

**“Anyone can  
be a stalker,  
and anyone  
can be a  
victim”**

**quote by:  
Rhonda Saunders,  
Co-Author of  
California Stalking  
Law**

# Victim Survival Stalking Handbook


**Stalking & Criminal  
Threats**

**What You Should Know about the Stalking  
Law & Criminal Threats**



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# **Stalking Victim Survival Handbook**

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Special Thanks to

**Rhonda Saunders, Prosecutor**  
Co-Author of California PC646.9 Stalking Law  
&  
**Marie Johnson**  
Legal Assistant

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# Stalking

## Defining Stalking Behavior

“Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family.” (CA Penal Code 646.9)

Stalking is a form of harassment accompanied by a credible threat to intentionally cause fear to another person or the person’s immediate family.

These are examples of stalking and are not limited to these examples when applying to the law.

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### A STALKER PURPOSELY CAUSES HARM TO ANOTHER PERSON

#### 1. Repeatedly Follows – 2 or more occasions

- \* Shows up at the mall or store
- \* Follows behind your car
- \* Shows up at a party, your work, or home

OR

#### Harasses – 2 or more occasions

- \* Repeatedly makes phone calls
- \* Writes & Sends multiple number of letters
- \* Breaks into your house or car
- \* Sends unwanted emails or gifts
- \* Damages victim’s property

#### 2. Makes a Credible Threat – Direct or Implied by Conduct

- \* Physically assaults stalked person or stalked person’s family member
- \* Stalker says “Let’s go to Vegas” implying that he beat her the last time they were in Vegas and knows that will happen again
- \* Stalker says “I am going to kill you” “I am going to kill your family”, “I watched your kids play at the playground”
- \* Makes threats by using; text messages, cell phone, computer, email or letter
- \* Sends a box of dead roses or a doll with needles in it
- \* Makes sexual sounds and words on phone
- \* Sends Sex Toys and Porno Pictures
- \* Sends a letter with words “Rest in Peace”
- \* Sends a valentine card with a bullet in it
- \* Leaves a bullet on your porch or car

#### 3. Stalker’s Conduct places the Victim in Reasonable Fear

\* Stalked person fears for his/her safety or the safety of his/her immediate family and also a reasonable person would be placed in fear

4. Stalker’s Intent – To place the stalked person in fear for his/her safety or the safety of his/her immediate family. - “ON PURPOSE”

# Stalking

Ca Penal Code 646.9 is California's Stalking Law. Other states used California Stalking Law to develop their own stalking law. California was the first state to have the stalking law. Today all states have stalking laws.

## Description of California Stalking Law PC 646.9

- **Repeatedly follows or willfully & maliciously harasses another person on 2 or more occasions**
- **Makes a Credible Threat – Verbal (face to face or through a third party), Written, Electronically communicated by cell, text messages, email or computer, or implied by a pattern of conduct**
- **The acts seriously alarms, annoys, torments or terrorizes the stalked person**
- **The stalker does not have to actually have/possession of a knife, gun, bomb, or other weapon when making the threat**
- **The stalked person believes that the stalker is capable of carrying out the threat**
- **The stalker made the threat intentionally to cause another person to fear for his/her safety or the safety of her family**
- **Incarceration is not a defense to stalking. The stalker can be prosecuted for stalking and threatening the stalked person even if he's in jail or prison**

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# Criminal Threats

## California Penal Code Section 422

“Criminal Threats is a crime of words rather than conduct. Criminal Threat charges usually accompany stalking charges.”

Quote by:  
Rhonda Saunders  
Co-Author of CA  
Stalking Law

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### A Person Threatens to Kill or Physically Hurt Another Person on Purpose

- **The threat must be one of death or great bodily injury against another person or that person’s immediate family.**  
 “I am going to kill you.” or “I am going to kill your family.” or  
 “I will knock your teeth out.” or  
 Gang Member says “You snitched on my brother expect a visit from some of my friends.”
- **The surrounding circumstances during the threat are important.**  
 \* Stalking, Harassment, Domestic Violence, Rape, Child Abuse, Murder
- **Even if he doesn’t carry out the threat he can still be charged.**
- **The threatening statement is made to that person either face to face or by a letter, fax, email, telephone, or through another person.**
- **Conditional threats are true threats if the surrounding circumstances give that person reason to believe that she/he is being threatened.**  
 “If you don’t have dinner cooked tonight I am going to beat you.”  
 “If you don’t sleep with me I will tear your hair out.”
- **One threat is sufficient.**
- **The threat must place the person in reasonable fear.**
- **The threat may be told to the person by a third party.**  
 \* Suspect tells the person’s relative, friend, co-worker, security guard that suspect wants to kill or physically hurt that person. The person is told by the relative, friend, or co-worker, or security guard about the stalkers threat.
- **Fifteen minutes of fear may be more than sufficient to have fear for the threat to be taken seriously.**
- **Suspect does not have to have a weapon in his/her hand when making the threat.**
- **Suspect’s intent is that the person being threatened understand the threat or circumstances as a threat.**

# Stalking Categories

## 1. Relationship

- Domestic Violence

You have a close relationship with that person (married, divorced, separated, dating or used to date, live together or use to live together), or you are related (parent, child, brother, sister, grandmother, grandfather, mother-in-law, son-in-law) or you have a child with the person

- Roommate or other people

“or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household” PC 646.9 (1)

- Workplace Violence

On-going working relationship.

## 2. Erotomaniac

- Stalker believes there is a relationship even though the victim may not know who he is.

## 3. Non-Relationship

- Stalker desires relationship and is ignored.



# Workplace Violence

## Some Reasons for Stalking in the workplace

- Stalker shows up at your job (i.e. customer, vendor, ex husband or boyfriend)
- Co-worker can stalk another employee
- Employee laid off and stalks Supervisor
- Employee feels unfairly treated by co-workers
- Employee feels unfairly treated by Supervisor

### Suggestions on what you should do.

- If stalker shows up at your job report it to your Supervisor. More corporations nowadays have security procedures in place and recognize stalking
- Give your Supervisor/receptionist and Security Officers a picture of stalker
- Report to Supervisor if another employee is stalking another employee
- Employer can obtain a “Workplace Violence restraining order” against stalker
- Tell other employees of the stalking

# Cyber Stalking

Here is another form of “domestic terror”.

- Electronic communication devices such as computers, cell phones, pagers, internet, email, GPS used to stalk & terrorize a stalked person
- These devices can be used to track a stalked person’s movement either on the internet or in her car.
- GPS device is placed on car and stalker can see where a stalked person travels
- Stalkers use “keystroke capture devices” to follow stalked person on the internet – very popular

## Suggestions on What You Should Do

- Tell your friends, family, friends & neighbors
- Make copies of emails and postings on chat rooms and boards on the internet
- Report Cyber stalking to Police
- Write down dates & times of stalking on the internet, cell phone calls, pagers
- If he is following you and appears every where you go on the internet (chat rooms, board postings) write down time and room names.
- Notify your internet service provider (AOL, MSN, Yahoo, EarthLink etc.)

# College Campus

## Stalking is a problem on College Campus's today.

- A Professor can be stalked by a disgruntled student because he got a bad grade
- Student can stalk another student
- Professor can stalk a student
- Professor can stalk another Professor
- Stalker can use college campus computer to stalk a person
- Stalker follows & harasses & threatens student or Professor on Campus

### Suggestions on What you Should do

- Tell your friends, professors, campus police
- Save any letters, notes, presents from stalker
- Tell your Nurse in the Health Office
- Ask Campus Police for escorts to your classes and from your car to class or to your car from class
- Carry a tape recorder in your bag, turn it on when you are walking around campus
- Have a camera ready
- Keep a diary – write down dates & times of stalker's activities.

# Facts about Stalking

The following facts are given to us by  
"National Center for Victims of Crime"

- 1,006,970 women and 370,990 men are stalked annually in the United States
- 1 in 12 women and 1 in 45 men will be stalked in their lifetime
- 87% of men are stalkers
- 59% of female victims and 30% of male victims are stalked by an intimate partner
- 81% of women stalked by a current or former intimate partner are also physically assaulted by that partner
- The average duration of stalking is 1.8 years  
(The above researched by Tjaden & Thoennes (1998) "Stalking in America" NJJ)
- If stalking is done by an intimate partner the average duration of stalking increases to 2.2 years
- 13% of college women were stalked during one six to nine month period
- 80% of campus stalking victims knew their stalkers
- 3 in 10 college women reported being injured emotionally or psychologically from being stalked.

(The above researched by Fisher, Cullen, and Turner. (2000) "The Sexual Victimization of College Women", NJJ/BJS)

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# Be Prepared

If you are unsure whether you should file a police report get advice from your counselor or attorney.

**If you are filing a police report, be prepared to give the police answers to the following questions.**

## **Can a person be charged for stalking? YES!**

- 1) Describe a typical day before the stalking began, then describe a typical day since the stalking began.
- 2) When did the harassment first start? Get time, date, location of each incident, the exact words used by the stalker and the nature of the conduct that you felt was personally threatening or threatening toward others.
- 3) Do you believe that the stalker will carry out the threat? If yes, why? Why are you fearful? Who do you believe may be the target of the stalker? (Do you believe you are the target of the stalker or someone else?)
- 4) Was anyone else present when the conduct or threats took place? (Get the witnesses' names, addresses, and phone numbers.)
- 5) Have you filed previous police reports against the suspect? When and Where?
- 6) What is your current relationship with the stalker? When was the last time the stalker met with you or contacted you? Have you initiated any contact with the stalker since the stalking began? If so, why?
- 7) Do you have physical evidence of the stalking, such as phone messages, letters, gifts etc.? Start keeping a diary of the stalking events and /or threats.
- 8) Do you have a valid restraining order against the stalker? When was it obtained? When does it expire? Why was it obtained? Do you have a copy of your affidavit supporting the issuance of the restraining order? Give a copy of the restraining order and all the supporting documents including the proof of service to the police officer.

**(Questions prepared by:**

**Rhonda Saunders, Co-Author of CA PC 646.9 Stalking Law)**

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# Symptoms You May Experience

If you are being terrorized by a stalker you may suffer the following symptoms.

- Reasonable fear for your safety & life and the fear of your children, mother, father, sister or brother
- Constant Fear & Crying
- Feeling of helplessness
- Depressed
- Nervous
- Loss of Weight
- Cannot sleep at night
- Everyday chores are changed
- Afraid to be alone

**“Don’t Blame Yourself, Blame goes to the Stalker”**

quote by: Rhonda Saunders, Co Author of CA Stalking Law 646.9

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## What a Stalker tries to do....

- To control the stalked person
- To continue to cause fear to the stalked person or her immediate family – children, mother, father, sister, brother or anyone living in the same house
- To keep the stalked person in fear of her/his life or her/his immediate family life – children, mother, father, sister, brother or anyone living in the same house
- To know where the stalked person lives, works and to know whom his/her friends are
- To know the route the stalked person takes to get to work or school
- To know where the stalked person friends live or know where he/her visit's favorite places (restaurants, shops, movie theatres, etc.)
- To show up where stalked person visits or works (family, restaurants, shops, friend's houses or parties, movie theatres, etc.)
- To torment the stalked person from jail or prison by writing letters or even phone calls
- To never take the blame for his stalking, remember a stalker will never accept the responsibility for his actions, it's always someone else's fault

# What You Should Do.

## Some Suggestions on what to do if you if you are being stalked.

### Page 1

- If you are in immediate danger and fear for your life or the life of your immediate family call 911
  - Keep a diary of time, date and place of each stalking
  - If you see the stalker write it down
  - Do not have contact with the stalker
  - If the stalker is in your neighborhood write down names of neighbors, mailman or anyone who sees the stalker.
  - Report all stalking activity to the police.
  - Tell your family, neighbors, teachers, co-workers that you are being stalked
- 
- Do not go out alone
  - Show picture of stalker to your family, neighbors, teachers, co-workers and/or police
  - Neighbors, friends, family, co-workers should not contact the stalker
  - Cautiously, carry a throw away camera to take pictures of your stalker
  - Carry a cell phone
- 
- Don't throw away letters or other evidence such as gifts, place them in plastic bag
  - Packages received should be handled by Police
  - Packages can be dangerous and also have fingerprints



# What You Should Do.

Some suggestions on what you should do if you are being stalked.

## Page 2

- If you feel that you are being followed while in your car go to the nearest Police Station or Fire Dept.
  - Don't blame yourself, seek help.
  - Take a self defense class
  - Discuss with your Counselor or Police Officer whether you should get a restraining order
- 
- If the stalker calls, immediately hang up the phone. Do not talk to him.
  - Ask the phone company to put a trap on your phone
  - Don't erase phone messages
- 
- If you have a restraining order or protective order carry it with you
  - Carry the Stalking Law with you
  - Decide on whether you should move or change your name
  - Change your address to PO Box
  - Change your daily routine
  - Change locks on your home
  - Plan how to escape if necessary from home or work
  - Save any security video taken of stalker

# Restraining Order Clinics

## **Restraining Orders are FREE!**

When they involve violence, threats of violence or stalking in domestic violence, civil harassment and workplace violence.

Family Code 6222, CCP 527.8(p), CCP 527.6(p)  
(see page 25)

- 
- **Los Angeles Superior Court**  
111 N. Hill St. Dept. 8 Room 245 (213) 624-3665  
Hours: M-F 9:00 – 11:30 am; 1:30-3:30 pm
  - **Pasadena Superior Court**  
300 East Walnut Street (213) 624-3665  
Hours: M-F 9:00 – 11:00 am
  - **West District Superior Court**  
1725 Main Street, Room 121, (310) 260-1876  
Santa Monica  
Hours: M-F 8:30am – 11:00 am
  - **Van Nuys Superior Court**  
6230 Sylmar Ave. 2<sup>nd</sup> Fl. (818) 896-5211 ext. 106  
Hours: M-F 8:30 – 12:00 pm (at back of cafeteria)
  - **San Fernando Superior Court**  
900 3<sup>rd</sup> Street 1<sup>st</sup> Floor Room 1026  
(818) 896-5211 ext. 106  
Hours: M-F 8:30 – 12:00 pm
  - **Burbank Superior Court**  
300 East Olive Ave. Room 216  
(818) 896-5211 ext 106  
Hours: M-F 8:30 – 12:00pm

# Restraining Orders

You can find fill-able restraining orders on the internet.

**Restraining orders can be completed  
and printed on-line at:**

**<http://www.courtinfoca.gov/forms/>**

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## Types of Restraining Orders

| Type   | Duration   | Obtained by:  |
|--|--|---|
| <b>Protective Order in Criminal Proceeding</b><br>Criminal PC 136.2  | Duration of criminal proceeding, up to and including probationary term.  | <b>Prosecutor:</b> to protect stalked person or witness from intimidation.  |
| <b>Emergency Protective Order</b><br>(PC 646.91/ FC 6240 et.seq.)  | 5 court days   | <b>Police Officer:</b><br>Stalking, Domestic Violence, Child abuse, Child Abduction, Elder or Dependent Adult Abuse, Civil Harassment and Workplace Violence. |
| <b>Civil Harassment</b><br>(CCP 527.6)<br><br>Temporary Restraining Order<br><br>Petition for Injunction Prohibiting Harassment<br><br>Order to Show Cause TRO<br>Proof of Personal Service<br><br>Permanent Restraining Order After Hearing   | 15 – 21 days until permanent hearing<br><br><br><br><br><br><br>Up to 3 years / Up to 10 yrs. upon conviction of Stalking PC 646.9 (k) | <b>Stalked Person</b> to Prevent Stalking<br><br><b>or</b><br><br><b>Prosecutor</b> in Criminal Stalking proceeding.  |
| <b>Workplace Violence</b><br>(CCP 527.8)<br><br>Temporary Restraining Order<br>Order to Show Cause & TRO<br>Proof of Personal Service<br><br>Petition of Employer for Injunction Prohibiting Violence or Threats of Violence against Employee<br><br>Permanent Restraining Order after Hearing | 15 – 21 days until permanent hearing<br><br><br><br><br><br><br>Up to 3 Years  | <b>Employer:</b> to prevent stalking workplace violence harassment  |
| <b>Domestic Violence</b><br><br>Temporary Restraining Order (FC 6200 et. seq.)<br>Request for Order<br>Temporary Restraining Order & Notice of Hearing<br><br>Proof of Service<br><br>Permanent Restraining Order After Hearing  | 15 – 21 days until permanent hearing<br><br><br><br><br><br><br>A judge in family court can issue one indefinitely.                    | <b>Abused Person or Lawyer</b>  |

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CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)  
OFFICE OF VICTIM AND SURVIVOR SERVICES  
Fax Number: (916) 358-2199 Toll Free Number: (888) 562-5874  
[www.corr.ca.gov/VictimServices](http://www.corr.ca.gov/VictimServices)



*It is your right to be notified of the status of an offender, including: scheduled release date from state prison, scheduled life parole hearing, escape, or death. No notice will be given when an inmate is moved from one facility to another.*

**PLEASE SUBMIT THIS FORM AFTER THE OFFENDER IS SENTENCED TO STATE PRISON.**

- I am requesting notification of release regarding an offender and applying for special conditions of parole.
- I am requesting notification of release, applying for special conditions of parole, AND collection of restitution.
- I am requesting ONLY assistance with collection of Court Ordered restitution.

**A. INMATE INFORMATION**

Inmate's Full Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
(FIRST) (MIDDLE) (LAST)

CDCR Number (Prison Number): \_\_\_\_\_ Date Sentenced to State Prison: \_\_\_\_\_

Court Case Number: \_\_\_\_\_ County of Commitment: \_\_\_\_\_

**B. CURRENT ADDRESS**

I understand that it is **MY** responsibility to keep CDCR updated regarding my current address and phone number so that notification can be made. Request for notification will be forwarded to the appropriate institution for confidential processing and will not be made available to the inmate or the inmate's attorney.

Applicant Name: \_\_\_\_\_  
(FIRST) (MIDDLE) (LAST)

Address: \_\_\_\_\_  
(STREET) (CITY) (STATE) (ZIP CODE)

Mailing Address (If different): \_\_\_\_\_  
(STREET or P.O. BOX) (CITY) (STATE) (ZIP CODE)

Telephone Number (Day): \_\_\_\_\_ (Evening): \_\_\_\_\_

**C. REQUEST FOR SPECIAL CONDITIONS OF PAROLE**

*Note: The Parole Authority considers all requests for special conditions of parole at the time of the inmate's release. Not all requests for special conditions are granted.*

I am:  
 Victim (direct victim of offender)     Family member of victim    Relationship: \_\_\_\_\_  
 Parent/Guardian of victim     Witness     Concerned citizen

I would like to request the following special conditions of parole:  
 No contact with victim (also applies while incarcerated)     Parole offender to another county     Parole offender 35 miles from victim's residence address (cannot be a P.O. Box)

*If you would like to provide additional information explaining your request, please attach a separate sheet of paper.*

**D. REQUEST FOR DIRECT ORDER OF RESTITUTION COLLECTION**

Please collect on a Direct Order of Restitution payable to (print name or business specified in the Court Order, and title if requesting for a business): \_\_\_\_\_ Amount: \_\_\_\_\_

*Note: If you are in possession of the Court Order, attaching a copy to this form may accelerate this process.*

**E. SIGNATURE OF APPLICANT**

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

**CDCR 1707 (Rev. 07/05)**

**PRIVACY STATEMENT**

**AGENCY STATEMENT:** The California Department of Corrections and Rehabilitation (CDCR), Request For Victim Services and Restitution Collection, CDCR 1707.

**OFFICE RESPONSIBLE FOR FORM:** Office of Victim and Survivor Services (OVSS), P.O. Box 942883, Sacramento, CA 94283-0001. The telephone number is 1-888-562-5874 or (916) 358-2436.

**AUTHORITY:** Penal Code Sections 679.03, 2085.5, and 3058.8.

**PROVIDING INFORMATION:** The information requested is necessary to process your request for victim services and/or restitution collection and is voluntary. Failure to provide any of the information requested may prevent OVSS from processing your request(s). All information will remain confidential and accessed by the OVSS staff. Information provided for restitution collection will be transferred to the Board of Control for disbursement of restitution collected by CDCR.

Fold Here

Fold Here

Return Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE POST  
OFFICE WILL  
NOT DELIVER  
WITHOUT A  
STAMP

**CONFIDENTIAL**

California Department of Corrections and Rehabilitation  
Office of Victim and Survivor Services  
P.O. Box 942883  
Sacramento, CA 94283-0001

## California Stalking 646.9 Sentencing Schedule

| Violation   | Time to Be Served   | Penalty  |
|---|---|--|
| First Offense<br>PC 646.9 sub. (a)<br><br><b>STALKING</b>   | Up to one year county jail or 16 months or 2 years or 3 years in state prison | \$1000.00<br>*Victim Notification Restitution<br>*Up to 10 Yr. Restraining Order<br>*(Sex Offender Registration PC 290 Optional)     |
| 646.9 sub. (b)<br>*Violation of Temporary or Permanent Restraining Order and or Protective Orders   | State prison two, three or four years   | \$1000.00<br>*Victim Notification Restitution<br>*Up to 10 Yr. Restraining Order<br><br>*(Sex Offender Registration PC 290 Optional) |
| 646.9 Sub. (c) (1)<br>Convicted of Felony under:<br>*Penal Code 273.5 Domestic Violence Causing Injury,<br>Or<br>*Penal Code 273.6 Violates Restraining Order<br>Or<br>*Penal Code 422 Criminal Threats | One year county jail or state prison two, three, or five years                | \$1000.00<br>*Victim Notification Restitution<br>*Up to 10 Yr. Restraining Order<br>*(Sex Offender Registration PC 290 Optional)     |
| 646.9 (2) After having been convicted of Felony Stalking under 646.9 sub. (a)   | State prison two, three, or five years  | \$1000.00<br>*Victim Notification Restitution<br>*Up to 10 Yr. Restraining Order<br>*(Sex Offender Registration PC 290 Optional)     |

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## California Criminal Threats Sentencing Schedule

| Violation                                    | Time to be Served  | Penalty                                      |
|--|--|--|
| <b>PC 422</b><br><br><b>Criminal Threats</b> | <b>Imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison for 16 months or two years or three years.</b> | <b>Felony conviction is a <u>STRIKE!</u></b> |



## California Stalking Law PC 646.9

(a) Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking, punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

(b) Any person who violates subdivision (a) when there is a temporary restraining order, injunction, or any other court order in effect prohibiting the behavior described in subdivision (a) against the same party, shall be punished by imprisonment in the state prison for two, three, or four years.

(c) (1) Every person who, after having been convicted of a felony under Section 273.5, 273.6, or 422, commits a violation of subdivision (a) shall be punished by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison for two, three, or five years.

(2) Every person who, after having been convicted of a felony under subdivision (a), commits a violation of this section shall be punished by imprisonment in the state prison for two, three, or five years.

(d) In addition to the penalties provided in this section, the sentencing court may order a person convicted of a felony under this section to register as a sex offender pursuant to subparagraph (E) of paragraph (2) of subdivision (a) of Section 290.

(e) For the purposes of this section, "harasses" means engages in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose.

(f) For the purposes of this section, "course of conduct" means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

(g) For the purposes of this section, "credible threat" means a verbal or written threat, including that performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct, made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family, and made with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the defendant had the intent to actually carry out the threat. The present incarceration of a person making the threat shall not be a bar to prosecution under this section. Constitutionally protected activity is not included within the meaning of "credible threat." **(Continues - next page)**

# California Stalking Law PC 646.9

(Continues from previous page)

(h) For purposes of this section, the term "electronic communication device" includes, but is not limited to, telephones, cellular phones, computers, video recorders, fax machines, or pagers. "Electronic communication" has the same meaning as the term defined in Subsection 12 of Section 2510 of Title 18 of the United States **Code**.

(i) This section shall not apply to conduct that occurs during labor picketing.

(j) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under this section, it shall be a condition of probation that the person participate in counseling, as designated by the court. However, the court, upon a showing of good cause, may find that the counseling requirement shall not be imposed.

(k) The sentencing court also shall consider issuing an order restraining the defendant from any contact with the victim that may be valid for up to 10 years, as determined by the court. It is the intent of the Legislature that the length of any restraining order be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and his or her immediate family.

(l) For purposes of this section, "immediate family" means any spouse, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.

(m) The court shall consider whether the defendant would benefit from treatment pursuant to Section 2684. If it is determined to be appropriate, the court shall recommend that the Department of Corrections make a certification as provided in Section 2684. Upon the certification, the defendant shall be evaluated and transferred to the appropriate hospital for treatment pursuant to Section 2684.

# Criminal Threats

## THE LAW

### California Penal Code Section 422

“Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat even if there is no intent of actually carrying it out, which on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family’s safety.”

# California Code Sections

No filing fees for restraining orders that involve violence, threats of violence, stalking, domestic violence, civil harassment or workplace violence cases.

## Petition to Prevent Domestic Violence and response

### Family Code 6222 (a)

**6222.** (a) There is no filing fee for an application, a responsive pleading, or an order to show cause that seeks to obtain, modify, or enforce a protective order or other order authorized by this division if the request for the other order is necessary to obtain or give effect to a protective order. There is no fee for a subpoena filed in connection with that application, responsive pleading, or order to show cause.

## Petition to Prevent Civil Harassment and response

### Code of Civil Procedure 527.6 (p)

**(p)** There shall be no filing fee for a petition that alleges that a person has inflicted or threatened violence against the petitioner, or stalked the petitioner, or acted or spoke in any other manner that has placed the petitioner in reasonable fear of violence, and that seeks a protective or restraining order or injunction restraining stalking or future violence or threats of violence, in any action brought pursuant to this section. No fee shall be paid for a subpoena filed in connection with a petition alleging these acts. No fee shall be paid for filing a response to a petition alleging these acts.

## Petition to Prevent Workplace Violence and response

### Code of Civil Procedure 527.8 (p)

**(p)** There is no filing fee for a petition that alleges that a person has inflicted or threatened violence against an employee of the petitioner, or stalked the employee, or acted or spoke in any other manner that has placed the employee in reasonable fear of violence, and that seeks protective or restraining orders or injunctions restraining stalking or future violence or threats of violence, in any action brought pursuant to this section. No fee shall be paid for filing a response to a petition alleging these acts.

