

# California Workplace Violence Restraining Order Law Expanded to Protect Against Harassment

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California Governor Gavin Newsom signed [Senate Bill \(SB\) No. 428](#) on September 30, 2023. The new law expands California's workplace violence restraining order law to protect against certain kinds of workplace harassment as well. SB 428 does not take effect until January 1, 2025.

## Quick Hits

- ▶ Existing California law enables employers to seek a temporary restraining order against an individual who has engaged in workplace violence or threats of violence against employees.
- ▶ Effective January 1, 2025, California law also will allow employers to seek a temporary restraining order against an individual who has harassed their employees.

## SB 428

California law currently enables an employer to seek a temporary restraining order to protect employees from a person who has engaged in violence or has made a credible threat of violence. Pursuant to California Code of Civil Procedure Section 527.8, an employer may file a petition for a temporary restraining order to protect employees and their immediate family members.

For example, if a disgruntled former employee sends a text message threatening to attack an employee, the employer may seek a court order to keep the threatening individual away from the workplace, the employee's home, and other locations and prohibit the individual from communicating with the employee in any way. If the individual violates the order, the police are authorized to arrest him or her and criminal prosecution may ensue.

While existing law has provided one remedy for employers to try to safeguard employees, the law covers a limited scope of misconduct that primarily is related to violence or threats of violence. When the behavior has not involved violence or threats of violence, courts typically have been less inclined to grant restraining orders.

The legislative history for SB 428 provides the following example of this limitation:

[A] sixty-five-year-old man became obsessed with a twenty-four year-old employee. He repeatedly came to her place [of] business and at times called her up to 100 times for [sic] day for months. He was not threatening her with

violence initially. He wanted her attention and told her that he was in love. Until there was a threat of violence which eventually occurred, both the victim and the business felt helpless to protect the victim. Ultimately, this defendant's repeated rejections lead [sic] him to threaten violence.

Supporters of SB 428 pointed out that employers should not have to wait for conduct to escalate to violence before seeking court intervention.

SB 428 expands the law to include not only violence and threats of violence, but also harassment. The law defines harassment as follows:

“Harassment” is 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.

As a limitation, the law does not permit courts to issue restraining orders for actions “that are constitutionally protected, protected by the National Labor Relations Act ... or otherwise protected by Section 527.3 or any other provision of law.”

This law becomes effective on January 1, 2025.

For more information on this and other new California laws, please join us for our upcoming webinar, “[California Legislative Update: A Busy 2023 Brings Big Changes for Employers](#),” which will take place on Monday, October 30, 2023, from 11 a.m. to 12 noon (PDT). The speakers, [Christopher W. Olmsted](#) and [Charles L. Thompson, IV](#), will discuss the key takeaways from this and other new California laws. Register [here](#).

Ogletree Deakins will continue to monitor California legislative developments and will provide updates on the [California](#) and [Workplace Safety and Health](#) blogs as additional information becomes available.

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