

AMENDED IN ASSEMBLY APRIL 14, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1900

Introduced by Assembly Member Cardenas

February 17, 1998

An act to amend Sections 240, ~~6327, and 7603~~ 4921, and 6327 of, and to add Sections ~~3553~~ 4977, 4978, and 6322.5 to, the Family Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 1900, as amended, Cardenas. Domestic violence: confidentiality of identifying information.

Existing law authorizes the court ~~to issue specified ex parte orders to enjoin or prevent specified acts relating to domestic violence, as defined, in any proceeding under the Uniform Interstate Family Support Act, to issue an order, that may be ex parte, prohibiting the disclosure of identifying information regarding a party or child in any pleadings or other documents, if the court finds disclosure would put the party or child at unreasonable risk for specified harm.~~

This bill would ~~authorize the court to issue, and would specify procedures and requirements relating to the issuance of, an ex parte order prohibiting the disclosure of the address or other identifying information of a child, parent, guardian, or party on any pleading or document in paternity or support proceedings. The ex parte order those orders and would, among other things, specify that an order would be issuable only upon an application, as specified,~~ made under penalty of

~~perjury, establishing that the applicant may be at unreasonable risk for specified harm if disclosure is not prohibited. Because the bill would expand the crime of perjury, it would impose a state-mandated local program by the party, child, parent, guardian, or state support enforcement agency. The bill would also require a support enforcement agency providing services to a party to provide specified information regarding nondisclosure orders and to seek a nondisclosure order in specified circumstances, and would specify that these ex parte orders are not subject to other provisions of law relating to ex parte temporary restraining orders. Because this bill would expand the duties of local agencies and expand the crime of perjury, it 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.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~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 with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

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



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

1 SECTION 1. Section 240 of the Family Code is
2 amended to read:

3 240. This part applies where a temporary restraining
4 order, including a protective order as defined in Section
5 6218, is issued under any of the following provisions:

6 (a) Article 2 (commencing with Section 2045) of
7 Chapter 4 of Part 1 of Division 6 (dissolution of marriage,
8 nullity of marriage, or legal separation of the parties).

9 (b) Article 3 (commencing with Section 4620) of
10 Chapter 3 of Part 5 of Division 9 (deposit of assets to
11 secure future child support payments).

12 (c) Article 1 (commencing with Section 6320) of
13 Chapter 2 of Part 4 of Division 10 (Domestic Violence
14 Prevention Act), other than an order under Section
15 6322.5.

16 (d) Article 2 (commencing with Section 7710) of
17 Chapter 6 of Part 3 of Division 12 (Uniform Parentage
18 Act).

19 ~~SEC. 2. Section 3553 is added to the Family Code, to~~
20 ~~read:~~

21 ~~3553. Section 6322.5 is applicable to proceedings~~
22 ~~pursuant to this division.~~

23 ~~SEC. 3.~~

24 *SEC. 2. Section 4921 of the Family Code is amended*
25 *to read:*

26 4921. (a) A support enforcement agency of this state,
27 upon request, shall provide services to a petitioner in a
28 proceeding under this chapter.

29 (b) A support enforcement agency that is providing
30 services to the petitioner as appropriate shall do all of the
31 following:

32 (1) Take all steps necessary to enable an appropriate
33 tribunal in this state or another state to obtain jurisdiction
34 over the respondent.

35 (2) Request an appropriate tribunal to set a date, time,
36 and place for a hearing.



1 (3) Make a reasonable effort to obtain all relevant
2 information, including information as to income and
3 property of the parties.

4 (4) Within 14 days, exclusive of Saturdays, Sundays,
5 and legal holidays, after receipt of a written notice from
6 an initiating, responding, or registering tribunal, send a
7 copy of the notice to the petitioner.

8 (5) Within 14 days, exclusive of Saturdays, Sundays,
9 and legal holidays, after receipt of a written
10 communication from the respondent or the respondent's
11 attorney, send a copy of the communication to the
12 petitioner.

13 (6) Notify the petitioner if jurisdiction over the
14 respondent cannot be obtained.

15 (7) *Perform the acts required by Section 4978.*

16 (c) This chapter does not create or negate a
17 relationship of attorney and client or other fiduciary
18 relationship between a support enforcement agency or
19 the attorney for the agency and the individual being
20 assisted by the agency.

21 *SEC. 3. Section 4977 is added to the Family Code, to*
22 *read:*

23 *4977. (a) The order described in Section 4926 shall be*
24 *issued upon application of a child, parent, guardian or*
25 *other caretaker of a child, or party, signed under penalty*
26 *of perjury, setting forth facts that demonstrate, to the*
27 *satisfaction of the court, that the health, safety, freedom*
28 *of movement, or physical or emotional well-being of the*
29 *applicant may be put unreasonably at risk by the*
30 *disclosure of the applicant's address or other identifying*
31 *information.*

32 *(b) A copy of the order issued pursuant to this section*
33 *shall be served on the other party to the proceeding and*
34 *the district attorney by first-class mail. The order shall*
35 *include a mailing address for service of process on the*
36 *protected party. The protected party shall be required to*
37 *file with the court notice of any change of the mailing*
38 *address and a copy of the notice shall be sent to the other*
39 *party to the proceeding and the district attorney. This*
40 *designated address shall not be the address of a*



1 governmental agency unless the agency has consented in
2 writing to the designation.

3 (c) Notwithstanding any local or state rules of court,
4 no notice is required prior to issuance of an order
5 pursuant to this section.

6 (d) An order issued pursuant to this section shall not
7 expire until further order of the court, issued after a
8 hearing on a noticed motion filed by the other party to the
9 proceeding and served by first-class mail on the protected
10 party at the mailing address described in subdivision (b)
11 and the district attorney.

12 (e) Part 4 (commencing with Section 240) of Division
13 2 shall not apply to the issuance of an order pursuant to
14 this section.

15 (f) The Judicial Council shall adopt forms and notices
16 to implement this section, that shall be available no later
17 than July 1, 1999.

18 (g) Nothing in this section shall be construed to
19 require a party to obtain an order pursuant to this section
20 before using a confidential address on court pleadings
21 except as required by Section 4925.

22 SEC. 4. Section 4978 is added to the Family Code, to
23 read:

24 4978. A support enforcement agency that is providing
25 services to a petitioner pursuant to Section 4921 shall do
26 all of the following:

27 (a) Inform the petitioner of the requirement that the
28 pleadings contain identifying information about the
29 petitioner and the child, including the residential
30 address, unless an order of nondisclosure is granted
31 pursuant to Sections 4926 and 4977.

32 (b) Inform the petitioner of his or her right to seek an
33 order of nondisclosure and provide information
34 regarding how that order may be obtained.

35 (c) Inform the petitioner that the support
36 enforcement agency shall seek an order of nondisclosure
37 on behalf of the petitioner if the petitioner has previously
38 obtained a protective or restraining order or has been
39 granted a good cause exception from cooperation
40 requirements pursuant to Section 11477.04 of the Welfare



1 *and Institutions Code; and instruct the petitioner to*
 2 *notify the agency of any such order or exception.*

3 *(d) Seek an order of nondisclosure pursuant to*
 4 *Sections 4926 and 4977 if the petitioner informs the*
 5 *agency that he or she has obtained a protective or*
 6 *restraining order or has been granted a good cause*
 7 *exception from cooperation requirements pursuant to*
 8 *Section 11477.04 of the Welfare and Institutions Code.*

9 SEC. 5. Section 6322.5 is added to the Family Code, to
 10 read:

11 6322.5. ~~(a) The Pursuant to Sections 4926 and 4977,~~
 12 *the court may issue an ex parte order that prohibiting*
 13 *disclosure of the address or other identifying information*
 14 *of a party, child, parent, guardian or other caretaker of a*
 15 *child, or party shall not be disclosed in a pleading or other*
 16 *document relating to proceedings or actions to establish*
 17 *or enforce support under Division 9 (commencing with*
 18 *Section 3500) or actions brought under the Uniform*
 19 *Parentage Act (Part 3 (commencing with Section 7600)*
 20 *of Division 12).*

21 ~~(b) The order described in subdivision (a) shall be~~
 22 *issued upon application of a child, parent, guardian or*
 23 *other caretaker of a child, or party, signed under penalty*
 24 *of perjury, setting forth facts that demonstrate, to the*
 25 *satisfaction of the court, that the health, safety, freedom*
 26 *of movement, or physical or emotional well-being of the*
 27 *applicant may be put unreasonably at risk by the*
 28 *disclosure of the applicant's address or other identifying*
 29 *information.*

30 ~~(e) A copy of the order issued pursuant to this section~~
 31 *shall be served on the other party to the proceeding and*
 32 *the district attorney by first-class mail. The order shall*
 33 *include a mailing address for service of process on the*
 34 *protected party. The protected party shall be required to*
 35 *file with the court notice of any change of the mailing*
 36 *address and a copy of the notice shall be sent to the other*
 37 *party to the proceeding and the district attorney. This*
 38 *designated address shall not be the address of a*
 39 *governmental agency unless the agency has consented in*
 40 *writing to the designation.*



1 ~~(d) Notwithstanding any local or state rules of court,~~
2 ~~no notice is required prior to issuance of an order~~
3 ~~pursuant to this section.~~

4 ~~(e) An order issued pursuant to this section shall not~~
5 ~~expire until further order of the court, issued after a~~
6 ~~hearing on a noticed motion filed by the other party to the~~
7 ~~proceeding and served by first-class mail on the protected~~
8 ~~party at the mailing address described in subdivision (c)~~
9 ~~and the district attorney.~~

10 ~~(f) Part 4 (commencing with Section 240) of Division~~
11 ~~2 shall not apply to the issuance of an order pursuant to~~
12 ~~this section.~~

13 ~~(g) The Judicial Council shall adopt forms and notices~~
14 ~~to implement this section, that shall be available no later~~
15 ~~than July 1, 1999..~~

16 ~~SEC. 4.~~

17 ~~SEC. 6. Section 6327 of the Family Code is amended~~
18 ~~to read:~~

19 ~~6327. Part 4 (commencing with Section 240) of~~
20 ~~Division 2 applies to the issuance of any ex parte order~~
21 ~~under this article, other than an order under Section~~
22 ~~6322.5.~~

23 ~~SEC. 5. Section 7603 of the Family Code is amended~~
24 ~~to read:~~

25 ~~7603. Sections 3140 and 6322.5 are applicable to~~
26 ~~proceedings pursuant to this part.~~

27 ~~SEC. 6. No reimbursement is required by this act~~
28 ~~pursuant to Section 6 of Article XIII B of the California~~
29 ~~Constitution because the only costs that may be incurred~~
30 ~~by a local agency or school district will be incurred~~
31 ~~because this act creates a new crime or infraction,~~
32 ~~eliminates a crime or infraction, or changes the penalty~~
33 ~~for a crime or infraction, within the meaning of Section~~
34 ~~17556 of the Government Code, or changes the definition~~
35 ~~of a crime within the meaning of Section 6 of Article~~
36 ~~XIII B of the California Constitution.~~

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



1 SEC. 7. No reimbursement is required by this act
2 pursuant to Section 6 of Article XIII B of the California
3 Constitution for certain costs that may be incurred by a
4 local agency or school district because in that regard this
5 act creates a new crime or infraction, eliminates a crime
6 or infraction, or changes the penalty for a crime or
7 infraction, within the meaning of Section 17556 of the
8 Government Code, or changes the definition of a crime
9 within the meaning of Section 6 of Article XIII B of the
10 California Constitution.

11 However, notwithstanding Section 17610 of the
12 Government Code, if the Commission on State Mandates
13 determines that this act contains other costs mandated by
14 the state, reimbursement to local agencies and school
15 districts for those costs shall be made pursuant to Part 7
16 (commencing with Section 17500) of Division 4 of Title
17 2 of the Government Code. If the statewide cost of the
18 claim for reimbursement does not exceed one million
19 dollars (\$1,000,000), reimbursement shall be made from
20 the State Mandates Claims Fund.

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

