
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: AB 547 **Hearing Date:** May 31, 2022

Author: McCarty

Version: March 17, 2021

Urgency: No

Consultant: SJ

Fiscal: Yes

Subject: *Domestic violence: victim's rights*

HISTORY

Source: WEAVE

Prior Legislation: AB 2964 (McCarty), not heard in 2020 due to COVID-19

Support: California Police Chiefs Association; Giffords; Work Equity

Opposition: ACLU California Action

Assembly Floor Vote: 66 - 0

PURPOSE

The purpose of this bill is to require the county probation department to notify a victim of domestic violence, abuse, or stalking, of the perpetrator's current or proposed address, if the victim has requested such notification.

Existing law requires the California Department of Corrections and Rehabilitation (CDCR), county sheriff, or director of the local department of corrections to give notice to a victim of stalking or felony domestic violence prior to the release of the person convicted of stalking or felony domestic violence. (Pen. Code § 646.92.)

Existing law requires CDCR or the Board of Parole Hearings (BPH), whenever a person convicted of a violent felony is going to be released from state prison, to notify the local law enforcement agencies that have jurisdiction over the community in which the person was convicted and the community in which the person is scheduled to be released. (Pen. Code § 3058.6.)

Existing law provides that whenever the sheriff or the chief of police is notified of the pending release of a convicted violent felon, that sheriff or chief of police may notify any person designated as an appropriate recipient of that notice. (Pen. Code § 3058.7, subd. (a).)

Existing law requires CDCR or BPH to notify a victim or witness who has requested notification that a person convicted of a violent felony is scheduled to be released. Requires notice of the community in which the person is scheduled to reside also be given if it is in the county of residence of a witness, victim, or family member of a victim who has requested notification, or within 100 miles of the actual residence of a witness, victim, or family member of a victim who

has requested notification. (Pen. Code § 3058.8, subd. (a).)

Existing law requires, with respect to the conviction of a defendant involving a violent felony, the district attorney, probation officer, or victim-witness coordinator to notify the victim as to the victim's right to be sent notice of the defendant's release from custody. (Pen Code § 679.03, subd. (a)(1).)

This bill requires the county probation department to notify a victim of domestic violence or abuse, as defined, or a victim of stalking, as defined, of the perpetrator's current address or proposed address upon release, when the perpetrator, after conviction, is placed on or being released on probation and under the supervision of the county probation department.

This bill requires the above notification to take place only if the victim has requested notification and has provided the probation department with a current address at which they may be notified.

This bill requires the district attorney to advise every victim of domestic violence or abuse, or stalking, of their right to request and receive notification.

COMMENTS

1. Need For This Bill

According to the author:

Currently, survivors of domestic violence can request to be notified of the parole location of a felony domestic violence offender, but not the probation location of a domestic violence offender. Domestic violence can be traumatizing for victims. After experiencing domestic violence, survey data shows that most female survivors report feeling fearful and unsafe, and 62.6% of female survivors experience symptoms of PTSD. Sadly, this fear is often justified, with rates of revictimization by the same offender ranging from ~20% (based on criminal justice reporting data) to as high as 50% (from surveys of victims). Abusers may choose to live near their victims to perpetrate violence or stalking. Data shows that the severity of the initial crime of domestic violence, the specific charge (misdemeanor or felony), and the outcome (probation or parole) are not predictors of the likelihood that an offender will reabuse their victim. Surveys of survivors reveal that those who ended their relationship with their abuser were twice as likely to report being revictimized.

Survivors of domestic violence should have the right to access any information that may pertain to their safety. Knowing the probation address of their abuser will equip survivors with information that may help them assess their risk and, if necessary, take further action to protect themselves from further abuse.

AB 547 expands notification rights for survivors of domestic violence to include notification of their perpetrators' proposed address when released on probation. By notifying domestic violence survivors of their perpetrators' location, this bill gives survivors important information that may impact their safety and risk of continued violence, harassment, or stalking by their abuser.

2. Victim Notification

Penal Code section 3058.8 requires CDCR or BPH to notify a victim or witness who has requested notification that a person convicted of a violent felony is scheduled to be released onto parole. Section 3058.8 further requires notice of the community in which the person is scheduled to reside if it is in the county of residence of a witness, victim, or family member of a victim who has requested notification, or within 100 miles of the actual residence of a witness, victim, or family member of a victim who has requested notification. Existing law also requires CDCR or BPH to provide updated information to the witness, victim, or next of kin if there is a change in the community where the person is to reside.

This bill applies to individuals on probation, and requires the county probation department to notify a victim of domestic violence or stalking, of the perpetrator's current address when the perpetrator is placed on probation after being convicted. If the perpetrator was in custody and is going to be placed on probation, the county probation department is required to notify the victim of the perpetrator's proposed address. This bill specifies that notification take place only if the victim has requested notification and has provided the probation department with a current address at which they may be notified. Finally, this bill requires the district attorney to advise every victim of domestic violence or abuse, or stalking, of their right to request and receive notification.

3. Argument in Support

Work Equity writes:

AB 547 would help protect victims of domestic violence and prevent further abuse by expanding notification rights for victims of domestic violence to include notification of their perpetrator's proposed address when released on probation. By notifying the domestic violence of their perpetrator's location, this bill gives victims important information that may impact their safety and risk of continued violence, harassment, or stalking by their abuser.

4. Argument in Opposition

According to the ACLU California Action:

Current law entitles victims of certain domestic violence crimes, upon their request, to receive notice before a person convicted of stalking, or a felony domestic violence offense is released from custody. (Pen. Code, § 646.92.) Such notice can include the "parole location" of the convicted person. Likewise, current law permits victims of violent offenses to receive notice of "the community" in which a defendant is scheduled to reside prior to the defendant's release from prison. (Pen. Code, §§ 679.03, 3058.8.) Notably, notice of the community in which the person is scheduled to reside is only provided if it is (1) in the county of residence of the person requesting the notice, or (2) within 100 miles of the actual residence of the person requesting notice. (Pen. Code, §3058.8.)

AB 547, on the other hand, goes substantially further to require notice of the individual's address – information that California law generally recognizes as an element warranting privacy protection, and which could threaten the safety of the

individual and their property. The bill provides no limit or guardrails with respect to what the person who receives the address notification can do with the information. They can publish the address online via social media or internet chat rooms, or use the information to harass an individual in and around their home. Moreover, because there is no apparent rationale for distinguishing domestic violence convictions from other criminal convictions where the victim might be interested in knowing a convicted person's location after they have served their time, this measure would establish a troubling precedent that may readily be extended to other convictions.

Furthermore, there are cases where both parties in a domestic violence incident may be charged and convicted of the same offenses. Disclosing residential information to both parties in these circumstances could jeopardize the safety of both parties. In addition, most domestic violence convictions result in protective orders that either direct the individual to have no contact with the victim or direct the individual "to not annoy, harass or molest" the victim. Sometimes, these orders are issued and maintained irrespective of the victim's preference.

Providing the victim

with the individual's address could lead to contact that would at best be a violation of the restraining order, or at worst, lead to further violence between the parties.

AB 547 also contravenes the policy of rehabilitating and reintegrating people who have been convicted of crimes. If a person is going to re integrate into the community at a new residence, with new neighbors, giving the victim the ability to appear at any time at the person's new doorstep, or contact their new neighbors will surely make it far more difficult for the individual to maintain stable employment and housing.

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