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**ORANGE COUNTY SOCIAL SERVICES AGENCY  
CFS OPERATIONS MANUAL**

**Effective Date: January 1, 1995**  
**Revised: August 25, 2009**

**Number: G-0205**

## **Restraining Orders**

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**Purpose** To provide guidelines for obtaining restraining orders for children and/or staff on open dependency cases.

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**Approved** This policy was approved by Mike Ryan, Director of CFS, on August 25, 2009. *Signature on file.*

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**Background** For any child who is the subject of a filed petition until the petition is dismissed or dependency terminated, Orange County Juvenile Court (Juvenile Court) has authority to issue orders (1) enjoining any person from molesting, attacking, striking, or battering the child or any other child in the household; (2) excluding any person from the home of the person who has care, custody, and control of the child; and (3) enjoining any person from behavior(s) that it determines is necessary to effectuate the order(s).

For CFS staff, Juvenile Court has authority to issue an order to a child's parents, restraining them from threatening physical harm to the staff or any member of their family. The protected staff member may be the current or past social worker, supervisor, visitation monitor, department head, and/or others who provide direct or indirect services for the case.

Restraining orders may be temporary and ordered without notice to the restrained party, or permanent with required notice and ordered at an ex parte hearing.

No court other than a criminal court may issue any order contrary to the Juvenile Court restraining order.

This revision provides current legal mandates and required forms for requesting restraining orders.

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**Legal Mandates** [Welfare and Institutions Code Section 213.5](#) allows Juvenile Court to issue ex parte orders on behalf of a child who is a dependent or the subject of a petition.

[Welfare and Institutions Code Section 304](#) gives Juvenile Court sole authority to make decisions for a child, based on any and all legal codes, after a petition has been filed and until the petition is dismissed or dependency is terminated.

[Welfare and Institutions Code Section 340.5](#) authorizes Juvenile Court to issue an order to a parent, restraining them from threatening a social worker or any member of the social worker's family, with physical harm. This requires an ex parte hearing and "good cause", i.e., at least one previous threat of physical harm made by the parent with apparent ability to carry out the threat.

[Family Code Section 6218](#) allows Juvenile Court to make protective orders prohibiting specific acts of abuse toward the child or other named family or household members. Juvenile Court may also exclude a party from the family dwelling. The ex parte order may include the family pet or other specified behaviors deemed necessary.

[Family Code Section 6250](#) *et seq* allows law enforcement officers to seek and serve emergency protective orders for children in immediate and present danger of abuse or abduction by a family or household member.

[Code of Civil Procedure Section 527](#) provides a means for social workers to obtain restraining orders and injunctions for threats outside the scope of WIC § 340.5, described above.

[California Rule of Court 5.630](#) provides procedure for the Juvenile Court process of issuing restraining orders.

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## Definitions

**Emergency Protective Order:** A short-term restraining order issued at the request of a law enforcement officer when the officer believes the person is in immediate and present danger.

**Ex parte:** Court action taken for the benefit of one party only and without notice to, or argument by, any person.

**Good Cause:** Substantial reason for legal action.

**Injunction:** A writ or order requiring a person to refrain from a particular act.

**Restraining Order:** Court order prohibiting family violence; an order restricting a person from harassing, threatening, contacting, and/or approaching another specified person.

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## POLICY

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### Requesting Restraining Orders

Assigned social work staff may request a restraining order be issued by Juvenile Court to protect a child, self, or other staff involved in the child's case.

The request may be made **only** after consultation with County Counsel and:

- After a petition has been filed for the child
- At any calendared hearing for the child
- Between hearings by ex parte request
- At termination of dependency (for procedure at this phase, see CFS P&P [Custody Orders \[G-0201\]](#))
- Submitted orally at a hearing

**OR**

- Submitted in writing, using a completed and signed *Application and Affidavit for Restraining Order—Juvenile (JV-245)* and attaching a blank *Restraining Order—Juvenile (JV-250)*

With each request, social work staff will document facts that show sufficient grounds for Juvenile Court to consider issuing the restraining order.

When the request is made on behalf of staff, the facts documented will meet the legal standard of good cause, including at least one threat of physical harm made by parent to staff with an apparent ability to carry out the threat. This threat may be verbal or nonverbal conduct that communicates a danger of physical harm.

**Note:** Restraining orders protecting staff are limited to parents only. For other parties threatening social work staff (stepparent, boyfriend, grandparent, etc.), restraining orders will be requested from Superior Court. See Code of Civil Procedure Section 527 and request assistance from County Counsel.

<b>Timeframes</b>	<p>When issued, temporary restraining orders (without notice) will be valid for up to 15 days, or if good cause exists, for up to 20 days.</p> <p>With notice given to the subject, restraining orders may be issued for up to three years. The order can be terminated prior, extended by mutual consent of all parties, or extended by further order of the Court. The date of expiration of the order will be stated on the face of the order.</p>
<b>Violation of Order</b>	<p>A parent's violation of a restraining order is a misdemeanor.</p>
<b>Follow-up Requirements</b>	<p>Staff may be required to provide a copy of the restraining order to the appropriate law enforcement agency so it can be enforced. Juvenile Court may order any person or attorney to mail a copy to each local law enforcement agency that has jurisdiction over the residence of the protected party or other locations, as deemed necessary.</p>
<b>Other</b>	<p>Emergency protective orders are a means of protecting children when Juvenile Court does not have jurisdiction, i.e., petition has not been filed. Although social work staff cannot request emergency protective orders through Juvenile Court, law enforcement officers can request them for children in immediate danger of abuse or abduction by a family member.</p> <p>Social workers may discuss the appropriateness of an emergency protective order when working with law enforcement on child abuse referrals. When granted, these are extremely short-term (expires within two judicial days). Social work staff will not provide legal advice to parents, but may refer the nonoffending parent to Family Law Court if the parent wishes to request a more permanent restraining order. The social worker may also request the restraining order directly from Juvenile Court if a petition is filed and a Detention Hearing calendared.</p>

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## REFERENCES

<b>Hyperlinks</b>	<p>Staff accessing this document by computer may create a direct connection to the following references by clicking on them.</p> <ul style="list-style-type: none"> <li>• CFS P&amp;P <a href="#">Custody Orders (G-0201)</a></li> </ul>
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**Other Sources** Other printed references include the following:

None.

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## REQUIRED FORMS

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**Online Forms** Required forms listed below may be printed out and completed, or completed online, and may be accessed by clicking on the link provided.

	<b>Form Name</b>	<b>Form Number</b>
	None.	

**Hard Copy Forms** Forms listed below must be completed in hard copy (including multi-copy NCR forms). ***For reference purposes only***, links are provided to view these hard copy forms, where available.

	<b>Form Name</b>	<b>Form Number</b>
	None.	

**CWS/CMS Forms** The following required forms may **only** be obtained in CWS/CMS. ***For reference purposes only***, links are provided to view these CWS/CMS forms, where available.

	<b>Form Name</b>	<b>Form Number</b>
	<a href="#">Application and Affidavit for Restraining Order—Juvenile</a>	JV-245
	<a href="#">Restraining Order—Juvenile</a>	JV-250

**Brochures** Brochures to distribute in conjunction with this procedure include:

	<b>Brochure Name</b>	<b>Brochure Number</b>
	None.	

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## PROCEDURE

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<b>Required Actions— Requesting Restraining Orders Staff Responsible</b>	The following steps must be completed when considering a restraining order request on open dependency cases.	
<b>Senior Social Worker (SSW)</b>	<b>Step</b>	<b>Required Action</b>
	<b>1.</b>	Consult with assigned supervisor.  If restraining order appears appropriate, request consultation with County Counsel.
	<b>2.</b>	Consult with County Counsel. Determine: <ol style="list-style-type: none"> <li>a. Is the request appropriate?</li> <li>b. Will County Counsel make an oral request or will social worker make the request in writing?</li> </ol> If the social worker is completing a written request, complete steps 3 and 4.
	<b>3.</b>	Complete and sign an <i>Application and Affidavit for Restraining Order—Juvenile (JV-245)</i> . Print a blank copy of <i>Restraining Order-Juvenile (JV-250)</i> .
	<b>4.</b>	<ol style="list-style-type: none"> <li>a. Recommend a restraining order be issued in the current court report or ex parte request. Document facts to support the recommendation.</li> <li>b. Include the completed and signed <i>Application and Affidavit for Restraining Order—Juvenile (JV-245)</i> and the blank copy of <i>Restraining Order—Juvenile (JV-250)</i> with the court report or ex parte request. The <i>JV-250</i> will be completed in the courtroom and will be the restraining order.</li> <li>c. Process the court report or ex parte request per the usual program procedure.</li> </ol>
	<b>5.</b>	Provide the appropriate law enforcement agency (or agencies) with a copy of the restraining order, if directed to do so by Juvenile Court.

6. If Juvenile Court issues a temporary restraining order, follow directives given for notice and hearing regarding a more permanent order. This may include testimony, additional declarations, or documented evidence.