
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 1877 **Hearing Date:** June 23, 2026
Author: Stefani
Version: June 8, 2026
Urgency: No **Fiscal:** Yes
Consultant: NDT

Subject: *Domestic violence: protective orders*

HISTORY

Source: San Francisco Mayor Daniel Lurie

Prior Legislation: AB 1378 (Essayli), failed in Assembly Public Safety, 2023
AB 2040 (Maienschein), held in Assembly Appropriations, 2022

Support: Black Women Revolt Against Domestic Violence; California Police Chiefs Association; Community Forward SF; LA Casa De Las Madres; League of California Cities; Los Angeles County District Attorney's Office; Mayor Daniel Lurie, City and County of San Francisco; Open Door Legal; Peace Officers Research Association of California; Safe & Sound; San Francisco Domestic Violence Consortium; San Francisco Family Services Alliance; San Francisco Police Department; San Francisco Safehouse

Opposition: ACLU California Action; California Attorneys for Criminal Justice

Assembly Floor Vote: 72 - 0

PURPOSE

The purpose of this bill is to make the willful and knowing violation of specified criminal protective orders and stay-away orders punishable as a wobbler if the person who is the subject of a protective order was charged with or convicted of a felony for the conduct upon which the protective order was based, to require judges to consider criminal protective order and stay-away order violations when setting bail, as specified, and to increase the criminal penalty on subsequent violations from a wobbler to a jail felony.

Existing law authorizes the trial court in a criminal case to issue a protective order when there is a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur. (Pen. Code, § 136.2, subd. (a).)

Existing law provides that a person violating a protective order may be punished for any substantive offense described in provisions of law related to intimidation of witnesses or victims, or for contempt of court. (Pen. Code, § 136.2, subd. (b).)

Existing law prohibits a person who is subject to a protective order from owning, possessing, purchasing, or receiving, or attempting to purchase or receive a firearm while the protective order is in effect, and the court shall order a person subject to the protective order to relinquish ownership or possession of any firearms. (Pen. Code, § 136.2, subd. (d).)

Existing law authorizes a court to issue a restraining order upon conviction of specified offenses for a period not to exceed 10 years. (Pen. Code, § 132.6, subd. (i).)

Existing law authorizes courts to issue civil harassment restraining orders, as specified, including workplace and educational institution violence restraining orders. (Code Civ. Proc., § 527 et seq.)

Existing law authorizes courts to issue domestic violence restraining orders, as specified. (Fam. Code, § 6300 et seq.)

Existing law authorizes courts to issue a restraining order to protect against elder and dependent adult abuse. (Welf. & Inst. Code, §14657.03.)

Existing law states that a person is guilty of contempt of court, punishable as a misdemeanor, for a willful disobedience of terms, as written, of a process or court order or out-of-state order, lawfully issued by a court, including orders pending trial. (Pen. Code, § 166, subd. (c)(1).)

Existing law provides that if that violation results in physical injury, the person shall be imprisoned in a county jail for at least 48 hours, whether a fine or imprisonment is imposed, or the sentence is suspended. (Pen. Code, § 166, subd. (c)(2).)

Existing law states that a second or subsequent conviction for a violation of a criminal protective order from Penal Code section 166, as described, occurring within 7 years of prior conviction of the same violation and involving an act of violence or “a credible threat” of violence is punishable by imprisonment in a county jail not to exceed one year, or in the state prison for 16 months, or two or three years. (Pen. Code, § 166, subd. (c)(2).)

Existing law specifies that a subsequent conviction for a violation of a Penal Code section 166 criminal protective order that resulted in physical injury occurring within seven years of a prior conviction for a violation of an order and involving an act of violence or “a credible threat” of violence, as defined, is punishable by imprisonment in a county jail not to exceed one year, or as a county jail eligible felony. (Pen. Code, § 273.6, subd. (d).)

Existing law defines “a credible threat” to mean a threat made with the intent and the apparent ability to carry out the threat so as to cause the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family. (Pen. Code, § 139, subd. (c).)

Existing law provides that any intentional and knowing violation of a protective order as authorized in the Family Code related to domestic violence, civil harassment, workplace violence, postsecondary education violence, or elder and dependent adult abuse is a misdemeanor punishable by a fine of not more than \$1,000, or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. (Pen. Code, § 273.6, subd. (a).) *Existing law* states that in the event of a violation of a protective order authorized in the Family Code, as specified, that results in physical injury, the person shall be punished by a fine of not more than \$2,000, or by imprisonment in a county jail for not less than 30 days or more than one year, or by both that fine and imprisonment. (Pen. Code, § 273.6, subd. (b).)

Existing law authorizes certain felonies where the term is not specified in the underlying offense to be punishable by a term of imprisonment in a county jail for 16 months, 2 years, or 3 years. (Pen. Code, § 1170, subd. (h).)

This bill requires a willful and knowing violation of a criminal protective order or stay-away court order to be punished as either a misdemeanor or a jail felony when the underlying case contained certain violations, including threatening a witness, elder abuse, domestic violence, and certain acts of violence, threats, stalking, sexual abuse, and harassment, particularly against a minor.

This bill requires that if there is an allegation that the violation of the protective order resulted in a physical injury to the victim, the court, in considering the seriousness of the offense charged and the protection of the public, must include consideration of the violation of the protective order or stay-away order and alleged injury to the victim in setting, reducing or denying bail.

This bill increases the punishment, from an alternate felony-misdemeanor to a straight felony, for a second or subsequent conviction for a violation of an order occurring within seven years of a prior conviction for a violation of any of a criminal protective orders or stay-away orders involving an act of violence or "a credible threat" of violence, as defined in existing law.

COMMENTS

1. Need for This Bill

According to the author:

Protective and stay away orders are one of the most important tools available to survivors of domestic violence, stalking, and sexual assault, but they are only effective if violations are taken seriously and enforced. Under current law, violations of these court orders can only be charged as misdemeanors, even when the underlying conduct is charged as a felony or when violations occur repeatedly. This creates a dangerous gap in accountability that can allow abuse to escalate and leaves survivors vulnerable until further harm occurs. AB 1877 strengthens enforcement by allowing prosecutors to charge violations as felonies in the most serious cases, including when the underlying conduct is charged as a felony, when violations are repeated, or when a new violation occurs within one year of a prior conviction. The bill also ensures courts consider allegations of physical injury when determining pretrial release. By providing stronger tools to address serious and repeated violations, AB 1877 improves compliance with protective orders, enhances accountability, and helps protect survivors before violence escalates.

2. Stay Away Orders Generally

Protective orders and restraining orders are, in the outcome, very similar – both are orders issued or approved by a court that prevents a person from contacting another person under specific circumstances and may also restrict other conduct to prevent harassment, threats, or violence. (See generally, Fam. Code, § 6218, subds. (a)-(c).)

However, there are a couple of differences, at least in a practical sense. According to the California Courts, Self Help Guide, the police may ask for an emergency (which includes instances of domestic violence) protective order (EPO) to protect the victim of a crime, usually when the victim calls the police or 911 for help.¹

If the defendant (the person accused of committing the crime) is arrested and charged, a judge can issue a criminal protective order (CPO) to protect victims and witnesses, particularly during the pendency of the case (as with Penal Code section 136.2). EPOs and CPOs are protective orders. Protective orders and “temporary restraining orders or TROs” are often used interchangeably. A victim may also be able to file their own moving papers to request a protective or restraining order. A restraining order can include some of the same orders as an EPO or CPO, like ordering the defendant to stay away from the victim. But in restraining order cases filed by a victim (instead of law enforcement), additional protections may be available. A victim can have a restraining order and an EPO or CPO at the same time as one is issued on an emergency basis and one is issued for a longer period of time. (See Fam. Code, § 6320, subd. (a); Judicial Branch of California, California Courts Self-Help Guide, Guide to Protective Orders, p. 1-2.)

An EPO can include orders that the defendant: (a) not contact people protected by the order; (b) not harass, stalk, threaten or hurt people protected by the order; (c) stay a certain distance away from people protected by the order or places they live or go regularly; (d) move out from a home that is shared with the protected person; or (e) not have guns, firearms, or ammunition. An EPO only lasts a short time, usually 5-7 days. If the person protected by the EPO needs protection that lasts longer or wants to ask for other orders, they can apply for a restraining order. A protective order may be issued for a short period of time, often without service to the alleged wrongdoer (*ex parte*), so the victim may be protected while the court calendars a hearing on the order and the alleged wrongdoer may be served a more formalized notice. In some cases, law enforcement will seek a protective order even after the alleged wrongdoer was already arrested.

In cases of a restraining order, where a person may be enjoined from contacting someone for a longer period of time, the alleged victim may seek a civil order barring a person from coming within a certain distance, but may not have resulted from any police intervention against the person being restrained. A person may be the subject of a protective order or a restraining order even if they are not facing a criminal charge and are never convicted of any criminal act.

Simple violation of a protective or restraining order is a misdemeanor. (See Pen. Code, § 166, subd. (a)(4); Pen. Code, § 273.6, subd. (a).) If a person violates a protective or restraining order issued in a domestic violence case and injury results, that person may be sentenced to a minimum of 30 days and a maximum of one year in county jail – in addition to whatever the defendant receives for any possible assaultive or threatening conduct. (See Pen. Code, § 273.6, subd. (b).) Any criminal conviction also requires proof beyond a reasonable doubt that the defendant was aware of the protective order, knew what they were not allowed to do, and violated the order anyway.

In addition to the penalties for violating a protective order, any person who violates a protective order issued pursuant to Penal Code section 136.2, may be sentenced as if the person engaged in witness intimidation—to a state prison sentence of up to four years. (Pen. Code, § 136.1, subd. (c); Pen. Code, § 136.2, subd. (b).)

¹ Judicial Branch of California, California Courts Self-Help Guide (2026). *Guide to Protective Orders*
<https://selfhelp.courts.ca.gov/protective-orders>

3. Criminal Contempt

Disobedience of a court order, such as a restraining or protective order, may be punished as criminal contempt. The crime of contempt is a general intent crime. It is proven by showing that the defendant intended to commit the prohibited act, without any additional showing that he or she intended “to do some further act or achieve some additional consequence.” (*People v. Greenfield* (1982) 134 Cal.App.3d Supp. 1, 4.) Nevertheless, a violation must also be willful, which in the case of a court order encompasses both intent to disobey the order, and disregard of the duty to obey the order.” (*In re Karpf* (1970) 10 Cal.App.3d 355, 372.)

Criminal contempt under Penal Code section 166 is a misdemeanor, and proceedings under the statute are conducted like any other misdemeanor offense. (*In re McKinney* (1968) 70 Cal.2d 8, 10; *In re Kreitman* (1995) 40 Cal.App.4th 750, 755.) The criminal contempt power is vested in the prosecution, and the trial court has no power to institute criminal contempt proceedings under the Penal Code. (*In re McKinney*, supra, 70 Cal.2d at p. 13.) A defendant charged with the crime of contempt is “entitled to the full panoply of substantive and due process rights.” (*People v. Kalnoki* (1992) 7 Cal.App.4th Supp. 8, 11.) The defendant has the right to a jury trial regardless of the sentence imposed. (*People v. Earley* (2004) 122 Cal.App.4th 542, 550.)

4. Bail Setting

Bail is a contract for release of a person from jail upon a promise to appear at future court hearings. The promise is backed by a bond issued through a bail agent. A bailed defendant is said to be in the constructive custody of the bail agent. (*Taylor v. Taintor* (1862) (16 Wall.) 83U.S. 366, 372.) In the United States, bail setting has long been skewed by racial bias and plagued by predatory lending schemes.²

Existing law provides a process whereby the court may set a bail amount for a criminal defendant. (Pen. Code, § 1269b.) Additionally, Section 12 of Article 1 of the California Constitution provides, with limited exceptions, that a criminal defendant has a right to bail and what conditions shall be taken into consideration in setting bail. A defendant may post bail by depositing cash or an equivalent form of currency, provide a security in real property, or undertake bail using a bail bond.

5. Increased Penalties without Deterrence

Research shows that increasing the severity of punishment does little to deter crime. According to the National Institute of Justice, an agency of the U.S. Department of Justice, “Laws and policies designed to deter crime by focusing mainly on increasing the severity of punishment are ineffective partly because criminals know little about the sanctions for specific crimes. More severe punishments do not ‘chasten’ individuals convicted of crimes, and prisons may exacerbate recidivism... Studies show that for most individuals convicted of a crime, short to moderate

² Vera Institute of Justice (May 2018). *From Bondage to Bail Bonds: Putting a Price on Freedom in New Orleans* <https://medium.com/@verainstitute/from-bondage-to-bail-bonds-putting-a-price-on-freedom-in-new-orleans-de065035c1b7>; Becker Friedman Institute for Economics at UChicago (Oct. 2020). *Measuring Racial Discrimination in Bail Decisions* https://bfi.uchicago.edu/wp-content/uploads/BFI_WP_2020331.pdf; Lincoln Memorial University Law Review (Spring 2023). *Bailing on the Bondsman: An Argument for Abolishing Monetary Bail* https://www.texaspretrial.org/wp-content/uploads/2025/05/Bailing-on-the-Bondsman_-An-Argument-for-Abolishing-Monetary-Bail.pdf

prison sentences may be a deterrent but longer prison terms produce only a limited deterrent effect. In addition, the crime prevention benefit falls far short of the social and economic costs.”³

6. Effect of the Bill

This bill requires a willful and knowing violation of a criminal protective order or stay-away court order to be punished as either a misdemeanor or a jail felony when the underlying case contained certain violations, including threatening a witness, elder abuse, domestic violence, and certain acts of violence, threats, stalking, sexual abuse, and harassment, particularly against a minor. Under this bill, the first violation of a specified order, if the violation is for similar behavior as the defendant was convicted of, could result in a felony. Therefore, this bill authorizes increases punishment for a first offense with little evidence that increased penalties will translate to deterrence.

This bill provides that if there is an allegation that the violation resulted in a physical injury to the victim, the court, in considering the seriousness of the offense charged and the protection of the public, shall include consideration of the violation of the protective order or stay-away order and alleged injury to the victim in setting, reducing or denying bail. Therefore, this bill has an unknown impact on bail, potentially leading to higher bail that could translate to more defendants awaiting in custody for proceedings, or to increased bail denials for these defendants. This bill adds additional judicial discretion to bail setting.

This bill increases the punishment, from an alternate felony-misdemeanor to a straight felony, for a second or subsequent conviction for a violation of an order occurring within seven years of a prior conviction for a violation of any of a criminal protective orders or stay-away orders involving an act of violence or "a credible threat" of violence, as defined in existing law. Therefore, this bill mandates increased punishment for subsequent offenses with little evidence that increased penalties will translate to deterrence.

7. Argument in Support

According to the San Francisco Police Department:

Protective orders in cases involving domestic violence are a critical legal safeguard for survivors, particularly during periods of heightened risk and instability. It is well documented that survivors are often at greatest risk when attempting to leave an abusive relationship. In these moments, survivors rely heavily on the protections granted through the criminal justice system and on meaningful accountability when those court orders are violated. AB 1877 strengthens protections for survivors in cases where serious harm has already occurred by increasing accountability for violations of specified criminal protective orders such as those involving domestic violence, child sexual abuse and elder or dependent adult abuse.

Under existing law, repeat violations of these court orders are charged as misdemeanors, even when the underlying conduct is charged as a felony. This bill ensures that individuals who repeatedly violate these orders meant to protect the

³ National Institute of Justice (May 2016). *Five Things about Deterrence*
<https://www.ojp.gov/pdffiles1/nij/247350.pdf>

most vulnerable survivors can be charged with a felony. The bill also requires courts to consider violations of these orders that result in physical injury to the victim when making bail determinations, reinforcing the seriousness of continued harm against these protected individuals. By strengthening enforcement of these critical protective orders, this bill reinforces survivor protection and accountability for repeated violations.

8. Argument in Opposition

According to the ACLU California Action:

Under existing law, willful disobedience of a court order as contempt of court is punishable as a misdemeanor up to six months in county jail, which can be increased to one year as a gross misdemeanor if the defendant willfully and knowingly violated specified protective orders. For any second or subsequent violation of these specified protective orders within seven years of a prior conviction and involving an act of violence or credible threat of violence is punishable as either a misdemeanor or felony, otherwise known as a wobbler.

This proposal undermines a great amount of study and evidence surrounding the efficacy behind longer criminal sentencing and its impact on crime deterrence. Evidence indicates that applying longer criminal sentences has failed to deter crime. The federal Department of Justice shared a paper discouraging increasing existing punishments. Other studies support this evidence, finding that the severity of punishment does not generally have an increased effect on deterrence. Rather, studies have concluded that certainty of punishment — that someone will be punished for a particular crime — has a greater deterrence effect than the severity of the punishment itself. Increasing criminal penalties of existing crimes will incur an additional \$133,100 cost per person incarcerated each additional year they are sentenced.

To advance a safer California, the state must adopt evidence-based policies that moves us away from this failed experiment of tough on crime policies and allow a court to exercise their best judgment in criminal sentencing.

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