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## Addressing workplace violence

When an employee's safety in the workplace is jeopardized by someone within or outside of the workplace, an employer may seek a workplace violence restraining order

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California law requires employers to provide "safe and healthful" workplaces for their employees. When an employee's safety in the workplace is jeopardized by someone within or outside of the workplace, an employer may seek a workplace violence restraining order (WVRO).

### **WVRO statute**

Under [Code of Civil Procedure section 527.8](#), any employer "whose employee has suffered harassment, unlawful violence, or a credible threat of violence from any individual (employee or nonemployee), that can reasonably be construed to be carried out or to have been carried out at the workplace" may seek a restraining order, effective for up to three years, to protect the targeted employee, and potentially other employees, from the offending individual.

The employer must convince a judge by "clear and convincing evidence" that the defendant engaged in the offending conduct and should be ordered to refrain from further offending conduct. A person subject to a WVRO may not have or purchase a firearm or ammunition while the protective order is in effect and must relinquish any firearms they have.

Effective 2025, the statute added harassment to the categories of conduct subject to a WVRO. The revision was sponsored by state Sen. Catherine Blakespear, D-Encinitas. Officials in the city of Carlsbad and the San Diego County District Attorney's Office informed Blakespear of incidents of aggravated harassment by nonemployees toward employees that demonstrated why employers needed to be able to seek an order restraining conduct before it escalates into a credible threat of violence.

Section 527.8 defines harassment as "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.”

A “credible threat of violence” means “a knowing and willful statement or course of conduct that would place a reasonable person in fear for their safety, or the safety of their immediate family, and that serves no legitimate purpose.” Clear and convincing evidence of a statement intentionally threatening violence warrants issuance of a WVRO, even without a course of threatening conduct.

### **WVRO based on credible threat upheld**

Late last year, in County of Los Angeles v. Niblett, a court of appeal panel upheld a WVRO issued against Neill Niblett, then a senior mechanic in the Los Angeles County Fire Department. The trial judge found Niblett had made a credible threat of violence toward an assistant fire chief, his supervisor.

The county offered evidence Niblett had often raised his voice at the assistant chief, had shouted profanities at him on one occasion, and, in a conversation with a Fire Department secretary, had said: “If they don’t change things in this department, they’re going to have another situation like they had with Tatone.” The comment referred to a firefighter fatally shooting another firefighter at a station the year before.

The court of appeal rejected Niblett’s contention that this statement was only a hypothetical warning about the potential consequences of poor management. Nor was the statement, made to a department secretary with no management authority, made for the legitimate purpose of criticizing poor management in Niblett’s capacity as a union steward.

Instead, the court of appeal concluded there was “sufficient evidence from which the trial court could have inferred, to a high degree of probability, that a reasonable person would have interpreted Niblett’s reference to Tatone as an expression of his intent to shoot members of department management if they continued to make decisions with which he disagreed.”

And given Niblett’s prior angry run-ins with the assistant chief, there was sufficient evidence that the assistant chief was a “logical target” of his threat.

### **Annual workplace violence prevention training required**

WVROs are an employer option to address violent threats and conduct toward employees in the workplace as they arise. But prevention is better than cure. Most California employers now also are required to establish a written [Workplace Violence Prevention Plan](#). Employees must receive training on the plan annually and as new workplace violence hazards are uncovered.

Employers should use their ability to seek WVROs, and the training most employers are required to provide, to avert the operational disruption – and worse – that may result from aggressive misbehavior toward their workforce by employees and nonemployees.

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