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March 16, 2021

The Honorable Senator Susan Rubio  
Member of the Senate, 22<sup>nd</sup> Senate District  
State Capitol  
Room 5035  
Sacramento, CA 95814

Re: SB 538 (Rubio)  
Position: Oppose

Dear Senator Rubio,

On behalf of the California Association of Certified Family Law Specialists, a non-profit organization with 646 members who are certified family law specialists by the State Bar of California, Board of Legal Specialization, I write to oppose Senate Bill 538.

SB 538 reduces the number of days for a noticed hearing on a denied ex parte Domestic Violence Request from 21 to 14 days or, if good cause appears to the court, from 25 days to 21 days from the date of the order.

ACFLS opposes SB 538 for a number of reasons. First, ACFLS believes that shortening the time for a hearing from 21 days to 14 days will deprive many litigants of sufficient due process (notice and opportunity to be heard) or adequate time to secure counsel.

Second, domestic violence restraining order proceedings already have statutory preference. Pursuant to existing law, a hearing on a granted ex parte Temporary Restraining Order must occur within 21 days, or if good cause appears to the court, within 25 days from the date of the issuance of the TRO. SB 538 would prioritize hearings on denied ex parte Domestic Violence Restraining Order requests (where

the Court found there was not a prima facie case for a TRO to be granted) over hearings where the Court found good cause for a TRO to be granted. This makes no sense.

In fact, pursuant to *Family Code* §245, a Court may continue a hearing on a request for a Domestic Violence Restraining Order where a TRO was issued, while the TRO that has been issued remains in effect until the end of the continued hearing. As a consequence, the party who made a prima facie case for protective orders could wait for months for a hearing on their request while the party whose TRO was denied would be entitled to a hearing within 14 days. This makes no sense.

In many instances, dueling/mutual requests for Domestic Violence restraining orders are applied for on the same day or within days of each other. If SB 538 is passed, the party whose TRO was denied would have their hearing before the party whose TRO was granted. This too makes no sense.

ACFLS believes that there must be parity in hearing priority on all Domestic Violence Restraining Orders proceedings. Both types of domestic violence proceedings (those where a TRO was granted and those where a TRO was not granted) should proceed to a hearing within 21 days, or if good cause appears to the court, 25 days from the date of the granted or denied ex parte request, subject to *Family Code* §245.

For these reasons, ACFLS opposes SB 538.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'A. Levy', with a stylized flourish at the end.

AVI LEVY, CFLS  
Legislative Director, ACFLS