May 3, 2022

The Honorable Rudy Salas

State Capitol

P.O. Box 942849

Sacramento, CA 94249-0032

 RE: SUPPORT AB 2369 (Salas) – Improving Domestic Violence Survivors’ Legal Defense

Dear Assemblymember Salas:

Victim Empowerment Support Team (VEST) is pleased to support AB 2369, 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 Victims Empowerment Support Team (VEST**)** is a nonprofit agency in Solano County that provides resources and support to all Victims of Domestic Violence and Sexual Assault. The founder of VEST recognized the gaps in services during the Pandemic. During this time, domestic violence went up over two hundred percent in Solano County due to businesses, jobs, schools, and other safe places being closed, and services were limited because of the restrictions throughout the nation. In 2021 VEST was formed in Fairfield, California to assist all victims in need and to strengthen the family units in the community.

VEST’s goal is to inspire every life of those it serves – women, men, teens, and children – who are survivors of domestic violence and sexual assault. We do this through empowerment and support services. The agency’s approach was influenced by the recognition that violence is a social issue that affect far more than the individuals that are seeking services; the impact is felt community and generational-wide. If left unaddressed, violence will hinder the strength of the entire community and impede on the positive outcomes of a brighter future. VEST is dedicated to addressing community problems by conveying mobilizing partnership within Solano County and surrounding areas.

The VEST Board of Directors is a group of diverse leaders, providing governance and support to help VEST meet its mission. They are ethical leaders that guide by the belief that everyone deserves a life free from abuse.

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, VEST is pleased to support AB 2369 and respectfully requests your “Aye” vote.

Sincerely,

Tanya Brownrigg

Executive Director

Victim Empowerment Support Team

cc: Assemblymember Salas (author; Michael Dyar, staff)

Family Violence Appellate Project (sponsor; Cory Hernandez, staff)