires employers to provide eligible employees medical and family care leave
§12945.6	<i>Unlawful for employers (of 20+ employees) to refuse eligible employees to take up to 12 weeks of protected parental leave with new child</i>

Compensation for Victims of Crime

§13950	Legislative finding of public interest to compensate victims of crime
§13951	Definitions
§13952	Requirements for application; evidence desired by board; certain persons may be authorized representatives to represent victims before the board
§13952.5	Procedure for emergency awards
§13953	Statute of limitations and tolling requirements
§13954	Verification; release of information about victim and crime
§13955	Elements for restitution and reimbursement; child who witnesses DV presumed to sustain physical injury; qualifying non-California residents considered derivative victims for restitution and reimbursement
§13956	Victims of DV or human trafficking may not have their applications for restitution & reimbursement denied solely because no police report filed or if failed to cooperate with law enforcement
§13957	Victim Compensation Claims Board may authorize more than one reimbursement relocation expense for one victim per crime if necessary for personal safety or emotional well being of victim; can be greater than \$2000 due to unusual, dire, or exceptional circumstances
§13957.9	Reimbursement for outpatient peer counseling
§13959	Board can reconsider all or part of its decisions at any time; decisions must be made within 6 months of date appeal received unless board determines insufficient information to make decision

Fees

§26721 Service of process or notice; no fee for service of DVPA restraining order if respondent is in custody

County Clerk Fees

§26840.7 Marriage license; additional fee upon usage; use of fee
§26840.8 Marriage authorization; additional fee upon filing; use of fee
§26840.10 Alameda County may increase marriage license fee for oversight and coordination of DV prevention, intervention and prosecution
§26840.11 Solano County may increase marriage license fee for oversight and coordination of DV prevention, intervention and prosecution

Powers and Duties of Cities

§53165 Cities cannot require landlords to terminate tenant because of DV and/or frequency of emergency calls

Management of Trial Court Records

§68152 Destruction of records; notice; retention periods

Educational Programs for Judiciary

§68555 DV training programs; required training for new judges

HEALTH & SAFETY CODE

Women's Health

§137 State Department of Public Health shall develop a strategy for addressing women's health needs

Licensing Provisions - Clinics

§1233.5 Patient screening to detect spousal or partner abuse; policies and procedures

Licensing Provisions - Health Facilities

§1259.5 Spousal or partner abuse detection; policies and procedures

Health Care Service Plan Contracts

§1374.75 No enrollment, coverage, or rate discrimination against DV victims; underwriting coverage on basis of medical condition

Offenses and Penalties

§11350.5 *Legislative findings on specific substances known to be "date rape" drugs*
§11350.5 *Felony to possess "date rape" drugs with intent to commit sexual assault*
§11377.5 *Felony to possess certain drugs with intent to commit sexual assault*

Housing Authority Reports

§34328.1 Housing authorities to file report with Department of Housing and Community Development each year on Oct. 1; report must contain data on terminations of tenancies of DV victims, as well as terminations of Section 8 housing vouchers for DV victims

Redevelopment

- §53533 Funds transferred to Emergency Housing and Assistance Fund must be made available for supportive housing purposes
- §53545 See §53533 above

Fees for Certified Copy of Search of Records

- §103626 Authorizes Contra Costa County to collect additional \$4 fee increase, as adjusted for inflation, for certified copies of marriage certificates, birth certificates, fetal death records, and death records
- §103627 Increased fees in Alameda County and City of Berkeley for governmental oversight and coordination of agencies dealing with DV
- §103628 Increased fees in Solano County for governmental oversight and coordination of agencies dealing with DV

Domestic Violence

- §124250 “Domestic violence,” “shelter-based,” and “emergency shelter” defined; definitions gender-neutral; California Emergency Management Agency to administer shelter-based services grant program to shelters for DV victims; lists service areas; requires one site visit per grant term for performance assessment and technical support; advisory council

INSURANCE CODE

Discriminatory Practices

- §676.9 Prohibits discrimination by casualty insurers based on DV status of applicant or insured
- §676.10 Prohibits refusal or cancellation of property insurance against policy during preceding 60 months for loss from hate crime; hate crimes include gender expression and gender identity
- §10144.2 Disability insurance plans; prohibits enrollment, coverage, or rate discrimination against DV victims; underwriting coverage on basis of medical condition
- §10144.3 Life insurance plans; prohibits enrollment, coverage, or rate discrimination by life insurers based on DV status

LABOR CODE

Domestic Violence Employment Leave Act

- §230 Prohibition of discharge, discrimination, or retaliation against employee serving on jury or as witness or seeking relief against DV, sexual assault, or stalking if notice is given to employer or employer had knowledge of status; remedies for violation; misdemeanor; filing of complaint, employer required to provide reasonable accommodation (safety measures or procedures) upon request
- §230.1 Applies to employers with 25 or more employees; time off from work for victims of DV, sexual assault, or stalking; employers must inform employees of rights *in writing* “*upon hire and to other employees upon request*”
- §246.5 Employers shall provide DV victims with paid sick leave upon written request to achieve purposes described in §§ 230 & 230.1
- §249 This act does not affect privacy of information related to DV or sexual assault

Employment Application: Criminal History

§432.7 Employer may not, with certain exceptions, inquire as to applicant’s arrest or detention that did not result in conviction, or diversion program, or conviction that has been judicially dismissed or sealed; ***prohibition extends to any proceeding, disposition, or adjudication in juvenile court, with certain exceptions***

PENAL CODE

Crimes Against Public Justice

- §136.1 Misdemeanors to falsify evidence, or bribe, influence, intimidate, or threaten witnesses or victims
- §136.2 Good cause belief of intimidation or dissuasion of victim or witness; stay-away orders; 1 business day limit for entry, modification, extension, or termination of CLETS protective orders, with requirements for court; Judicial Council to develop coordination protocol of all orders regarding same person; providing for safe exchange of children and orders that specify details of exchange; visitation order after Criminal Protective Order (CPO) is issued must acknowledge CPO; precedence: Emergency Protective Orders that are more restrictive and cover persons protected under existing order, no-contact orders, CPO, and civil protective orders; court may issue order restricting only firearms; in all DV cases and specified sex cases court should consider issuing order restricting contact by defendant to victim; order valid up to 10 years; courts can authorize electronic monitoring for 1 year with certain provisions; cost allocation; DV includes abuse perpetrated against child of party to DV, or against other relatives; minor present during DV deemed to have suffered harm; defendant may be barred from contact with witnesses upon good cause belief of harm, dissuasion, or intimidation; court may issue regardless of whether defendant subject to mandatory supervision; ***in gang-related cases, court should consider issuing RO for up to 10 years restraining defendant and protecting witness, when DV or other criminal acts***
- §136.3 Party enjoined under § 136.2 prohibited from taking action to obtain protected party or their family’s location information
- §139 Threat to use force or violence upon witnesses or victims; punishment
- §140 Threatening witnesses, victims
- §166 Contempt of court defined and penalized—includes out-of-state court orders and orders pending trial; owning or possessing firearm in violation of protective order; increases punishment for violating protective order issued for inflicting corporal injury resulting in traumatic condition
- §186.2 Criminal Profiteering Activity: definition of human trafficking
- §186.8 Forfeiture of assets for human trafficking involving commercial sex with minor; funds go to General Fund or Victim-Witness Assistance Fund
- §236.1 Human trafficking for forced labor services or specified felonies for adults and minors; felony; definitions
- §236.2 Law enforcement must use due diligence to identify all victims of human trafficking, regardless of citizenship
- §236.5 Within 15 days of first encountering victim of human trafficking, law enforcement must provide Law Enforcement Agency Endorsement
- §236.14 Petition process for person arrested for, convicted of, or adjudicated ward of juvenile court for committing nonviolent offense while victim of human trafficking

§236.23 Being victim of human trafficking is affirmative defense to being charged with human trafficking; inapplicable to violent crimes or serious felonies

Assault and Battery

§242 Battery defined

§243 Battery on spouse, former spouse, fiancé or fiancée, parent of defendant's child, or dating partner; punishment; if prior § 273.5 conviction, must go to jail at least 48 hours if probation granted for subsequent offense

Rape

§261 Rape defined

§261.6 Consent defined, current or previous dating or marital relationship

§262 Rape of spouse; elements

§263.1 Legislative findings: all forms of nonconsensual sexual assault may be considered rape for purposes of gravity of offense and support of survivors

§264 Rape; rape of spouse; unlawful sexual intercourse; punishment

§264.2 Providing victims with DV card; notification of counseling center by law enforcement or by hospital; authorizes exclusion of support person from medical evidentiary exam or physical exam

Neglect of Children; Spousal Abuse

§273d Corporal punishment or injury of child; felony; punishment; enhancement for prior conviction; conditions of probation

§273.5 Willful infliction of corporal injury; violation; punishment; sentencing court shall consider issuing restraining order valid up to 10 years; factors in deciding whether to issue order; order may be issued if incarcerated, suspended sentence or probation; includes dating or engagement relationship

§273.6 Intentional and knowing violation of court order to prevent harassment, disturbing the peace, or unlawful threats of violence; penalties; includes order in Family Code § 6400 issued by another state, order protecting elder or dependent adults, order to relinquish firearm, and Code of Civil Procedure § 527.85 order

§273.65 Violation of restraining and protective orders relating to dependent minors

§273.7 Malicious disclosure of location of DV shelter or human trafficking shelter; misdemeanor; definitions; non-application to attorney-client communications

§273.75 Criminal history search; prior restraining orders

Spousal Abusers

§273.81 Spousal abuser prosecution program

§273.82 Enhanced prosecution efforts and resources

§273.83 Individuals subject to spousal abuser prosecution effort; selection of cases

§273.84 Policies; pretrial release; sentence and reduction of time between arrest and disposition of charge

§273.85 Adherence to selection criteria; orderly submission of information

§273.86 Characterization of defendant as spousal abuser

Child Abduction

§277 Definitions

§278.5 Deprivation of custody of child or right to visitation

§278.6 Aggravation and mitigating factors for sentencing

§278.7 Exception; belief of bodily injury or emotional harm; report by person taking or concealing child; confidentiality

§279.6 Protective custody; emergency protective orders

Registered Sex Offenders

- §290.005 Requires registration for person convicted of specified crimes in any other court; no registration requirement for out-of-state convictions of offenses similar to specified CA offenses unless the out-of-state offense contains all elements of a registerable CA offense
- §290.014 Offenders who are required to register Internet identifiers must update information within 30 working days of any addition or change to an Internet identifier; forwarding by local law enforcement to Department of Justice
- §290.024 Certain offenders must register Internet identifiers; definitions
- §290.95 Registered sex offenders prohibited from residing, working, or volunteering in organizations where they would be unaccompanied with minors

DNA and Forensic Data Bank Act of 1998

- §295 Requirements for DNA Data Bank; felony spousal abusers required to provide DNA samples

Elder or Dependent Adults

- §368 Crimes against elder or dependent adults; infliction of pain and suffering, or endangering health; theft or embezzlement; penalties; definitions

Criminal Threats, Extortion

- §422 Elements of offense; immediate family defined
- §518 Extortion defined; *includes (threatened) certain sexual acts or distribution of certain sexual images*
- §519 Threat to report immigration status is extortion
- §523 Crime to threaten to extort someone in writing, *including introducing ransomware onto computer*
- §526 Separate offense to deliver documents, with extortion threats, that appear to be court orders; *threats include those mentioned in § 518*
- §591.5 Misdemeanor crime to obstruct wireless communication from notifying law enforcement

Gun-Free School Zone Act

- §626.9 No one may possess firearm in school zone, with certain exceptions, *one of which is when someone reasonably believes they are in grave danger due to circumstances forming basis of restraining order*
- §626.92 Exemptions for security guards and honorably retired peace officers

Invasion of Privacy

- §633.5 *Victims of certain crimes, including DV, may legally record confidential communications if reasonable belief they relate to the crime; evidence not inadmissible in prosecutions*
- §633.6 DV restraining order may include permission for victim to record confidential communication made to victim by perpetrator; *victims seeking DVRO may record confidential communications for evidence*
- §637.7 Prohibits, on penalty of misdemeanor, person from using, or employing third party to use, electronic tracking device to locate person without his or her consent, with certain exemptions such as use by law enforcement

§638 Fine for selling telephone records; elements of offense

Stalking

- §646.9 Elements of offense; punishment; definition includes willful harassment, course of conduct; protective order up to 10 years may be issued whether incarcerated, suspended sentence, or probation
- §646.91 Emergency protective order for stalking; may not own, possess, purchase, receive, or attempt to purchase or receive firearm while order in effect
- §646.91a Person enjoined under § 646.91 prohibited from taking action to obtain protected party's or family's location information
- §646.92 Notification to victim or witness of release of person convicted of stalking or DV or change in location or parole status; requires attempts to locate victims whose contact information not correct or who did not originally request notice
- §646.93 Sheriff in county where person is initially incarcerated must have phone number on victims' resource card for public to inquire about bail or release status
- §646.94 Contingent upon appropriation, paroled convicted stalker, deemed high risk, to be placed in intensive and specialized parole supervision program

Annoying Calls and Prostitution

- §647 Solicitation of prostitution or engaging in lewd conduct in public; distributing image of intimate body part of another identifiable person or image of person engaging in sex is disorderly conduct
- §653m Telephone calls with intent to annoy; includes computers, faxes, and pagers
- §653.2 Threats to safety by means of electronic communication device
- §653.22 Loitering with intent to commit prostitution; *minors cannot be charged*

Rights of Victims and Witnesses of Crimes

- §679.015 ***Crime victims and witnesses cannot be detained only for immigration violations or turned over to ICE***
- §679.04 Right of sexual assault or spousal rape victim to have advocates present during examinations and interviews; authorizes exclusion of support person from interview by law enforcement or district attorney
- §679.05 Right of victim of abuse to have DV advocate and support person at interviews, including with prosecutors; circumstances when support person may be excluded; notice of right and confidentiality limitation; definition of advocate
- §679.08 Law enforcement may distribute "Victim Rights" cards
- §679.10 Law enforcement shall certify "victim helpfulness" when victim was victim of qualifying criminal activity & has been helpful, is being helpful, or is likely to be helpful to detection, investigation or prosecution of crime; certification to be processed within 90 days, or within 14 days if victim in removal proceedings
- §679.11 Officials must certify on request "victim cooperation" when requester was victim of human trafficking and has been cooperative, is being cooperative, or is likely to be cooperative regarding investigation or prosecution of human trafficking

Sexual Assault Victims DNA Bill of Rights

- §680 Law enforcement agencies investigating sexual assaults should perform timely DNA testing of rape kits or other evidence; law enforcement agencies may inform victim of status of DNA testing upon request; rights of sexual assault victims, subject to available resources, including whether a DNA match was obtained or DNA evidence was not tested in a timely manner; time requirements to improve speed of forensic evidence processing

§680.1 Department of Justice shall establish process for victims of sexual assault to inquire about location and information of evidence kits

Jurisdiction of Public Offenses

§784.7 Allows territorial jurisdiction for violation of various DV and sexual assault crimes to vest in any jurisdiction where at least one offense occurred if same defendant and victim

Statutes of Limitations, Sex Offenses

§799 Prosecution for rape, sodomy, lewd or lascivious acts, continuous sexual abuse of child, oral copulation, & sexual penetration, committed under certain circumstances, may begin any time; ***applies to crimes committed on or after 1/1/17 and for which statute of limitations has not run as of 1/1/17***

§801.1 Prosecution for violations of §§ 261, 286, 288, 288.5, 288a, 289 & 289.5, for crimes against victims who were under 18, can be brought any time before victim turns 40; applies to crimes committed on or after 1/1/15 or for which the statute of limitations that was in effect prior to 1/1/15, has not run as of 1/1/15; otherwise, prosecution for § 290, subd. (c) must be brought within 10 years of offense

§803 Provides detailed limitations for tolling and running of statutes of limitations

Criminal Procedure: Arrests, Citations, Supporting Person, Defendant in Court

§836 Arrests by peace officers with or without warrants; DV, noncompliance with protective orders, carrying concealed firearm; determination of “dominant aggressor” in cases of mutual protective orders

§851.91 ***Except in certain circumstances, if arrested but not convicted can petition court to seal record, including pattern of DV and upon showing sealing would serve interests of justice***

§853.6 Misdemeanors; release procedures; notice to appear; contents; procedure upon violation of DV protective order; evidence of identification; grounds for non-release; recommendation of dismissal; appearing before magistrate rather than bail release in most cases

§868.4 ***Certain witnesses and victims, including DV victims, may bring therapy or facility dog to court, subject to court approval***

§868.5 Support person; attendance during testimony of prosecuting witness; offenses include human trafficking, prostitution, child exploitation, obscenity, kidnapping with intent to commit robbery or sex offenses, some sex offenses involving children under 10, criminal threats, stalking

§964 Protection of confidential personal information of witness or victim contained in police report, arrest report, or investigative report submitted in criminal complaint, indictment, or information, or in support of search or arrest warrant

§977 Presence of defendant in court; exception; presence of counsel; persons accused of misdemeanor offenses involving DV must be present for arraignment, sentencing and when ordered by court to be informed of protective order

§1050 Expediting trial; continuances; must show good cause for continuances in DV cases; includes stalking; authorizes one continuance not to exceed 10 days; hate crime included as crime that constitutes “good cause” for continuance

Probation and Batterers’ Intervention Programs

§1170 Legislative findings; Dep’t of Corrections & Rehabilitation should allow eligible inmates opportunity to enroll in programs for successful return to community

- §1170.05 Voluntary alternate custody program for female inmates
- §1170.76 Sentencing; DV cases w/ children witnesses, court must consider as aggravation
- §1201.3 Court may issue to minor victims of sexual assault no-contact protective order up to 10 years restraining convicted offender from contacting victim or their family
- §1202.4 Restitution fines; amount; requires financial disclosure if unpaid restitution balance within 120 days of end of probation or sentence; special provisions for victims of human trafficking
- §1202.45 Court must assess additional post-release community supervision revocation restitution fine or mandatory fine in every conviction if subject to post-release community supervision or mandatory supervision, for Restitution Fund
- §1202.8 Registered sex offenders on probation or conditional sentence who have a State Authorized Risk Assessment Tool for Sex Offenders risk level of high shall be continuously electronically monitored while on probation; monitoring device shall employ the latest available proven effective monitoring technology
- §1203.065** Courts may not grant probation or suspend sentence if conviction is for rape by force, pandering, aggravated sexual assault of child, other crimes, ***including rape, sodomy, penetration with foreign object, or oral copulation if victim unconscious or incapable of giving consent due to intoxication***
- §1203.097 Terms of probation for DV conviction or DV relationship: defendant must attend weekly sessions of batterers' intervention program (BIP), excuses for good cause, complete within 18 months; standards for BIPs; minimum fee \$500: one-third to State DV Restraining Order Reimbursement Fund, State DV Training and Education Fund, two-thirds to county DV programs; if after hearing, court finds defendant does not have ability to pay and chooses to waive or reduce fee, must state reason on record; cannot be reduced for time served
- §1203.098 Batterers' intervention programs; facilitators must meet minimum training requirements, continuing education; exceptions
- §1203.3 Probation; revocation, modification or termination and discharge; conditions; revocation at time of escape; hearing; protective order that is term or condition of probation in DV case may not be modified without notice to prosecutor; court limiting or terminating restraining order must consider changes in circumstances, whether good cause exists

Prostitution

- §1203.47 Ward of court may petition to seal prostitution charges records; if convicted as minor can petition to seal records without showing moral turpitude or rehabilitation

Possession of Date Rape Drugs

- §1210 Defines "nonviolent drug possession offense" as unlawful personal use, possession for personal use, or transportation for personal use of any controlled substances on Schedules I to V

Victim Access to Restitution Information

- §1214 Enforcement of fine or restitution order; victim's access to resources for such

Miscellaneous Proceedings

- §1269c Increase or reduction of bail; peace officer may request higher bail in DV cases
- §1270.1 Bail release for violation of protective and restraining orders; hearing required only if detained person allegedly made threats to kill or harm, engaged in violence against, or went to residence or workplace of, protected party

- §1319.5 Specified persons, *including anyone arrested for DV*, may not be released on their own recognizance, except by the court
- §1328 Authorizes court with jurisdiction over case to appoint guardian ad litem to receive service of subpoena of child and power to produce child in court
- §1335 Conditional examination of witness by defendant in DV case when evidence that witness's life in jeopardy or being dissuaded from testifying
- §1377 Authority to compromise misdemeanors for which victim has civil action; exceptions include DV, elder abuse, and child abuse cases
- §1463.27 \$250 fee upon conviction for specified crimes of DV, for DV prevention programs for immigrants, refugees, rural communities

Writ of Habeas Corpus

- §1473.5 Writ of habeas corpus may be prosecuted if intimate partner battering and its effects was not in evidence, and had it been, reasonable probability that result would have been different; limited to violent felonies in § 667.5, subd. (c); applies to plea entered or trial beginning before 8/29/96; writ may also be prosecuted if competent and substantial expert testimony not presented

Search Warrants

- §1524 Authorizes issuance of search warrant when property to be seized includes firearm on premises of person arrested in connection with DV; search warrant for firearms or ammunition of person subject to gun violence RO
- §1542.5 Requirements for taking firearms or ammunition seized under § 1524

Length of Imprisonment and Paroles

- §3003 Inmate paroled after stalking not to be released within 35 miles of victim's residence or place of employment, upon request, under certain conditions
- §3003.6 Registered sex offenders prohibited from residing (except as a client), working, or volunteering in community care facilities for minors under 18
- §3043.25 Victim or next of kin can appear at parole hearing by videoconferencing
- §3058.61 At least 45 days prior to release of anyone convicted of stalking, Dep't of Corrections must notify local law enforcement and district attorney in community where person convicted and where person will be released
- §3058.65 At least 60 days prior to release of any one convicted of child abuse, child sex offense, or DV, Dep't of Corrections must notify family of parolee and county child welfare services if they request notification
- §3058.8 Must also send notification to victims of violent crime as covered by § 679.03

County Jails

- §4024.4 Victim notification; release from local detention facilities; liabilities

Reprieves, Pardons, and Commutations

- §4801 Board of Prison Terms may consider evidence of intimate partner battering; parole board must give great weight to any information that prisoner experienced intimate partner battering and convicted prior to 8/29/96; board cannot use evidence to find prisoner lacks insight into crime and causes; board must include specific findings from cases in annual report

State Correctional System

- §5075.5 Commissioners considering parole suitability or setting of release date; training on DV and intimate partner battering

Firearms Information for Victims

§11106 Peace officers may inform DV victims of DV defendant’s firearm information recorded in Dept. of Justice registry

Report of Injuries

§11161 Physician’s or surgeon’s reporting duties
§11161.2 The Office of Emergency Services (CalOES), in cooperation with various agencies, is authorized to establish medical forensic forms, instructions, and examination protocol for victims of DV and elder or dependent adult abuse and neglect; lists criteria
§11162.5 Definitions
§11163.3 DV; interagency death review teams; autopsy protocol; reporting procedure; confidentiality; disclosure; authorizes disclosure of otherwise confidential or privileged information within team or to team
§11163.4 DV; death review teams; design protocol
§11163.5 DV; death review teams; Dep’t of Justice responsibilities for cooperating departments; authorized activity; directory
§11163.6 Authorizes death review team to collect and summarize data regarding statistical occurrences of specific circumstances of deaths from DV

Child Abuse and Neglect Reporting Act

§11165.12 Definitions of “unfounded report,” “substantiated report,” and “inconclusive report”
§11165.5 Abuse and neglect in out-of-home care; includes physical injury inflicted by other than accidental means
§11165.6 “Child abuse and neglect” defined
§11165.7 Defines “mandated” child abuse reporters to include employees, administrators of postsecondary institutions whose duties bring them in contact with children on regular basis; plus athletic coaches, administrators, and directors
§11165.9 Specifies how child abuse cases are to be reported
§11166 Child abuse reporting; reporting may be by fax or electronic transmission; “reasonable suspicion” for mandatory reporter does not have to include certainty of child abuse or neglect, or medical indication of abuse and neglect
§11166.05 Mandated reporter who has knowledge of or reasonably suspects mental suffering has been inflicted on child, or emotional well-being of child is in danger, may report
§11169 Police department, sheriff’s department, county probation department, and county welfare department must forward to Dep’t of Justice substantiated reports of child abuse and severe neglect; person listed on CACI (see § 11170) has right to agency hearing; due process requirements for hearing
§11170 Child Abuse Central Index (CACI) includes information of substantiated reports
§11172 Civil and criminal immunity for mandated reporters required or authorized to make reports; claim for reasonable attorney’s fees

Elder Death Review Teams

§11174.4 Defines “elder” and “abuse”
§11174.6 Team comprised of certain state and local agency staff and private entities
§11174.8 Procedures for sharing and disclosure of information

Department of Justice Annual Report

§13012 DOJ's annual report to Governor to include information on amount and types of known offenses

Law Enforcement Officer Training

§13515 Law enforcement training on elder abuse

§13519 Training courses and guidelines for handling DV; requirements

Law Enforcement's Response to Domestic Violence

§13700 Definitions of abuse, DV, officer, and victim

§13701 Written policies and standards for DV cases; encourage arrest of offenders, discourage (but not prohibit) dual arrests, identify dominant aggressor (defined as most significant, not first, aggressor); publication of such standards and DV resources/information, including *informing victims of harm from strangulation*

§13702 Written policies and standards for dispatchers' response, ranking DV calls among highest priority

Law Enforcement's Response to Restraining Orders

§13710 Record of orders; enforceability of conditions; service on restrained party

§13711 Court pamphlet to person protected by order containing victim's responsibility, conditions for enforceability, and jurisdiction for enforceability

Data Collection by Law Enforcement Agencies

§13730 Recording system for DV calls; monthly and annual reports; incident report form; some reports must include if inquiry made regarding whether firearm or deadly weapon at scene *and whether strangulation occurred*; any firearm or deadly weapon discovered must be confiscated

§13732 Legislative findings and declarations regarding DV and children, and preventing child abuse and DV; protocol for coordinated response to DV where child resides

Family Justice Centers

§13750 All cities, counties, and/or community-based nonprofit organizations authorized to establish accessible family justice centers to help victims of abuse; centers required to consult with various professionals to develop certain procedures

California Council on Criminal Justice

§13823.3 Office of Emergency Services can fund local DV programs

§13823.4 Family violence prevention programs; funding; information and materials

§13823.7 Protocol for medical treatment of sexual assault victims; report to law enforcement, patient consent, examination, and evidentiary preservation

§13823.93 Hospital-based training centers on evidentiary examinations; training centers to provide training in victimization including intimate partner battering

§13823.13 Office of Emergency Services must develop, with expert consultation, a statewide training for health care professionals on treatment of sexual assault victims; training course criteria

§13823.15 Comprehensive Statewide Domestic Violence Program; goals and services; funding and requirements; training workshops; information and materials; expanded services to meet needs of unserved and underserved communities

§13823.16 Office of Emergency Services shall collaborate with advisory council of DV victims' advocates, representatives of women's organizations, law enforcement, and other DV groups

- §13823.17 Access to DV education, prevention, and services for LGBT community; Prevention and Services for Domestic Abuse Fund grant program and criteria
- §13823.7 Protocol for medical treatment of victims of sexual assault
- §13823.13 Office of Emergency Services encouraged to designate training course for health care professionals
- §13823.95 Victims of sexual assault who request medical evidentiary examination will be provided one; examination not chargeable to victim

California Community Crime Resistance Program

- §13844 Activities allowed; initiation and expansion of local crime prevention efforts; support of new techniques; utilization of volunteers; citizen involvement

Victims' Legal Resource Center

- §13897 Legislative findings and declarations
- §13897.1 Resource center establishment; statewide toll-free information number; "provider of services to crime victims" defined
- §13897.2 Grant of award; private, nonprofit organization; duties of center; subgrantee compensation; confidential records

Witness Protection Program

- §14020 Establishes Witness Protection Program
- §14021 Definitions of "witness," "credible evidence," and "protections"
- §14022 Designates Attorney General as administrator of program
- §14023 Special regard given to certain victims, including those of DV

Violent Crimes Against Women

- §14141 County task forces on violent crimes against women; purposes
- §14142 County task forces; evaluations and recommendations
- §14143 County task forces; membership

Community Conflict Resolution Programs

- §14152 Referral of cases by DA to community conflict resolution programs

Firearms

- §18250 Persons who must take temporary custody of deadly weapons lawfully discovered at scene of DV, during service of protective order, or service of gun violence restraining order
- §18255 Officer must provide receipt for confiscated firearms
- §18265 Confiscated firearms must be held for at least 48 hours; release of firearms
- §18400 Law enforcement agency believing return of firearm would harm DV victim must advise weapon's owner and initiate court petition to determine whether to return firearm; petition may be ex parte, and must be filed within 90 days of firearm seizure
- §26350 Crime of openly carrying unloaded handgun; scope; penalty
- §26370 ***§ 626.9 is not affected by § 26350***
- §26400 Crime of openly carrying unloaded firearm that is not handgun; scope; penalty
- §26405 ***Circumstances in which § 26400 does not apply***
- §27585 Requirements for importation of firearms into state; exclusions
- §29805 Unlawful to have any firearm within 10 years of conviction of some misdemeanors, such as DV, battery, and assault, or if outstanding warrant

- §29855 Peace officer may ask court for one-time exemption from gun ban in DV charge; preponderance of evidence standard; procedure; considerations and conditions
- §29860 Anyone prohibited under § 29805 may ask court for one-time exemption
- §30020 DOJ must complete initial review of match in daily queue of Armed Prohibited Persons System within 7 days of match being placed in queue and periodically reassess department's review efficiency

REVENUE & TAXATION CODE

Personal Income Taxes and Voluntary Contributions

- §18711 Individuals may designate on tax returns that specified amount in excess of tax liability be transferred to California DV Victims Fund
- §18713 California DV Victims Fund allocation to Office of Emergency Services for distribution to active non-profit DV programs; restrictions
- §18897 School Supplies for Homeless Children Fund may be used for homeless children living in DV shelters; nonprofit organization may provide school supplies & health-related products to homeless children; time period for School Supplies for Homeless Children Fund to appear on tax return extended to 1/1/22

UNEMPLOYMENT INSURANCE CODE

Contributions and Reports

- §1030 Employers' right to disclose certain reasons for claimant's departure or termination (including for claimant to protect self or family from DV abuse); department ruling and appeal procedure; presumption of departure with no good cause in certain cases
- §1256 Disqualification from unemployment benefits if terminated or departing voluntarily without good cause; circumstances constituting good cause, including leaving employment to protect family or self from DV

VEHICLE CODE

Confidentiality of DMV Records for Safe at Home Participants

- §1808.21 Residence and mailing address confidentiality; suppression of registration or driver's license records available to Secretary of State program participants, and to victims of stalking or serious threats; department and subject must verify requests for suppressed records; suppression duration and renewal

License Plates

- §4467 Procedure for issuing new and different license plates for vehicle of victim of DV, stalking, rape, sexual battery, or protected party

Special License Plates

- §5156.5 DV and sexual assault awareness license plate program; fees to be used to fund the Family Violence Prevention Program and sexual assault services programs

Violation of Code

- §40008 Person who violates § 23103 (reckless driving), or other specified laws, with intent to capture visual image, sound recording, or other physical impression of another person for commercial purposes is guilty of misdemeanor; enhanced penalty if minor endangered

WELFARE & INSTITUTIONS CODE

Juvenile Court Law

- §213.5 Ex parte restraining or protective orders during pendency of proceedings to declare child dependent of juvenile court; notice and hearing; expiration; mailing to local law enforcement agencies; violation; criminal records search; allows for entry of orders directly into CLETS; notice requirement for early termination or modification of protective order
- §213.6 Service by mail of temporary restraining orders allowed if served with notice of hearing and fails to appear
- §213.7 Party enjoined under §§ 213.5, 304, 362.4 or 726.5 prohibited from taking action to obtain protected party's or family's location information
- §218.5 DV training mandatory for all counsel performing duties under this chapter

Dependents of the Juvenile Court

- §300 Minors subject to jurisdiction for specified reasons
- §302 Reports filed by probation officer in juvenile court on dependency matters shall keep address of victims of DV confidential
- §304 Issuance of restraining order when a minor has been declared dependent
- §309 Exceptions for social worker to notify relatives of child removed from home when history of DV would make notice inappropriate
- §328 Social workers should not draw inferences regarding credibility of allegations of child abuse from fact that they were made as part of custody or visitation dispute, but should treat all such allegations the same; other obligations
- §332 Dependency petition shall not include address of victim-parent of DV if that parent lives separately from batterer-parent; other petition requirements
- §349 Minor must be properly notified of their own hearing; other requirements
- §361 Limitations on parental or guardian control, per the court; grounds for removal of child; non-offending parent allowed to submit safety plan demonstrating ability to protect child
- §361.5 Reunification services between the child(ren) and parent(s) must be provided in certain instances, and must not be provided in certain instances, including but not limited to severe physical or sexual abuse
- §362.1 Juvenile court may keep minor's address confidential in visitation order; prohibits visitation with parent convicted of first degree murder of child's other parent unless certain conditions exist
- §362.4 Issuance of protective order when juvenile court terminates jurisdiction
- §366.22 Court must determine whether agency that's placing dependent child has made reasonable efforts to maintain relationships with individuals important to child; permanency hearing requirements
- §391 Requirements in hearings to terminate jurisdiction over dependent child

Temporary Custody and Detention of Wards

§628 Probation officer duties; exception to notify relatives of child removed from home when history of DV

Judgments and Orders for Wards

§726.5 Juvenile court may issue restraining order, determine parentage, custody, and visitation if minor is ward and proceedings are pending to determine custody or for dissolution of parents' marriage; duration and filing of orders

§728 Juvenile court may determine guardianship or modify previous order under Probate Code, when child is subject of petition filed under § 300, 601 or 602

Repeat Offender Program

§746 Factors for selecting minors for Repeat Offender Prevention Project, including DV and child abuse or neglect

Juvenile Records

§827 Limited dissemination and inspection of juvenile records; exceptions; misdemeanor to violate confidentiality provisions

Developmental Services

§4427.5 Duty to report abuse for developmental center and State Department of Developmental Services-operated facilities

Sexually Violent Predators

§6608 Conditional release and outpatient status for sexually violent predators (SVP); petition and hearing requirements

§6609.1 Notice to law enforcement accompanying petitions for release for sexually violent predators; agency and department comment procedures; notice to law enforcement regarding Dep't of State Hospitals' recommendations; notice required with release of sexually violent predator; parole arrangements

California Work Opportunity and Responsibility to Kids (CalWORKs) Act of 1997

§10531 DV training for welfare workers

§10544 Worsened county outcomes; federal penalties on state and counties

§**11253.5** Requires children of parents applying for or participating in welfare-to-work to attend school in certain instances, with certain exceptions for "good cause," **including applicant or recipient in DV situation**

§**11265.8** Applicants and recipients must document some children's immunization, unless "good cause," **like not having access to immunization services due to DV**

§11273 Homeless assistance subject to restricted payments; mismanagement does not include non-payment of rent if due to DV

§11274 Restricted payments for TANF (formerly AFDC) on behalf of recipient to provider of shelter or utilities when recipient has been victim of DV

§11327.5 Sanctions for failure to comply with program requirements without good cause

Family Violence Option: Domestic Violence and Welfare (Government Benefits, or TANF)

§**11450** Among other things, sets standards for calculating welfare-to-work aid amounts and who is eligible for temporary and permanent homeless assistance, **including when homelessness is result of DV, under certain conditions**

§11450.12 Income cap for aid eligibility

§11495 Special provisions for victims of DV

- §11495.1 DV task force formation; develop protocols for cases involving DV
- §11495.15 Program requirements may be waived for victims of DV
- §11495.16 *All CalWORKs applicants and recipients must be informed verbally and in writing of availability of DV services***
- §11495.17 *Dep't of Social Services must report to Legislature annually how many CalWORKs recipients are DV victims, and other items***
- §11495.25 Methods of establishing abuse
- §11495.40 Adoption of model curriculum for DV training for welfare workers
- §13283 Non-citizen victims of trafficking, DV, and other serious crimes; access to refugee cash assistance and refugee employment social services

Civil Actions for Elder and Dependent Adults

- §15657.03 Elder and dependent adults may obtain protective orders against unrelated abusers, for abuse suffered; orders may be brought by conservator or other authorized persons; orders subject to warrantless arrest provision; law enforcement service of order
- §15657.04 Enjoined party under § 15657.03 prohibited from taking action to get protected party's location information

Child Welfare Training

- §16206 Training on DV mandated for CPS social workers and other agencies contracting with county welfare departments to provide child welfare services
- §16208 Emergency Response Protocol (statewide telephone screening for emergency response referrals to prevent child abuse) must include DV assessment

Sexually Exploited Minors Pilot Project

- §18259 Pilot project for treatment of commercially sexually exploited minors detained by law enforcement in Alameda County

Domestic Violence Centers Act (DV Shelters)

- §18290 Legislative finding re need for innovation in reducing DV trauma; intent to reduce serious DV injuries and provide victims a place to escape
- §18291 Definitions of "domestic violence," "cohabitant," "domestic violence shelter," and "undisclosed"
- §18293 Funding eligibility for DV shelters; priority, approval, and monitoring; prioritizing DV victims with disabilities
- §18294 DV shelter program design; services to victims and their children
- §18295 Additional services of DV shelters
- §18296 Cooperation with other agencies; advocacy capacity
- §18297 Community support and acceptance encouraged; maximize volunteer use
- §18298 Bilingual personnel encouraged, as are formerly battered persons
- §18300 Annual report; content; availability to public
- §18301 Confidentiality; county may not require DV shelter-based program to disclose information of confidential location of shelter, or location or identity of shelter resident, employee, or volunteer
- §18304 Authority to establish programs; combined programs with adjacent counties
- §18305 Marriage license fee (\$23) to be used for DV shelter fund; allocation of fee; quarterly accounting
- §18306 County board of supervisors must consult with DV coalition regarding new and existing DV shelters
- §18307 County carry over of § 18305 funds for special fund, for basic shelter services

- §18308 Contra Costa County special fund using certain fees for DV and family violence prevention, prosecution, and intervention
- §18309 Alameda County special fund using certain fees for DV and family violence prevention, prosecution, and intervention; City of Berkeley special fund using certain fees for the same
- §18309.5 Solano County special fund using certain fees for DV and family violence prevention, prosecution, and intervention

CalFresh Benefits

- §18904.25 Information on expedited services to DV victims and others; trainings for homeless shelters; applications by unaccompanied minors
- §18914.5 DV victims living in shelter, or on waitlist for one, who are included in a certified household with their abuser are entitled to separate additional CalFresh benefits, with expedited service

Services & Benefits for Non-citizen Victims of Trafficking, DV, and Other Serious Crimes

- §18945 Eligibility requirements; visa application requirements

RESOLUTIONS

- SCR-16 February 2017 is Teen Dating Violence Awareness and Prevention Month***
- ACR-56 April 2017 is Sexual Assault Awareness Month; 4/26/17 is Denim Day California (wear jeans to communicate message that rape is unacceptable)***
- ACR-59 October 2017, and each following October, is Domestic Violence Awareness Month***