

Date of Hearing: June 30, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
SB 24 (Caballero) – As Amended May 28, 2021

Policy Committee: Judiciary Vote: 11 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY:

This bill, commencing January 1, 2023, authorizes a court to include in an ex parte domestic violence protective order (DVPO) a provision that restrains a party from accessing records and information pertaining to the health care, education, daycare, recreational activities or employment of the parties' minor child. This bill also requires an essential care provider, on or before January 1, 2023, to develop protocols that prevent disclosure of a minor child's information, and prohibits disclosure of information about the minor child if the essential care provider has received a copy of the DVPO. This bill defines "essential care provider" to mean any public or private school, day care or healthcare facility, or any other similar organization that frequently provides essential social, health or care services to children.

FISCAL EFFECT:

- 1) Likely minor and absorbable one-time costs to public schools and healthcare facilities to develop and implement protocols to prevent disclosure of a minor child's information, as required by a DVPO. Existing law already prohibits disclosure of a child's information depending on whether a court designates information as confidential.
- 2) One-time costs (General Fund) to the Department of Justice (DOJ) of \$69,000 in fiscal year 2021-22 for modifications to the California Restraining and Protective Order System (CARPOS). DOJ reports it would need to add a new field to index records that restrain a party from accessing records and information pertaining to the health care, education, daycare, recreational activities or employment of a minor child.
- 3) Likely minor and absorbable costs (Trial Court Trust Fund) to the Judicial Council to update forms and rules of court related to the issuance of an ex parte DVPO.

COMMENTS:

- 1) **Purpose.** According to the author:

Over half of the killings of women in the United States are related to intimate partner violence, according to the Centers for Disease Control and Prevention. One such case of domestic violence that occurred in my district ended in the brutal murder of a young mother, Calley, in broad daylight by her husband, while she shielded their 3 children from the bullets. SB 24 makes revisions to

the domestic violence restraining order form to allow for the protection of a child's school, medical, and dental information from an abusive parent.

- 2) **DVPO and Confidential Records.** Family Code Section 6301.5 authorizes a minor or their guardian to petition a court to designate information about a minor child as confidential information if the request is obtained in connection with a request for a DVPO. Existing law also provides every parent, regardless of custody status, has a right to access to their child's medical, dental and school records. (Fam. Code, § 3025.) If the petition for confidentiality is granted, the minor's information is maintained in a confidential case file and does not become a part of the public record in any subsequent proceedings. Disclosure of the minor's information without a court order is punishable by a sanction of up to \$1,000. These provisions prohibit third party recipients of confidential information from disseminating the information unless doing so effectuates the purposes of the DVPO or is in the best interest of the minor. Third parties who violate these requirements are subject to a sanction only if they disclose the information in a manner that recklessly or maliciously disregards these requirements. This bill prohibits someone working for an essential care provider from providing information about a minor child to a parent where there is a DVPO in place prohibiting disclosure. This bill does not assign a penalty for disclosure or require any specific factual showing.
- 3) **Ex Parte Orders.** Ex parte orders are issued by the court in emergency circumstances and often outside the presence of one party. Because a restrained party would not have had the opportunity to defend their interests, ex parte orders are short in duration. If a noticed hearing is not held within 21 days (or 25 if the court finds good cause), the ex parte protective order is no longer enforceable, unless a court grants a continuance.
- 4) **Argument in Support.** According to the National Association of Social Workers, California Chapter:

By extending protections to victims of domestic violence, SB 24 would make it more difficult for abusers to follow and harm their victim(s). It would safeguard the information and, in extension, the livelihood of vulnerable children and families.
- 5) **Prior Legislation.** AB 925 (Gloria), Chapter 294, Statutes of 2019, expanded the circumstances in which it is permissible to disclose a minor's confidential information contained in certain protective orders.

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