

AMENDED IN ASSEMBLY APRIL 9, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2553**

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**Introduced by Assembly Member Solorio**

February 22, 2008

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An act to add Section 6320.5 to the Family Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 2553, as amended, Solorio. Domestic violence: ex parte orders.

Existing law, the Domestic Violence Prevention Act, authorizes the court to issue ex parte orders for the prevention, or the prevention of the recurrence of, domestic violence. Existing law authorizes the court to issue an ex parte order enjoining a party from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, annoying telephone calls, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the other party, and, in the discretion of the court, on a showing of good cause, of other named family or household members.

This bill would require the court to include in any order denying a petition for that ex parte order ~~a statement of whether the petition is jurisdictionally defective, whether the court has determined the petition is for the purpose of preventing a recurrence of domestic violence and ensuring a period of separation of the persons involved, whether the petitioner's affidavit sufficiently showed reasonable proof of a past act or acts of abuse, within the meaning of the Domestic Violence Prevention Act, and whether the facts alleged constitute abuse, as defined~~ *the reasons for denying the petition*. This bill would also require

any order denying a jurisdictionally adequate petition for that ex parte order to provide the petitioner the right to a noticed hearing ~~within 15 days on the earliest date that the business of the court will permit, within specified limits.~~ The bill would also provide that nothing in these provisions shall preclude a petitioner who waives his or her right to a noticed hearing from refileing a new petition, without prejudice, at a later time, *and would require the Judicial Council to develop a form to implement these provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6320.5 is added to the Family Code, to  
 2 read:  
 3 6320.5. (a) An order denying a petition for an ex parte order  
 4 pursuant to Section 6320 shall include ~~all of the following:~~  
 5 ~~(1) A statement of whether the petition is jurisdictionally~~  
 6 ~~defective.~~  
 7 ~~(2) A statement of whether the court has determined the petition~~  
 8 ~~is for the purpose of preventing a recurrence of domestic violence~~  
 9 ~~and ensuring a period of separation of the persons involved.~~  
 10 ~~(3) A statement of whether the petitioner’s affidavit sufficiently~~  
 11 ~~showed reasonable proof of a past act or acts of abuse, within the~~  
 12 ~~meaning of the Domestic Violence Prevention Act.~~  
 13 ~~(4) A statement of whether the facts alleged constitute abuse,~~  
 14 ~~as defined in Section 6203: the reasons for denying the petition.~~  
 15 (b) An order denying a jurisdictionally adequate petition for an  
 16 ex parte order, pursuant to Section 6320, shall provide the petitioner  
 17 the right to a noticed hearing ~~within 15 days on the earliest date~~  
 18 *that the business of the court will permit, but not later than 20*  
 19 *days or, if good cause appears to the court, 25 days from the date*  
 20 *of the order. The petitioner shall serve on the respondent, at least*  
 21 *5 days before the hearing, copies of all supporting papers filed*  
 22 *with the court, including the application and affidavits.*  
 23 (c) Notwithstanding subdivision (b), upon the denial of the ex  
 24 parte order pursuant to Section 6320, the petitioner shall have the  
 25 option to waive his or her right to a noticed hearing. However,  
 26 nothing in this section shall preclude a petitioner who waives his

- 1 or her right to a noticed hearing from refileing a new petition,
- 2 without prejudice, at a later time.
- 3 *(d) The Judicial Council, on or before January 1, 2010, shall*
- 4 *develop a form to implement this section.*

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