

ASSEMBLY THIRD READING

AB 1657 (Rogers)

As Amended March 11, 2026

Majority vote

SUMMARY

Prohibits a court from requiring notice to be provided to the party to be restrained in advance of filing an application for an ex parte domestic violence restraining order (DVRO), or from requiring the applicant to explain why notice has not been provided.

Major Provisions

- 1) Prohibits a court from requiring notice to be provided to a party to be restrained, or requiring an explanation for not providing notice, in advance of filing or deciding an application for an ex parte DVRO. Specifies that an ex parte DVRO shall not be denied solely, in whole or in part, because the other party was not provided with notice.
- 2) Prohibits a court from adopting or maintaining any rule, form, or practice that is inconsistent with 1), above.

COMMENTS

To prevent harm before it occurs, existing law permits a victim or potential victim of domestic violence to seek a domestic violence restraining order (DVRO) under the Family Code. These orders take the form of emergency protective orders (sought by law enforcement) or DVROs (sought by the victim). Like most restraining orders, DVROs usually take the form of "stay away" orders that ensure separation of the parties, at least for as long as it takes to appear in court or eliminate the threat of violence. Emergency protective orders and temporary restraining orders are issued ex parte – that is, based only upon the affidavit or testimony of the party seeking relief. A permanent restraining order, on the other hand, may be issued only after a hearing at which the respondent is free to attend and testify. Because of their inherently time-sensitive manner, requests are reviewed and, if approved, issued on the same day as requested, or the next business day at the latest. Once a restraining order has been issued, it is immediately entered into a law enforcement database and may be enforced.

Existing law already recognizes that, in many situations, it may be difficult, or even dangerous, for a victim of domestic violence to provide advance notice to an abuser before filing an application for an ex parte restraining order. As a rule, the filing of a legal action requires "serving notice" on the defendant or respondent who is the target of the legal action. However, DVROs do not always require advance notice before the application is filed, or the order is issued. State law expressly states that a court may not deny an application for a DVRO based "solely" on failure to provide notice. (Family Code Section 6300(a).)

In addition, California Rule of Court 1.151 treats DVROs as a special case. This rule provides that an application for emergency restraining orders – though not necessarily DVROs – must be accompanied by a written statement that declares one of the following: (1) that notice has been provided to the other party; (2) that the applicant made a good faith effort to provide notice but failed to do so, specifying the efforts made to inform the other party; or (3) that, for reasons specified, the applicant should not be required to inform the opposing party. (California Rule of

Court 1.151 (e)(2)(C).) However, while this rule applies to emergency orders generally, it exempts DVROs unless specifically included. (California Rule of Court 1.151 (a).)

Some local courts, according to the author and sponsor, have adopted local rules that require an applicant to either (1) provide notice in advance of filing the application or, (2) alternatively, explain why notice should not be required. According to the author and sponsor, some courts are interpreting their local rules to deny applications solely due to the failure to provide notice or failure to provide an adequate explanation for not doing so. To the extent that courts are denying relief solely because of lack of notice, they would clearly be acting contrary to Family Code Section 6300(b). Whether local rules that give an applicant the alternative of providing notice or an explanation is contrary to existing Section 6300(b) is less clear.

This bill seeks to provide greater clarity and effectively overrides those local rules by affirmatively prohibiting a court from requiring notice in advance of filing an application for an ex parte DVRO. The bill also prohibits the court from requiring an explanation for not providing notice. Finally, the bill expressly prohibits courts from adopting contrary rules.

The rationale for notice requirements and exceptions for DVROs. Serving notice upon a defendant in any legal action serves important principles of due process by ensuring that a person knows that legal charges have been brought against them, understands the nature of the accusations, and can respond to those accusations in the manner provided by law. However, there are certain emergency situations where a court may issue ex parte orders, based solely on the declarations of the person seeking relief, and prior to other party's opportunity to be heard. DVROs, which seek to prevent violence, certainly represent such a situation. However, it is one thing to provide relief before giving the restrained party an opportunity to be heard; it is quite another to provide relief without even notifying the other person that an action has been taken against them.

The Legislature has already determined, however, that victims of domestic violence cannot always safely provide notice to an abuser in advance of seeking a restraining order, and certainly not before the protective order has been issued and is enforceable. This is precisely why existing law specifies that a court shall not deny an order solely because of lack of notice, and it is presumably why even local rules allow the applicant, in lieu of serving notice, to provide an explanation as to why doing so could put the applicant at risk. According to the author and sponsor, however, some courts have denied a victim's request to waive notice, and many victims (especially non-English speakers) might not understand that such explanations are required or what particular words constitute a sufficient explanation. The author and sponsor believe that prohibiting a court from requiring notice *or an explanation* will ensure that these orders are issued with urgency and without unnecessary delay. The defendant, after all, will have notice once the order is in effect and will have an opportunity to be heard and contest the order before a permanent order may be granted. Existing law requires a hearing within 21 days of the date that the temporary order is issued.

In sum, this bill implicates the tension between the need to protect victims (and potential victims) from domestic violence, on the one hand, and the due process rights of the alleged perpetrator, on the other hand. According to the author and sponsor, requiring the petitioner to either provide notice or complete additional paperwork puts the petitioner at risk during the critical period between the filing of the application and the issuance of an enforceable protective order. The initial DVRO is a temporary order meant to address an emergency, and the respondent will have

an opportunity for due process at a hearing that must be held within 21 days of the issuance of the temporary order.

According to the Author

According to the author, AB 1657 will eliminate "a loophole in local rules by removing the notice requirement before filing an ex parte [domestic violence] restraining order" under the Family Code. The author contends that requiring a victim of domestic violence to provide notice before receiving a temporary restraining order "puts [the victim] at unnecessary risk of facing their abuser and increases stress due to having to find a replacement to send the notice requirement." The author believes that this bill will better protect victims by expressly prohibiting a court from requiring notice to the respondent in advance of filing an application for an ex parte domestic violence restraining order.

Arguments in Support

The California Family Justice Network, the bill's sponsor, writes in support:

From our experience working directly with survivors, it is essential that the legal framework governing DVROs protects survivors during the critical period after filing but before a judicial ruling is issued. Expectations around notice can create significant safety risks.

AB 1657 will close existing loopholes in the law that allow local courts to require a petitioner to provide notice to the restrained party prior to judicial review, or to complete additional paperwork demonstrating why providing notice would place them at risk. These practices place an undue burden on survivors seeking immediate protection.

These requirements can significantly increase risk. It is well documented that the time of separation from an abusive partner, and the first several months that follow, is the most dangerous period for victims of DV. Requiring a survivor to notify an abusive partner of their intent to seek a restraining order before protection is granted creates a dangerous gap between notification and protection. The concern is not who provides notice on behalf of the survivor, but rather the period between notifying the perpetrator and the moment a restraining order affords such protection. During that window, survivors may face heightened danger and retaliation.

Clarifying that courts may not impose notice requirements or additional procedural burdens prior to judicial review will help ensure that survivors across California can access emergency protection safely and consistently. AB 1657 is common-sense legislation to better protect survivors of domestic violence as they seek safety for themselves and their families.

The Peace Officers Research Association of California (PORAC) supports this bill because it will clarify "that a court may not require advance notice to the restrained party before an application for an ex parte restraining order is filed." PORAC notes that "ex parte restraining orders are designed to provide immediate protection for individuals facing credible threats" but that requiring "advance notice could undermine the purpose of these orders and potentially place victims at greater risk." PORAC believes that "this measure reinforces the intent of existing law — to allow swift judicial action based on reasonable proof of abuse while maintaining due process protections through subsequent hearings."

Arguments in Opposition

None on file

FISCAL COMMENTS

None

VOTES

ASM JUDICIARY: 12-0-0

YES: Kalra, Macedo, Bauer-Kahan, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

UPDATED

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CONSULTANT: Tom Clark / JUD. / (916) 319-2334

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