



FAMILY LAW SECTION
THE STATE BAR OF CALIFORNIA

PROTECTIONS FOR PETS IN RESTRAINING ORDERS

LEGISLATIVE PROPOSAL (FL-2015-08)

TO: Office of Governmental Affairs

FROM: Minouche Kandel, Chair of Affirmative Legislation
Alexandra O'Neill, Vice-Chair of Affirmative Legislation

DATE: March 10, 2014

RE: Proposal to add protections for pets in restraining orders issued in juvenile cases, civil harassment orders, and elder abuse cases

SECTION ACTION AND CONTACTS:

Date of Approval by Section Executive Committee: March 8, 2014
Approval vote: 12-2-0

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SUMMARY OF PROPOSAL

To bring all types of restraining orders in alignment with the protections provided pursuant to the Domestic Violence Prevention Act, this proposal would empower the court to protect companion animals of protected parties in restraining orders issued in juvenile dependency, elder abuse, and civil harassment cases.

ISSUES AND PURPOSE

In 2007, Family Code Section 6320 (part of the Domestic Violence Prevention Act) was amended to add protection for companion animals in domestic violence restraining orders. Studies showed that many abusers also threatened, injured or killed their victims' pets as a very effective way to intensify the effects of their abusive behavior. Civil harassment orders and restraining orders issued in juvenile dependency or elder abuse cases do not currently provide for

orders protecting pets, even though the pets of protected parties in those cases are as much at risk as pets in Domestic Violence Prevention Act cases. This proposal will extend protections to companion animals of protected parties in protective orders issued in juvenile dependency cases (Welfare and Institutions Code Section 213.5(b)), civil harassment cases (Code of Civil Procedure Section 527.6(b)(6)), and elder abuse cases (Welfare and Institutions Code Section 15657.03).

HISTORY

Welfare and Institutions Code Section 213.5 was enacted in 1961 and amended in 2010 and 2011. Welfare and Institutions Code Section 15657.03 was enacted in 1991 and amended in 2012. Code of Civil Procedure Section 527.6 was enacted in 2002 and amended in 2003, 2006, 2010 and 2012.

IMPACT ON PENDING LITIGATION

This proposal would not have an impact on litigation that is currently pending, although the proposed statutory amendments may have an impact on cases that are pending at the time of the effective date of any such amendments.

LIKELY SUPPORT AND OPPOSITION

We anticipate that the domestic violence prevention community across the board will be in support of this proposal for protection of companion animals, as will animal rights organizations like the SPCA. We are unaware of any opposition to this proposal.

FISCAL IMPACT

There does not appear to be any direct fiscal impact.

GERMANENESS

The subject matter of this proposed legislation falls within the unique and special knowledge, training, experience and technical expertise of the members of the Executive Committee of the Family Law Section because it deals with juvenile dependency issues, and makes corresponding changes to parallel statutes protecting victims of elder abuse and civil harassment.

DISCLAIMER:

This position is only that of the Family Law Section of the State Bar of California. This position has not been adopted by either the State Bar's Board of Trustees or overall membership, and is not to be construed as representing the position of the State Bar of California.

Membership in the Family Law Section is voluntary and funding for section activities, including all legislative activities, is obtained entirely from voluntary sources.

TEXT OF PROPOSAL

Welfare and Institutions Code Section 213.5(b) is amended to read:

(b) After a petition has been filed pursuant to Section 601 or 602 to declare a child a ward of the juvenile court, and until the time that the petition is dismissed or wardship is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code, the juvenile court may issue ex parte orders (1) enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child or any other child in the household; (2) excluding any person from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, threatening, stalking, or disturbing the peace of any person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child. A court may also issue an ex parte order enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 635m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code. A court may also issue an ex parte order enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 635m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child's current or former probation officer or court appointed special advocate, upon application in the manner provided by Section 527 of the Code of Civil Procedure. [\[Insert Text Begins\]A court may also issue an ex parte order enjoining any person from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of any animals owned, possessed, leased, kept or held by any person protected in a restraining order issued under this section. A court may also order any person to stay away from and grant a request for exclusive care, possession or control of said animals. \[Insert Text Ends\]](#)

Welfare and Institutions Code Section 15657.03(b)(3) is amended to read:

(3) "Protective order" means an order that includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:

(A) An order enjoining a party from abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, 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, or coming within a specified distance of, or disturbing the peace of, the petitioner, and, in the discretion of the court, on a showing of good cause, of other named family or household members or a conservator, if any, of the petitioner.

(B) An order excluding a party from the petitioner's residence or dwelling, except that this order shall not be issued if legal or equitable title to, or lease of, the residence or dwelling is in the sole name of the party to be excluded, or is in the name of the party to be excluded and any other party besides the petitioner.

[Insert Text Begins] (C) An order granting petitioner's request for exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or respondent or another person residing in the residence of 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. [Insert Text Ends]

~~[Delete Text Begins] (C) [Delete Text Ends]~~ [Insert Text Begins] (D) [Insert Text Ends] An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A) [Insert Text Begins]through [Insert Text Ends] ~~[Delete Text Begins] (B) [Delete Text Ends]~~ [Insert Text Begins] (C) [Insert Text Ends].

Code of Civil Procedure Section 527.6(b)(6) is amended to read:

“Temporary restraining order” and “injunction” mean orders that include any of the following restraining orders, whether issued ex parte or after notice and hearing:

(A) An order enjoining a party from harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, 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, or coming within a specified distance of, or disturbing the peace of, the petitioner.

[Insert Text Begins] (B) An order granting petitioner's request for exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by the petitioner or another person residing in the residence or household of the petitioner. 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. [Insert Text Ends]

[Insert Text Begins] (C) [Insert Text Ends] ~~[Delete Text Begins] (B) [Delete Text Ends]~~ An Order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A) [Insert Text Begins]and (B) [Insert Text Ends].