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| **SB 196 – APS Initiated Restraining Order (AIRO)** | | |
| **Overview:** | | |
| Beginning July 1, 2016, W&IC 15557.03 and 15610.07 will be modified to allow an APS agency to file a Request for Elder or Dependent Adult Abuse Restraining Orders (EA-100) on behalf of a client who has suffered abuse as defined in section 15610.07(a) and…   1. \*Has an impaired ability to appreciate and understand the circumstances that place him or her at risk of harm – 15657.03(a)(3)(A)(i).    1. \*When neither a filing for a conservatorship has been made, nor a conservatorship exists.    2. \*When either a filing for a conservatorship has been made, or a conservatorship exists. 2. \*Has provided written authorization – 15657.03(a)(3)(A)(ii). | | |
| *\*Designation of 1a, 1b or 2 below refers to the definitions in the Overview above.* | | |
| **Objectives: Use an AIRO as a tool when there is a high probability that the client’s safety will be secured through…** | | |
| **1a** | **1b** | **2** |
| * Probate conservatorship | * Revised Probate conservatorship * Revised LPS conservatorship | * A comprehensive safety plan that includes the victim’s cooperation. |
| * Other long-term means of protection (i.e. criminal protective orders) |
| **Types of Clients: These are example of client types but not intended to be exclusive.** | | |
| **1a** | **1b** | **2** |
| * Cognitive impairment * Brain damage * Significant physical disability * Developmental disability * Unable to manage financial affairs * Chronic victim of fraud | * LPS conservatee * Probate conservatee | * Victim fearful self-initiated filing will exacerbate abuse * Limited mobility * Other limitation or barrier that inhibits victim’s ability to file |

| **Criteria:** | | |
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| **1a** | **1b** | **2** |
| * The client has suffered abuse as defined in section 15610.07(a). | | |
| * The victim has an impaired ability to appreciate and understand the circumstances that place him or her at risk of harm (see Types of Clients under 1a and 1b above). | | * The victim is willing to provide written authorization for the APS intervention. |
| * There is a high probability APS intervention will lead to long-term safety. * Consider less intrusive interventions that may be equally or more effective. * Consider any additional risks created post-AIRO. * Complete a risk assessment based on current circumstances. * Complete a risk assessment based on post-AIRO circumstances. * Complete a comprehensive safety plan. * Request manager approval. | * Current LPS or Probate conservatorship not providing for long-term client safety * Complete a risk assessment based on current circumstances * Complete a comprehensive safety plan | * There is a high probability APS intervention will lead to long-term safety. * Consider less intrusive interventions that may be equally or more effective. * Consider any additional risks created post-AIRO. * Complete a risk assessment based on current circumstances. * Complete a risk assessment based on post-AIRO circumstances. * Complete a comprehensive safety plan. * Request manager approval. |
| * Manager review: * Criteria above have been met. * Intervention likely to lead to conservatorship or other long-term means of protection (i.e. criminal protective orders).   + - Cognitive impairment: Victim exhibits two of more of the criteria for conservatorship listed in Probate Code section 811(a), (b) & (c) – consult with PG.   *Table continued on next page*   * + - Developmental disability: Victim has been deemed developmentally delayed by local Regional Center (RC) – reference Probate Code section 2351.5. | * Supervisor review: * Despite the current LPS/Probate conservatorship in place, this client needs further protection. | * Manager review: * Criteria above have been met. * Intervention likely to lead to conservatorship or other long-term means of protection (i.e. criminal protective orders). * Victim is a willing participant in the safety plan. |
| * Manager approval | * Supervisor approval | * Manager approval |
| * Consult with County Counsel * Seek Capacity Declaration (GC-335) via… * Victim’s health insurance provider, * Elder Abuse Forensic Center, or * Other resource. * Refer case to PG prior to or concurrent with filing AIRO application. | * Consult with a Probate Court Investigator * Social worker to share concerns regarding the current conservatorship not being able to provide long-term safety to the client. * Public Guardian’s Office can investigate concerns and bring the matter back to court for revisions (if applicable). | * Consult with County Counsel * File application for AIRO (see AIRO Process below). |
| * File application for AIRO (see AIRO Process below). | * Do not file application for AIRO (Public Guardian will review/assess) |

| **AIRO Process: The AIRO filing instructions only apply to 1a and 2** | | |
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| **1a** | **2** | |
| * Complete Elder or Dependent Adult Abuse Restraining Order packet (check website or consult with Clerk for your local Superior Court) * On section 3(c) of the EA-100, check “Other” and enter your name and title preceded by “Adult Protective Services” (e.g. Adult Protective Services, Social Services Social Worker V). * Follow directions in section 3(c) of the EA-100 to state your legal authority on an MC-025 (see specifics below). | * Complete Elder or Dependent Adult Abuse Restraining Order packet (check website or consult with Clerk for your local Superior Court) * On section 3(c) of the EA-100, check “Other” and enter your name and title preceded by “Adult Protective Services” (e.g. Adult Protective Services, Social Services Social Worker V). * Follow directions in section 3(c) of the EA-100 to state your legal authority on an MC-025 (see specifics below). | |
| * Cognitive impairment: * Attach Capacity Declaration (GC-335) to MC-025. * \*If no Capacity Declaration, submit narrative in MC-025 listing evidence and observations that victim “has an impaired ability to appreciate and understand the circumstances that place him or her at risk of harm.”   *\*You may include observations from others like law enforcement officers, but don’t attach a police report that has not been redacted by the law enforcement agency. In most cases, a police report is not necessary.*   * Developmentally delayed: * Attach Regional Center assessment to MC-025. | * Attach written authorization to MC-025. | |
| * Complete the relevant remaining fields in the Elder or Dependent Adult Abuse Restraining Order packet. * File packet with court clerk of the Probate Court in the proper jurisdiction. * Pick up the forms from the clerk and see… * If the judge signed the Temporary Restraining Order (CLETS - TCH) (Form CH-110). * If the judge made any changes to the orders you asked for in your request. * When your court hearing is, on the Notice of Hearing (Form CH-109). The court hearing is also the date your temporary order runs out. If you want to extend it, you must go to your hearing to get a permanent order. * Even if the judge did not make all the temporary orders you asked for, you can still go to the court hearing and ask for those orders. The judge may grant them at the court hearing, even if he or she did not grant them as temporary orders before the hearing.   *Table continued on next page* | | |
| * File your forms: * If the judge signs the order, the court clerk will file it. * “File” means that the court clerk will make the order an official part of the court’s record of your case. * The clerk will keep the original for the court and give you the 5 copies stamped “Filed.” * If you need more copies, you can make them yourself. * There is no filing fee – W&IC 15657.03(a)(7)(q). * Distribute your copies of the temporary restraining order: * Place a copy of the temporary restraining order in the client file. * Keep a copy with you always when visiting the client in the field, as you may need to show it to the police. * Give a copy to the person(s) protected by the order. * Leave copies at the places where the restrained person is ordered not to go (i.e. the victim’s home, with building security, etc.). * Serve your copies (at least five (5) days prior to the hearing): * Request service from the law enforcement agency in the jurisdiction of the person being served. * There is no charge or fee if you have law enforcement perform the service of process. * People you must serve:   + - Suspected abuser | | |
| * + - Victim (Court may shorten time to notice victim)       * Ask victim if he or she wishes to attend the hearing.       * If victim wished to attend, make reasonable efforts to assist the victim to attend. | |  |
| * Bring victim or explain why victim is not present | |  |
| * At the Court Hearing * Arrive thirty (30) minutes early. * Give your testimony.   *Table continued on next page* | | |
| * After the Court Hearing * If the judge issues a restraining order at the hearing, the clerk or other court staff will prepare this order. * Review it to make sure it says what the judge orders. * The clerk will give the orders to the judge to sign (EA-130). * Serve the EA-130 to the restrained person. * If the restrained person was at the hearing, you do not have to legally serve him or her with a copy of Form EA-130. But it is a good idea to do it, and if you choose to, you can have him or her served with a copy of Form EA-130 by mail. Ask the server to complete the Proof of Service of Order After Hearing by Mail (Form EA-260) and give it back to you so you can file it. Keep a copy of it with your restraining order at all times. * If the restrained person was not at the hearing, but the judge’s orders are the same as the temporary order, you can have him or her served with a copy of Form EA-130 by mail. Ask the server to complete the Proof of Service of Order After Hearing by Mail (Form EA-260) and give it back to you so you can file it. Keep a copy of it with your restraining order at all times. * If the restrained person was not at the hearing, and the judge’s orders are different from the temporary order, you must have someone serve Form EA-130 in person, NOT by mail. Ask the server to complete the Proof of Personal Service (Form EA-200) and give it back to you so you can file it. Keep a copy of it with your restraining order at all times. * Distribute copies of the EA-130 as you did the temporary restraining order. | | |

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