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April 27, 2021

The Honorable Senator Anna Caballero
Member of the Senate, 12th Senate District
State Capitol, Room 5052
Sacramento, CA 95814

Re: SB 24 (Caballero) as Amended on March 16, 2021
Position: Oppose unless amended

Dear Senator Caballero,

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 in opposition of Senate Bill 24 ("SB 24") as Amended on March 16, 2021, unless it is amended.

SB 24 would authorize a court to include in an ex parte restraining order a provision restraining a party from accessing records and information pertaining to the health care, education, daycare, recreational activities, or employment of a minor child of the parties. The bill would also require certain third parties that provide services to children to adopt protocols to ensure that restrained parties are not able to access records or information pertaining to the child. The bill would also require the Judicial Council to update forms or rules as necessary.

ACFLS acknowledges and understands the importance of protecting children from perpetrators of domestic violence. However, ACFLS has concerns about the procedure by which such a broad order may be issued, and the potential for unduly impacting parental rights pending a hearing.

ACLFS observes that ex parte orders are issued based solely on the allegations made by one party without a hearing. SB 24 would allow a judge to effectively terminate one parent's right from having or accessing information about a child solely based on what was presented to the judge by the other parent. SB 24's directive to the Judicial Council to update forms appeared aimed at creating a new box to check to allow a parent to request and order to terminate the other parent's right to information.

According to the March 4, 2021 Senate Judiciary Committee report on SB 24, supporters of the bill believe the bill is needed to close a gap in existing law. Supporters note a judge can already decide whether a parent should have the right to the information about a child, but that there is no option on forms for this protection. ACFLS's shares the view that a judge has the ability to make such an order but disagrees that such protection cannot be ordered in existing forms. The supporters concern is that an order "does not explicitly say that school, medical or dental information about the shared children be protected from the perpetrator", but that is not correct. The pre-printed form order does not expressly state as much, but the language can be typed into the form order if the judge considers the order appropriate. ACFLS' concern is that, by providing another check box on existing forms, the discretion and decision-making process will give way to routine issuance without contemplation of the impact of such an order.

That impact can be profound. Even a parent without custodial rights has the right to information about their child. (Fam. Code, § 3025 – "Notwithstanding any other provision of law, access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, shall not be denied to a parent because that parent is not the child's custodial parent.") The parental relationship is founded on more than just custodial time with a child, and knowledge about a child's education and health is an important facet of that relationship. While there certainly are cases where a perpetrator should not have access to their child's information and whereabouts, that will not be so in many cases. In those cases, a parent will run the risk of having preprinted form orders issued that cut off access to information. ACFLS is mindful that such an interruption in basic knowledge about a child may be for an indefinite period of time.

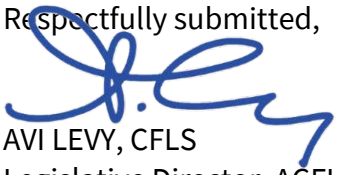
When ex parte orders are issued, a noticed hearing date is set a short time out to allow the other party an opportunity to be heard. On paper it would appear that a cutting off access to information about a child is only temporary, but in practice it often is not. Courts have differing practices with respect to hearing domestic violence cases. Some hold an evidentiary hearing on the date initially set. Some only do so if the matter will take little of the court's time, and if the hearing will be long then it is re-calendared for a later date. Delays

due to COVID closures resulted in some cases trailed out for months, during which a parent that has no access to information about their child.

ACFLS hopes to offer an objective view of the impact of domestic violence statutes as many members represent victims as wells as alleged perpetrators. From this viewpoint it can be seen that there are many cases in which ex parte orders are issued and the requesting party does not appear for the hearing, or at the hearing the judge denies the request for permanent orders. ACFLS observes that in those cases a parent might have been cut off from all information about their child by way of an ex parte order, but then later no permanent orders are made. This can result in an immeasurable disruption to the parent-child relationship, which could have been in effect for months. There is a need in some cases for immediate orders to deny a parent access to information, but SB 24 as drafted will result in preprinted forms that will cast too broad of a net.

Thus, for the above-referenced reasons, ACFLS opposes SB 24 as Amended on March 16, 2021, unless it is amended to apply only to orders issued after a noticed hearing.

Respectfully submitted,



AVI LEVY, CFLS
Legislative Director, ACFLS