

Assembly Bill No. 2553

CHAPTER 263

An act to add Section 6320.5 to the Family Code, relating to domestic violence.

[Approved by Governor August 4, 2008. Filed with
Secretary of State August 4, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2553, Solorio. Domestic violence: ex parte orders.

Existing law, the Domestic Violence Prevention Act, authorizes the court to issue ex parte orders for the prevention, or the prevention of the recurrence of, domestic violence. Existing law authorizes the court to issue an ex parte order enjoining a party from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, annoying telephone calls, 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.

This bill would require the court to include in any order denying a petition for that ex parte order the reasons for denying the petition. This bill would also require any order denying a jurisdictionally adequate petition for that ex parte order to provide the petitioner the right to a noticed hearing on the earliest date that the business of the court will permit, within specified limits. The bill would also provide that nothing in those provisions shall preclude a petitioner who waives his or her right to a noticed hearing from refileing a new petition, without prejudice, at a later time, and would require the Judicial Council to develop a form to implement these provisions.

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

SECTION 1. Section 6320.5 is added to the Family Code, to read:

6320.5. (a) An order denying a petition for an ex parte order pursuant to Section 6320 shall include the reasons for denying the petition.

(b) An order denying a jurisdictionally adequate petition for an ex parte order, pursuant to Section 6320, shall provide the petitioner the right to a noticed hearing on the earliest date that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date of the order. The petitioner shall serve on the respondent, at least 5 days before the hearing, copies of all supporting papers filed with the court, including the application and affidavits.

(c) Notwithstanding subdivision (b), upon the denial of the ex parte order pursuant to Section 6320, the petitioner shall have the option of waiving his or her right to a noticed hearing. However, nothing in this section shall preclude a petitioner who waives his or her right to a noticed hearing from refileing a new petition, without prejudice, at a later time.

(d) The Judicial Council, on or before January 1, 2010, shall develop a form to implement this section.