

Date of Hearing: April 14, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2261 (Dixon) – As Introduced February 19, 2026

As Proposed to be Amended in Committee

SUMMARY: Authorizes the court, upon conviction of specified offenses, to consider issuing an order restraining a defendant from contact with any person who is a member of the victim's family or household or any other person if there is competent evidence that the individual is a victim of those specified offenses.

EXISTING LAW:

- 1) 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).)
- 2) 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).)
- 3) Requires a court to consider issuing up to a 10-year restraining order protecting victims for convictions including, but not limited to domestic violence, certain types of human trafficking, gang activity, statutory rape, pimping of a minor, and offenses requiring sex offender registration. (Pen. Code, §§ 136.2, subd. (i)(1); 273.5, subd. (j); 368, subd. (l); 646.9, subd. (k); 1201.3, subd. (a).)
- 4) Provides that a post-conviction protective order may be issued by the court regardless of whether the defendant is sentenced to the state prison, or a county jail, or subject to mandatory supervision, or whether the defendant is placed on probation. The duration of a protective order issued by the court should be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and the victim's immediate family. (Pen. Code, § 136.2, subd. (i)(1).)
- 5) Requires a court to consider issuing up to a 10-year restraining order protecting percipient witness, upon clear and convincing evidence of witness harassment, in cases with convictions including, but not limited to domestic violence, statutory rape, gang activity, and sex registerable offenses. (Pen. Code, § 136.2, subd. (i)(2).)
- 6) Authorizes a court to place conditions on a 10-year restraining order that can include electronic monitoring for up to one year, as specified. (Pen. Code, § 136.2, subd. (i)(3).)
- 7) Prohibits a person who is subject to a protective order from owning, possessing, purchasing, 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).)

- 8) Authorizes courts to issue civil harassment restraining orders, as specified. (Code Civ. Proc. § 527 et seq.)
- 9) Authorizes courts to issue domestic violence restraining orders, as specified. (Fam. Code, § 6300 et seq.)
- 10) Punishes an individual for willful disobedience of, among other things, a lawful restraining order. (Pen. Code, §§ 166 & 273.6.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “This measure restores and clarifies judicial discretion by authorizing courts to issue criminal protective orders not only for the victim of the offense of conviction, but also for a victim’s family members; members of the victim’s household; and other individuals where competent evidence demonstrates that they were victims of qualifying offenses committed by the defendant. In doing so, and by clearly defining who may be protected and requiring competent evidence, AB 2261 ensures due process while allowing courts to respond appropriately to demonstrated risk.”
- 2) **Restraining Orders and Protective Orders:** 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.

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.)¹

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. It is not the most direct method for ensuring a parolee does not re-contact a victim or witness.

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).) It is unclear what adding an additional six months onto a protective order issued pursuant to Penal Code section 136.2 would do to protect victims of domestic violence or sexual assault. Most certainly, if a person is willing to commit an assault or homicide less than six months after release from prison, it seems doubtful they would be deterred by a protective order.

- 3) **Criminal Protective Orders Under Penal Code section 136.2:** Penal Code section 136.2 authorizes the court in certain criminal trials, upon a showing of good cause, to issue specified protective orders against a defendant or third party. The purpose of Penal Code section 136.2 is to prevent a defendant in a domestic violence or sexual assault trial from: (a) engaging in witness or victim intimidation; (b) for law enforcement to provide protection to a

¹ See <https://selfhelp.courts.ca.gov/protective-orders>.

victim, witness or a victim's or witness' immediate family members; and (c) to stay away from any victim or witness for up to 10 years. Good cause means evidence that a defendant intends to intimate a victim or witness. It is not automatic and requires a judicial hearing and specified findings to impose. (*Babalola v. Superior Court (People)* (2011), 192 Cal. App. 4th 948 [“There was no finding of good cause to believe an attempt to intimidate or dissuade a victim occurred or was reasonably likely to occur.”].)

Penal Code section 136.2 also allows the court, in specific circumstances, to order electronic monitoring for up to one year. In cases related to domestic violence and offenses requiring sex offender registration, the case file must be clearly marked so that the court is aware of their nature for purposes of considering a protective order. (Pen. Code, § 136.2, subd. (e)(1).) The court has the authority to issue pre- and post-conviction protective orders. (Pen. Code, § 136.2.) Any person subject to a protective order pursuant to Penal Code section 136.2 may not possess a firearm.

Finally, Penal Code section 136.2, subdivision (i)(1) allows the court to issue a protective order in certain cases, including domestic violence cases, for up to 10 years, regardless of whether the defendant is sentenced to state prison or county jail, or placed on probation. Penal Code section 136.2, subdivision (i)(2) authorizes the court to issue an order prohibiting a defendant from any contact with any witness to the underlying crime if it can be established by clear and convincing evidence that the witness has been harassed, as defined in existing law authorizing a restraining order to be issued for civil harassment, by the defendant.

- 4) **Effect of this Legislation:** This bill amends Penal Code section 136.2 for purposes of post-conviction protective orders issued pursuant to subdivision (i)(1). Currently, that subdivision states, “When a criminal defendant has been convicted of a crime involving domestic violence, as defined, prohibiting human trafficking, rape, statutory rape, pimping, or pandering, active participation in a street gang, or a crime that requires the defendant to register as a sex offender, the court, at the time of sentencing, shall consider issuing an order restraining the defendant from any contact with a victim of the crime.” This bill would add that the court may consider issuing an order for additional individuals, specifically any person who is a member of the victim's family or household or any other person if there is competent evidence that the individual is a victim of one of the enumerated offenses.

Penal Code section 136.2 was amended in 2017 adding the words “of the crime” after “victim” in subdivision (i)(1) and, subsequently, courts have read this authority to apply only to individuals who are the named victim of the offense of conviction. (See AB 264 (Low) Ch. 270, Stats. 2017; *People v. Pena* (2025) 113 Cal.App.5th 640.) *Pena* involved a defendant who was charged with multiple counts against two separate victims. The jury found the defendant guilty on one count which involved one victim, and declared a mistrial on the other counts which all involved another victim. The prosecuting attorney decided not to retry the defendant on those charges. (*Id.* at p. 644.) At sentencing, the court only issued a protective order for the victim of the counts on which the jury could not reach a verdict. (*Ibid.*) On appeal, the court held that the language in Penal Code section 136.2, post legislative amendments enacted after AB 264 in 2017, no longer authorizes a court to issue a protective order for a victim of a crime for which the defendant is not convicted. (*Id.* at p. 643.)

Similarly, another appellate court held that the post-conviction criminal protective order authorized in Penal Code section 136.2 does not cover family members who were harmed by the crime. (*People v. Waltz* (2025) 112 Cal.App.5th 127, 144.)

The amendment to the statute adding “of the crime” after victim was enacted by AB 264 in 2017. The bill, which was sponsored by the California District Attorneys Association, expanded the court’s authority to issue post-conviction restraining orders to include gang cases and to cover witnesses to the qualifying crimes. The introduced version of the bill removed the enumerated offenses thus applying the subdivision to all crimes and added in “of the crime” after “victim.” The bill was amended by this committee to add back in the qualifying offenses and include gang crimes. (Assem. Com. on Pub. Safety, Analysis of Assem. Bill No. 264 (2017-2018 Reg. Sess.) as amended Mar. 28, 2017.) Additionally, for witnesses, the committee amendment authorized the court to issue an order restraining the defendant from any contact “if it can be established by clear and convincing evidence that witness has been harassed” as defined in existing civil laws pertaining to civil harassment restraining orders. (*Ibid.*) “Harassment” is defined as “unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner.” (Code of Civ. Proc., § 527.6, subd. (b)(3).)

The reason for the language adding “of the crime” after victim is not discussed in any of the legislative analyses on the bill, thus the intent is unclear.

This bill would authorize post-conviction criminal protective orders to be issued for persons not tied to the conviction including a member of the victim’s family or household or any other person where there is competent evidence that the individual is a victim of one of the enumerated offenses. The sponsor acknowledges that there are other avenues to receive a restraining order. For example, a civil protection order may be sought by the person not covered by a post-conviction criminal protective order. However, they argue that since the person is already in court the judge should be able to consider issuing such a restraining order for convenience to the person and judicial economy.

Notably, if a person were to seek a civil harassment order, the court would still have to find by clear and convincing evidence that, based on the facts presented, unlawful harassment has occurred. (Code Civ. Proc., § 527.6, subd. (i)(1).) Additionally, a civil harassment order may last no longer than five years, with three years being the default if no term is specified (Code Civ. Proc., § 527.6, subd. (j)), whereas a post-conviction criminal protective order may last up to ten years (Pen. Code, § 136.2, subd. (i)).

While the stated intent is to protect those persons who were named victims of a charged offense that did not result in a conviction, this bill is written more broadly. The bill authorizes “any other person if there is competent evidence that the individual is a victim of an enumerated offense.” Opponents of the bill argue that this addition is vague because “competent evidence” may mean any admissible evidence and that it is unclear what standard of proof should be used to determine whether there is competent evidence to support the issuance of the order.

- 5) **Effects of Restraining Orders:** The consequences of having the court issue a restraining order against a person can be very severe. For example, the restraining order may prohibit the defendant from being within a certain distance of the person named in the order, thereby implicating the defendant's right to travel. Depending on the facts, such an order may implicate an individual's property interests by forcing him or her to vacate his or her own home.

A restraining order may also affect a person's immigration status. A violation of a protective order is a deportable offense. Section 237(a)(2)(E)(ii) of the Immigration and Nationality Act (INA) states: "Any alien who at any time after entry is enjoined under a protection order issued by a court and whom the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable."

This bill would expand protective orders that may be issued against a defendant who was convicted of specified crimes to include persons who were not the victim of the crime that the defendant was convicted of.

- 6) **Committee Amendments:** The author has agreed to amend the bill in committee to strike the provision that would authorize the court to consider issuing an order restraining the defendant from any contact with any other person if there is competent evidence that the individual is a victim of one of the enumerated offenses that was committed by the defendant.
- 7) **Argument in Support:** According to *California District Attorneys Association*, "Current law authorizes courts to issue post-conviction protective orders restraining a defendant from contacting a "victim of the crime" for certain enumerated offenses, including domestic violence, sexual offenses, human trafficking, and gang-related crimes. However, a 2018 amendment to the statute narrowed judicial authority by limiting CPOs to only the specific victim of the count for which the defendant was convicted.

"Recent appellate decisions have confirmed the restrictive effect of this language. In *People v. Walts* (2025) 112 Cal.App.5th 127 and *People v. Pena* (2025) 113 Cal.App.5th 640, courts concluded that trial courts lack authority to issue protective orders for individuals harmed by the defendant's conduct unless they are the named victim of the offense of conviction.

"AB 2261 appropriately restores and clarifies judicial discretion. The bill authorizes courts to issue protective orders not only for the victim of the offense of conviction, but also for a victim's family members, members of the victim's household, and other individuals where competent evidence establishes that they were victims of qualifying offenses committed by the defendant.

"In practice, plea negotiations and jury verdicts can result in convictions on some counts while others are dismissed or unresolved. Under current law, this can leave clearly vulnerable individuals without protection. AB 2261 closes that gap and ensures that courts may issue protective orders consistent with the evidence before them and the safety needs of victims."

- 8) **Argument in Opposition:** According to *California Public Defenders Association*, “After a person is convicted of specified crimes, a court may issue an order protecting the victim. This bill would allow a court to issue a post-conviction order protecting members of a victim’s family or household. We have no objection to this provision.

“We do, however, take issue with the provision allowing a court to issue an order protecting ‘any other person if there is competent evidence that the individual is a victim of an offense described in this paragraph that was committed by the defendant.’

“It is problematic that the bill uses the term ‘competent evidence.’ Definitionally, “competent evidence” basically means any admissible evidence. It is not a standard of proof.

Competent evidence also generally must amount to substantial evidence. A person may provide competent evidence that is not substantial.

“Substantial evidence” is evidence that is of “ponderable legal significance. Obviously the word cannot be deemed synonymous with ‘any’ evidence. It must be reasonable . . . , credible, and of solid value” (*Kuhn v. Department of General Services* (1994) 22 Cal.App.4th 1627, 1633.)

“Competent evidence is also not a standard of proof. Again, speaking generally there are three standards of proof in California: preponderance of the evidence, clear and convincing evidence, and beyond a reasonable doubt. The typical civil case used the preponderance standard. Criminal cases require proof beyond a reasonable doubt. Clear and convincing is somewhere between the two and usually used in situations where important rights are at stake.

“What is the standard of proof here? Just saying ‘competent evidence’ is insufficient because it does not tell a judge how much proof there must be to issue an order protecting a third person. By contrast, subdivision (i)(2) of Penal Code section 136.2 allows an order to be issued to protect a witness to a crime ‘if it can be established by clear and convincing evidence that the witness has been harassed, as defined in paragraph (3) of subdivision (b) of Section 527.6 of the Code of Civil Procedure, by the defendant.’

“We suggest that the portion of the bill that allows issuing an order protecting an uninvolved third person be deleted.”

- 9) **Related Legislation:** AB 1877 (Stefani) would make the willful and knowing violation of specified criminal protective orders and stay-away orders punishable as an alternate felony-misdemeanor, rather than a misdemeanor, 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, unless the matter is reduced to a misdemeanor or the charge was dismissed. AB 1877 is pending a hearing in the Assembly Appropriations Committee.

10) **Prior Legislation:**

- a) AB 285 (Ramos), of the 2025-2026 Legislative Session, would have required a court, when imposing a state prison sentence on a defendant convicted of domestic violence or a sex offense, to issue a temporary criminal protective order against the same identified

victim or victims from an original witness intimidation protective order, as specified, for a maximum period of 180 days. AB 285 was held in suspense in the Assembly Appropriations Committee.

- b) SB 421 (Valladares), of the 2025-2026 Legislative Session, would have allowed a court to issue a permanent protective order restraining a defendant from any contact with the victim if the defendant has been convicted of any serious or violent felony, as defined, or any felony requiring registration as a sex offender. SB 421 failed passage in the Senate Public Safety Committee.
- c) AB 264 (Low), Chapter 270, Statutes of 2017, required the court to consider issuing a restraining order for up to 10 years in gang cases, and expands the court's authority to issue post-conviction restraining orders to cover witnesses to the qualifying crimes.
- d) SB 352 (Block), Chapter 279, Statutes of 2015, required the court to consider issuing a restraining order for up to 10 years when a defendant is convicted for an offense involving abuse of an elder or a dependent adult, regardless of the sentence imposed.
- e) AB 307 (Campos), Chapter 291, Statutes of 2013, allowed a court to issue a protective order for up to 10 years when a defendant is convicted of specified sex crimes, regardless of the sentence imposed.
- f) SB 723 (Pavley), Chapter 155, Statutes of 2011, allowed a court to issue a protective order for up to 10 years when a defendant is convicted for an offense involving domestic violence, regardless of the sentence imposed.
- g) SB 834 (Florez), Chapter 627, Statutes of 2010, allowed a court to issue a protective order for up to 10 years in sex cases involving a minor victim.
- h) AB 289 (Spitzer), Chapter 582, Statutes of 2007, allowed a court to issue a protective order for 10 years upon a defendant's conviction for stalking

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
California Police Chiefs Association
California State Sheriffs' Association

Opposition

California Public Defenders Association
Local 148 Los Angeles County Public Defender's Union

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