



## JUDICIAL COUNCIL OF CALIFORNIA

### GOVERNMENTAL AFFAIRS

520 Capitol Mall, Suite 600 • Sacramento, California 95814-3368  
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE  
*Chief Justice of California*  
*Chair of the Judicial Council*

MARTIN HOSHINO  
*Administrative Director*

CORY T. JASPERSON  
*Director, Governmental Affairs*

August 4, 2020

Hon. Marc Levine  
Member of the Assembly  
State Capitol, Room 5135  
Sacramento, California 95814

Subject: Assembly Bill 1796 (Levine), as amended July 14, 2020 – Note concerns

Dear Assembly Member Levine:

We write today to share concerns with AB 1796, which requires, at locations where restraining order petitions are filed, courts to provide a drop box for the filing of those petitions, both during and outside of regular court operating hours. It also requires that courts observe the deadlines applicable to any action taken with respect to a petition filed directly with the court to also apply to any action taken with respect to a petition submitted in a drop box. And, it requires the Judicial Council to develop rules and assist courts in developing local rules or procedures necessary to effectuate these requirements.

The Judicial Council's concerns were informed by feedback from judges and other stakeholders who sit on the council's Family and Juvenile Law Advisory Committee, the Trial Court Presiding Judges Advisory Committee, and the Court Executives Advisory Committee over the last two weeks. The concerns focus on two predominant issues: (1) why drop boxes are not the ideal option; and, (2) funding concerns.

*Why drop boxes are not the ideal option.* Experts identified the following concerns with drop boxes to help people who are at risk of or are already victims/survivors of domestic violence:

- The petitions contemplated by this legislation are likely to be filed by self-represented litigants. Through no fault of their own, self-represented litigants often file paperwork that is incomplete and/or incorrect. This, in turn, results in petitions needing to be returned to the filer, and/or requires the petitioner to make repeated visits to the court, both of which raise additional concerns for victim safety. When filing in person, the clerk reviews the paperwork to determine if it is complete and properly filled out. Often, the clerk will ask the petitioner to correct modest errors on the spot; this advantage will not be available to petitioners who place materials in a drop box.
- There may be a false sense of security with filing in a drop box; a sense that somehow the petitioner is protected, or that nothing more is required of them. Moreover, this false sense of being protected might discourage the filer from more expeditiously seeking help from law enforcement through the request for an emergency protective order. On the other hand, a petitioner who can speak with a clerk or the self-help center in person, by telephone, or online will receive the information they need about timing, and what to expect when.
- Even under the best of circumstances (the filing is complete and accurate), the petitioner is still going to have to return to court to pick up the court order (presuming it is granted) during regular business hours in order to have it served on the restrained party.
- The requirement that filings via drop box be accorded the same timeframes as those filed with the clerk can only be accommodated so far; late afternoon filings may not be processed until the next business day. Likewise, after-hour, weekend, and holiday filings will also be processed on a subsequent business day.
- There are concerns, based on recent experiences at several courts, that external drop boxes will be vandalized. Both Los Angeles and Stanislaus County Superior Courts have shared that human excrement and used needles have been placed in drop boxes, potentially ruining filings, creating biohazards, and creating risks for court personnel. Other vandalism, in light of recent protests in which court facilities have been targeted, is also a potential. In addition to create safety risks for court staff, such vandalism could ruin a petitioner's paperwork.
- There are problems with trying to create a drop box for a single case type because there is no way to prevent other filings and court paperwork from being placed there, even with signage. As courts that offer this service have attested, there are logistics associated with

processing the filings in drop boxes. This additional work adds to delays that would not occur if the paperwork was filed directly with a clerk.

- Concerns have been raised about outreach and education; it is unclear who would be responsible for promoting the use of the drop boxes contemplated by this legislation. Experts also raised concerns about signage, language access, and other information about the drop boxes. The bill states that the Judicial Council shall develop rules and assist courts in developing local rules or procedures necessary to effectuate the proposal for drop boxes, but that is distinct from providing outreach and guidance to the public, and is vague in terms of guidance regarding public signage.

*Funding concerns.* The trial courts are in the midst of absorbing an almost \$177 million budget reduction this fiscal year as a result of the pandemic. As such, there simply aren't funds to absorb the costs of this project while maintaining services. The costs would not be limited to the costs of the drop boxes themselves. Judicial Council staff will have to survey the courts to determine which courts can accommodate drop boxes. For those courts that are part of larger government campuses, permits may need to be secured. Some courts are registered historic landmarks and may be prohibited from installing drop boxes. Some courts may have to apply to a local city council or county board for a variance or a permit. All of this requires personnel time and costs that are not available or provided for in the proposal.

In addition to the costs, the timing is simply unworkable. Even if a drop box is an advantage in some cases, the Judicial Council and courts will need the better part of a year to undertake the research, secure permits or apply for variances, order drop boxes to be fabricated, and have them installed. At a minimum, we respectfully request an implementation delay to January 1, 2022 to address the logistics of installing these drop boxes.

The fact sheet for AB 1796 states, "a victim can file a request for a TRO or DVRO in person, which is logistically difficult because of the pandemic and because the abuser is more likely to be aware of the location of the victim. Without additional alternatives to file a TRO or a DVRO, victims of domestic violence will continue to be exposed to harm with limited opportunities to escape a dangerous cycle of violence."

The Judicial Council agrees that alternative filing options would be beneficial to many individuals facing domestic violence, and would like to be a collaborative partner in this effort. To that end, we suggest greater flexibility for the courts in determining better options for helping meet the needs of DVRO petitioners, rather than a one-size-fits-all approach that may be both logistically unworkable and not advantageous in many circumstances. Options could include a dedicated window for filing DVROs, or front-of-the-line permission for specified filers. Other courts may implement or expand their e-filing capacities, which would be a safe route for a petitioner for whom leaving the house is troublesome. There are other options and ideas that

Hon. Marc Levine  
August 4, 2020  
Page 4

should be discussed and we'd very much like to be part of those discussions. For the moment, we worry that the burdens associated with AB 1796 are unworkable, and the benefits few.

For these reasons the council shares these concerns with you about AB 1796.

Should you have any questions or require additional information, please contact me at 916-323-3121.

Sincerely,

*Submitted on August 4, 2020, via the Legislature's Portal*

Andi Liebenbaum  
Attorney

AL/yc-s

cc: Josh Tosney, Counsel, Senate Judiciary Committee  
Morgan Branch, Consultant, Senate Republican Office of Policy  
Nicholas Liedtke, Counsel, Assembly Judiciary Committee  
Daryl Thomas, Consultant, Assembly Republican Office of Policy  
Jessica Devencenzi, Deputy Legislative Secretary, Office of the Governor  
Martin Hoshino, Administrative Director, Judicial Council of California