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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair  
2019 - 2020 Regular Session

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### AB 1796 (Levine) - Domestic violence: restraining orders

**Version:** July 14, 2020

**Urgency:** No

**Hearing Date:** August 13, 2020

**Policy Vote:** JUD. 9 - 0

**Mandate:** No

**Consultant:** Shaun Naidu

**Bill Summary:** AB 1796 would require specified courts to provide a drop box, during and after business hours, for the submission of petitions for domestic violence restraining orders (DVROs).

**Fiscal Impact:** Unknown, likely major one-time costs ranging from the mid hundreds of thousands of dollars to low millions of dollars to the courts to install drop boxes at each facility that receives petitions for DVROs. (Various funds (See Staff Comments.))

The Judicial Council reports that, for court facilities in Los Angeles County alone, estimated implementation costs would range from \$188,000 to \$192,000.

**Background:** According to the analysis of this bill by the Senate Committee on Judiciary:

The [Domestic Violence Protection Act (DVPA)] seeks to prevent acts of domestic violence, abuse, and sexual abuse, and to provide for a separation of persons involved in domestic violence for a period sufficient to enable them to seek a resolution. The DVPA's "protective purpose is broad both in its stated intent and its breadth of persons protected." (*Caldwell v. Coppola* (1990) 219 Cal.App.3d 859, 863.) The DVPA must be broadly construed in order to accomplish the statute's purpose. (*In re Marriage of Nadkarni* (2009) 173 Cal.App.4th 1483, 1498.) The Act enables a party to seek a "protective order," also known as a restraining order, which may be issued to protect a petitioner who presents "reasonable proof of a past act or acts of abuse." ([Fam. Code,] § 6300; see § 6218.)

Petitioners who need immediate protection may seek a [temporary restraining order (TRO)], which becomes effective upon receiving a judge's signature and being served on the respondent. TROs may be issued "ex parte" (Latin for "by or for one party")—that is, without formal notice to, or the presence of, the respondent. (See § 241.) Because a restrained party would not have had the opportunity to defend their interests, TROs are of necessity short in duration. If a noticed hearing is not held within 21 days (or 25 if the court finds good cause), the TRO is no longer enforceable, unless a court grants a continuance. (§§ 242 & 245.) After a duly noticed hearing, however, the court is authorized to extend the original TRO into a "permanent" protective order (also known as orders after hearing) that may last up to five years. (§§ 6345, 6302.) [Footnote omitted.]

**Proposed Law:** This bill would:

- Require any court or court facility that receives petitions for DVROs or domestic violence temporary restraining orders to permit such petitions to be submitted in a drop box located on the court premises, during and after normal business hours.
- Specify that the deadlines applicable to any action taken by the court with respect to a DVRO petition filed directly with the court also apply to any action taken with respect to a DVRO petition submitted in a drop box.
- Require the Judicial Council to develop rules and to assist courts in developing local rules or procedures necessary to effectuate this measure.

**Related Legislation:** SB 1141 (Rubio, 2019-2020 Reg. Sess.) would provide that coercive control is a form of domestic abuse for purposes of the DVPA. SB 1141, at the time of this writing, is pending in the Assembly Committee on Judiciary.

AB 2517 (Gloria, 2019-2020 Reg. Sess.) would allow courts to make a finding in a DVRO issued after notice and a hearing that specific debts were incurred as a result of domestic violence. AB 2517 is pending in this Committee.

**Staff Comments:** The funds that can be used for the installation of the drop boxes required by this bill vary by the type of installation needed at each court facility. As such, the Judicial Council believes that the fund source to pay for installation of these drop boxes also will vary. For instance, if the drop box is a stand-alone style, courts could pay for this cost from their allocations for court operations out of the Trial Court Trust Fund (TCTF). If the installation requires an exterior building modification, the cost could be paid out of the State Court Facilities Construction Fund (SCFCF) or the Immediate and Critical Needs Account (ICNA) as a facilities modification project with the court paying for the drop box itself. There are, however, challenges with these fund sources. If the courts were required to pay for these costs from their TCTF allocation, it would reduce funds available to pay for court operations costs. In the 2020-2021 fiscal year, courts already have been required to absorb a \$167.8 million ongoing cut in their court operations allocations. Additionally, if SCFCF or ICNA were used to pay for these costs, the expense would hasten the insolvency of both funds. Currently, SCFCF is projected to go insolvent in the 2021-2022 fiscal year and ICNA in the 2026-2027 fiscal year. Insolvencies of special funds would lead to General Fund cost pressures to backfill any shortages. For example, the Budget Act of 2020 appropriated \$273.8 million from the General Fund to backfill continued reduction in fine and fee revenue for trial court operations.

If enacted, AB 1796 would require the drop boxes to be set up by January 1, 2021. While the judicial branch likely would be able to install drop boxes at most affected court facilities located on state-owned property in time, the Judicial Council is unsure if it could comply with the mandate by the beginning of 2021 for non-state controlled court facilities due to several factors, such as diversity of MOUs, contracts for shared facilities, and potential delays in obtaining local approval caused by typical issues and/or the COVID-19 pandemic. Consequently, the author may wish to consider if a delayed implementation is warranted.