

ASSEMBLY BILL

No. 454

Introduced by Assembly Member Silva

February 15, 2011

An act to amend Section 6345 of the Family Code, relating to protective orders.

LEGISLATIVE COUNSEL'S DIGEST

AB 454, as introduced, Silva. Protective orders: early termination.

Existing law permits a court to terminate or modify specified protective orders, including stay-away and residence exclusion orders, on written stipulation filed with the court or on the motion of a party.

This bill would require, if a proceeding is set for the purpose of terminating or modifying specified protective orders prior to their expiration, that the party who is protected by the order be given notice of the proceeding prior to the hearing, as specified. The bill would require a court to deny the motion to modify or terminate the order without prejudice or continue the hearing if the party cannot be notified prior to the hearing.

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

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

- 1 SECTION 1. Section 6345 of the Family Code, as amended
- 2 by Section 19 of Chapter 572 of the Statutes of 2010, is amended
- 3 to read:
- 4 6345. (a) In the discretion of the court, the personal conduct,
- 5 stay-away, and residence exclusion orders contained in a court

1 order issued after notice and a hearing under this article may have
2 a duration of not more than five years, subject to termination or
3 modification by further order of the court either on written
4 stipulation filed with the court or on the motion of a party. These
5 orders may be renewed, upon the request of a party, either for five
6 years or permanently, without a showing of any further abuse since
7 the issuance of the original order, subject to termination or
8 modification by further order of the court either on written
9 stipulation filed with the court or on the motion of a party. The
10 request for renewal may be brought at any time within the three
11 months before the expiration of the orders.

12 (b) Notwithstanding subdivision (a), the duration of any orders,
13 other than the protective orders described in subdivision (a), that
14 are also contained in a court order issued after notice and a hearing
15 under this article, including, but not limited to, orders for custody,
16 visitation, support, and disposition of property, shall be governed
17 by the law relating to those specific subjects.

18 (c) The failure to state the expiration date on the face of the
19 form creates an order with a duration of three years from the date
20 of issuance.

21 (d) *If a court proceeding is set for the purpose of terminating*
22 *or modifying a protective order prior to the expiration date*
23 *specified in the order, the party who is protected by the order shall*
24 *be given notice of the proceeding prior to the hearing either by*
25 *personal service or by mail with return receipt required. If the*
26 *party who is protected by the order cannot be notified prior to the*
27 *hearing for modification or termination of the protective order,*
28 *the court shall deny the motion to modify or terminate the order*
29 *without prejudice or continue the hearing until the party who is*
30 *protected can be properly noticed.*