
THIRD READING

Bill No: AB 1877
Author: Stefani (D), et al.
Amended: 6/8/26 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 6/23/26
AYES: Arreguín, Seyarto, Caballero, Cortese, Pérez, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/13/26
AYES: Cervantes, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

ASSEMBLY FLOOR: 72-0, 5/21/26 - See last page for vote

SUBJECT: Domestic violence: protective orders

SOURCE: San Francisco Mayor Daniel Lurie

DIGEST: This bill makes a willful and knowing violation of specified criminal protective orders or stay-away orders punishable as either a misdemeanor or a felony if the subject of the criminal protective order was charged with, or convicted of, a felony for the conduct upon which the criminal protective order was based. This bill makes a second or subsequent conviction for a violation of specified protective orders or stay-away orders a felony. If a violation of specified protective orders or stay-away orders alleges a physical injury, this bill requires the court to consider the violation of the protective order or stay-away order and alleged injury when considering the seriousness of the offense charged and the protection of the public for purposes of setting, reducing, or denying bail.

ANALYSIS:

Existing law:

- 1) Authorizes the trial court in a criminal case to issue a protective order when there is a good cause belief that harm to, or intimidation or dissuasion of, a

victim or witness has occurred or is reasonably likely to occur. (Penal (Pen.) Code, § 136.2, subd. (a).)

- 2) Provides that a person violating a protective order may be punished for any substantive offense described in provisions of law related to intimidation of witnesses or victims, or for contempt of court. (Pen. Code, § 136.2, subd. (b).)
- 3) Prohibits a person who is subject to a protective order from owning, possessing, purchasing, or receiving, or attempting to purchase or receive a firearm while the protective order is in effect, and the court shall order a person subject to the protective order to relinquish ownership or possession of any firearms. (Pen. Code, § 136.2, subd. (d).)
- 4) States that a person is guilty of contempt of court, punishable as a misdemeanor, for a willful disobedience of terms, as written, of a process or court order or out-of-state order, lawfully issued by a court, including orders pending trial. (Pen. Code, § 166, subd. (c)(1).)
- 5) Provides that if that violation results in physical injury, the person shall be imprisoned in a county jail for at least 48 hours, whether a fine or imprisonment is imposed, or the sentence is suspended. (Pen. Code, § 166, subd. (c)(2).)
- 6) States that a second or subsequent conviction for a violation of a criminal protective order from Penal Code section 166, as described, occurring within 7 years of prior conviction of the same violation and involving an act of violence or “a credible threat” of violence is punishable by imprisonment in a county jail not to exceed one year, or in the state prison for 16 months, or two or three years. (Pen. Code, § 166, subd. (c)(2).)
- 7) Specifies that a subsequent conviction for a violation of a Penal Code section 166 criminal protective order that resulted in physical injury occurring within seven years of a prior conviction for a violation of an order and involving an act of violence or “a credible threat” of violence, as defined, is punishable by imprisonment in a county jail not to exceed one year, or as a county jail eligible felony. (Pen. Code, § 273.6, subd. (d).)

This bill:

- 1) Requires a willful and knowing violation of a criminal protective order or stay-away court order to be punished as either a misdemeanor or a jail felony when the underlying case contained certain violations, including threatening a

witness, elder abuse, domestic violence, and certain acts of violence, threats, stalking, sexual abuse, and harassment, particularly against a minor.

- 2) Requires that if there is an allegation that the violation of the protective order resulted in a physical injury to the victim, the court, in considering the seriousness of the offense charged and the protection of the public, must include consideration of the violation of the protective order or stay-away order and alleged injury to the victim in setting, reducing or denying bail.
- 3) Increases the punishment, from an alternate felony-misdemeanor to a straight felony, for a second or subsequent conviction for a violation of an order occurring within seven years of a prior conviction for a violation of any of a criminal protective orders or stay-away orders involving an act of violence or "a credible threat" of violence, as defined in existing law.

Background

Protective Orders and Restraining Orders. Protective orders and restraining orders are, in outcome, very similar. Both are orders issued or approved by a court that prevents a person from contacting another person under specific circumstances and may also restrict other conduct to prevent harassment, threats, or violence.

In practice, there are some differences. For example, law enforcement may ask for an emergency protective order (EPO) (which includes instances of domestic violence) to protect the victim of a crime, usually when the victim calls the police or 911 for help. If the defendant is arrested and charged, a judge can issue a criminal protective order (CPO) to protect victims and witnesses, particularly during the pendency of the case.

Protective orders and temporary restraining orders (TRO) are often used interchangeably. A victim may also be able to file their own moving papers to request a protective or restraining order. A restraining order can include some of the same orders as an EPO or CPO, like ordering the defendant to stay away from the victim. But in restraining order cases filed by a victim, additional protections may be available. A victim can have a restraining order and an EPO or CPO at the same time as one is issued on an emergency basis and one is issued for a longer period.

Penalties. Simple violation of a protective or restraining order is a misdemeanor. (See Pen. Code, § 166, subd. (a)(4); Pen. Code, § 273.6, subd. (a).) If a person violates a protective or restraining order issued in a domestic violence case and injury results, that person may be sentenced to a minimum of 30 days and a

maximum of one year in county jail – in addition to whatever the defendant receives for any possible assaultive or threatening conduct. (See Pen. Code, § 273.6, subd. (b).) Any criminal conviction also requires proof beyond a reasonable doubt that the defendant was aware of the protective order, knew what they were not allowed to do, and violated the order anyway.

In addition to the penalties for violating a protective order, any person who violates a protective order issued pursuant to Penal Code section 136.2, may be sentenced as if the person engaged in witness intimidation—to a state prison sentence of up to four years. (Pen. Code, § 136.1, subd. (c); Pen. Code, § 136.2, subd. (b).)

Research shows that increasing the severity of punishment does little to deter crime. According to the National Institute of Justice, an agency of the U.S. Department of Justice, “[l]aws and policies designed to deter crime by focusing mainly on increasing the severity of punishment are ineffective partly because criminals know little about the sanctions for specific crimes. More severe punishments do not ‘chasten’ individuals convicted of crimes, and prisons may exacerbate recidivism... Studies show that for most individuals convicted of a crime, short to moderate prison sentences may be a deterrent but longer prison terms produce only a limited deterrent effect. In addition, the crime prevention benefit falls far short of the social and economic costs.” (National Institute of Justice (May 2016). *Five Things about Deterrence* <https://www.ojp.gov/pdffiles1/nij/247350.pdf>.)

Bail Setting. Bail is a contract for release of a person from jail upon a promise to appear at future court hearings. The promise is backed by a bond issued through a bail agent. A bailed defendant is said to be in the constructive custody of the bail agent. (*Taylor v. Taintor* (1862) (16 Wall.) 83U.S. 366, 372.) In the United States, bail setting has long been skewed by racial bias and plagued by predatory lending schemes. (Vera Institute of Justice (May 2018). *From Bondage to Bail Bonds: Putting a Price on Freedom in New Orleans* <https://medium.com/@verainstitute/from-bondage-to-bail-bonds-putting-a-price-on-freedom-in-new-orleans-de065035c1b7>; Becker Friedman Institute for Economics at UChicago (Oct. 2020). *Measuring Racial Discrimination in Bail Decisions* https://bfi.uchicago.edu/wp-content/uploads/BFI_WP_2020331.pdf; Lincoln Memorial University Law Review (Spring 2023). *Bailing on the Bondsman: An Argument for Abolishing Monetary Bail* https://www.texaspretrial.org/wp-content/uploads/2025/05/Bailing-on-the-Bondsman_-An-Argument-for-Abolishing-Monetary-Bail.pdf.)

Existing law provides a process whereby the court may set a bail amount for a criminal defendant. (Pen. Code, § 1269b.) Additionally, Section 12 of Article 1 of the California Constitution provides, with limited exceptions, that a criminal defendant has a right to bail and what conditions shall be taken into consideration in setting bail. A defendant may post bail by depositing cash or an equivalent form of currency, provide a security in real property, or undertake bail using a bail bond.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Committee on Appropriations:

Unknown costs to the counties to incarcerate if the felony sentence, punishable by 16 months, 2 years or 3 years, is imposed. The average annual cost to incarcerate one person in county jail is approximately \$80,000. In 2021 Los Angeles County budgeted \$1.3 billion for jail costs with \$90,000 per incarcerated person. Actual incarceration costs to counties will depend on the number of convictions and the length of each sentence. Generally, county incarceration costs are not reimbursable state mandates pursuant to Proposition 30 (2012).

Cost pressures of an unknown amount to the courts, likely in excess of \$150,000, to adjudicate enforcement actions authorized by this bill. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately \$1,500 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts. The FY 2026-27 Budget appropriated \$70 million General Fund for this purpose (Trial Court Trust Fund, General Fund).

SUPPORT: (Verified 8/13/26)

Mayor Daniel Lurie, City and County of San Francisco (source)
Black Women Revolt Against Domestic Violence
California Police Chiefs Association
Community Forward SF
Hilde B Foundation
LA Casa De Las Madres
League of California Cities
Los Angeles County District Attorney's Office
Open Door Legal
Peace Officers Research Association of California

Safe & Sound
San Francisco Domestic Violence Consortium
San Francisco Family Services Alliance
San Francisco Police Department
San Francisco Safehouse

OPPOSITION: (Verified 8/13/26)

ACLU California Action
California Attorneys for Criminal Justice
Initiate Justice

ASSEMBLY FLOOR: 72-0, 5/21/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Ellis, Flora, Fong, Gabriel, Gallagher, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
NO VOTE RECORDED: Arambula, Bryan, Chen, Elhawary, Garcia, Lackey, Ramos, Celeste Rodriguez

Prepared by: Natalia DaSilva Telles / PUB. S. /
8/15/26 13:16:01

**** **END** ****