

# 2021 NEW LAWS TRAINING

## LA COUNTY DOMESTIC VIOLENCE COUNCIL

### FEBRUARY 16, 2021

- *Pallavi Dhawan, Director of Domestic Violence Policy & Prevention, LA City Attorney's Office*
- *Minty Siu-Kootnikoff, Legal Services Director, Sojourn*
- *Nancy Volpert, Director of Public Policy & Strategic Initiatives, Jewish Family Service LA*

1

## SB 1141: Family Code Section 6320: Disturbing the peace

Conduct that

based on the totality of the circumstances,

destroys the mental or emotional calm of the other party

...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.

3

## Agenda

- ▶ Overview
- ▶ Coercive Control (SB 1141)
- ▶ Eviction Protection & Moratorium (AB 3088 + SB 91)
- ▶ AB 1950
- ▶ Other Measures of Interest (SB 493, SB 1276, AB 2992)
- ▶ COVID-19 Pandemic Response Measures

2

## SB 1141: continued

DISTURBING THE PEACE includes, but is not limited to, coercive control → which is a **pattern of behavior** that → in purpose or effect

← unreasonably interferes with → a person's **free will and personal liberty**.

4

Examples of coercive control include, but are not limited to, unreasonably engaging in any of the following:

- ▶ (1) **Isolating** the other party from friends, relatives, or other sources of support.
- ▶ (2) **Depriving** the other party of **basic necessities**.
- ▶ (3) **Controlling, regulating, or monitoring** the other party's movements, communications, daily behavior, **finances, economic resources, or access to services**.
- ▶ (4) **Compelling** the other party by force, threat of force, or intimidation, including **threats based on actual or suspected immigration status**, to engage in conduct from which the other party has a right to abstain or to abstain from conduct in which the other party has a right to engage.

5

5

*What is an offense involving domestic violence?*

**FAMILY CODE SECTION 6211 & 6203**

**Abuse perpetrated against:**

- ▶ A spouse or former spouse.
- ▶ A cohabitant or former cohabitant
- ▶ A person with whom the respondent is having or has had a dating or engagement relationship.
- ▶ A person with whom the respondent has had a child
- ▶ A child of a party
- ▶ Any other person related by consanguinity or affinity within the second degree

**Abuse = physical assault, sexual assault, threats to harm, behavior subject to DVRO. NOT LIMITED TO PHYSICAL ASSAULT**

**Behavior subject to DVRO includes Disturbing the Peace & Coercive Control**

7

7

**Possible Effects of SB 1141 on Criminal Law**

**Evidence Code section 1109(a)(1):** ...in a criminal action in which the defendant is accused of an offense involving domestic violence, **prior evidence of domestic violence is admissible.**

**Evidence Code section 1107(a):** In a criminal action, **expert testimony is admissible by either the prosecution or the defense** to explain the effect of physical, emotional, or mental abuse on the beliefs, perceptions, or behavior of victims of domestic violence.

6

6

**JURY INSTRUCTION**

**E.C. Section 1109**

- ▶ If you decide that the defendant committed the uncharged domestic violence, you may, but are not required to, conclude from that evidence that **the defendant was disposed or inclined to commit domestic violence and, based on that decision, also conclude that the defendant was likely to commit and did commit** the charged offense(s). (emphasis added).

8

8

9

**JURY INSTRUCTION**

**E.C. Section 1107**

- ▶ **Prosecution:** You may consider this evidence only in deciding whether or not the victim's conduct was consistent with the conduct of someone who has been abused, and in evaluating the believability of their testimony.
- ▶ **Defense:** You may consider this evidence only in deciding whether the defendant actually believed that they needed to defend against an immediate threat of great bodily injury or death, and whether that belief was reasonable or unreasonable.

9

- Applicable to residential real estate only

Includes:

- Small Landowner and Homeowner Relief Act
- Requires mortgage servicer to provide notice and explain if they deny forbearance if the homeowner was current on 2/1/20 and suffering from COVID-19 financial hardship

**AB 3088**  
*Tenant, Homeowner and Small Landlord Relief and Stabilization Act of 2020*

Altered content or that disseminated by anyone other than the Partnership may not be an accurate representation

11

10

**AB 3088 AND SB 91**

Tenant, Homeowner and Small Landlord Relief and Stabilization Act of 2020

10

**AB 3088**  
 Tenant, Homeowner and Small Landlord Relief and Stabilization Act of 2020  
**Eviction Protections for Nonpayment of Rent**

March to August 2020 Protected Time Period	Sept 2020 to Jan 31, 2021 Transitional Time Period	SB 91 - Extends Transitional Time Period
Cannot be evicted for Nonpayment of rent for this period	Cannot be evicted for Nonpayment of rent IF tenant pays 25% of the rent	Transitional Period extended to June 30, 2021

12

## Declaration of COVID-Related Financial Distress

I am currently unable to pay my rent or other financial obligations under the lease in full because of one or more of the following:

1. Loss of income caused by the COVID-19 pandemic.
2. Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
3. Increased expenses directly related to health impacts of the COVID-19 pandemic.
4. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit my ability to earn income.
5. Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.
6. Other circumstances related to the COVID-19 pandemic that have reduced my income or increased my expenses.

Any public assistance, including unemployment insurance, pandemic unemployment assistance, state disability insurance (SDI), or paid family leave, that I have received since the start of the COVID-19 pandemic does not fully make up for my loss of income and/or increased expenses.

Signed under penalty of perjury:

Altered content or that disseminated by anyone other than the Partnership may not be an accurate representation

13

## AB 3088 Notice to Tenant

### Protected Time Period

Warns Tenant that he/she has 15 days to submit declaration of Covid-related financial distress to the landlord

Can't be evicted during this period if tenant complies

### Transitional Time Period before 2/1/21

Warns Tenant that he/she has 15 days to submit declaration of Covid-related financial distress to the landlord

Can't be evicted during this period if tenant complies and pays 25% of the rent for this period

You may have to submit a new declaration of Covid-related financial distress each month

### Transitional Time Period on or after 2/1/21

same as the pre-2/1/21 transitional time period notice, except the end of the transitional period ends on 6/30/21 and

the notice must provide information notifying the tenant that he/she may qualify for emergency rental assistance from the State of California

15

## Landlords can demand additional information from High Income Tenants

- ▶ A landlord may require a high-income tenant to submit, in addition to and together with a declaration of COVID-19-related financial distress, documentation supporting the claim that the tenant has suffered COVID-19-related financial distress.
- ▶ High Income Tenant must have annual income at or above 130% (about \$100,490) of the area median income for LA and household income of over \$100,000 to be considered high income.
- ▶ Only applicable if landlord has prior proof on file of the tenant's income and provides notice thereof to tenant

14

## Landlord can't evict, but Back Rent Continues to be owed

- ▶ AB3088 expand jurisdiction of small claims court to be a forum for the resolution of back rent debt; even if two or more small claims actions have been filed or the total amount of the claim exceeds the small claims limit
- ▶ SB91 prohibits commencement of a small claims action to collect the rent debt prior to August 1, 2021

16

## Additional Protections

- ▶ Good cause required for eviction of tenants in residence for one year or more
- ▶ “Pay or Quit” notices must allow for 15 (rather than 3) days to pay
- ▶ Continues the masking period for evictions for nonpayment of rent during the protected and transitional time periods

17

## STATE RENTAL ASSISTANCE PROGRAM SB 91

*\$1.5 billion emergency rental assistance program*

19

## Additional SB91 Protections

- ▶ Prohibits landlord from apply security deposit to rent without the consent of tenant
- ▶ Prohibits landlords from selling COVID related debt to a debt collector until July 1, 2021; and permanently for persons below 80% (about \$61,840) of area median income
- ▶ Prohibits landlord from charging late fees for the protected or transitional time periods
- ▶ Prohibits landlord from creating new fees for existing services

18

## State Rental Assistance

- ▶ Available for households with incomes at or below 80 percent (about \$61,840) of Area Median Income, with a priority on helping households at or below 50 percent (about \$38,650) of Area Median Income as well as households unemployed for the preceding 90 days at the time of application;
- ▶ Notice from LL on or after 2/1/21 must provide information to tenant about program
- ▶ Utility arrearages will also be eligible to be paid, subject to funding availability.
- ▶ Prohibits the use of COVID-19 related debt as a negative screening factor for housing application
- ▶ Puts limits on attorney’s fees for cases not heard in small claims court

20

Continued. . .

- ▶ Landlords can choose to accept 80 percent of any unpaid rent owed from April 1, 2020, through March 31, 2021. If a landlord accepts this funding, the landlord agrees to forgive the remaining unpaid rent for that covered period.
- ▶ If a landlord chooses not to participate, the tenant can still apply for relief valued at 25 percent of unpaid back rent they owe for the covered period.
- ▶ Rental debt forgiveness is not income
- ▶ 3<sup>rd</sup> parties cannot charge to help people apply for rental assistance

21

AB 1950: Probation: Length of Terms  
PC 1203a & PC 1203.1

Previous Law	New Law
<b>Misdemeanor</b> probation – 3 years or, if the maximum length of imprisonment for the crime exceeds 3 years, up to that max. authorized term.	<b>FOR MISDEMEANORS</b> , probation cannot exceed 1 year, except as specified.
<b>Felony</b> probation – up to max. term of imprisonment, or five years if max. not specified.	<b>FOR FELONIES</b> , probation cannot exceed 2 years, except as specified.

23

**AB 2517  
PERSONAL  
PROPERTY AND LIENS IN  
ROs**

*Not effective until  
2022, see you then. . .*

Property orders remain effective for length of the RO and allows court to make findings that specific debts were the result of DV

22

AB 1950 exceptions

<p><b>FELONY EXCEPTIONS</b></p> <p><b>Violent felonies</b> (murder, rape, kidnapping, great bodily injury, life imprisonment)</p> <p><b>Certain theft offenses</b> (e.g., theft from employer, fraud, embezzlement) over \$25,000</p> <p>Any offense that includes specific probation lengths within its provisions.</p>	<p><b>MISDEMEANOR EXCEPTIONS</b></p> <p>Any offense that includes specific probation lengths within its provisions.</p>	<p><b>Specific probation lengths “within its provisions”</b></p> <ul style="list-style-type: none"> <li>Child abuse /endangerment ✓</li> <li>Criminal threats ✗</li> <li>Stalking ✗</li> <li>Elder abuse ✗</li> </ul> <p>⚠ PC 1203.097</p>
--	---	--

24

25

## Cal Penal Code 1203.097

- ▶ If a person is granted probation for a crime in which the victim is a person defined in **Family Code Section 6211**, the terms of probation shall include all of the following: **(1) A minimum period of probation of 36 months...**
- ▶ **Section 6211 of Family Code: child abuse, elder abuse, domestic violence; abuse not limited to physical violence.**
- ▶ Should cover all dv and dv-related crimes (Domestic violence & violation of POs reference 1203.097 in statute itself).
- ▶ Wouldn't cover elder abuse by an *unrelated person*.

25

27

## COVID-19 Federal Response

### Pandemic EBT

- Provides food benefits to children who are eligible for free or reduced-price school meals and who have been affected by school closures due to the pandemic.
- CA is working to extend benefits for the entire 2020-2021 school year. The newest iteration, P-EBT 2.0, now includes benefits for children in child care facilities.

### American Recovery Act (Proposed)

- Extend the recently enacted 15% SNAP benefit boost through at least September.
- Provide \$3 billion in funding to support increased enrollment in the WIC program.
- Invest \$40 billion to help stabilize the child care system.
- Fund state & local fiscal relief, including \$130 billion to help schools reopen safely.
- Provide direct economic relief including an extension of unemployment insurance benefits through at least September, temporarily expand the Child Tax Credit and Earned Income Tax Credit, provide additional cash assistance to low-income families through the Temporary Assistance to Needy Families program, and one-time funding to provide direct payments (\$1,400) to qualifying households.

27

26

## Other Measures of Interest

### SB 493 – Jackson (Education: Sex Equity - amends Education Code Section 66262.5, adds 66281.8)

- Implements procedures to protect CA college student Sexual Assault & harassment survivors
- Ensures CA students have full protections in case of federal roll-backs to Title IX
- Shall be implemented by 1/1/22

### SB 1276 – S. Rubio (Comprehensive Statewide Domestic Violence Program)

- This bill eliminates the 10 % cash or an in-kind match requirement for a domestic violence center to receive state funding from the Office of Emergency Services (OES) Comprehensive Statewide Domestic Violence Program (CSDVP).

### AB 2992 – Weber (Time Off from Work - expands Labor Code Sections 230 and 230.1)

- Employers cannot discharge, discriminate or retaliate against an employee who is a victim of crime or abuse because they took time off from work – scheduled or unscheduled - to seek relief.

26

28

## Public Charge

- ▶ On Feb 2, 2021, President Joe Biden signed an Executive Order directing federal agencies to review Trump public charge regulations that have caused millions in immigrant families to forego vital health and economic support services. This is an important first step in repairing the damage done by this and other policy attacks on immigrants
- ▶ The Executive Order directs agencies to identify actions to address concerns about the current Public Charge rule and take steps to address concerns and reduce fear and confusion among impacted communities.
- ▶ As the administrative process to reverse the rule will take time, these initial steps could help alleviate the rule's demonstrated chilling effect in accessing government benefits and facilitate immigrant families in receiving the help they need through programs that improve health, food security, nutrition, and economic security—programs that are especially important during the pandemic and the resulting economic crisis.

28



**QUESTIONS?  
THANK YOU!**

Pallavi Dhawan - [pallavi.dhawan@lacity.org](mailto:pallavi.dhawan@lacity.org)  
Minty Siu-Kootnikoff - [msiu-kootnikoff@thepeopleconcern.org](mailto:msiu-kootnikoff@thepeopleconcern.org)  
Nancy Volpert - [nvolpert@jfsla.org](mailto:nvolpert@jfsla.org)