

## Assembly Bill No. 233

### CHAPTER 731

An act to amend Sections 6380 and 6385 of the Family Code, relating to the Department of Justice.

[Approved by Governor October 9, 1995. Filed  
with Secretary of State October 10, 1995.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 233, Kuehl. Department of Justice.

Existing law requires the Department of Justice to maintain a Domestic Violence Protective Order Registry for the purpose of making available to court clerks and law enforcement personnel, through computer access, specified information regarding domestic violence protective orders. Existing law requires, upon the issuance of a protective order, that the department be immediately notified of the contents of the order and specified information, including the terms and conditions of the protective order.

Existing law authorizes an employer to seek a temporary restraining order and an injunction on behalf of an employee who has suffered unlawful violence or a credible threat of violence from any individual, as specified.

This bill would expressly apply the former provisions governing the Domestic Violence Protective Order Registry to temporary restraining orders and injunctions relating to domestic violence issued pursuant to the latter provision described above, a criminal court domestic violence protective order, and domestic violence protective orders issued by the court of another state that have been registered with the court clerk, as specified. The bill would require that the department be notified of any custody and visitation terms and conditions of such an order upon issuance of the order. The bill would make conforming changes.

By requiring increased duties of local officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. Section 6380 of the Family Code is amended to read:

6380. (a) Each county, with the approval of the Department of Justice, shall, by July 1, 1996, develop a procedure, using existing systems, for the electronic transmission of data, as described in subdivision (b), to the Department of Justice. The data shall be electronically transmitted through the California Law Enforcement Telecommunications System (CLETS) of the Department of Justice by law enforcement personnel, or with the approval of the Department of Justice, court personnel or another appropriate agency capable of maintaining and preserving the integrity of both the CLETS and the Domestic Violence Protective Order Registry, as described in subdivision (e). Data entry is required to be entered only once under the requirements of this section, unless the order is served at a later time. A portion of all fees payable to the Department of Justice under subdivision (e) of Section 1203.097 of the Penal Code for the entry of the information required under this section, based upon the proportion of the costs incurred by the local agency and those incurred by the Department of Justice, shall be transferred to the local agency actually providing the data.

(b) Upon the issuance of a protective order to which this division applies pursuant to Section 6221, or the issuance of a temporary restraining order or injunction relating to domestic violence pursuant to Section 527.8 of the Code of Civil Procedure, or the issuance of a criminal court protective order under subdivision (g) of Section 136.2 of the Penal Code, or upon registration with the court clerk of a domestic violence protective order issued by the court of another state, and including any of the foregoing orders issued in connection with an order for modification of a custody or visitation order issued pursuant to a dissolution, legal separation, nullity, or paternity proceeding the Department of Justice shall be immediately notified of the contents of the order and the following information:

(1) The name, race, date of birth, and other personal descriptive information of the respondent as required by a form prescribed by the Department of Justice.

(2) The names of the protected persons.

(3) The date of issuance of the order.

(4) The duration or expiration date of the order.

(5) The terms and conditions of the protective order, including stay-away, no-contact, residency exclusion, custody, and visitation provisions of the order.

(6) The department or division number and the address of the court.



(7) Whether or not the order was served upon the respondent.

All available information shall be included; however, the inability to provide all categories of information shall not delay the entry of the information available.

(c) The information conveyed to the Department of Justice shall also indicate whether the respondent was present in court to be informed of the contents of the court order. The respondent's presence in court shall provide proof of service of notice of the terms of the protective order. The respondent's failure to appear shall also be included in the information provided to the Department of Justice.

(d) Immediately upon receipt of proof of service the clerk of the court, and immediately after service any law enforcement officer who served the protective order, shall notify the Department of Justice, by electronic transmission, of the service of the protective order, including the name of the person who served the order and, if that person is a law enforcement officer, the law enforcement agency.

(e) The Department of Justice shall maintain a Domestic Violence Protective Order Registry and shall make available to court clerks and law enforcement personnel, through computer access, all information regarding the protective and restraining orders and injunctions described in subdivision (b), whether or not served upon the respondent.

(f) If a court issues a modification, extension, or termination of a protective order, the transmitting agency for the county shall immediately notify the Department of Justice, by electronic transmission, of the terms of the modification, extension, or termination.

(g) The Judicial Council shall assist local courts charged with the responsibility for issuing protective orders by developing informational packets describing the general procedures for obtaining a domestic violence restraining order and indicating the appropriate Judicial Council forms, and shall include a design, which local courts shall complete, which describes local court procedures and maps to enable applicants to locate filing windows and appropriate courts. The court clerk shall provide a fee waiver form to all applicants for domestic violence protective orders. The court clerk shall provide all Judicial Council forms required by this chapter to applicants free of charge.

(h) For the purposes of this part, "electronic transmission" shall include computer access through the California Law Enforcement Telecommunications System (CLETS).

SEC. 2. Section 6385 of the Family Code is amended to read:

6385. (a) On receipt of proof of service of a protective or restraining order or injunction described in subdivision (b) of Section 6380, a local law enforcement agency or the court shall



immediately notify the Department of Justice, by electronic transmission, regarding the following information:

(1) The name, race, date of birth, and other personal descriptive information of the respondent as required by a form prescribed by the Department of Justice.

(2) The names of the protected persons.

(3) The date of issuance of the order.

(4) The duration or expiration date of the order.

(5) The terms and conditions of the stay-away, custody, and visitation provisions of the order.

(6) The department or division number and the telephone number of the court.

(b) Proof of service of the protective order is not required for the purposes of this section if the order indicates on its face that both parties were personally present at the hearing where the order was issued and that, for the purpose of Section 6384, no proof of service is required, or if the order was served by a law enforcement officer pursuant to Section 6383.

(c) The failure of the petitioner to provide the Department of Justice with the personal descriptive information regarding the person restrained does not invalidate the protective order.

(d) There is no civil liability on the part of, and no cause of action arises against, an employee of a local law enforcement agency, a court, or the Department of Justice, acting within the scope of employment, if a person described in subdivision (g) of Section 12021 of the Penal Code unlawfully purchases or receives or attempts to purchase or receive a firearm and a person is injured by that firearm or a person who is otherwise entitled to receive a firearm is denied a firearm and either wrongful action is due to a failure of a court to provide the notification provided for in this chapter.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

