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June 12, 2023

The Honorable Dave Min
Member of the Senate, 37th Senate District
1021 O Street, Suite 6710
Sacramento, CA 95814

Re: SB 741 (Min)
Position: Support if Amended

Dear Senator Min,

On behalf of the California Association of Certified Family Law Specialists, a non-profit organization with 696 members who are certified family law specialists by the State Bar of California, Board of Legal Specialization, I write to support Senate Bill 741 if amended.

SB 741 has the laudable goal of balancing the interests of litigants in domestic violence cases. While pre-hearing discovery by both parties might be needed to effectively present their cases, such discovery might be used as a method to harass or intimidate a victim of domestic violence. Due process and the right to a hearing are important considerations that must be weighed against the possibility of misuse of the discovery process.

ACFLS notes that under existing law and procedure, a victim of domestic violence can obtain a court order to limit discovery. Recognizing the need to quickly adjudicate such a request of a court, and that the circumstances of discovery in a domestic violence case are different than general civil cases, a way to balance the parties' interest would be to set forth a procedure and standard specific to domestic violence cases. This approach would achieve the goal of SB 741 while preserving a balance between the interests of the parties.

Therefore, ACFLS proposes that SB 741 be amended so that Section 2 of the bill is replaced with the following language:

SEC. 2. Section 6309 is added to the Family Code, to read:

6309. (a) Either party may seek to limit prehearing discovery in proceedings under this part when it appears that such discovery has the primary purpose of harassing, intimidating, or financially burdening that party. A party seeking to limit prehearing discovery shall make an ex parte request for emergency orders, with the requirement that the responding party shall have at least five business days of notice and time to submit a written response.

(b) A court shall grant the request in whole or in part if it is shown that there is no good cause for the discovery sought, the party propounding the discovery is using duplicative methods of discovery when a single method would be sufficient, or less intrusive discovery methods are available.

(c) When ruling on an emergency application under this section, the court should consider imposing shorter response times for discovery that is permitted, to expedite the adjudication of requests for restraining orders.

Respectfully submitted,



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