

Introduced by Senator Ashby

December 16, 2024

An act to add Chapter 35.5 (commencing with Section 22948.30) to Division 8 of the Business and Professions Code, and to amend Section 6320 of the Family Code, relating to connected devices.

LEGISLATIVE COUNSEL'S DIGEST

SB 50, as introduced, Ashby. Connected devices: device protection requests.

Existing law authorizes a court to issue a restraining order to a person to prevent abuse, as specified, based on reasonable proof of a past act or acts of abuse. Existing law authorizes the order to be issued solely on the affidavit or testimony of the person requesting the restraining order.

Existing law requires a manufacturer of a connected device to equip the device with a reasonable security feature or features that are appropriate to the nature and function of the device, appropriate to the information it may collect, contain, or transmit, and designed to protect the device and information contained in the device from unauthorized access, destruction, use, modification, or disclosure.

This bill would require an account manager, as defined, to terminate or disable a connected device or account access to a perpetrator, as defined, commencing no later than 2 days after a device protection request is submitted to the account manager by a survivor of that perpetrator. The bill would specify the requirements for a survivor to submit a device protection request and would impose certain requirements on an account manager regarding the process for submitting a request. By providing that a survivor may include a copy of a signed affidavit to submit a device protection request, and thus

expanding the crime of perjury, this bill would impose a state-mandated local program.

This bill would require the account manager to notify the survivor of specified information and require an account manager and any officer, director, employee, vendor, or agent thereof to treat any information submitted by a survivor as confidential and securely dispose of the information, as provided.

This bill would authorize enforcement of these provisions by injunction or civil penalty in any court action by any person injured by a violation of those provisions, the Attorney General, a district attorney, county counsel, a city attorney, or a city prosecutor, against an account manager or perpetrator, as provided. The bill would prohibit a waiver of these prohibitions and would declare that these provisions are severable.

Existing law authorizes a court to issue an ex parte order for, among other things, disturbing the peace of the other party. Existing law provides that disturbing the peace of the other party may be committed directly or indirectly, including through the use of a third party, and by any method or through any means including, but not limited to, telephone, online accounts, text messages, internet-connected devices, or other electronic technologies.

This bill would provide that, for purposes of those provisions, an internet-connected device includes a connected device as described in the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) According to the National Domestic Violence Hotline, almost
- 4 one-half of all women and men in the United States have
- 5 experienced psychological aggression by an intimate partner in
- 6 their lifetime.

(b) According to the National Network to End Domestic Violence, 97 percent of domestic violence programs report that abusers misuse technology to stalk, harass, and control victims.

(c) An increase in the use of technology has become a concerning tool in cases of domestic violence and harassment. Perpetrators leverage smartphone applications to remotely control everyday objects to exercise control over, monitor, and abuse their victims.

(d) Domestic violence, dating violence, stalking, sexual assault, human trafficking, and related crimes are life-threatening issues and have lasting and harmful effects on individuals, families, and entire communities.

(e) Survivors often lack meaningful support and options when establishing independence from an abuser, including barriers such as financial insecurity and limited access to reliable communications tools to maintain essential connections with family, social safety networks, employers, and support services.

(f) Laws related to the use of technology can play a public interest role in the promotion of safety, life, and property with respect to these types of violence and abuse. Independent access to devices can assist survivors in establishing security and autonomy.

(g) Safeguards within tech-based services can serve a role in preventing abuse and narrowing the digital divide experienced by survivors of abuse.

SEC. 2. Chapter 35.5 (commencing with Section 22948.30) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 35.5. CONNECTED DEVICES

22948.30. For purposes of this chapter, the following definitions apply:

(a) “Account manager” means a person or entity that provides an individual an internet-based or app-based user account, or a third party that manages those user accounts on behalf of that person or entity, that has authority to make decisions regarding user access to those user accounts.

(b) “Connected device” means any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or

Bluetooth address or enables a person to remotely obtain data from or send commands to a connected device or account, which may be accomplished through a software application that is designed to be operated on a mobile device, computer, or other technology.

(c) (1) “Covered act” means conduct that constitutes any of the following:

(A) A crime described in Chapter 8 (commencing with Section 236) of Title 8 of Part 1 of the Penal Code.

(B) A crime described in Chapter 1 (commencing with Section 261), Chapter 2 (commencing with Section 270), Chapter 2.5 (commencing with Section 273.8), Chapter 4 (commencing with Section 277), Chapter 5 (commencing with Section 281), Chapter 5.5 (commencing with Section 290), Chapter 7.5 (commencing with Section 311), Chapter 7.6 (commencing with Section 313), or Chapter 8 (commencing with Section 314) of Title 9 of Part 1 of the Penal Code.

(C) An act under federal law, tribal law, or the Uniform Code of Military Justice that is similar to an offense described in subparagraph (A) or (B).

(D) Domestic violence, as defined in Section 6211 of the Family Code.

(E) A misdemeanor described in subdivision (e) of Section 243 of the Penal Code.

(2) Nothing in paragraph (1) shall be construed to require a criminal conviction or any other determination of a court in order for conduct to constitute a covered act.

(d) “Device access” means the ability to remotely control a connected device, remotely change the characteristics of a connected device, or remotely view or manipulate data collected by or through a connected device, by accessing a user account or accounts associated with the connected device. Acts that require device access include, but are not limited to, remotely manipulating an audio system, security system, light fixture, or other home appliance or fixture.

(e) “Device protection request” means a request by a survivor to terminate or disable a perpetrator’s access to a connected device or account, including, but not limited to, the ability of a person to obtain data from or send commands to a connected device or account.

1 (f) “Perpetrator” means an individual who has committed or
2 allegedly committed a covered act against a survivor or an
3 individual under the care of a survivor.

4 (g) “Survivor” means an individual who has had a covered act
5 committed, or allegedly committed, against the individual, or who
6 cares for another individual against whom a covered act has been
7 committed or allegedly committed, provided that the individual
8 providing care did not commit or allegedly commit the covered
9 act.

10 (h) “User account or account” means an account or other means
11 by which a person enrolls in or obtains access to a connected device
12 or online service.

13 22948.31. (a) Commencing no later than two business days
14 after receiving a device protection request from a survivor pursuant
15 to subdivision (b), an account manager shall terminate or disable
16 a connected device or account access to a perpetrator, as identified
17 in the request.

18 (b) In the case of a survivor seeking to deny a perpetrator device
19 or account access, the survivor shall submit to the account manager
20 a device protection request that includes all of the following:

21 (1) A verification that the perpetrator has committed or allegedly
22 committed a covered act against the survivor or an individual in
23 the survivor’s care, by providing either of the following:

24 (A) A copy of a signed affidavit from a licensed medical or
25 mental health care provider, licensed military medical or mental
26 health care provider, licensed social worker, victim services
27 provider, or licensed military victim services provider, a temporary
28 restraining order, an emergency protective order, or a protective
29 order lawfully issued pursuant to Section 527.6 of the Code of
30 Civil Procedure, Part 3 (commencing with Section 6240) or Part
31 4 (commencing with Section 6300) of Division 10 of the Family
32 Code, or Section 136.2 of the Penal Code.

33 (B) A copy of a police report, statements provided by police,
34 including military police, to magistrates or judges, charging
35 documents, protective or restraining orders, military protective
36 orders, or any other official record that documents the covered act,
37 including a copy of a written report by a peace officer employed
38 by a state or local law enforcement agency acting in the peace
39 officer’s official capacity stating that the individual has filed a
40 report alleging victimization of an act or crime.

(2) Verification of the survivor's exclusive legal possession or control of the connected device, including, but not limited to, a dissolution decree, temporary restraining order, protective order, domestic violence restraining order, or other document indicating the survivor's exclusive use care, possession, or control of the connected device.

(3) Identification of the connected device or devices.

(4) Identification of the person that the requester seeks to deny device or account access.

(c) An account manager shall offer a survivor the ability to submit a device protection request under subdivision (b) through secure remote means that are easily navigable. Except as specified under subdivision (b), an account manager shall not require a specific form of documentation to submit a device protection request.

(d) An account manager shall make information about the options and process described in subdivision (b) publicly available on the internet website and mobile application, if applicable, of the account manager.

(e) An account manager shall notify the survivor of both of the following:

(1) The date on which the account manager intends to give any formal notice to the perpetrator that has had their device or account access denied.

(2) That the account manager may contact the survivor, or designated representative of the survivor, to confirm that the perpetrator's device or account access is denied, or to notify the survivor that the device protection request is incomplete.

(f) An account manager shall not condition a device protection request submitted in accordance with subdivision (b) upon any of the following:

(1) Payment of a fee, penalty, or other charge.

(2) Approval of the device protection request by any person who has device or account access that is not the survivor.

(3) A prohibition or limitation on the ability to deny device or account access to a perpetrator as a result of arrears accrued by the account or associated with the connected device.

(4) An increase in the rate charged for the account if any subscription fee or other recurring charge for account access applies.

1 (5) Any other limitation or requirement not listed under
2 subdivision (b).

3 (g) (1) An account manager and any officer, director, employee,
4 vendor, or agent thereof shall treat any information submitted by
5 a survivor under this section as confidential and securely dispose
6 of the information not later than 90 days after receiving the
7 information.

8 (2) Nothing in paragraph (1) shall be construed to prohibit an
9 account manager from maintaining, for longer than the period
10 specified in that paragraph, a record that verifies that a survivor
11 fulfilled the conditions of a device protection request under
12 subdivision (b).

13 22948.32. (a) (1) An account manager that fails to deny a
14 perpetrator access in compliance with subdivision (a) of Section
15 22948.31 or otherwise does not comply with the requirements
16 described in Section 22948.31 shall be deemed in violation of this
17 chapter.

18 (2) A perpetrator that maintains or exercises device or account
19 access, including by disturbing the peace of the other party, as
20 described in subdivision (c) of Section 6320 of the Family Code,
21 despite having their device or account access denied pursuant to
22 subdivision (a) of Section 22948.31, shall be deemed in violation
23 of this chapter.

24 (b) (1) Actions for relief pursuant to this chapter may be
25 prosecuted exclusively in a court of competent jurisdiction in a
26 civil action brought by any person injured by the violation or in
27 the name of the people of the State of California by the Attorney
28 General, a district attorney, county counsel, a city attorney, or a
29 city prosecutor.

30 (2) A court may enjoin a person or entity who engages, has
31 engaged, or proposes to engage in a violation of this chapter. The
32 court may make any orders or judgments as may be necessary to
33 prevent a violation of this chapter.

34 (3) A person or entity who engages, has engaged, or proposes
35 to engage in a violation of this chapter shall be liable for a civil
36 penalty not to exceed two thousand five hundred dollars (\$2,500)
37 for each connected device in violation of this chapter. If the action
38 is brought by the Attorney General, the penalty shall be deposited
39 into the General Fund. If the action is brought by a district attorney
40 or county counsel, the penalty shall be paid to the treasurer of the

1 county in which the judgment was entered. If the action is brought
2 by a city attorney or city prosecutor, the penalty shall be paid to
3 the treasurer of the city in which the judgment was entered. If the
4 action is brought by a person injured by the violation, the penalty
5 shall be awarded to that person.

6 22948.33. Any waiver of the provisions of this chapter is
7 contrary to public policy and void and unenforceable.

8 22948.34. (a) The duties and obligations imposed by this
9 chapter are cumulative with any other duties or obligations imposed
10 under other law, and shall not be construed to relieve any party
11 from any duties or obligations imposed under other law.

12 (b) The remedies or penalties provided by this chapter are
13 cumulative to each other and to the remedies or penalties available
14 under all other laws of the state.

15 22948.35. Notwithstanding any other provision of this chapter,
16 any entity that is subject to the federal Safe Connections Act of
17 2022 (Public Law 117-223) or regulations of the Federal
18 Communications Commission adopted pursuant to the authority
19 of that law, shall not be subject to this chapter.

20 22948.36. The provisions of this chapter are severable. If any
21 provision of this chapter or its application is held invalid, that
22 invalidity shall not affect other provisions or applications that can
23 be given effect without the invalid provision or application.

24 SEC. 3. Section 6320 of the Family Code is amended to read:

25 6320. (a) The court may issue an ex parte order enjoining a
26 party from molesting, attacking, striking, stalking, threatening,
27 sexually assaulting, battering, credibly impersonating as described
28 in Section 528.5 of the Penal Code, falsely personating as described
29 in Section 529 of the Penal Code, harassing, telephoning, including,
30 but not limited to, making annoying telephone calls as described
31 in Section 653m of the Penal Code, destroying personal property,
32 contacting, either directly or indirectly, by mail or otherwise,
33 coming within a specified distance of, or disturbing the peace of
34 the other party, and, in the discretion of the court, on a showing
35 of good cause, of other named family or household members.

36 (b) On a showing of good cause, the court may include in a
37 protective order a grant to the petitioner of the exclusive care,
38 possession, or control of any animal owned, possessed, leased,
39 kept, or held by either the petitioner or the respondent or a minor
40 child residing in the residence or household of either the petitioner

1 or the respondent. The court may order the respondent to stay away
2 from the animal and forbid the respondent from taking, transferring,
3 encumbering, concealing, molesting, attacking, striking,
4 threatening, harming, or otherwise disposing of the animal.

5 (c) As used in this subdivision (a), “disturbing the peace of the
6 other party” refers to conduct that, based on the totality of the
7 circumstances, destroys the mental or emotional calm of the other
8 party. This conduct may be committed directly or indirectly,
9 including through the use of a third party, and by any method or
10 through any means including, but not limited to, telephone, online
11 accounts, text messages, internet-connected devices, *including*
12 *connected devices as defined in Section 22948.30 of the Business*
13 *and Professions Code*, or other electronic technologies. This
14 conduct includes, but is not limited to, coercive control, which is
15 a pattern of behavior that in purpose or effect unreasonably
16 interferes with a person’s free will and personal liberty. Examples
17 of coercive control include, but are not limited to, unreasonably
18 engaging in any of the following:

19 (1) Isolating the other party from friends, relatives, or other
20 sources of support.

21 (2) Depriving the other party of basic necessities.

22 (3) Controlling, regulating, or monitoring the other party’s
23 movements, communications, daily behavior, finances, economic
24 resources, or access to services.

25 (4) Compelling the other party by force, threat of force, or
26 intimidation, including threats based on actual or suspected
27 immigration status, to engage in conduct from which the other
28 party has a right to abstain or to abstain from conduct in which the
29 other party has a right to engage.

30 (5) Engaging in reproductive coercion, which consists of control
31 over the reproductive autonomy of another through force, threat
32 of force, or intimidation, and may include, but is not limited to,
33 unreasonably pressuring the other party to become pregnant,
34 deliberately interfering with contraception use or access to
35 reproductive health information, or using coercive tactics to control,
36 or attempt to control, pregnancy outcomes.

37 (d) This section does not limit any remedies available under
38 this act or any other provision of law.

39 SEC. 4. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

O