Senate Bill No. 273

Passed the Senate September 2, 2009

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Secretary of the Senate

Passed the Assembly August 27, 2009

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Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2009, at _____ o'clock ____M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 124250 and 124251 of the Health and Safety Code, and to amend Sections 13823.15 and 13823.16 of the Penal Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

SB 273, Corbett. Domestic violence.

Existing law requires the Maternal, Child, and Adolescent Health Division of the State Department of Public Health to administer a comprehensive shelter-based service grant program to battered women's shelters. Existing law also requires the Office of Emergency Services, now the California Emergency Management Agency, to conduct a comprehensive statewide domestic violence program to provide assistance to victims of domestic violence in unserved and underserved areas. Both of these programs define "domestic violence" to mean the infliction or threat of physical harm against past or present adult or adolescent female intimate partners, and shall include physical, sexual, and psychological abuse against the woman, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from, or control over, that woman.

This bill would change the definition of domestic violence under both of the above programs to mean the infliction or threat of physical harm against past or present adult or adolescent intimate partners, to include physical, sexual, and psychological abuse against the partner, that is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from, or control over, that partner. The bill would also make the department's comprehensive shelter-based service grant program subject to specified antidiscrimination provisions.

Existing law establishes the Office of Emergency Services Domestic Violence Advisory Council, as specified, which is repealed as of January 1, 2010.

This bill would extend that repeal date until January 1, 2015.

This bill would incorporate additional changes to Section 124250 of the Health and Safety Code proposed by AB 503 that would become operative only if AB 503 and this bill are both chaptered

and become effective on or before January 1, 2010, and this bill is chaptered last.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) In 1994, the Legislature enacted the Battered Women Protection Act (BWPA) providing for a comprehensive shelter-based services program for battered women and children. Passage of the BWPA was a recognition of the serious magnitude of domestic violence and the need to provide funding to increase protection for female victims and their children.

(b) Despite efforts by the state to address the problem of domestic violence, it remains an issue of serious public concern and growing magnitude. Women, in particular, continue to be victims of domestic violence at a disproportionate rate.

(c) In 2006, there were 86 domestic homicides by a spouse or common law partner. The victims included 69 females and 17 males.

(d) In 2007, there were 119 murders committed in California as the result of intimate partner violence. The victims included 101 females and 18 males who were killed by their partners.

(e) As of April 2008, there were 246,444 domestic violence-related orders on file with the Department of Justice, including emergency protective orders, temporary restraining orders, orders after hearing, other domestic violence orders, and criminal protective orders.

(f) Many economic risks associated with domestic violence also disproportionately affect abused women, including homelessness, income decline upon separation, and financial dependency on partners.

(g) In providing and funding comprehensive shelter-based services to all victims of domestic violence, the state has a compelling interest in acknowledging the quantitative difference in the number of male and female victims, as well as the qualitative differences in the nature of the violence experienced by male and female victims so that resources may be properly allocated. Battered women's shelters provide services without discrimination based on gender.

(h) It is the intent of the Legislature that the State Department of Public Health have as purposes and goals that all victims of domestic violence served by the department's Maternal, Child, and Adolescent Health Division receive comprehensive, quality services and that resources are distributed to where there is the most need.

SEC. 2. Section 124250 of the Health and Safety Code is amended to read:

124250. (a) The following definitions shall apply for purposes of this section:

(1) "Domestic violence" means the infliction or threat of physical harm against past or present adult or adolescent intimate partners, and shall include physical, sexual, and psychological abuse against the partner, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over, that partner.

(2) "Shelter-based" means an established system of services where victims of domestic violence and their children may be provided safe or confidential emergency housing on a 24-hour basis, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(3) "Emergency shelter" means a confidential or safe location that provides emergency housing on a 24-hour basis for victims of domestic violence and their children.

(b) The Maternal, Child, and Adolescent Health Division of the State Department of Public Health shall administer a comprehensive shelter-based services grant program to battered women's shelters pursuant to this section. This program shall comport with the requirements of Section 11135 of the Government Code.

(c) The Maternal, Child, and Adolescent Health Division shall administer grants, awarded as the result of a request for application process, to battered women's shelters that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, and to establish new battered women's shelters to provide services, in any of the following four areas:

(1) Emergency shelter to victims of domestic violence and their children escaping violent family situations.

(2) Transitional housing programs to help victims of domestic violence and their children find housing and jobs so they are not forced to choose between returning to a violent relationship or becoming homeless. The programs may offer up to 18 months of housing, case management, job training and placement, counseling, support groups, and classes in parenting and family budgeting.

(3) Legal and other types of advocacy and representation to help victims of domestic violence and their children pursue appropriate legal options.

(4) Other support services for victims of domestic violence and their children.

(d) (1) The Maternal, Child, and Adolescent Health Division shall conduct a minimum of one site visit per grant term to each agency funded to provide shelter-based services to victims of domestic violence and their children. The purpose of the site visit shall be a performance assessment of, and technical assistance for, each agency visited. The performance assessment shall include, but need not be limited to, a review of all of the following:

(A) Progress in meeting program goals and objectives.

(B) Agency organization and facilities.

(C) Personnel policies, files, and training.

(D) Recordkeeping, budgeting, and expenditures.

(E) Documentation, data collection, and client confidentiality.

(2) Subsequent to each site visit conducted under paragraph (1), the Maternal, Child, and Adolescent Health Division shall provide a written report to the agency summarizing the agency's performance, deficiencies noted, and corrective action needed.

(3) If an agency receives funding from both the Maternal, Child, and Adolescent Health Division and the Comprehensive Statewide Domestic Violence Program in the California Emergency Management Agency during any grant cycle, the Maternal, Child, and Adolescent Health Division and the Comprehensive Statewide Domestic Violence Program shall, to the extent feasible, coordinate agency site visits and share performance assessment data with the goal of improving efficiency, eliminating duplication, and reducing administrative costs.

(e) In implementing the grant program pursuant to this section, the department shall consult with an advisory council that shall remain in existence until January 1, 2010. The council shall be

composed of not to exceed 13 voting members and two nonvoting ex officio members appointed as follows:

(1) Seven members appointed by the Governor.

(2) Three members appointed by the Speaker of the Assembly.

(3) Three members appointed by the Senate Committee on Rules.

(4) Two nonvoting ex officio members who shall be Members of the Legislature, one appointed by the Speaker of the Assembly and one appointed by the Senate Committee on Rules. Any Member of the Legislature appointed to the council shall meet with, and participate in the activities of, the council to the extent that participation is not incompatible with his or her position as a Member of the Legislature.

The membership of the council shall consist of domestic violence advocates, battered women service providers, and representatives of women's organizations, law enforcement, and other groups involved with domestic violence, and at least one representative of service providers serving the lesbian, gay, bisexual, and transgender community for purposes of domestic violence. At least one-half of the council membership shall consist of domestic violence advocates or battered women service providers from organizations such as the California Partnership to End Domestic Violence.

It is the intent of the Legislature that the council membership reflect the ethnic, racial, cultural, and geographic diversity of the state.

(f) The department shall collaborate closely with the council in the development of funding priorities, the framing of the Request for Proposals, and the solicitation of proposals.

(g) (1) The Maternal, Child, and Adolescent Health Division shall administer grants, awarded as the result of a request for application process, to agencies to conduct demonstration projects to serve victims of domestic violence, including, but not limited to, creative and innovative service approaches, such as community response teams and pilot projects to develop new interventions emphasizing prevention and education, and other support projects identified by the advisory council.

(2) For purposes of this subdivision, "agency" means a state agency, a local government, a community-based organization, or a nonprofit organization.

(h) It is the intent of the Legislature that services funded by this program include services for victims of domestic violence in underserved communities, including the lesbian, gay, bisexual, and transgender community, and ethnic and racial communities. Therefore, the Maternal, Child, and Adolescent Health Division shall do all of the following:

(1) Fund shelters pursuant to this section that reflect the ethnic, racial, economic, cultural, and geographic diversity of the state.

(2) Target geographic areas and ethnic and racial communities of the state whereby, based on a needs assessment, it is determined that no shelter-based services for battered women exist or that additional resources are necessary.

(i) The director may award additional grants to shelter-based agencies when it is determined that there exists a critical need for shelter or shelter-based services.

(j) As a condition of receiving funding pursuant to this section, battered women's shelters shall do both of the following:

(1) Provide matching funds or in-kind contributions equivalent to not less than 20 percent of the grant they would receive. The matching funds or in-kind contributions may come from other governmental or private sources.

(2) Ensure that appropriate staff and volunteers having client contact meet the definition of "domestic violence counselor" as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

SEC. 2.5. Section 124250 of the Health and Safety Code is amended to read:

124250. (a) The following definitions shall apply for purposes of this section:

(1) "Domestic violence" means the infliction or threat of physical harm against past or present adult or adolescent intimate partners, and shall include physical, sexual, and psychological abuse against the partner, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from, or control over, that partner.

(2) “Shelter-based” means an established system of services where victims of domestic violence and their children may be provided safe or confidential emergency housing on a 24-hour basis, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(3) “Emergency shelter” means a confidential or safe location that provides emergency housing on a 24-hour basis for victims of domestic violence and their children.

(b) The Maternal, Child, and Adolescent Health Division of the State Department of Public Health shall administer a comprehensive shelter-based services grant program to battered women’s shelters pursuant to this section. This program shall comport with the requirements of Section 11135 of the Government Code.

(c) The Maternal, Child, and Adolescent Health Division shall administer grants, awarded as the result of a request for application process, to battered women’s shelters that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, and to establish new battered women’s shelters to provide services, in any of the following four areas:

(1) Emergency shelter to victims of domestic violence and their children escaping violent family situations.

(2) Transitional housing programs to help victims of domestic violence and their children find housing and jobs so they are not forced to choose between returning to a violent relationship or becoming homeless. The programs may offer up to 18 months of housing, case management, job training and placement, counseling, support groups, and classes in parenting and family budgeting.

(3) Legal and other types of advocacy and representation to help victims of domestic violence and their children pursue the appropriate legal options.

(4) Other support services for victims of domestic violence and their children.

(d) (1) The Maternal, Child, and Adolescent Health Division of the State Department of Public Health shall conduct a minimum of one site visit per grant term to each agency funded to provide shelter-based services to victims of domestic violence and their children. The purpose of the site visit shall be a performance assessment of, and technical assistance for, each agency visited.

The performance assessment shall include, but need not be limited to, a review of all of the following:

(A) Progress in meeting program goals and objectives.

(B) Agency organization and facilities.

(C) Personnel policies, files, and training.

(D) Recordkeeping, budgeting, and expenditures.

(E) Documentation, data collection, and client confidentiality.

(2) Subsequent to each site visit conducted under paragraph (1), the Maternal, Child, and Adolescent Health Division shall provide a written report to the agency summarizing the agency's performance, deficiencies noted, and corrective action needed.

(3) If an agency receives funding from both the Maternal, Child, and Adolescent Health Division of the State Department of Public Health and the Comprehensive Statewide Domestic Violence Program in the California Emergency Management Agency during any grant cycle, the Maternal, Child, and Adolescent Health Division and the Comprehensive Statewide Domestic Violence Program shall, to the extent feasible, coordinate agency site visits and share performance assessment data with the goal of improving efficiency, eliminating duplication, and reducing administrative costs.

(e) In implementing the grant program pursuant to this section, the department shall consult with an advisory council that shall remain in existence until January 1, 2015. The council shall be composed of not to exceed 13 voting members and two nonvoting ex officio members appointed as follows:

(1) Seven members appointed by the Governor.

(2) Three members appointed by the Speaker of the Assembly.

(3) Three members appointed by the Senate Committee on Rules.

(4) Two nonvoting ex officio members who shall be Members of the Legislature, one appointed by the Speaker of the Assembly and one appointed by the Senate Committee on Rules. Any Member of the Legislature appointed to the council shall meet with, and participate in the activities of, the council to the extent that participation is not incompatible with his or her position as a Member of the Legislature.

The membership of the council shall consist of domestic violence advocates, battered women service providers, and representatives of women's organizations, law enforcement, and other groups

involved with domestic violence, and at least one representative of service providers serving the lesbian, gay, bisexual, and transgender community for purposes of domestic violence. At least one-half of the council membership shall consist of domestic violence advocates or battered women service providers from organizations such as the California Partnership to End Domestic Violence.

It is the intent of the Legislature that the council membership reflect the ethnic, racial, cultural, and geographic diversity of the state.

(f) The department shall collaborate closely with the council in the development of funding priorities, the framing of the Request for Proposals, and the solicitation of proposals.

(g) (1) The Maternal, Child, and Adolescent Health Division of the State Department of Public Health shall administer grants, awarded as the result of a request for application process, to agencies to conduct demonstration projects to serve victims of domestic violence and their children, including, but not limited to, creative and innovative service approaches, such as community response teams and pilot projects to develop new interventions emphasizing prevention and education, and other support projects identified by the advisory council.

(2) For purposes of this subdivision, "agency" means a state agency, a local government, a community-based organization, or a nonprofit organization.

(h) It is the intent of the Legislature that services funded by this program include services for victims of domestic violence in underserved communities, including the lesbian, gay, bisexual, and transgender community, and ethnic and racial communities. Therefore, the Maternal, Child, and Adolescent Health Division of the State Department of Public Health shall do all of the following:

(1) Fund shelters pursuant to this section that reflect the ethnic, racial, economic, cultural, and geographic diversity of the state.

(2) Target geographic areas and ethnic and racial communities of the state whereby, based on a needs assessment, it is determined that no shelter-based services for battered women exist or that additional resources are necessary.

(i) The director may award additional grants to shelter-based agencies when it is determined that there exists a critical need for shelter or shelter-based services.

(j) As a condition of receiving funding pursuant to this section, battered women's shelters shall do both of the following:

(1) Provide matching funds or in-kind contributions equivalent to not less than 20 percent of the grant they would receive. The matching funds or in-kind contributions may come from other governmental or private sources.

(2) Ensure that appropriate staff and volunteers having client contact meet the definition of "domestic violence counselor" as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

(k) The State Department of Public Health shall consult with the California Emergency Management Agency to consider consolidation of their respective domestic violence programs and report conclusions to the Legislature by June 30, 2011.

SEC. 3. Section 124251 of the Health and Safety Code is amended to read:

124251. (a) The Maternal, Child, and Adolescent Health Division of the State Department of Public Health shall fund, through a competitive selection process determined by the director, at least one agency to provide expert technical assistance and training on domestic violence issues and building agency capacity in order to obtain other funding for services for victims of domestic violence, including, but not limited to, grant writing and building coalitions.

(b) The Maternal, Child, and Adolescent Health Division shall fund at least one agency to conduct a statewide evaluation of the services funded through Section 124250.

(c) For purposes of subdivision (a), "agency" means a state agency, local government, a community-based organization, or a nonprofit agency.

(d) Contracts awarded pursuant to this section are exempt from the competitive bidding requirements of the Public Contract Code.

SEC. 4. Section 13823.15 of the Penal Code is amended to read:

13823.15. (a) The Legislature finds the problem of domestic violence to be of serious and increasing magnitude. The Legislature also finds that existing domestic violence services are underfunded and that some areas of the state are unserved or underserved. Therefore, it is the intent of the Legislature that a goal or purpose of the California Emergency Management Agency (Cal EMA) shall be to ensure that all victims of domestic violence served by the Cal EMA Comprehensive Statewide Domestic Violence Program receive comprehensive, quality services.

(b) There is in the Cal EMA a Comprehensive Statewide Domestic Violence Program. The goals of the program shall be to provide local assistance to existing service providers, to maintain and expand services based on a demonstrated need, and to establish a targeted or directed program for the development and establishment of domestic violence services in currently unserved and underserved areas. The Cal EMA shall provide financial and technical assistance to local domestic violence centers in implementing all of the following services:

(1) Twenty-four-hour crisis hotlines.
(2) Counseling.
(3) Business centers.
(4) Emergency "safe" homes or shelters for victims and families.
(5) Emergency food and clothing.
(6) Emergency response to calls from law enforcement.
(7) Hospital emergency room protocol and assistance.
(8) Emergency transportation.
(9) Supportive peer counseling.
(10) Counseling for children.
(11) Court and social service advocacy.
(12) Legal assistance with temporary restraining orders, devices, and custody disputes.
(13) Community resource and referral.
(14) Household establishment assistance.

Priority for financial and technical assistance shall be given to emergency shelter programs and "safe" homes for victims of domestic violence and their children.

(c) Except as provided in subdivision (f), the Cal EMA and the advisory committee established pursuant to Section 13823.16 shall

collaboratively administer the Comprehensive Statewide Domestic Violence Program, and shall allocate funds to local centers meeting the criteria for funding. All organizations funded pursuant to this section shall utilize volunteers to the greatest extent possible.

The centers may seek, receive, and make use of any funds which may be available from all public and private sources to augment state funds received pursuant to this section.

Centers receiving funding shall provide cash or an in-kind match of at least 10 percent of the funds received pursuant to this section.

(d) The Cal EMA shall conduct statewide training workshops on domestic violence for local centers, law enforcement, and other service providers designed to enhance service programs. The workshops shall be planned in conjunction with practitioners and experts in the field of domestic violence prevention. The workshops shall include a curriculum component on lesbian, gay, bisexual, and transgender specific domestic abuse.

(e) The Cal EMA shall develop and disseminate throughout the state information and materials concerning domestic violence. The Cal EMA shall also establish a resource center for the collection, retention, and distribution of educational materials related to domestic violence. The Cal EMA may utilize and contract with existing domestic violence technical assistance centers in this state in complying with the requirements of this subdivision.

(f) The funding process for distributing grant awards to domestic violence shelter service providers (DVSSPs) shall be administered by the Cal EMA as follows:

(1) The Cal EMA shall establish each of the following:

(A) The process and standards for determining whether to grant, renew, or deny funding to any DVSSP applying or reapplying for funding under the terms of the program.

(B) For DVSSPs applying for grants under the request for proposal process described in paragraph (2), a system for grading grant applications in relation to the standards established pursuant to subparagraph (A), and an appeal process for applications that are denied. A description of this grading system and appeal process shall be provided to all DVSSPs as part of the application required under the RFP process.

(C) For DVSSPs reapplying for funding under the request for application process described in paragraph (4), a system for grading the performance of DVSSPs in relation to the standards established

pursuant to subparagraph (A), and an appeal process for decisions to deny or reduce funding. A description of this grading system and appeal process shall be provided to all DVSSPs receiving grants under this program.

(2) Grants for shelters that were not funded in the previous cycle shall be awarded as a result of a competitive request for proposal (RFP) process. The RFP process shall comply with all applicable state and federal statutes for domestic violence shelter funding and, to the extent possible, the response to the RFP shall not exceed 25 narrative pages, excluding attachments.

(3) Grants shall be awarded to DVSSPs that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, or to establish new domestic violence shelters in underserved or unserved areas. Each grant shall be awarded for a three-year term.

(4) DVSSPs reapplying for grants shall not be subject to a competitive grant process, but shall be subject to a request for application (RFA) process. The RFA process shall consist in part of an assessment of the past performance history of the DVSSP in relation to the standards established pursuant to paragraph (1). The RFA process shall comply with all applicable state and federal statutes for domestic violence center funding and, to the extent possible, the response to the RFA shall not exceed 10 narrative pages, excluding attachments.

(5) A DVSSP funded through this program in the previous grant cycle, including a DVSSP funded by Chapter 707 of the Statutes of 2001, shall be funded upon reapplication, unless, pursuant to the assessment required under the RFA process, its past performance history fails to meet the standards established by the Cal EMA pursuant to paragraph (1).

(6) The Cal EMA shall conduct a minimum of one site visit every three years for each DVSSP funded pursuant to this subdivision. The purpose of the site visit shall be to conduct a performance assessment of, and provide subsequent technical assistance for, each shelter visited. The performance assessment shall include, but need not be limited to, a review of all of the following:

(A) Progress in meeting program goals and objectives.

(B) Agency organization and facilities.

(C) Personnel policies, files, and training.

(D) Recordkeeping, budgeting, and expenditures.

(E) Documentation, data collection, and client confidentiality.

(7) After each site visit conducted pursuant to paragraph (6), the Cal EMA shall provide a written report to the DVSSP summarizing the performance of the DVSSP, deficiencies noted, corrective action needed, and a deadline for corrective action to be completed. The Cal EMA shall also develop a corrective action plan for verifying the completion of corrective action required. The Cal EMA shall submit its written report to the DVSSP no more than 60 days after the site visit. No grant under the RFA process shall be denied if the DVSSP has not received a site visit during the previous three years, unless the Cal EMA is aware of criminal violations relative to the administration of grant funding.

(8) If an agency receives funding from both the Comprehensive Statewide Domestic Violence Program in the California Emergency Management Agency and the Maternal, Child, and Adolescent Health Division of the State Department of Public Health during any grant cycle, the Comprehensive Statewide Domestic Violence Program and the Maternal, Child, and Adolescent Health Division shall, to the extent feasible, coordinate agency site visits and share performance assessment data with the goal of improving efficiency, eliminating duplication, and reducing administrative costs.

(9) DVSSPs receiving written reports of deficiencies or orders for corrective action after a site visit shall be given no less than six months' time to take corrective action before the deficiencies or failure to correct may be considered in the next RFA process. However, the Cal EMA shall have the discretion to reduce the time to take corrective action in cases where the deficiencies present a significant health or safety risk or when other severe circumstances are found to exist. If corrective action is deemed necessary, and a DVSSP fails to comply, or if other deficiencies exist that, in the judgment of the Cal EMA, cannot be corrected, the Cal EMA shall determine, using its grading system, whether continued funding for the DVSSP should be reduced or denied altogether. If a DVSSP has been determined to be deficient, the Cal EMA may, at any point during the DVSSP's funding cycle following the expiration of the period for corrective action, deny or reduce further funding.

(10) If a DVSSP applies or reapplies for funding pursuant to this section and that funding is denied or reduced, the decision to deny or reduce funding shall be provided in writing to the DVSSP,

along with a written explanation of the reasons for the reduction or denial made in accordance with the grading system for the RFP or RFA process. Except as otherwise provided, an appeal of the decision to deny or reduce funding shall be made in accordance with the appeal process established by the Cal EMA. The appeal process shall allow a DVSSP a minimum of 30 days to appeal after a decision to deny or reduce funding. All pending appeals shall be resolved before final funding decisions are reached.

(11) It is the intent of the Legislature that priority for additional funds that become available shall be given to currently funded, new, or previously unfunded DVSSPs for expansion of services. However, the Cal EMA may determine when expansion is needed to accommodate underserved or unserved areas. If supplemental funding is unavailable, the Cal EMA shall have the authority to lower the base level of grants to all currently funded DVSSPs in order to provide funding for currently funded, new, or previously unfunded DVSSPs that will provide services in underserved or unserved areas. However, to the extent reasonable, funding reductions shall be reduced proportionately among all currently funded DVSSPs. After the amount of funding reductions has been determined, DVSSPs that are currently funded and those applying for funding shall be notified of changes in the available level of funding prior to the next application process. Funding reductions made under this paragraph shall not be subject to appeal.

(12) Notwithstanding any other provision of this section, Cal EMA may reduce funding to a DVSSP funded pursuant to this section if federal funding support is reduced. Funding reductions as a result of a reduction in federal funding shall not be subject to appeal.

(13) Nothing in this section shall be construed to supersede any function or duty required by federal acts, rules, regulations, or guidelines for the distribution of federal grants.

(14) As a condition of receiving funding pursuant to this section, DVSSPs shall do all of the following:

(A) Provide matching funds or in-kind contributions equivalent to not less than 10 percent of the grant they would receive. The matching funds or in-kind contributions may come from other governmental or private sources.

(B) Ensure that appropriate staff and volunteers having client contact meet the definition of “domestic violence counselor” as

specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

(15) The following definitions shall apply for purposes of this subdivision:

(A) "Domestic violence" means the infliction or threat of physical harm against past or present adult or adolescent intimate partners, including physical, sexual, and psychological abuse against the partner, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that person.

(B) "Domestic violence shelter service provider" or "DVSSP" means a victim services provider that operates an established system of services providing safe and confidential emergency housing on a 24-hour basis for victims of domestic violence and their children, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(C) "Emergency shelter" means a confidential or safe location that provides emergency housing on a 24-hour basis for victims of domestic violence and their children.

(g) The Cal EMA may hire the support staff and utilize all resources necessary to carry out the purposes of this section. The Cal EMA shall not utilize more than 10 percent of funds appropriated for the purpose of the program established by this section for the administration of that program.

SEC. 5. Section 13823.16 of the Penal Code is amended to read:

13823.16. (a) The Comprehensive Statewide Domestic Violence Program established pursuant to Section 13823.15 shall be collaboratively administered by the California Emergency Management Agency (Cal EMA) and an advisory council. The membership of the (Cal EMA) Domestic Violence Advisory Council shall consist of experts in the provision of either direct or intervention services to victims of domestic violence and their children, within the scope and intention of the Comprehensive Statewide Domestic Violence Assistance Program.

(b) The membership of the council shall consist of domestic violence victims' advocates, battered women service providers, at least one representative of service providers serving the lesbian, gay, bisexual, and transgender community in connection with domestic violence, and representatives of women's organizations, law enforcement, and other groups involved with domestic violence. At least one-half of the council membership shall consist of domestic violence victims' advocates or battered women service providers from organizations such as the California Partnership to End Domestic Violence. It is the intent of the Legislature that the council membership reflect the ethnic, racial, cultural, and geographic diversity of the state. The council shall be composed of no more than 13 voting members and two nonvoting ex officio members who shall be appointed, as follows:

(1) Seven voting members shall be appointed by the Governor.

(2) Three voting members shall be appointed by the Speaker of the Assembly.

(3) Three voting members shall be appointed by the Senate Committee on Rules.

(4) Two nonvoting ex officio members shall be Members of the Legislature, one appointed by the Speaker of the Assembly and one appointed by the Senate Committee on Rules. Any Member of the Legislature appointed to the council shall meet with the council and participate in its activities to the extent that participation is not incompatible with his or her position as a Member of the Legislature.

(c) The Cal EMA shall collaborate closely with the council in developing funding priorities, framing the request for proposals, and soliciting proposals.

(d) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 124250 of the Health and Safety Code proposed by both this bill and AB 503. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 124250 of the Health and Safety Code, and (3) this bill is enacted after AB 503, in which case Section 2 of this bill shall not become operative.

Approved _____, 2009

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Governor