The following has special meaning:
green underline denotes added text
~~red struck out text denotes deleted text~~

Powered by State Net

2019 CA S 1141	**Author:** Rubio **Version:** Chaptered **Version Date:** 09/29/2020

Senate Bill No. 1141

CHAPTER 248

An act to amend Section 6320 of the Family Code, relating to coercive control.

[Approved by Governor September 29, 2020. Filed with Secretary of State September 29, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1141, Rubio. Domestic violence: coercive control.

Existing law establishes the Domestic Violence Prevention Act for the purpose of preventing acts of domestic violence, abuse, and sexual abuse and providing for a separation of the persons involved in the domestic violence for a period sufficient to enable those persons to seek a resolution of the causes of the violence.

Existing law authorizes a court to issue an ex parte order enjoining a party from engaging in specified acts against another party, including threatening or harassing that party or disturbing their peace, and, in the discretion of the court, against other named family or household members. A violation of this court order constitutes contempt of court, which is punishable as a misdemeanor.

This bill would define " disturbing the peace of the other party" as conduct that destroys the mental or emotional calm of the other party, as specified. The bill would provide that disturbing the peace of the other party includes coercive control, which is a pattern of behavior that unreasonably interferes with a person' s free will and personal liberty and includes, among other things, unreasonably isolating a victim from friends, relatives, or other sources of support.

Existing law requires a family court to determine the best interests of a child in deciding child custody in specified proceedings and establishes a rebuttable presumption that an award of child custody to a person who has perpetrated domestic violence is detrimental to the best interests of the child. Existing law defines " perpetrated domestic violence" to mean, among other things, that the person engaged in behavior for which the court may issue an ex parte order to protect the child or the person seeking custody of the child.

By adding coercive control to the bases for the ex parte orders described above, the bill would, for purposes of a family court determining child custody in those proceedings, create a rebuttable presumption that an award of child custody to a party who has engaged in coercive control is detrimental to the best interests of the child.

Because a violation of a court order constitutes contempt of court and is therefore a crime, by expanding the bases for the issuance of these ex parte orders, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) In times of natural disasters and crises, rates of interpersonal violence historically rise, especially among households experiencing significant financial strain.

(b) The COVID-19 pandemic has proven this historical trend to be the reality for survivors of domestic violence as police chiefs nationwide reported increases of 10 percent to 30 percent in domestic violence assaults in the first two weeks after a national emergency was declared in March, also revealing more severe violence as compared with past years.

(c) During the COVID-19 crisis, reports show this is a worst-case scenario for victims experiencing domestic violence, with the data showing the virus is being used as a scare tactic to keep victims isolated from their support systems, or even their children.

(d) Shelter-in-place orders and other restrictions related to COVID-19 have also resulted in victims being isolated from family, friends, and their community.

(e) While some jurisdictions have reported a drop in domestic violence calls, this does not necessarily equate to a reduction in domestic violence. Increased isolation of victims has created an environment where abuse, including coercive control, is more likely to go undetected and therefore unreported.

SEC. 2. Section 6320 of the Family Code is amended to read:

6320. (a) The court may issue an ex parte order enjoining a party from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, credibly impersonating as described in Section 528.5 of the Penal Code, falsely personating as described in Section 529 of the Penal Code, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the other party, and, in the discretion of the court, on a showing of good cause, of other named family or household members.

(b) On a showing of good cause, the court may include in a protective order a grant to the petitioner of the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent. The court may order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

(c) As used in this subdivision (a), "disturbing the peace of the other party" refers to conduct that, based on the totality of the circumstances, destroys the mental or emotional calm of the other party. This conduct may be committed directly or indirectly, including through the use of a third party, and by any method or through any means including, but not limited to, telephone, online accounts, text messages, internet-connected devices, or other electronic technologies. This conduct includes, but is not limited to, coercive control, which is a pattern of behavior that in purpose or effect unreasonably interferes with a person's free will and personal liberty. Examples of coercive control include, but are not limited to, unreasonably engaging in any of the following:

(1) Isolating the other party from friends, relatives, or other sources of support.

(2) Depriving the other party of basic necessities.

(3) Controlling, regulating, or monitoring the other party's movements, communications, daily behavior, finances, economic resources, or access to services.

(4) Compelling the other party by force, threat of force, or intimidation, including threats based on actual or suspected immigration status, to engage in conduct from which the other party has a right to abstain or to abstain from conduct in which the other party has a right to engage.

(d) This section does not limit any remedies available under this act or any other provision of law.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Copyright © 2021 State Net