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SB-374 Protective orders: reproductive coercion. (2021-2022)

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Senate Bill No. 374

CHAPTER 135

An act to amend Section 6320 of the Family Code, relating to protective orders.

[Approved by Governor July 23, 2021. Filed with Secretary of State July 23, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 374, Min. Protective orders: reproductive coercion.

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 a protective order enjoining a party from engaging in specified acts, including threatening or harassing the other party or disturbing the peace of the other party. Existing law defines "disturbing the peace of the other party" as conduct that destroys the mental or emotional calm of the other party, including 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. A knowing and intentional violation of a protective order is punishable as a misdemeanor.

This bill would add engaging in reproductive coercion, as described, to the definition of disturbing the peace of the other party. Because a violation of a protective order is punishable as a crime, by expanding the bases for the issuance of these orders, this bill would expand an existing crime, thereby imposing 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. 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.

(5) Engaging in reproductive coercion, which consists of control over the reproductive autonomy of another through force, threat of force, or intimidation, and may include, but is not limited to, unreasonably pressuring the other party to become pregnant, deliberately interfering with contraception use or access to reproductive health information, or using coercive tactics to control, or attempt to control, pregnancy outcomes.

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

SEC. 2. 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.