

California Domestic Violence Law Compendium 2017



Produced by
The California Partnership to End Domestic Violence
1107 9th Street, Suite 910
Sacramento CA 95814
Phone: 916.444.7163
Fax: 916.444.7165
www.cpedv.org

Family Violence Appellate Project
1814 Franklin Street, Suite 805
Oakland CA 94612
Phone: 510.858.7358
www.fvaplaw.org



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 California Partnership to End Domestic Violence 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 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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Please note that text in italics and bold is new for this year.

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BUSINESS AND PROFESSIONS CODE

Government Reports

§4934.1 No longer requirement for certain state agencies to submit particular reports to Legislature and other state agencies

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

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 a person's gender identity and gender expression; gender, gender identity, and gender expression among enumerated characteristics protected

Right to Sue an Abuser in a Civil Suit

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

§52.5 Victims of human trafficking may bring action for damages, injunctive relief and attorney's fees; victim can be awarded treble damages up to \$10,000; 5 year statute of limitations to bring suit, can be tolled for certain circumstances

§1708.6 A person is liable for tort of DV if plaintiff proves defendant inflicted injury resulting from abuse

§1708.7 Stalking includes pattern of conduct intended to place plaintiff under surveillance, plaintiff may show emotional distress

§1708.85 7/1/15: Civil right of action for distribution of revenge porn

Disclosure of Personal Information

§1798.79.8 Definition of "personally identifying information" and "victim 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 Prohibits landlord from terminating or failing to renew tenancy based on DV, sexual assault, or stalking; requires landlord to change locks, tenant's right to change locks without permission

§1941.6 Same as above but applies when restrained party is tenant of same unit as

- protected tenant
- §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 and elder abuse protective orders, until Jan 1, 2016 statements from tenant and by health practitioner or counselor/caseworker included in the list of accepted documentation for which a tenant may terminate tenancy; *provisions extended indefinitely; reduces time limit for tenant to give notice of intent to vacate to landlord under these provisions from 30 days to 14 days.*

CODE OF CIVIL PROCEDURE

Incidental Powers and Duties of Courts

- §128(e) Powers of court; contempt when victim of DV refuses to testify; execution of sentence

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

Other Provisional Remedies in Civil Actions

- §527.6 Harassment; temporary restraining order and injunction; 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
- §527.8 Court must deny or continue the hearing to modify or terminate action if notice requirement not met
- §527.85 Court can authorize another method of service that is reasonably designed to afford actual notice to protected party

Youth Restraining Orders

- §372(b) Minors 12+ can file for Restraining Orders without a guardian ad litem, parent or attorney

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

- §527.85 Chief administrator or employee of postsecondary educational institution may seek TRO on behalf of student, volunteers, employees re entire campus
- §527.9 Persons subject to Protective Orders and Emergency Protective Orders must relinquish firearms within 24 hours
- §527.10 Persons subject to Protective Orders and Emergency Protective Orders may not obtain address or location of protected party; includes location of persons protected by workplace violence protection orders

Tenancy

- §1161 Presumption that batterer has committed nuisance on premises, allowing batterer to 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; law can be used while forms are changed

Contempt

- §1218 District Attorneys may initiate contempt action against party failing to comply with court order under Domestic Violence Protection Act
- §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 confidential under §1037.2 Evidence Code

Change of Names

- §1277 Name change; filing; publications; if petitioner is in address confidentiality 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

COURT RULES

Judicial Council Standing Advisory Committee

- Rule 1024 Family and Judicial Advisory Committee

Family Law Rules

- Rule 1216 Summons; restraining order

Domestic Violence Training Standards

- Rule 1257.7 Requires all court-appointed child custody evaluators and investigators to complete DV training; establishes training standards

Juvenile Court Rules

- Rule 1458 Restraining orders before and after declaration of dependency
- Rule 5.230 Requires all court-appointed child custody evaluators and investigators to complete DV training; establishes training standards

Appendix - Standards of Judicial Administration

- §26 Uniform Standards of Practice for Court-Connected Mediation of Child Custody and Visitation Disputes
- §26.2 Uniform Standards of Practice for Providers of Supervised Visitation

EDUCATION CODE

Definition of Gender

- §200 In public schools, gender identity and gender expression are protected categories against discrimination
- §210.7 Definition of “gender” and “gender expression”
- §32228 Legislative intent and policies of the state
- §47605.6 Parameters for charter schools

Safe Place to Learn Act

- § 234 Local educational agencies required to adopt policies to prohibit discrimination, harassment, violence, intimidation, and bullying

Healthy Relationships and Teen Dating Violence Prevention

- §32205 School districts authorized to provide education programs to promote healthy relationships and prevent teen dating violence to pupils grades 7 to 12
- §32230 School districts can provide teen dating violence prevention education consisting of age-appropriate instruction to pupils grades 7 to 12; can use school district personnel or outside consultants; parent or guardian has right to excuse child from program

Carl Washington School Safety and Violence Prevention Act

- §32228 Funding for public schools serving pupils in grades 8-12 to establish programs and strategies that promote school safety and violence prevention

The Learning Communities for School Success Program

- §33430 *Implements funding program for Safe Neighborhoods and Schools Act*

School Curriculum

- §33544(a) When “Health Framework for California Public Schools” is next revised after 1/1/16, commissioner shall consider including comprehensive information for grades 9 - 12, inclusive, on sexual harassment and violence
- §33546 *Instructional Quality Commission to consider including during next revision of health framework after 1/1/17 comprehensive info for K-8 on developing healthy relationships*

Bullying

- §48900 *Students may be suspended or expelled for cyberbullying*

Courses of Study, Grades 7 to 12

- §51223.3 State Board of Education to add safety instructions and self-defense in next revision of physical education framework for grades 7 – 12

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 shall compile records of crimes, provide upon request
- §67386 To receive state funds, postsecondary institutions must have protocols to address sexual assault and DV, including education re affirmative consent

Donahoe Higher Education Act

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

ELECTIONS CODE

Registration

- §2166.5 Voter information registration confidential for participant in Address Confidentiality for Victims of DV, Sexual Assault, and Stalking program

EVIDENCE CODE

Words and Phrases Defined

- §240 Defines “unavailable” witness; includes 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 Expressly authorize the court to provide a court interpreter in any civil action or proceeding at no cost to the parties, regardless of the income of the 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; adds communication made in course of sexual assault victim-counselor or DV victim-counselor relationship
- §952 Confidential communication between client and lawyer; communication between persons in privileged relationship does not lose privilege if communicated by electronic means

Domestic Violence Victim-Counselor Privilege

- §1037 "Victim"
- §1037.1 DV Counselor; qualifications; definition of DV service organization; definition of "undisclosed"

- §1037.2 Confidential communication: any information including but not limited to, written or oral communication; compulsion of disclosure by court; claim of privilege
- §1037.3 Child abuse; reporting
- §1037.4 "Holder of the privilege"; 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"
- §1037.8 Informing DV victims of limitations of confidentiality; information 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 Intimate Partner Battering 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 & 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 Section 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
- §240 Application of part
- §240.5 Issuance of temporary restraining order by judge of municipal court
- §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
- §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, use of fees, requirements for filing as domestic partner
- §298.5 Filing Declaration of Domestic Partnership with Secretary of State

Marriage

Marriage Licenses

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

Conciliation Proceedings

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
- §1830 Jurisdiction of Family Conciliation Court
- §1833 Contents of petition
- §1834 Assistance in preparing and presenting petition; coextensive jurisdiction in cases of DV

Nullity, Dissolution and Legal Separation

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 TRO, notice, contents, definitions; party seeking TRO shall provide information for court to notify biological parent of child residing in household of party against whom TRO sought
- §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
- §2348 Court clerk must provide annual reports re number of dissolutions, separations and annulments and number involving child custody, visitation or support; annual report by Judicial Council
- §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

- §3000 Application of definitions
- §3002 "Joint custody"
- §3003 "Joint legal custody"
- §3004 "Joint physical custody"
- §3006 "Sole legal custody"

§3007 "Sole physical custody"

General Provisions

§3011 Factors considered, including domestic abuse, in determining best interest of child; policy to assure minor children have contact with both parents; 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 and declarations; health, safety and welfare of children primary concern in determining best interest of child; child abuse and DV detrimental to children

§3021 Application; non-parent can be denied custody or visitation in a §6323 action (Domestic Violence Prevention Act)

§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 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 physical custody of parents, can be placed with parent, legal guardian, or relative regardless of that person's immigration status; court can extend review hearings for terminating parental rights of independent child if parent has immigration problems

§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; sexual abuse of child authorizes 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 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;

- §3101 confidentiality of shelter location; specific order of precedence for RO
- §3103 Visitation rights of stepparent
- §3110.5 Visitation rights of grandparent
- §3111 Qualifications for child custody evaluator includes DV and child abuse training
- §3113 Child custody evaluation may be considered by court only if conducted in accordance with minimum requirements
- §3118 Separate meetings for DV cases mandated if victim requests this in custody evaluation process
- §3118 Evaluation of child abuse allegation in contested proceeding for child custody or visitation
- §3120 Attorney's fees to be ordered when married parties not filing dissolution and one party cannot pay for attorney but other can, in action for exclusive custody
- §3134.5 Additional provisions for temporary restraining orders in divorce proceeding; parties cannot apply for passport for minor without consent of other party or order of court; court authorized to freeze CA assets of party with child
- §3164 Qualifications of mediator includes DV training
- §3170 Family Court Services must adopt DV protocols
- §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 Order requiring counseling for parents and child(ren)
- §3192 Judge may order separate counseling where DV order in effect

Supervised Visitation and Exchange Services

- §3200 Standards for Supervised Visitation programs
- §3200.5 Standards for professional and non-professional supervised visitation providers
- §3201 Family law court may establish programs for supervised visitation and exchange, education programs and group counseling for parents and children
- §3203 Family law division may establish and administer supervised visitation and exchange programs
- §3204 Judicial Council shall administer grant funds

Uniform Child Custody Jurisdiction and Enforcement Act

- §3402 Definitions; includes protection from DV
- §3421 Jurisdiction
- §3424 Temporary emergency jurisdiction; includes cases involving DV
- §3427 Before court declines to exercise jurisdiction and decides that another state is more appropriate forum, must consider if DV has occurred, is likely to continue, which state could best protect parties and child
- §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 sections 4320 and 4325 (DV conviction)

Spousal Support

- §4320 Considerations in ordering spousal support; evidence of DV resulting in emotional distress, criminal conviction of abusive spouse shall be considered in reducing or eliminating support; court must consider when spouse convicted of violent sexual felony against other spouse, injured spouse not required to pay convicted spouse's attorney's fees; injured spouse entitled to all community property interest in retirement and pension benefits; no contest plea included within evidence of DV to be considered by court
- §4324 No spousal support when supported spouse convicted of attempted murder of other spouse
- §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
- §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 in rebutting presumption

Uniform Interstate Family Support Act

- §4977 Procedures and requirements; prohibits disclosure of identifying information upon application
- §4978 Additional requirements of support enforcement agencies; seeking order prohibiting disclosure; non-disclosure of identifying information

Domestic Violence Prevention Act

Title and Definitions

- §6200 Domestic Violence Prevention Act
- §6201 Application of definitions
- §6203 "Abuse"
- §6205 "Affinity"
- §6209 "Cohabitant"
- §6210 "Dating Relationship"
- §6211 "Domestic Violence"
- §6215 "Emergency Protective Order"
- §6218 "Protective Order"
- §6219 Courts in San Diego and Santa Clara Counties, and other courts if able and willing, may develop demonstration project to identify best practices in civil, juvenile and criminal court cases involving DV

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
- §6226 Judicial Council forms and instructions
- §6227 Remedies cumulative

- §6228 Victim or personal representative of victim of DV may obtain copy of DV incident report; personal representatives include victim’s attorney, guardian, conservator, and immediate family members; ***victims of sexual assault, stalking, human trafficking, or abuse of elder or dependent adult may obtain copies of their incident reports***
- §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
- §6250 Grounds for ex parte Emergency Protective Order
- §6250.3 Requirements for judicial officer to issue Emergency Protective Order
- §6260.5 Persons able to issue Emergency Protective Orders include community college and school district police
- §6251 Findings required to issue order
- §6252 Orders 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
- §6253 Contents of order
- §6254 Availability of Emergency Protective Order
- §6255 Issuance of ex parte Emergency Protective Order.
- §6256 Expiration of order
- §6257 Application for more permanent restraining order
- §6270 Reducing order to writing and signing order
- §6271 Service, filing and delivery of order
- §6272 Means of enforcement; protection of officer from liability
- §6273 Officer to carry copies of order
- §6274 Emergency Protective Orders for stalking
- §6275 Notification of Emergency Protective Orders

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; length of time since abuse not determinative
- §6302 Notice of Order
- §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
- §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 from 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 Order denying petition for ex parte order must include reasons for denial; order denying jurisdictionally adequate petition must provide petitioner right to noticed hearing
- §6321 Orders excluding party from dwelling
- §6322 Order enjoining 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; any custody orders made pursuant to restraining order continue after termination of order
- §6324 Order determining temporary use of property and payment of debts
- §6325 Restraints on community, quasi-community, and separate property of married persons
- §6325.5 Ex-parte restraints on ability to make changes to life insurance
- §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 re 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
- §6342 Order for restitution for loss of earnings and out of pocket expenses
- §6343 Court may order restrained person to participate in batterer's program as approved by probation department; court shall develop resource list and provide it to each applicant for protective order; restrained party ordered to participate in batterers program must register by specified deadline, sign consent forms, including proof of enrollment for court, protected party, and their attorney
- §6345 Duration of personal contact, stay-away, and residence exclusion orders contained in court order; renewal of orders; orders can last up to five (5) years and may be renewed without further showing of abuse; failure to state expiration date on face of form. Notice requirement for early termination or modification of protective order
- §6346 Custody or visitation after action is filed to establish parent-child relationship

Orders Included in Judgment

- §6360 Judgments which 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 Availability of information concerning Order

- §6383 Service of protective order by law enforcement; specific priority of multiple orders; subject to provisions of (h) and (i) of section 136.2: precedence to emergency protective order, then no-contact order, then most recent criminal court order, then civil court order
- §6384 When personal service not required
- §6385 Notice to Department of Justice
- §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 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

Judicial Council Report

- §6390 Judicial Council to conduct study of Domestic Violence Courts and report to Legislature by March 1, 2000

Uniform Interstate Enforcement of Domestic Violence Protection Orders Act

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

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"
- §7605 Orders for party to pay to ensure other party's access to legal representation in proceeding related to establishing physical or legal custody of child
- §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 other restraining order

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 (Penal 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

Family Law Information Centers

- §15010 Allows establishment of 3 pilot family law information centers to provide resources to low income family law litigants

Support Services

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, notifying parents of children in juvenile court proceedings, to establish parent and child relationships and to assess placing child with noncustodial parent

GOVERNMENT CODE

California Prompt Payment Act

- §927.1 State of California must pay penalties to grantees for late payments

Notice of Service of Protective Order

- §6103.3 Notice 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
- §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 personal 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 on Internet personal information of a participant, subject to civil penalties
- §6209.5 ***Participants entitled to notice containing specified information, including using address designated by Secretary of State on real property deeds, change of ownership forms, & deeds of trust when purchasing or selling home***
- §6215.10 ***Person, business, or association shall not publicly post on Internet home address of program participant who has made written demand to not do so***

Inspection of Public Records

- §6254 Exemption of particular records; ***victims of human trafficking may request that their names & names of immediate family members not become public record***
- §6254.30 DV victim presence in county not required to obtain records

§6276.14 DV counselor and victim, confidentiality of communication exempt from Ca. Public Records Act requirement of disclosure

Transparent Review of Unjust Transfers and Holds (TRUTH) Act

§7283 ***Law enforcement, prior to interview between ICE and someone in custody for civil immigration violations, must provide written consent form explaining purpose of interview & that individual may decline to be interviewed***

Fundraising for Charitable Organizations

§12586 Report by charitable organizations on assets and administration; rules and regulations for reports; requirements when gross revenue in excess of \$ 2 million

Gender

§12920 Gender, gender identity, and gender expression protected against discrimination in workplace; public policy reasons

§12921 Prohibited by Section 51 of Civil Code

§12926 Definition of key terms such as “affirmative relief”

Victims of Crimes

§13900 State Board of Control renamed to California Victims Compensation and Government Claims Board

§13950 Restitution & reimbursement for victims of crime

§13951 Restitution available for victims, derivative victims & victims' caregivers; definitions

§13592 Requirements for application; evidence desired by board

§13952 Victim may apply for compensation up to 3 years; county social worker may represent child and elder abuse victims; maximum rates or services; limitations shall not affect payment incurred 3 months after changes.

§13952.5 Procedure for emergency awards

§13953 Statute of limitations & tolling requirements

§13954 Verification & release of information about victim & crime for verification

§13955 Elements for restitution & reimbursement; child who witnesses DV may be presumed to sustain physical injury; qualifying non-US residents may be considered derivative victims for restitution & reimbursement; human trafficking victims eligible for compensation

§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 that reimbursement is necessary for the personal safety or emotional well being of the victim; can be greater than \$2000 due to unusual, dire, or exceptional circumstances

§13957.2 Board establishes maximum rates and services not subject to rulemaking provision of Administrative Procedure Act

§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 info to make decision***

Powers and Duties of Cities

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

frequency of emergency calls

Fees

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

County Clerk Fees

§26830 Motions; hearings; new trials; renewals of judgment; exceptions; summary judgments

§26840.7 Marriage license; additional fee upon usage; use of fee

§26840.8 Marriage authorization; additional fee upon filing; use of fee

§26840.9 Contra Costa County may increase marriage license fee for oversight and coordination of DV prevention, intervention and prosecution

§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

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

Free Legal Services in Civil Cases

§68650 Sargent Shriver Civil Counsel Act; funding pilot project to provide free legal services in civil cases

HEALTH AND SAFETY CODE

Women's Health

§135 Office of Women's Health; establishment

§138 Functions of Office of Women's Health

Licensing Provisions - Clinics

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

Licensing Provisions - Health Facilities

§1259.5 Spousal or partner abuse detection; policies and procedures

Health Care Service Plan Contracts

§1374.75 Victims of DV; enrollment, coverage, or rate discrimination; underwriting coverage on basis of medical condition

Transitional Housing

§34251 Operators of transitional housing required to notify city or county and residents within 300 feet of property when transitional housing facility established; exemption for certain DV shelters

Housing Authority Reports

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

Redevelopment

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

Fees

§103626 Authorizes Contra Costa County to collect additional \$4 fee increase, as adjusted for inflation, for marriage licenses and 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

§103628.6 Increased fees in Stanislaus County for governmental oversight and coordination of agencies dealing with DV

Domestic Violence

§124250 Definitions for "domestic violence", "shelter-based", "emergency shelter"; Definitions are 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; extended until 2015

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 loss from hate crime; hate crimes include gender expression and gender identity

§10144.2 Victims of DV; health care service plans; enrollment, coverage or rate discrimination; underwriting coverage on basis of medical condition

§10144.3 Prohibits discrimination by life insurers based on DV status of applicant or insured

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 or 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

- §230.1 reasonable accommodation (safety measures or procedures) upon request
Time off from work for victims of DV, sexual assault or stalking; **employers must inform employees of rights**
- §246.5 Employers shall provide DV victims with paid sick leave upon written request to achieve purposes described in §§ 230-230.1
- §249 Protects privacy of information related to DV

PENAL CODE

Crimes Against Public Justice

- §136.1 Intimidation of witnesses and victims
- §136.2 Good cause belief of intimidation or dissuasion of victim or witness; stay away orders; 1 day limit for entry, modification, extension or termination of protective orders in CLETS; court must transmit changes to agency that originally entered protective order; Judicial Council to develop protocol for coordination of all orders regarding same person including sharing of information between various courts; providing for safe exchange of children; orders that specify details of exchange; visitation order after Criminal Protective Order (CPO) is issued must acknowledge CPO; Emergency Protective Orders that are more restrictive and cover persons protected under existing order have precedence over all other orders; No-Contact Orders have precedence over CPO and Civil Protective Order, CPO has precedence over Civil Protective Order; court may issue order re firearms only; in all DV cases and specified sex cases court should consider issuing order against defendant from any contact with victim; order valid up to 10 years; courts can authorize electronic monitoring 1 year with certain local provisions; cost allocation; DV includes abuse perpetrated against child of party to DV or subject of action under Uniform Parentage Act, or against others related to defendant; minor present during DV deemed to have suffered harm; defendant may be barred from contact with witnesses upon good cause belief of harm/dissuasion/intimidation; authorizes order to be issued by court regardless of whether defendant subject to mandatory supervision
- §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, victims; punishment
- §140 Threatening witnesses, victims
- §166 Contempt of court; conduct constituting; includes out-of-state court orders and orders pending trial; owning or possessing firearm in violation of protective order; extends time periods weapon or firearm seized as result of DV may be retained by law enforcement; **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, Victim-Witness Assistance Fund
- §236.1 Human trafficking for forced labor services or specified felonies for adults and minors; felony; definitions
- §236.2 Within 15 days of first encountering victim of human trafficking, law enforcement must provide Law Enforcement Agency Endorsement (LEA); law enforcement must use due diligence to identify all victims of human trafficking, regardless of citizenship

- §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 = affirmative defense to being charged with human trafficking; inapplicable to violent crimes***

Assault and Battery

- §242 Battery defined
- §243(e)(1) Battery on spouse, former spouse, fiancé, parent of defendant’s child, dating relationship; 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, 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

- §273(d) 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, unlawful threats of violence; penalties; includes order in Family Code 6400 issued by another state, order re elder or dependent adults, order to relinquish firearm, 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 offenses similar to specified CA offenses
- §290.012 Offenders must register internet account; must update information within 5 days of creating account; forwarding by local law enforcement to Department of Justice
- §290.015 Definition of “Internet service provider” and “Internet identifiers”
- §290.96 Registered sex offenders prohibited from residing, working, volunteering in community care facilities

DNA and Forensic Data Bank Act of 1998

- §295 Requirements for DNA Data Bank; broadens group of people including felony spousal abusers required to provide DNA samples

Elder or Dependent Adults

- §368 Elder or dependent adults; infliction of pain, suffering, endangering health; theft or embezzlement; penalties; definitions

Criminal Threats

- §422 Elements of offense; immediate family defined
- §519 Threat to report immigration status constitutes extortion
- §591.5 Misdemeanor crime to obstruct wireless communication from notifying law enforcement

Firearms

- §626.92 Exemptions for security guards and honorably retired peace officers

Invasion of Privacy

- §633.6 DV restraining order may include permission for victim to record prohibited communication made to victim by perpetrator; Judicial Council to incorporate this in application and order forms
- §637.7 Prohibits person from employing 3rd party to use electronic tracking device to locate person without his or her consent, with certain exemptions such as parent or guardian of minor; misdemeanor
- §638 Fine for selling telephone records; elements of offense
- §647(4) Distributing image of intimate body part of another identifiable person or image of person engaging in sex is disorderly conduct

Stalking

- §646.9 Stalking; 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 or family's location information
- §646.92 Notification to victim or witness of release of person convicted of stalking or DV

- §646.93 or change in location or parole status; requires attempts to locate victims whose contact information not correct or who did not originally request notice
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 supervision program

Annoying Calls

- §653m Telephone calls with intent to annoy; includes computers, faxes, pagers
- §653.2 Threats to safety by means of electronic communication device

Rights of Victims and Witnesses of Crimes

- §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 DV or abuse to have DV advocate and support person present at interviews, including interviews with prosecutors; when support person may be excluded; notice of right; definition of advocate; notice of limitations on confidentiality
- §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 within 90 days, unless victim is in removal proceedings, in which case official has 14 days
- §679.11 ***Officials must certify on request "victim cooperation" when requester was victim of human trafficking & 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; rights of sexual assault victims, subject to available resources; 1/1/16: new time requirements to improve speed of forensic evidence processing
- §680.1 ***By 7/1/18, Dept of Justice shall establish process for victims of sexual assault to inquire re location & information re 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
- §784.8 Contract deducting from wages cost of emigration and transportation to US void as against public policy

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 after 1/1/17 & for which statute of limitations has not run as of 1/1/17***

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

Sentencing

- §1001.98 DV offenses not eligible for LA County’s pre-trial diversion program

Probation

- §1170 ***Legislative findings; Dept of Corrections & Rehabilitation encouraged to allow all eligible inmates opportunity to enroll in programs promoting successful return to community***
- §1170.05 Voluntary alternate custody program for female inmates, pregnant inmates or inmates who were primary caregivers of dependent children
- §1170.76 Sentencing; in DV cases witnessed by children, 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, victim’s family members, or victim’s spouse
- §1202.4 Restitution fines; amount; requires financial disclosure if unpaid restitution balance within 120 days of end of probation/sentence; special provisions for victims of human trafficking
- §1202.45 Court must assess additional postrelease community supervision revocation restitution fine or mandatory supervision revocation restitution fine in every conviction if subject to postrelease community supervision or mandatory supervision, for Restitution Fund
- §1202.8 Registered sex offenders on probation or conditional sentence prohibited from using internet for certain purposes such as accessing porn or communicating with minors
- §1203.097 Terms of probation for DV conviction or DV relationship: defendant must attend weekly sessions, excuses for good cause, complete within 18 months; standards for batterers' intervention programs; 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 being provided to prosecuting attorney; 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 records as pertains to prostitution charges; if convicted as minor can petition to have records sealed 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 enforcement of order

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
- §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' 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
- §1382 Failure to file information or bring case to trial within time limit; dismissal
- §1387 Dismissal as bar to prosecution; exceptions
- §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 Section 667.5(c); applies to plea entered or trial beginning before 8/26/96; 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; 1/1/16: search warrant for firearms or ammunition of person subject to gun violence RO

§1524.5 1/1/16: requirements for taking custody or control of firearms, 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 if requested by victim, under certain conditions

§3003.6 Registered sex offenders prohibited from residing, working, or volunteering in community care facilities for children under 18 years old

§3043.25 Victim or next of kin can appear at parole hearing by audioconferencing

§3058.61 At least 45 days prior to release of anyone convicted of stalking, Dept. 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, Dept. 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 PC §690.03

County Jails

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

Reprieves, Pardons, Commutations

§4801 Board of Prison Terms may consider evidence of intimate partner battering; must consider if convicted prior to enactment of Evidence Code § 1107; 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

Crime Prevention

§6027 Board of State and Community Corrections required to identify delinquency and gang intervention and prevention grants to consolidate funds; develop incentives for local governments to maximize state funds

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 California Emergency Management Agency, in cooperation with various agencies, to establish medical forensic forms, instructions and examination protocol for victims of DV and elder/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

- §11163.4 privileged information within team or to team
- §11163.5 DV; death review teams; design protocol
- §11163.6 DV; death review teams; Department of Justice responsibilities 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 Definition 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 that child abuse or neglect has occurred or medical indication of abuse and neglect
- §11166.05 Any 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 Department of Justice substantiated reports of child abuse and severe neglect
- §11170 Child Abuse Central Index (CACI), includes information from substantiated reports; person listed on CACI has right to agency hearing; due process requirements for hearing
- §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 Specifies that team be 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 info re arrests for animal cruelty***

Law Enforcement Officer Training

- §13515 Elder abuse; law enforcement training
- §13519 DV complaints; training courses and guidelines for handling; requirements

Law Enforcement’s Response to Domestic Violence

- §13700 Definitions of abuse, DV, officer, and victim
- §13701 Written policies and standards re DV cases; development, adoption and implementation; availability to public; consultation with experts; written policies shall discourage, but not prohibit dual arrests, peace officers should attempt to

§13702 identify dominant aggressor
Written policies and standards for dispatchers' response to domestic calls

Law Enforcement's Response to Restraining Orders

§13710 Record of orders; enforceability of terms and conditions; service on party to be restrained

§13711 Protection order; application for or issuance; pamphlet to person to be protected; contents

Data Collection by Law Enforcement Agencies

§13730 Recording system for DV calls; annual report; incident report form; report must include if inquiry was made re whether firearm or deadly weapon was at scene; any firearm or deadly weapon discovered by officer must be confiscated

§13732 Legislative findings and declarations regarding DV and children; 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 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 Local DV programs; expenditure of funds

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

§13823.93 Evidentiary examination; hospital-based training centers; training centers to provide training in victimization including intimate partner battering

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

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

§13823.17 DV education, prevention, services for GLBT community

§13823.7 Protocol for medical treatment of victims of sexual assault

§13823.13 California Emergency Management Agency 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 and innovative techniques; utilization of volunteers; citizen involvement

Victims' Legal Resource Center

§13897 Legislative findings and declarations

§13897.1 Resource center establishment; statewide toll-free information service 1-800-VICTIMS; provider of services to crime victims defined

§13897.2 Grant of award; private, nonprofit organization; duties of center; subgrantee compensation; confidential records

Human Trafficking Task Force

§13990 Establishes California Alliance to Combat Trafficking and Slavery (California ACTS); outlines task force and its duties

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 victims of DV and victims of human trafficking

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 District Attorney to conflict resolution programs; considerations

Firearms

§18250 Peace officer serving protective order for possession of weapons or ammunition must request firearm be immediately surrendered; person ordered to relinquish firearm must file copy of receipt with local law enforcement agency within 48 hours after service; law enforcement officers must take temporary custody of weapons after serving order
§18255 Officer must provide receipt for confiscated firearms
§18265 Confiscated firearms must be held for at least 48 hours
§18400 If law enforcement agency has reasonable cause to believe return of firearm would harm DV victim or person reporting harm, must advise owner of weapon, and within 60 days of date of seizure, initiate petition in court to determine if firearm should be returned
§18410 Requirements for court and court clerk if petition from above section filed
§27585 Requirements for importation of firearms into state, maintenance of records
§29805 Unlawful to have any firearm within 10 years of conviction of some misdemeanors, such as DV, battery, and assault
§29855 Peace officer may petition court for one-time exemption from firearms ban in DV charge
§29860 Any person subject to prohibition under §29805 may petition court for one-time exemption
§30020 *Attorney General must complete initial review of match in daily queue of Armed Prohibited Persons System within 7 days of match being placed in queue & periodically reassess dept's review efficiency*

REVENUE & TAXATION CODE

Personal Income Taxes: Voluntary Contributions

§18711 *Individuals may designate on tax returns that specified amount in excess of tax liability be transferred to California DV Victims Fund*
§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 Cause of claimant leaving employment; determination of cause; good cause includes need to protect his or her family or self from DV: benefits not charged to account of employer
- §1256 Disqualification; leaving employment to protect family or self is good cause

VEHICLE CODE

Confidentiality of DMV Records for Safe at Home Participants

- §1808.21 Participants in Secretary of State's confidentiality program (Safe at Home) can have registration or driver's license records suppressed

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 also be used for funding services provided by SASPs*

Driving Offenses

- §23103 Person falsely imprisoned for purposes of capturing photo or sound recording may bring civil suit for damages and fines; driving recklessly or tailgating to capture photo or recording of someone for commercial purposes is misdemeanor

Violation of Code

- §40008 Person who violates §23103 with intent to capture visual image, sound recording, or other physical impression of another person is guilty of misdemeanor; enhanced penalty if child subject of recording or photo

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 restraining order 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 or family's location information
- §218.5 DV training for counsel appearing in juvenile court

Dependents of the Juvenile Court

- §300 Minors subject to jurisdiction
- §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 Exception for social worker to notify relatives of child removed from home when history of DV
- §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
- §332 Dependency petition shall not include address of victim-parent of DV if that parent lives separate from batterer-parent
- §349 Minor must be properly notified of his/her own hearing
- §361 Limitations on parental control; grounds for removal of child; non-offending parent allowed to submit safety plan demonstrating ability to protect child
- §362.05 Dependent children of juvenile court entitled to participate in age-appropriate extracurricular, enrichment, and social activities
- §362.1 Juvenile court may keep minor's address confidential in visitation order; prohibits visitation of 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 in charge of placing dependent child has made reasonable efforts to maintain child's relationship with individuals important to child
- §391 Requirements in hearings to terminate jurisdiction over dependent child

Wards - Temporary Custody and Detention

- §638 Exception for probation officer to notify relatives of child removed from home when history of DV

Wards - Judgments and Orders

- §726.5 Juvenile court judge 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
- §728 Juvenile court judge 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 Minors; selection for participation in Repeat Offender Prevention Project; factors include DV

Juvenile Records

- §827 Limited dissemination of juvenile records; misdemeanor to violate confidentiality provisions

Sexually Violent Predators

- §6608 Conditional release and outpatient status for sexually violent predators (SVP)
- §6609.1 Immunity outpatient treatment for SVP, notice, procedure for agencies to request reconsideration, department may modify decision regarding where SVP to be released

Welfare to Work Act of 1997

- §10531 (h) DV training for welfare workers
- §10544 Cases involving DV waiver not included to determine whether county met federal work participation requirements
- §10613.3 State Department of Social Services required to provide public officers that register sex offenders with the addresses of homes or facilities that serve children under 18 years of age and that are licensed by department of county child welfare agency
- §11155 Remove existing requirement for assessing value of motor vehicle for CalWorks eligibility
- §11273 Homeless assistance subject to restricted payments; mismanagement examples include DV
- §11274 Restricted payments for AFDC on behalf of recipient to provider of shelter or utilities when recipient has been victim of DV
- §11327.5 DV as barrier to complying with employment services for persons receiving public benefits; county must remediate barriers

Family Violence Option: Domestic Violence and Welfare

- §11495 Special provisions for victims of DV
- §11495.1 Task force formation; develop protocols for cases involving DV
- §11495.12 Temporary definitions of abuse
- §11495.15 Program requirements may be waived for victim of DV
- §11495.25 Establishing abuse
- §11495.40 Adoption of model curriculum for DV training for welfare workers
- §11450 Homeless assistance when result of DV; computation of aid amount; payments to pregnant women; special needs; aid must be paid to pregnant minor, whether or not eligible for Cal-Learn; aid would otherwise be paid to pregnant mother in month birth anticipated and 6 months prior
- §11450.12 Income and resources used to flee abuser or that controlled by abuser not included in calculation of CalWORKS and CalFresh benefits; sworn statements by victims sufficient to establish abuse
- §11495.15 County required to waive, with certain exceptions, conditions of eligibility or time limit for good cause from victim of abuse
- §11495.45 County required to proactively seek information status of DV
- §13283 Non-citizen victims of trafficking, DV, and other serious crimes; access to refugee cash assistance, refugee employment social services
- §14005.2 Eligibility criteria

Appropriations for Public Assistance

- §15200.98 Pilot projects; restrictions; county eligibility

Civil Actions for Elder and Dependent Adults

- §15657.03 Elder and dependent adults may obtain protective orders against unrelated abusers; 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 prohibited from taking action to obtain protected party or family's location information

Child Welfare Training

- §16206 Training on DV mandated for child protective service social workers and other agencies under contract with county welfare departments to provide child

- welfare services
- §16208 Emergency Response Protocol must include domestic or family violence assessment for every member of household

Sexually Exploited Minors Pilot Project

- §18259 Pilot project for commercially sexually exploited minors in Alameda County

Domestic Violence Centers Act

- §18290 Restricts funding to shelter-based DV programs
- §18291 Definitions of "domestic violence", "family or household member", and "domestic violence shelter"
- §18293 Funding; eligibility; priority; approval and monitoring of program; physically handicapped victims
- §18294 Program design; services to victims
- §18295 Additional services
- §18296 Cooperation with other agencies; advocacy capacity
- §18297 Community support and acceptance; volunteers
- §18298 Bilingual personnel; battered spouse as staff member
- §18300 Annual report; content; availability to public
- §18301 Data collection requirements; prohibition of county to require a DV shelter-based program to disclose of any information pertaining to the confidential location of shelter or location or identity of any shelter resident, employee, or volunteer.
- §18304 Counties; authority to establish programs; combined programs by adjacent counties
- §18305 Additional marriage license fees; use for county program
- §18305.3 DV centers; consultation for establishment or ongoing technical assistance
- §18306 County financing of basic services
- §18307 County DV programs special fund; carry over of funds; use for basic services
- §18308 Fees for Contra Costa County Board of Supervisors to be deposited in a special fund
- §18309 Fees for Alameda County to be used for DV early protection and prosecution
- §18309.5 Fees for Solano County to be deposited into county DV special funds

CalFresh Benefits

- §18904.25 ***Information on expedited services to DV victims***
- §18914.5 ***DV Victims eligible for expedited additional allotment of CalFresh benefits***
- §18927 State Department of Social Services can establish minimum cost-effective threshold for collecting CalFresh overissuances; cannot collect overissuances in certain limited circumstances

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

- §18945 Eligibility requirements

Developmental Services

- §4427.5 Provides inter-agency cooperation in producing and updating training manuals dealing with elder abuse and neglect

RESOLUTIONS

Awareness Months

Resolution Chapter 49 – February 2016 is Teen Dating Violence Awareness and Prevention Month

Resolution Chapter 55 – October 2016, and each following October, is Domestic Violence Awareness Month