



August 31, 2022

The Honorable Gavin Newsom
Governor, State of California
1303 10th Street, Suite 1173
Sacramento, CA 95814

Re: AB 2369 (Salas) – Improving Domestic Violence Survivors' Legal Defense – Request for Signature

Dear Governor Newsom,

The California Partnership to End Domestic Violence is pleased to **support AB 2369 and urge your signature**, which will make it easier for survivors to be awarded attorney's fees and costs in domestic violence restraining order (DVRO) cases, and harder for respondents to continue to harass their victims.

The Partnership is California's recognized domestic violence coalition, representing over 1,000 advocates, organizations and allied individuals across the state. Working at the local, state and national levels for nearly 40 years, the Partnership believes that by sharing resources and expertise, advocates and policymakers can end domestic violence. Every day we inspire, inform and connect all those concerned with this issue, because together we're stronger.

Financial abuse is prevalent among most abusive relationships, so most petitioners (survivors) will not be able to afford an attorney. However, respondents (abusers) are more likely to be able to fund their own legal representation. Indeed, about 90% of Domestic Violence Restraining Order (DVRO) litigants are self-represented. While DVROs are designed to protect survivors, a survivor's DVRO request can be denied if they cannot advocate for themselves in court or navigate complex rules and laws. In fact, courts have discretion to deny a DVRO even if they find past abuse has occurred, so survivors can be ordered to pay for the respondent's attorney's fees even after being abused.

Even when a survivor is able to pay for an attorney, and wins a case, they could be less likely to get the court to order the respondent pay for their attorney's fees because courts often make it harder for petitioners (survivors) who win to get their attorney's fees, compared to respondents. As a result, many attorneys are reluctant to take survivors' cases, and many survivors are discouraged from even filing their request in the first place: if they lose, they could be ordered to pay thousands or more for the respondent's attorney's fees, and if they win, the court could deny them attorney's fees for almost any reason, as the matter is discretionary.



Under Family Code Section 6344 as currently written, the court can still refuse to award petitioners attorney's fees simply because the statute gives them that discretion, for almost any reason. And, in fact, some courts interpret the statute to mean the court should always consider the survivor's needs and ability to pay, and will deny them attorney's fees on that basis even if they win. In these situations, survivors essentially have to fund their own abuse. AB 2369 would change this outcome. In this kind of scenario, AB 2369 would require the court to order the abuser to pay for the survivor's attorney's fees, after taking into consideration the abuser's ability to pay.

This bill would also allow the court to order a protected party to pay the prevailing respondent's attorney's fees and costs, after determining ability to pay, only if the respondent can prove by a preponderance of the evidence that the petition or request is frivolous or solely intended to abuse, intimidate, or cause unnecessary delay. In this way, this bill mirrors similar remedial statutes like the Fair Employment and Housing Act. Like those, this bill encourages more survivors to bring their cases, with representation, without worrying they may have to pay for their own or the respondent's attorney's fees for the act of making the request; and encourages more attorneys to take low-income survivors' cases.

As a result, this bill vindicates every person's "right to be safe and free from violence and abuse in [their] home and intimate relationships" (stats. 2014, ch. 635, § 1, subd. (a)), and promotes the Legislature's goals of preventing abuse and not requiring survivors to fund their own abuse.

For these reasons, the Partnership **respectfully requests your signature on AB 2369.** Please contact me at christine@cpedv.org or (916) 743-9878 if I can be of assistance.

Sincerely,



Christine Smith
Public Policy Coordinator

cc:

Assemblymember Salas (author; Michael Dyar, staff)
Family Violence Appellate Project (sponsor; Cory Hernandez, staff)