



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS
770 L Street, Suite 1240 • 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

STEVEN JAHR
Administrative Director of the Courts

CORY T. JASPERSON
Director, Office of Governmental Affairs

April 1, 2014

Hon. Bill Quirk
Member of the Assembly
State Capitol, Room 2175
Sacramento, California 95814

Subject: AB 2089 (Quirk), as introduced – Oppose unless amended

Dear Assembly Member Quirk:

The Judicial Council opposes, unless amended, AB 2089, which makes changes to numerous sections of the Domestic Violence Protection Act (DVPA). The council opposes the portion of AB 2089 relating to statements of decision. Requiring courts to issue a statement of decision in every case will cause an extreme workload increase and is contrary to the entire legislative scheme of domestic violence cases.

Passage of AB 2089 in its current form would result in each bench officer in the Los Angeles County Superior Court, for example, being required to issue, on average, an additional 428 decisions per year. The net result would be a reduction in access to the courts, as the time spent on writing these unnecessary decisions would mean that fewer cases would be able to be heard on any given day.

The council would like to bring to your attention that the current statement of decision requirements under Code of Civil Procedure section 632 do not, and were not intended to, apply to domestic violence protective order cases given, the short time frame that the legislature has set for these cases in statute. Domestic violence cases require the issuance of almost immediate temporary protective orders, and the legislature has directed that a hearing for a permanent order take place within 25 days of the issuance of a temporary order. By contrast, the time frame that follows from section 632 takes place over many weeks

Hon. Bill Quirk

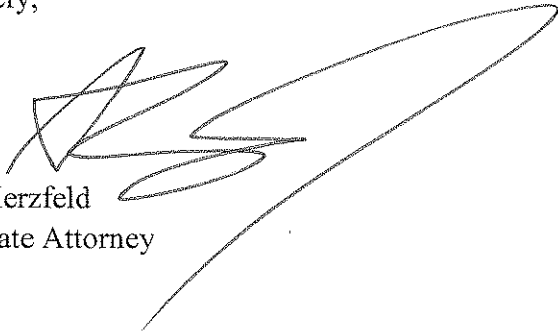
April 1, 2014

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and months of draft statements of decision being issued, a period for the parties to comment, and then the issuance of a final statement of decision. The council is very concerned that the long, drawn-out process that is inherent in many civil cases does not work for, and is contrary to the spirit of, domestic violence cases. If this section of the bill is removed, the council intends to take a neutral position on the remaining portions of the bill that update the DVPA.

For these reasons, the Judicial Council opposes AB 2089, unless amended.

Sincerely,

A handwritten signature in black ink, appearing to be 'A. Herzfeld', with a long, sweeping horizontal stroke extending to the right.

Alan Herzfeld
Associate Attorney

ANH/yc-s

cc: Ms. Kirsta M. Niemczyk, Public Policy Specialist, California Partnership to End Domestic
Violence

Ms. June Clark, Deputy Legislative Secretary, Office of the Governor



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April 9, 2014

Hon. Bob Wieckowski, Chair
Assembly Judiciary Committee
State Capitol, Room 4016
Sacramento, California 95814

Subject: AB 2089 (Quirk), as introduced – Oppose unless amended
Hearing: Assembly Judiciary Committee – April 22, 2014

Dear Assembly Member Wieckowski:

The Judicial Council opposes, unless amended, AB 2089, which makes changes to numerous sections of the Domestic Violence Protection Act (DVPA). The council opposes the portion of AB 2089 relating to statements of decision. Requiring courts to issue a statement of decision in every case will cause an extreme workload increase and is contrary to the entire legislative scheme of domestic violence cases.

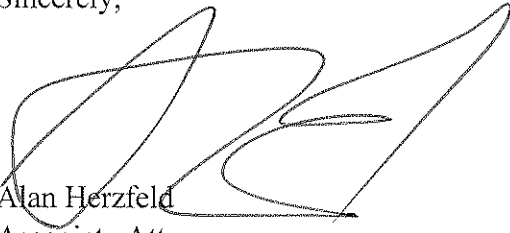
Passage of AB 2089, as introduced, would result in each bench officer in the Los Angeles County Superior Court, for example, being required to issue, on average, an additional 428 decisions per year. The net result would be a reduction in access to the courts, as the time spent on writing these unnecessary decisions would mean that fewer cases would be able to be heard on any given day.

The council would like to bring to your attention that the current statement of decision requirements under Code of Civil Procedure section 632 do not, and were not intended to, apply to domestic violence protective order cases given, the short time frame that the legislature has set for these cases in statute. Domestic violence cases require the issuance of almost immediate temporary protective orders, and the legislature has directed that a hearing for a permanent order take place within 25 days of the issuance of a

temporary order. By contrast, the time frame that follows from section 632 takes place over many weeks and months of draft statements of decision being issued, a period for the parties to comment, and then the issuance of a final statement of decision. The council is very concerned that the long, drawn-out process that is inherent in many civil cases does not work for, and is contrary to the spirit of, domestic violence cases. If this section of the bill is removed, the council intends to take a neutral position on the remaining portions of the bill that update the DVPA.

The Judicial Council appreciates the author's willingness to engage in ongoing discussions and negotiations, and notes amendments have been proposed that move the bill towards a more workable solution. The council is still concerned, however, about the impact AB 2089 will have on bench officers, especially for courts that lack court reporters, and therefore still opposes AB 2089, unless amended.

Sincerely,



Alan Herzfeld
Associate Attorney

ANH/ml

cc: Members, Assembly Judiciary Committee
Hon. Bill Quirk, Member of the Assembly
Ms. Leora Gershenzon, Counsel, Assembly Judiciary Committee
Ms. June Clark, Deputy Legislative Secretary, Office of the Governor
Mr. Paul Dress, Consultant, Assembly Republican Office of Policy



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May 29, 2014

Hon. Hannah-Beth Jackson, Chair
Senate Judiciary Committee
State Capitol, Room 5080
Sacramento, California 95814

Subject: AB 2089 (Quirk), as amended April 10, 2014 – Oppose, unless amended
Hearing: Senate Judiciary Committee – June 10, 2014

Dear Senator Jackson:

The Judicial Council opposes, unless amended, AB 2089, which makes changes to numerous sections of the Domestic Violence Protection Act (DVPA). The council specifically opposes the portion of AB 2089 relating to statements of reasons, currently embodied in Section 8 of the bill. Requiring courts without court reporters to issue a written statement of reasons in every case will create a burden on the majority of courts that is unsustainable and will limit access to justice throughout the state.

The Judicial Council appreciates the Assemblymember Quirk's willingness to engage in ongoing discussions, and notes that amendments have created a bill that is a vast improvement over the bill as it was introduced. By removing the formal statement of decision language that AB 2089 was introduced with, the author recognized that domestic violence restraining order proceedings are fundamentally different than regular civil actions, and that this difference is by careful design. As many courts lack court reporters, however, the council is still concerned with the impact AB 2089 will have on bench officers, and therefore continues to oppose AB 2089. If no formal record is being kept of the proceedings, then AB 2089 would require judges to issue written statements of reasons. Even without going through the formal statement of decision process, this will cause a workload increase that will further limit the number of cases that can be

Hon. Hannah-Beth Jackson

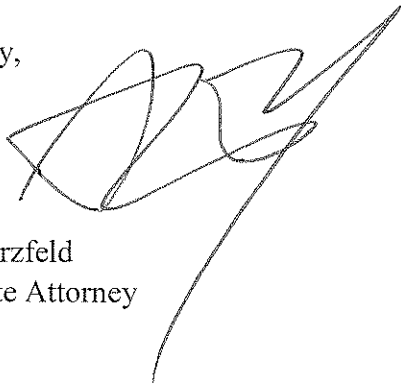
May 29, 2014

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heard by our courts, and will restrict the ability of our courts to issue decisions in a timely manner.

If this section of the bill is removed, the council intends to take a neutral position on the remaining portions of the bill that update the DVPA.

Sincerely,

A handwritten signature in black ink, appearing to be 'Alan Herzfeld', written over a series of horizontal lines.

Alan Herzfeld
Associate Attorney

ANH/yc-s

cc: Members, Senate Judiciary Committee
Hon. Bill Quirk, Member of the Assembly
Ms. Nichole Rapier, Counsel, Senate Judiciary Committee
Ms. June Clark, Deputy Legislative Secretary, Office of the Governor
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy



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CORY T. JASPERSON
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July 21, 2014

Hon. Kevin de León, Chair
Senate Appropriations Committee
State Capitol, Room 2206
Sacramento, California 95814

Subject: AB 2089 (Quirk), as amended June 16, 2014 – Oppose, unless amended
Hearing: Senate Appropriations Committee – August 4, 2014

Dear Senator de León:

The Judicial Council opposes AB 2089, unless amended. AB 2089 makes changes to numerous sections of the Domestic Violence Protection Act (DVPA). The council specifically opposes the portion of AB 2089 relating to statements of reasons, currently embodied in Section 7 of the bill. Section 7 of AB 2089 requires a court to provide a brief statement of the reasons for granting or denying an order for a petition in a civil restraining order hearing in writing or on the record. Under AB 2089, a decision stating “granted” or “denied” is insufficient for the record. Requiring courts without court reporters to issue a written statement of reasons in every case will create a burden on courts that is unsustainable and will limit access to justice across the state. The Judicial Council is opposed unless the provisions in section 7 of the bill are removed.

As required by the Trial Court Funding Act of 1997 (AB 233; Chapter 850, Statutes of 1997), the Judicial Council submits this fiscal analysis on AB 2089.

Fiscal considerations – big picture

For “the court to provide a brief statement of the reasons... on the record,” the services of a court reporter are presumed to be required because court reporters prepare the record within which the

“brief statement” would be included. Due to budget cuts and reductions in court staff, not all courts provide court reporters in civil restraining order hearings. In a recent poll answered by 57 of the 58 trial courts, 32 provide court reporter services in civil domestic violence (DV) hearings. The remaining 25 courts (45% of the courts in California) do not provide court reporters in DV order hearings. These 25 counties are mostly small and rural jurisdictions; they represent less than 18% of the state’s total population and include more than half of the “small courts” (those with 12 or fewer authorized judicial officers). For all of these 25 courts, providing a brief statement of the reasons in writing or on the record would be a significant cost challenge. A requirement for courts to provide reporting in civil DV hearings without an appropriate allocation of funding would necessitate the reallocation of resources, depriving the court and the public of other services and negatively impacting public access to the courts.

Fiscal considerations – the calculation

Of the 25 courts that do not provide court reporters in civil DV hearings, there are 12 courts that have both of the following features:

- Domestic violence hearing numbers as reported to the California Courts Protective order Registry (CCPOR); and
- Absence of court reporters reporting in civil DV hearings.

Of these, ten responded to fiscal queries about costs to the court to provide full or part time court reporting, or per diem reporting. The range of costs for these services is as little as \$12,000 annually (for a court serving 33,500 county residents), to \$197,000 annually (for a court serving 358,000 county residents). The total required for the ten reporting courts is \$651,648.

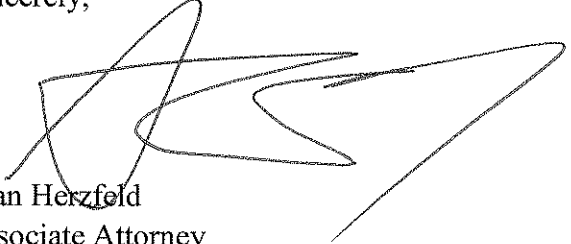
Assuming the other 15 courts (including those that do not report to CCPOR and that also do not provide court reporters in DV hearings) would have cost burdens in the same range as those for which we have information, the total estimated cost of AB 2089 to the 25 courts is \$1,955,000.

Previous amendments have improved AB 2089 over the bill as introduced. By removing the formal statement of decision language that AB 2089 was introduced with, the author recognized that domestic violence restraining order proceedings are fundamentally different than regular civil actions, and that this difference is by careful design. Unfortunately, for nearly half of the Superior Courts, the amended language will still have a severe impact on court operations. The Judicial Council is concerned with the impact AB 2089 will have on bench officers in the 25 courts that do not provide court reporters in DV hearings, and therefore continues to oppose AB 2089, unless it is amended to remove these provisions. When no formal record is being kept of the proceedings, as is the case in 25 of the 57 courts surveyed that have no court reporter present, AB 2089 would require judges to issue written statements giving the reasons for a decision. Even without going through the formal statement of decision process, this will cause a workload increase that will either further limit the number of cases that can be heard by our

courts, or will require a reallocation of the courts' already stretched resources, and will restrict the ability of our courts to issue decisions in a timely manner.

If Section 7 of the bill is removed, the Judicial Council will take a neutral position on the remaining portions of the bill that update the DVPA, but for the workload and fiscal reasons discussed above, the council is opposed to AB 2089.

Sincerely,


Alan Herzfeld
Associate Attorney

cc: Members, Senate Appropriations Committee
Hon. Bill Quirk, Member of the Assembly
Ms. Jolie Onodera, Consultant, Senate Appropriations Committee
Mr. Matt Osterli, Fiscal Consultant, Senate Republican Fiscal Office
Ms. Nichole Rapier, Counsel, Senate Judiciary Committee
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy
Ms. June Clark, Deputy Legislative Secretary, Office of the Governor
Ms. Madelynn McClain, Budget Analyst, Department of Finance



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Director, Governmental Affairs

August 25, 2014

Hon. Edmund G. Brown, Jr.
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: AB 2089 (Quirk) – Request for Veto

Dear Governor Brown:

The Judicial Council respectfully requests a veto of AB 2089. AB 2089 makes changes to numerous sections of the Domestic Violence Protection Act (DVPA). The council is opposed to the portion of AB 2089 relating to statements of reasons, embodied in Section 7 of the bill, which requires a court to provide a brief statement of the reasons for denying a request for a civil restraining order after hearing, either in writing or on the record. Under AB 2089, a decision stating “granted” or “denied” is insufficient for the record. Requiring courts without court reporters to issue a written statement of reasons in every case will create a burden on courts that is unsustainable and will limit access to justice across the state.

The potential costs of implementing AB 2089 are extensive, and the council has conducted the following analysis to illustrate the costs associated with the bill.

Fiscal considerations – big picture

For “the court to provide a brief statement of the reasons... on the record,” the services of a court reporter are presumed to be required because court reporters prepare the

record within which the “brief statement” would be included. Due to budget cuts and reductions in court staff, not all courts provide court reporters in civil restraining order hearings. In a recent poll answered by 57 of the 58 trial courts, 32 provide court reporter services in civil domestic violence (DV) hearings. The remaining 25 courts (45% of the courts in California) do not provide court reporters in DV restraining order hearings. These 25 counties are mostly small and rural jurisdictions; they represent less than 18% of the state’s total population and include more than half of the “small courts” (those with 12 or fewer authorized judicial officers). For all of these 25 courts, providing a brief statement of the reasons in writing or on the record would be a significant cost challenge. A requirement for courts to provide reporting in civil DV hearings without an appropriate allocation of funding would necessitate the reallocation of resources, depriving the court and the public of other services and negatively impacting public access to the courts.

Fiscal considerations – the calculation

Of the 25 courts that do not provide court reporters in civil DV hearings, there are 12 courts that have both of the following features:

- Domestic violence hearing numbers as reported to the California Courts Protective order Registry (CCPOR); and
- Absence of court reporters reporting in civil DV hearings.

Of these, ten responded to fiscal queries about costs to the court to provide full or part time court reporting, or per diem reporting. The range of costs for these services is as little as \$12,000 annually (for a court serving 33,500 county residents), to \$197,000 annually (for a court serving 358,000 county residents). The total required for the ten reporting courts is \$651,648 annually.

Assuming the other 15 courts (including those that do not report to CCPOR and that also do not provide court reporters in DV hearings) would have cost burdens in the same range as those for which we have information, the total estimated cost of AB 2089 to the 25 courts is \$1,955,000.

Previous amendments have improved AB 2089 over the bill as introduced. By removing the formal statement of decision language that AB 2089 was introduced with, the author recognized that domestic violence restraining order proceedings are fundamentally different than regular civil actions, and that this difference is by careful design. Unfortunately, for nearly half of the Superior Courts, the amended language will still have a severe impact on court operations. The council remained open to and engaged in negotiations through the legislative process, hoping to find a compromise that would satisfy workload concerns and stakeholder views. Multiple suggested amendments that

Hon. Edmund G. Brown, Jr.

August 25, 2014

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would allow the courts to both provide the requested information to the parties and would effectively implement AB 2089 were rejected.

The Judicial Council is concerned about the impact AB 2089 will have on bench officers in the 25 courts that do not provide court reporters in DV hearings, and, because it was not amended to remove these provisions, continues to oppose AB 2089 and requests a veto. When no formal record is being kept of the proceedings, as is the case in 25 of the 57 courts surveyed that have no court reporter present, AB 2089 would require judges to issue written statements giving the reasons for a decision. This will cause a workload increase that will either further limit the number of cases that can be heard by our courts, or will require a reallocation of the courts' already stretched resources, and will restrict the ability of our courts to issue decisions in a timely manner. The Judicial Council had every intention of taking a neutral position on the remaining portions of the bill, but the delays in proceedings and the limitations on access to justice that would flow from the measure swallow any benefits that may have been derived from updating the DVPA.

For the workload and fiscal reasons discussed above, the Judicial Council respectfully requests a veto of AB 2089.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Herzfeld', with a stylized, flowing script.

Alan Herzfeld
Associate Attorney

cc: Hon. Bill Quirk, Member of the Assembly
Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor