

ASSEMBLY BILL

No. 350

Introduced by Assembly Member Firestone

February 19, 1997

An act to add Section 646.91 to the Penal Code, relating to stalking.

LEGISLATIVE COUNSEL'S DIGEST

AB 350, as introduced, Firestone. Stalking: emergency protective order.

Existing law makes any person who willfully, maliciously, and repeatedly follows or harasses another person and who makes a credible threat with the intent to place that person in reasonable fear of his or her safety or the safety of his or her family guilty of the crime of stalking. Existing law authorizes a person who has suffered harassment to seek a temporary restraining order and an injunction prohibiting harassment. Existing law authorizes a judicial officer to issue an ex parte emergency protective order, as specified, to prevent the occurrence or recurrence of domestic violence, child abuse, or child abduction.

This bill would authorize a judicial officer to issue an ex parte emergency protective order where a law enforcement officer asserts reasonable grounds to believe that a person is stalking another person. The procedures for issuance of an ex parte emergency protective order under the bill would be the same as procedures used for issuance of those orders under the law relating to prevention of domestic violence.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 646.91 is added to the Penal
2 Code, to read:

3 646.91. (a) Notwithstanding any other law, a judicial
4 officer may issue an ex parte emergency protective order
5 pursuant to the provisions of Part 3 (commencing with
6 Section 6240) of Division 10 of the Family Code where a
7 law enforcement officer asserts reasonable grounds to
8 believe that a person has been willfully, maliciously, and
9 repeatedly followed or harassed by another person who
10 has made a credible threat with the intent of placing the
11 person who is the target of the threat in reasonable fear
12 for his or her safety or the safety of his or her family.

13 (b) For the purposes of this section, “harasses,”
14 “course of conduct,” and “credible threat” have the same
15 meaning that they have in Section 646.9.

16 (c) The fact that the endangered person has left the
17 household to avoid stalking by another person does not
18 affect the availability of an emergency protective order.

19 (d) An emergency protective order may be issued
20 under this section only if the judicial officer finds (1) that
21 reasonable grounds have been asserted to believe that a
22 person has been willfully, maliciously, and repeatedly
23 followed or harassed by another person who has made a
24 credible threat with the intent of placing the person that
25 is the target of the threat in reasonable fear for his or her
26 safety or the safety of his or her family and (2) that an
27 emergency protective order is necessary to prevent the
28 occurrence or recurrence of stalking.

29 (e) All the provisions of Part 3 (commencing with
30 Section 6240) of Division 10 of the Family Code shall
31 apply to an emergency protective order issued under this
32 section.

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