

Introduced by Senator Emmerson

February 24, 2012

An act to amend Section 6380 of the Family Code, relating to domestic violence prevention.

LEGISLATIVE COUNSEL'S DIGEST

SB 1343, as introduced, Emmerson. Domestic violence prevention: California Law Enforcement Telecommunications System.

Existing law requires the transmission of a copy of each civil harassment, workplace violence, or elder or dependent adult abuse restraining order to specified law enforcement agencies within one business day. Among these required transmissions, existing law requires any law enforcement officer who served a protective order to submit the proof of service directly into the Department of Justice Domestic Violence Restraining Order System. Existing law requires the Department of Justice to maintain a statewide telecommunications system, entitled the California Law Enforcement Telecommunications System, and a Domestic Violence Restraining Order System, for use by law enforcement agencies.

This bill would make technical, nonsubstantive changes to these provisions.

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 6380 of the Family Code is amended to
2 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 Restraining Order System, 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 (a) 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. All data with respect to criminal court protective orders issued, modified, extended, or terminated under subdivision (g) of Section 136.2 of the Penal Code, and all data filed with the court on the required Judicial Council forms with respect to protective orders, including their issuance, modification, extension, or termination, to which this division applies pursuant to Section 6221, shall be transmitted by the court or its designee within one business day to law enforcement personnel by either ~~one~~ of the following methods:

(1) Transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into CLETS.

(2) With the approval of the Department of Justice, entering the order into CLETS directly.

(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 harassment, unlawful violence, or the threat of violence pursuant to Section 527.6, 527.8, or 527.85 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 the issuance of a juvenile court restraining order related to domestic violence pursuant to Section

1 213.5, 304, or 362.4 of the Welfare and Institutions Code, or the
2 issuance of a protective order pursuant to Section 15657.03 of the
3 Welfare and Institutions Code, or upon registration with the court
4 clerk of a domestic violence protective or restraining order issued
5 by the tribunal of another state, as defined in Section 6401, and
6 including any of the foregoing orders issued in connection with
7 an order for modification of a custody or visitation order issued
8 pursuant to a dissolution, legal separation, nullity, or paternity
9 proceeding, the Department of Justice shall be immediately notified
10 of the contents of the order and the following information:

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

14 (2) The names of the protected persons.

15 (3) The date of issuance of the order.

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

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

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

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

23 (8) The terms and conditions of any restrictions on the ownership
24 or possession of firearms.

25 All available information shall be included; ~~however.~~ *However,*
26 the inability to provide all categories of information shall not delay
27 the entry of the information available.

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

35 (d) (1) Within one business day of service, any law enforcement
36 officer who served a protective order shall submit the proof of
37 service directly into the Department of Justice Domestic Violence
38 Restraining Order System, including his or her name and law
39 enforcement agency, and shall transmit the original proof of service
40 form to the issuing court.

(2) Within one business day of receipt of proof of service by a person other than a law enforcement officer, the clerk of the court shall submit the proof of service of a protective order directly into the Department of Justice Domestic Violence Restraining Order System, including the name of the person who served the order. If the court is unable to provide this notification to the Department of Justice by electronic transmission, the court shall, within one business day of receipt, transmit a copy of the proof of service to a local law enforcement agency. The local law enforcement agency shall submit the proof of service directly into the Department of Justice Domestic Violence Restraining Order System within one business day of receipt from the court.

(e) The Department of Justice shall maintain a Domestic Violence Restraining Order System 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, it shall be on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice, and 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. The informational packets shall include a design, that local courts shall complete, that describes local court procedures and maps to enable applicants to locate filing windows and appropriate courts, and shall also include information on how to return proofs of service, including mailing addresses and fax numbers. 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. The informational packet shall also contain a statement that the protective order is enforceable in any state, as defined in Section

1 6401, and general information about agencies in other jurisdictions
2 that may be contacted regarding enforcement of an order issued
3 by a court of this state.

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

7 (i) Only protective and restraining orders issued on forms
8 adopted by the Judicial Council of California and that have been
9 approved by the Department of Justice shall be transmitted to the
10 Department of Justice. However, this provision shall not apply to
11 a valid protective or restraining order related to domestic or family
12 violence issued by a tribunal of another state, as defined in Section
13 6401. Those orders shall, upon request, be registered pursuant to
14 Section 6404.

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