
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 2261 **Hearing Date:** June 30, 2026
Author: Dixon
Version: April 20, 2026
Urgency: No **Fiscal:** Yes
Consultant: NDT

Subject: *Protective orders*

HISTORY

Source: California District Attorneys Association; Santa Clara County District Attorney's Office

Prior Legislation: AB 285 (Ramos), held in Assembly Appropriations, 2025
AB 561 (Quirk-Silva), Ch. 267, Stats. of 2025
AB 1363 (Stefani), Ch. 574, Stats. of 2025
SB 421 (Valladares), failed passage in Senate Public Safety, 2025
AB 2308 (Davies), Ch. 649, Stats. of 2024
AB 2024 (Pacheco), Ch. 648, Stats. of 2024
SB 538 (Rubio), Ch. 686, Stats. of 2021
AB 264 (Low), Ch. 270, Stats. of 2017
SB 352 (Block), Ch. 279, Stats. of 2015
AB 307 (Campos), Ch. 291, Stats. of 2013
SB 723 (Pavley), Ch. 155, Stats. of 2011
SB 834 (Florez), Ch. 627, Stats. of 2010
AB 289 (Spitzer), Ch. 582, Stats. of 2007

Support: California Police Chiefs Association; California State Sheriffs' Association; Los Angeles County District Attorney's Office

Opposition: Local 148 Los Angeles County Public Defender's Union

Assembly Floor Vote: 72 - 0

PURPOSE

The purpose of this bill is to authorize 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.

Existing law authorizes the trial court in a criminal case to issue protective orders 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 requires the court, at the time of sentencing, to consider issuing an order restraining the defendant from any contact with a victim of the crime when the defendant has been convicted of a crime involving domestic violence, as specified, human trafficking, rape, statutory rape, spousal rape, pimping, pandering, a gang-related offense, elder abuse, stalking, a sexual offense involving a minor victim, or a crime that requires the defendant to register as a sex offender; existing law provides that the order may be valid for up to 10 years, as determined by the court. (Pen. Code, §§ 136.2, subd. (i)(1); 368, subd. (l); 646.9, subd. (k); 1201.3, subd. (a).)

Existing law provides that the 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, whether the defendant is subject to mandatory supervision, or whether imposition of sentence is suspended and the defendant is placed on probation and provides that the order may be modified by the sentencing court in the county in which it was issued throughout the duration of the order. (Pen. Code, § 136.2, subd. (i)(1).)

Existing law provides that the duration of a restraining order issued by the court be based upon the seriousness of the facts before the court, the probability of future violations, the safety of a victim and the victim's immediate family, and any information provided to the court, as specified. (Pen. Code, § 136.2, subd. (i)(1).)

Existing law authorizes a post-conviction restraining order to include provisions for electronic monitoring for up to one year from the date of the order. (Pen. Code, § 136.2, subd. (i)(3).)

Existing law requires the court, at the time of sentencing, to consider issuing an order restraining the defendant from any contact with a percipient witness to a crime, upon clear and convincing evidence of witness harassment, when the defendant was convicted of a crime involving domestic violence, rape, statutory rape, spousal rape, gang activity, or a crime requiring sex offender registration. (Pen. Code, § 136.2, subd. (i)(2).)

Existing law 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. Requires the court to order a person subject to the protective order to relinquish ownership or possession of any firearms. (Pen. Code, § 136.2, subd. (d).)

Existing law provides that a willful and knowing violation of a criminal protective order constitutes contempt of court, a misdemeanor, punishable by imprisonment in a county jail for up to one year or a fine of \$1,000, or both. (Pen. Code, §§ 166, subds. (a)(4), (c)(4); 273.6, subd. (a).)

Existing law authorizes a court to issue civil harassment restraining orders for up to five years upon a showing of clear and convincing evidence of unlawful harassment. (Civ. Pro. Code, § 527.6, subds. (a) & (j)(1).)

Existing law authorizes a court to issue a civil domestic violence restraining order enjoining a party from, among other things contacting or coming within a specified distance of a specified person. (Fam. Code, § 6320.)

Existing law provides that the civil domestic violence restraining order may have a duration for up to five years, and may be renewed upon a request of a party, either for five years or permanently, without a showing of any further abuse since the issuance of the order and provides

that failure to state the expiration date on the face of the order creates an order with a duration of three years. (Fam. Code, §§ 6320, subd. (a); 6345, subds. (a) & (c).)

This bill authorizes the court, when a defendant has been convicted of specified crimes, including domestic violence, human trafficking, a crime in furtherance of a criminal street gang, or a registerable sex offense, to consider issuing an order restraining the defendant from contact with any person who is a member of the victim's family or household.

COMMENTS

1. Need for This Bill

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 and members of the victim's household. 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. Post-Conviction Criminal Protective Orders

As a general matter, a court can issue a protective order in any criminal proceeding pursuant to Penal Code section 136.2, subdivision (a), where it finds good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur. Protective orders issued under this statute are valid only during the pendency of the criminal proceedings. (*People v. Ponce* (2009) 173 Cal.App.4th 378, 382.)

When criminal proceedings have concluded, the court has the authority to issue post-conviction protective orders as a condition of probation in cases where probation was granted. In some cases in which probation has not been granted, the court also has the authority to issue post-conviction protective orders. The court is authorized to issue no-contact orders for up to 15 years when a defendant has been convicted of willful infliction of corporal injury to a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of the defendant's child. (Pen. Code, § 273.5, subd. (j).) The court can also issue no-contact orders lasting up to 10 years in the following types of cases: a domestic violence-related offense not involving willful infliction of corporal injury, human trafficking, rape, spousal rape, statutory rape, pimping, pandering, a gang-related offense, or any crime requiring sex offender registration. (Pen. Code, § 136.2, subd. (i)(1).) A post-conviction protective order lasting up to 10 years can also be issued in cases in which there was a conviction for stalking, or abuse of an elder or dependent adult. (Pen. Code, §§ 646.9, subd. (k), 368, subd. (l).) Similarly, in cases involving a criminal conviction or juvenile adjudication for a sex offense in which the victim was a minor, the court may issue an order "that would prohibit ... harassing, intimidating, or threatening the victim or the victim's family members or spouse." (Pen. Code, § 1201.3, subd. (a).)

The consequences of having the court issue a protective order against a person can be severe. For example, the protective order may prohibit the defendant from being within a certain distance of the person named in the order, implicating the defendant's right to travel. Depending on the

facts, such an order may implicate an individual's property interests by forcing the person to vacate their own home. A protective order may also affect a person's immigration status given that a violation of a protective order is a deportable offense. (8 U.S.C. § 1127(a)(2)(E)(ii).) Additionally, the restrained person will generally not be able to purchase, receive, own, or possess a firearm and will have to turn in, sell, or transfer any firearms the person has, and will not be able to buy, receive, own, or possess a firearm while the order is in effect. (Pen. Code, §§ 29825, 136.2, subd. (d).)

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.)

3. Criminal Contempt

Disobedience of a court 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. Effect of This Bill

This bill authorizes 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, for certain cases involving domestic violence, human trafficking, crimes in furtherance of a criminal street gang, or registerable sex offenses. While this may increase judicial economy in some cases, it may also

create protective orders that are not fully supported with factual findings. Furthermore, if a family or household member needs protection, that person, under current law, could seek a civil harassment order. (Code Civ. Proc., § 527.6, subd. (i)(1).)

The Committee may consider defining family or household to avoid confusion as to who may be considered a family member or household member of a victim. Particularly, the Committee may wish to mirror the following definition, created by Labor Code section 245.5(c), and apply it only to family members whose primary residence is with the victim:

“Family member” means any of the following:

- (1) A child, which for purposes of this article means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the victim stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.
- (2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee’s spouse or registered domestic partner, or a person who stood in loco parentis when the victim was a minor child.
- (3) A current or former spouse.
- (4) A current or former registered domestic partner.
- (5) A grandparent or step-grandparent.
- (6) A grandchild or step-grandchild.
- (7) A sibling, step-sibling or half-sibling.

The Committee may also consider including a requirement that the post-conviction protective order be issued to family or household members of the victim only after the establishment by clear and convincing evidence that the person is being harassed, as required for certain witnesses in Penal Code section 136.2(i)(2).

5. Argument in Support

According to the California State Sheriffs’ Association:

Penal Code section 136.2 authorizes courts to issue criminal protective orders restraining a defendant from contact with victims of specified offenses, including domestic violence, sexual offenses, human trafficking, and gang-related crimes. In 2018, the statutory language was amended to limit protective orders to the “victim of the crime,” which appellate courts have interpreted to mean only the specific victim of the count for which the defendant was convicted. This limitation creates significant safety gaps, particularly in domestic violence and sexual abuse cases where multiple victims are common.

By clearly defining who may be protected, the bill ensures due process while allowing courts to respond appropriately to demonstrated risk. This proposal closes statutory gaps, strengthens victim safety, and aligns the statute with the Legislature’s longstanding intent to expand, not restrict, the availability of criminal protective orders in serious cases.

6. Argument in Opposition

According to Local 148 Los Angeles County Public Defender's Union:

This added language is unnecessary as judges already have the power to issue an order restraining the defendant from a victim of the crime. If there is information that a victim's family member is a victim, the judge will include the victim's family on the list of people protected by the restraining order. Sometimes, the victims' family is the same as the defendant's family, so careful consideration must be made when considering evidence presented about who is a victim in the case. This should be done on a case-by-case basis and is already being done in courtrooms without this unnecessary language.

-- END --