

AMENDED IN SENATE FEBRUARY 25, 1999

**SENATE BILL**

**No. 161**

---

**Introduced by Senator Alpert**

*(Coauthors: Senators Baca, Karnette, Rainey, Sher, and Speier)*

*(Coauthors: Assembly Members Cunneen, Davis, Dutra, Jackson, Knox, Kuehl, Leach, Longville, Romero, Steinberg, Strom-Martin, Torlakson, and Washington)*

January 11, 1999

---

An act to amend ~~Sections 6251 and~~ *Section* 6300 of, and to add ~~Sections 6250.5, 6258, and~~ *Section* 6306 to, the Family Code, and to add Section 273.75 to the Penal Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

SB 161, as amended, Alpert. Domestic violence: protective orders: background checks.

Existing law, contained in the Domestic Violence Prevention Act, ~~authorizes a judicial officer to issue an ex parte emergency protective order when a law enforcement officer asserts reasonable grounds to believe that an immediate and present danger exists for domestic violence or abduction of a child. The act also authorizes~~ the court to issue a protective order, as defined, either ex parte or after a hearing, to restrain any person to prevent a recurrence of domestic violence.

This bill would require the ~~judicial officer~~ *court*, when considering issuance of ~~an ex parte emergency protective order~~ or a protective order, to cause a search of specified

records and data bases to determine if the proposed subject of the order has any specified prior criminal convictions or outstanding warrants, is on parole or probation, or is or was the subject of other protective or restraining orders. The bill would also require the notification of appropriate law enforcement agencies of the issuance of ~~either of these orders~~ *the protective order* in specified circumstances.

Existing law makes it a crime for any person to commit specified acts of violence against his or her spouse, the person with whom he or she is cohabiting, the mother or father of his or her child, or any child.

This bill would require the prosecuting attorney, in all prosecutions of these crimes, to cause a search to be made of specified data bases, for review by the court, to determine if the defendant is or was the subject of any protective or restraining orders.

By imposing new duties upon court personnel and prosecuting attorneys, this bill would create 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.

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 6250.5 is added to the Family~~
- 2 ~~Code, to read:~~
- 3 ~~6250.5. (a) When considering issuance of an ex parte~~
- 4 ~~emergency protective order pursuant to this part, the~~
- 5 ~~judicial officer shall cause a search to be made of those~~



1 records and data bases described in subdivision (b) and  
2 shall review the resulting information to determine if the  
3 subject of the proposed order has any prior criminal  
4 convictions involving domestic violence, weapons, or  
5 other violence or any outstanding warrants, is currently  
6 on parole or probation, or is the subject of any current or  
7 prior protective or restraining orders.

8 (b) For purposes of this section, the judicial officer  
9 shall cause a search to be conducted of all records and data  
10 bases readily available to the court including, but not  
11 limited to, the following:

12 (1) The Violent Crime Information Network, when  
13 available, or the California Law Enforcement  
14 Telecommunications System, or both.

15 (2) The Domestic Violence Protective Order Registry.

16 (3) Criminal offender record information and local  
17 summary criminal history information compiled by the  
18 Department of Justice and by local criminal justice  
19 agencies pursuant to Chapter 2 (commencing with  
20 Section 13100) of Title 3 of Part 4 of the Penal Code.

21 (4) State summary criminal history information  
22 maintained by the Department of Justice pursuant to  
23 Section 11105 of the Penal Code.

24 (5) Data contained in the Federal Bureau of  
25 Investigation Nationwide Database, when available.

26 (6) Locally maintained criminal history records or  
27 databases.

28 SEC. 2. Section 6251 of the Family Code is amended  
29 to read:

30 6251. An emergency protective order may be issued  
31 only if the judicial officer finds, based on the assertions of  
32 a law enforcement officer and the information reviewed  
33 by the judicial officer pursuant to Section 6250.5, both of  
34 the following:

35 (a) Reasonable grounds have been asserted to believe  
36 that an immediate and present danger of domestic  
37 violence exists or that a child is in immediate and present  
38 danger of abuse or abduction.



1 ~~(b) An emergency protective order is necessary to~~  
2 ~~prevent the occurrence or recurrence of domestic~~  
3 ~~violence, child abuse, or child abduction.~~

4 ~~SEC. 3. Section 6258 is added to the Family Code, to~~  
5 ~~read:~~

6 ~~6258. Upon receipt by the judicial officer of~~  
7 ~~information that an outstanding warrant exists against the~~  
8 ~~subject of an emergency protective order, or that the~~  
9 ~~subject is on probation or parole, the judicial officer shall,~~  
10 ~~upon issuance of the emergency protective order, notify~~  
11 ~~the appropriate law enforcement officials of the judicial~~  
12 ~~officer's findings under Section 6251 and of any~~  
13 ~~information regarding the subject's most recent address~~  
14 ~~or location. Those officials shall then take all actions~~  
15 ~~necessary to execute any outstanding warrants or to~~  
16 ~~revoke any parole or probation with respect to the~~  
17 ~~restrained person as appropriate and as soon as~~  
18 ~~practicable.~~

19 ~~SEC. 4.~~

20 ~~SECTION 1. Section 6300 of the Family Code is~~  
21 ~~amended to read:~~

22 ~~6300. (a) An order may be issued under this part,~~  
23 ~~with or without notice, to restrain any person for the~~  
24 ~~purpose of preventing a recurrence of domestic violence~~  
25 ~~and ensuring a period of separation of the persons~~  
26 ~~involved, if an affidavit *or an affidavit* and other~~  
27 ~~information before the court, as described in subdivision~~  
28 ~~(b), shows, to the satisfaction of the court, reasonable~~  
29 ~~proof of a past act or acts of abuse.~~

30 ~~(b) When considering an application for issuance of a~~  
31 ~~protective order, as defined in Section 6218, the court~~  
32 ~~shall cause the search records and data base described in~~  
33 ~~Section 6250.5 to be made with respect to the proposed~~  
34 ~~subject of the order.~~

35 ~~(b) When considering an application for issuance of an~~  
36 ~~order pursuant to this section, the court shall cause a~~  
37 ~~search to be conducted, with respect to the proposed~~  
38 ~~subject of the order, of all records and data bases readily~~  
39 ~~available to the court including, but not limited to, the~~  
40 ~~following:~~



1 (1) *The Violent Crime Information Network, when*  
2 *available, or the California Law Enforcement*  
3 *Telecommunications System, or both.*

4 (2) *The Domestic Violence Protective Order Registry.*

5 (3) *Criminal offender record information and local*  
6 *summary criminal history information compiled by the*  
7 *Department of Justice and by local criminal justice*  
8 *agencies pursuant to Chapter 2 (commencing with*  
9 *Section 13100) of Title 3 of Part 4 of the Penal Code.*

10 (4) *State summary criminal history information*  
11 *maintained by the Department of Justice pursuant to*  
12 *Section 11105 of the Penal Code.*

13 (5) *Data contained in the Federal Bureau of*  
14 *Investigation Nationwide Database, when available.*

15 (6) *Locally maintained criminal history records or*  
16 *data bases.*

17 ~~SEC. 5.~~

18 SEC. 2. Section 6306 is added to the Family Code, to  
19 read:

20 6306. Upon receipt by the court of information that an  
21 outstanding warrant exists against the subject of a  
22 protective order, as defined in Section 6218, or that the  
23 subject is on probation or parole, the court shall, upon  
24 issuance of the protective order, notify the appropriate  
25 law enforcement officials of the order and of any  
26 information regarding the subject's most recent address  
27 or location. Those officials shall then take all actions  
28 necessary to execute any outstanding warrants or to  
29 revoke any parole or probation with respect to the  
30 restrained person as appropriate and as soon as  
31 practicable.

32 ~~SEC. 6.~~

33 SEC. 3. Section 273.75 is added to the Penal Code, to  
34 read:

35 273.75. (a) In all prosecutions under Section 273a,  
36 273d, 273.5, 273.6, or 273.65, the prosecuting attorney shall  
37 cause a search to be made of those data bases described  
38 in subdivision (b) and the court shall review the resulting  
39 information to determine if the defendant is the subject



1 of any prior or current protective or restraining orders  
2 issued by any civil, criminal, or juvenile court.

3 (b) For purposes of this section, the prosecuting  
4 attorney shall cause a search to be made of the following  
5 data bases:

6 (1) The Violent Crime Information Network, when  
7 available, or the California Law Enforcement  
8 Telecommunications System, or both.

9 (2) The Domestic Violence Protective Order Registry.

10 (3) The Federal Bureau of Investigation Nationwide  
11 Database, when available.

12 ~~SEC. 7.~~

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

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

