

AMENDED IN SENATE JUNE 29, 1995
AMENDED IN SENATE JUNE 12, 1995
AMENDED IN ASSEMBLY APRIL 26, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 935

**Introduced by Assembly Member Speier
(Coauthor: Assembly Member Kuehl)**

February 22, 1995

An act to amend ~~Sections 6300 and~~ *Section* 6345 of, and to add Section 240.5 to, the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

AB 935, as amended, Speier. Family law: restraining orders.

(1) Under existing law, the superior court has jurisdiction in proceedings under the Family Code. Existing law provides for the issuance of ex parte temporary restraining orders in specified actions and proceedings under the Family Code.

This bill would authorize a judge of the municipal court to issue such an order when relief cannot be obtained in a timely manner from a judge of the superior court. The bill would require the applicant for the order to set forth in the affidavit in support of the application for the order the reasons that relief could not be obtained in a timely manner from a judge of the superior court. The bill would provide that jurisdiction for the hearing to determine whether a permanent order

should be granted and all subsequent proceedings shall be in the superior court.

~~(2) Existing provisions of the Domestic Violence Prevention Act provide for the issuance of emergency protective orders, and provide that other protective orders may be issued to restrain any person for the purpose of preventing a recurrence of domestic violence and ensuring a period of separation of the persons involved, if an affidavit shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse.~~

~~This bill would provide that the affidavit may be attached to, and refer to, an emergency protective order for the purpose of showing proof of a past act or acts of abuse.~~

~~(3) Under existing law, a domestic violence protective order issued after notice and a hearing may have a duration of not more than 3 years, except as provided.~~

~~This bill would provide that such an order may have a duration of not more than 10 years. The bill would state the intent of the Legislature that the length of such an order be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and his or her immediate family. The bill would provide that the duration of the order may be longer than 5 years only in an extreme case, as specified. Existing law limits the maximum duration of a domestic violence protective order to 3 years unless extended by further order of the court, except where the parties stipulate in writing to an order of permanent duration.~~

~~This bill would instead provide that the personal conduct, stay-away, and residence exclusion orders contained in a domestic violence protective order issued after notice and a hearing may have a duration of not more than 3 years, unless otherwise terminated or modified by further order of the court. The bill would provide that these orders may be renewed, upon the request of a party, either for 3 years or permanently, without a showing of any further abuse since the issuance of the original order, unless otherwise terminated or modified by further order of the court. The bill would provide that the duration of other orders contained in a domestic violence protective order, including orders for~~



custody, visitation, support, and disposition of property, shall be governed by the law relating to those subjects.

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 240.5 is added to the Family
2 Code, to read:

3 240.5. Notwithstanding Section 200, a judge of the
4 municipal court may issue an order described in Section
5 240 when relief cannot be obtained in a timely manner
6 from a judge of the superior court. In such a case, the
7 applicant for the order shall set forth in the affidavit in
8 support of the application for the order the reasons that
9 relief could not be obtained in a timely manner from a
10 judge of the superior court. Jurisdiction for the hearing
11 described in Section 242 and all subsequent proceedings
12 shall be in the superior court.

13 ~~SEC. 2. Section 6300 of the Family Code is amended~~
14 ~~to read:~~

15 ~~6300. An order may be issued under this part, with or~~
16 ~~without notice, to restrain any person for the purpose of~~
17 ~~preventing a recurrence of domestic violence and~~
18 ~~ensuring a period of separation of the persons involved,~~
19 ~~if an affidavit shows, to the satisfaction of the court,~~
20 ~~reasonable proof of a past act or acts of abuse. The~~
21 ~~affidavit may be attached to, and refer to, an emergency~~
22 ~~protective order issued pursuant to Part 4 (commencing~~
23 ~~with Section 6240) for the purpose of showing proof of a~~
24 ~~past act or acts of abuse.~~

25 ~~SEC. 3. Section 6345 of the Family Code is amended~~
26 ~~to read:~~

27 ~~6345. (a) In the discretion of the court, an order~~
28 ~~issued after notice and a hearing under this article may~~
29 ~~have a duration of not more than 10 years, unless~~
30 ~~otherwise terminated or extended by further order of the~~
31 ~~court either on written stipulation filed with the court or~~
32 ~~on the motion of a party. It is the intent of the Legislature~~
33 ~~that the length of any order issued under this article be~~



1 ~~based upon the seriousness of the facts before the court,~~
2 ~~the probability of future violations, and the safety of the~~
3 ~~victim and his or her immediate family. The duration of~~
4 ~~the order may be longer than five years only in an~~
5 ~~extreme case where a longer duration is necessary to~~
6 ~~protect the safety of the victim or his or her immediate~~
7 ~~family.~~

8 ~~(b) The failure to state the expiration date on the face~~
9 ~~of the form creates an order with a duration of three years~~
10 ~~from the date of issuance.~~

11 ~~(c) Nothing in this section prohibits parties, by written~~
12 ~~stipulation, from creating an order with a permanent~~
13 ~~duration.~~

14 *SEC. 2. Section 6345 of the Family Code is amended*
15 *to read:*

16 6345. (a) *In the discretion of the court,*~~an order~~
17 ~~issued after notice and a hearing under this article may~~
18 ~~have a duration of not more than three years, unless~~
19 ~~otherwise terminated or extended~~ *the personal conduct,*
20 *stay-away, and residence exclusion orders contained in a*
21 *court order issued after notice and a hearing under this*
22 *article may have a duration of not more than three years,*
23 *subject to termination or modification by further order of*
24 *the court either on written stipulation filed with the court*
25 *or on the motion of a party. These orders may be*
26 *renewed, upon the request of a party, either for three*
27 *years or permanently, without a showing of any further*
28 *abuse since the issuance of the original order, subject to*
29 *termination or modification by further order of the court*
30 *either on written stipulation filed with the court or on the*
31 *motion of a party.*

32 (b) *Notwithstanding subdivision (a), the duration of*
33 *any orders, other than the protective orders described in*
34 *subdivision (a), that are also contained in a court order*
35 *issued after notice and a hearing under this article,*
36 *including, but not limited to, orders for custody,*
37 *visitation, support, and disposition of property, shall be*
38 *governed by the law relating to those specific subjects.*



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

4 ~~(e) Nothing in this section prohibits parties, by written~~
5 ~~stipulation, from creating an order with a permanent~~
6 ~~duration.~~

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