

Assembly Bill No. 2139

CHAPTER 479

An act to add Section 6275 to the Family Code, relating to emergency protective orders.

[Approved by Governor September 26, 2006. Filed with
Secretary of State September 26, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2139, Garcia. Emergency protective orders.

Existing law authorizes a law enforcement officer to seek an emergency protective order when the officer asserts reasonable grounds to believe that a person is in immediate and present danger of domestic violence, that a child is in immediate and present danger of abuse by a family or household member, that a child is in immediate and present danger of being abducted by a parent or relative, that an elder or dependent adult is in immediate and present danger of abuse, or that a person is in immediate and present danger of stalking as specified. An emergency protective order expires at the earlier of the 5th court day or 7th calendar day following the date of issuance.

This bill would require a law enforcement officer who responds to a situation in which the officer believes that there may be grounds for the issuance of an emergency protective order, to inform the person for whom the order may be sought or, if the person is a minor, his or her parent or guardian, as specified, that he or she may request the officer to request an emergency protective order. The bill would require an officer to request an emergency protective order if the officer believes that the person requesting an emergency protective order is in immediate and present danger.

By requiring a local law enforcement officer to request an emergency protective order under those circumstances, this 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.

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 6275 is added to the Family Code, to read:

6275. (a) A law enforcement officer who responds to a situation in which the officer believes that there may be grounds for the issuance of an emergency protective order pursuant to Section 6250 of this code or Section 646.91 of the Penal Code, shall inform the person for whom an emergency protective order may be sought, or, if that person is a minor, his or her parent or guardian, provided that the parent or guardian is not the person against whom the emergency protective order may be obtained, that he or she may request the officer to request an emergency protective order pursuant to this part.

(b) Notwithstanding Section 6250, and pursuant to this part, an officer shall request an emergency protective order if the officer believes that the person requesting an emergency protective order is in immediate and present danger.

SEC. 2. 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.