

2022 NEW LAWS TRAINING
LA COUNTY DOMESTIC VIOLENCE COUNCIL
FEBRUARY 15, 2022

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

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2022 DV LAWS (CIVIL)

Minty Siu-Kootnikoff
Legal Services Director
Sojourn

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AB 430 (Grayson)

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▶ Debt Collection Identity Theft

- ▶ Requires creditors, debt collectors, and debt buyers to accept the Federal Trade Commission identity affidavit as sufficient documentation that a debt was the result of identity theft.

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AB 430 (Grayson)

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- ▶ Prior law requires a victim of identity theft to present a police report to initiate a review and pause on debt collection activities
- ▶ AB430 now allows a victim of identity theft to present an FTC report and a written statement to initiate a review and pause debt collection activities. Victim has still has the option to present a police report
- ▶ Within 10 days of notification (no change in law), the collection agency must notify the credit reporting agencies that the debt is in dispute.

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AB 430 (Grayson)

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- ▶ Also allows for the presentation of an FTC report in court in a debt collection proceeding
- ▶ Expands definition of “victim of identity theft” to include persons who have made an FTC report; no longer limits victim of identity theft to those who have made a police report
- ▶ Allows victims of identity fraud to get copies of the unauthorized application with FTC report

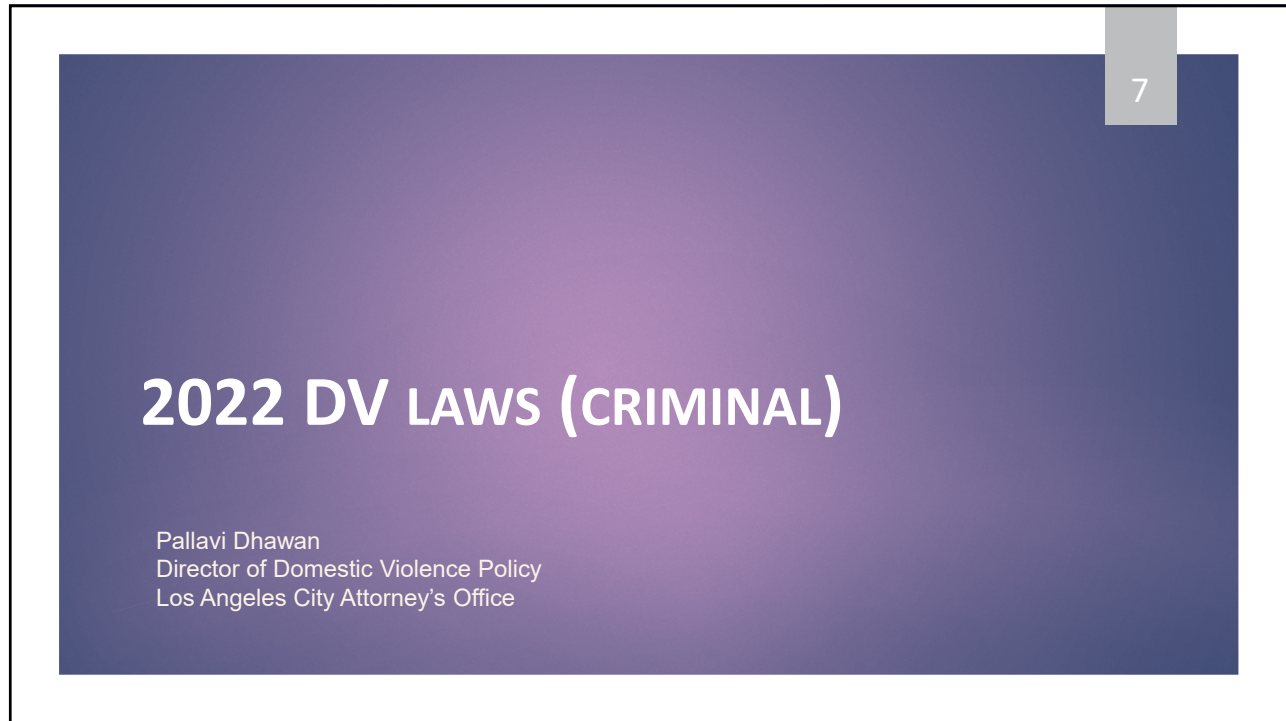
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SB 24 (Caballero) – Effective 2023

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- ▶ Calley’s Law
- ▶ Adds Family Code 6323.5 to the Domestic Violence Prevention Act
- ▶ No later than February 1, 2023, essential care providers must have protocols in place for handling DV RO situations; discretionary service providers must have protocols in place within 30 days of receiving their first restraining order
- ▶ Judicial Council to create new forms

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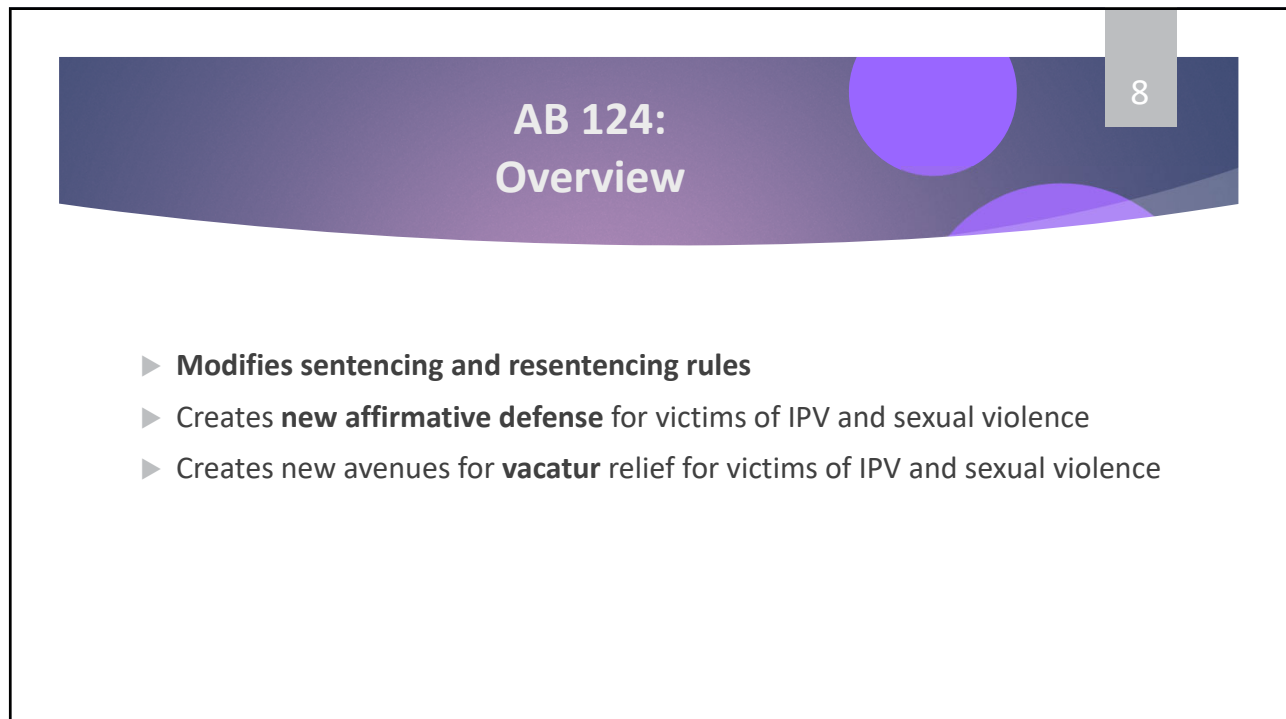


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2022 DV LAWS (CRIMINAL)

Pallavi Dhawan
Director of Domestic Violence Policy
Los Angeles City Attorney's Office

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AB 124: Overview

- ▶ **Modifies sentencing and resentencing rules**
- ▶ Creates **new affirmative defense** for victims of IPV and sexual violence
- ▶ Creates new avenues for **vacatur** relief for victims of IPV and sexual violence

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AB 124: Plea Negotiations

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Requires prosecutor, during plea negotiations, to consider in support of mitigated sentence if any of the following were contributing factor(s) in commission of the offense:

1. Person has experienced psychological, physical, or childhood trauma including but not limited to abuse, neglect, exploitation, or sexual violence;
2. The person is a youth, or was a youth, at the time of commission of the offense (under 26 years of age on date of offense);
3. Prior to crime or during commission of crime, the person was victim of IPV or human trafficking.

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AB 124: Sentencing

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Court must impose the low term for a felony with three terms if any of the below factors **was a contributing factor in the commission of the offense**

1. Trauma as defined
2. Youthfulness (under 26 years of age at time of offense)
3. Prior to crime, or at time of crime, person was victim of IPV or human trafficking

UNLESS the court finds that the aggravating circumstances outweigh the mitigating circumstances so that low term would be contrary to the interests of justice.

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AB 124: Affirmative Defense

- ▶ **Complete defense to any nonviolent crime:**
- ▶ person was coerced to commit the offense as the direct result of being a victim of IPV, SV, or HT at the time of the offense
- ▶ **AND** had a reasonable fear of harm.
- ▶ Success = release from all penalties, sealing of record → arrest deemed to not have occurred
- ▶ Can assert any time during case before plea or conclusion of trial

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AB 124: Recall & Resentencing

- ▶ Court can recall felony sentence within 120 days
- ▶ on own motion or
- ▶ anytime upon recommendation of specified party (e.g., Parole Board, DA)
- ▶ New sentence cannot exceed original
- ▶ During resentencing, court **must consider the enumerated factors (trauma, youthfulness, victim of IPV or HT)** and whether they contributed to commission of the offense.

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AB 124: Vacatur Relief

- ▶ Can seek to **vacate arrests or convictions** for any non-violent offense committed while the person was a victim of HT, IPV or SV
- ▶ committed while they were a victim
- ▶ if the arrest/conviction was a direct result of their victimization.
- ▶ Success = sealing of record → arrest/conviction deemed to not have occurred

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AB 1281 Expungement & Protective Orders

Post-trial DV PROTECTIVE ORDERS: DV, child abuse, 290 sex crimes, elder abuse, stalking, HT

Can be valid for **up to TEN years**, whether person is granted probation or sent to jail/prison without probation attached to sentence.

Expungement

→

Case dismissed

Terms, conditions, penalties* tx

- ▶ *Expungement of case DOES NOT result in termination of post-conviction protective orders issued for*
 - DV
 - child abuse
 - elder abuse
 - stalking
 - HT
- ▶ *Order remains in full force and effect until its expiration or termination by the court*

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Miscellaneous Quick Overview of
Additional New 2022 Laws

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Briefly . . .

AB 277
Increased language access for SAFE at Home program and info regarding SAFE at Home to be included on judicial council info sheets for ROs

AB 673
any grant funding awarded pursuant Comprehensive Statewide Domestic Violence Program in the Office of Emergency Services that is funded by the state be distributed to the recipient in a single disbursement at the beginning of the grant period.

AB 977
Entities that receive funding from a state homeless program(s) to report specified data to the Homeless Coordinating and Financing Council

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Briefly . . .

<p>AB 1171</p> <p>Eliminates “spousal rape” as a distinct crime and categorizes it as rape</p>	<p>SB 24</p> <p>Enhances protections against a third party’s disclosure of a minor’s protected information under a domestic violence restraining order.</p>	<p>SB 538</p> <p>facilitates the filing of a domestic violence restraining order (DVRO) and gun violence restraining order (GVRO) by allowing petitions to be submitted electronically and hearings to be held remotely.</p>
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Briefly . . .

<p>SB 374</p> <p>Adds “reproductive coercion” to the definition of abuse in regards to restraining orders</p>	<p>SB 654</p> <p>Prohibits the court from permitting a child addressing the court regarding custody or visitation to do so in the presence of the parties unless the court determines that doing so is in the best interests of the child and states its reasons for that finding on the record.</p> <p>Requires the Judicial Council, no later than January 1, 2023, to develop or amend rules as necessary to implement these provisions.</p> <p>Amends Family Code § 3011, to require the court to state its reasons in writing or on the record if the court makes an order for unsupervised visitations by a parent with a history of domestic violence or substance abuse</p>
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Finally. . .

SB320

Require the court, at the noticed RO hearing, to consider information presented that the restrained person has possession or control of a firearm or ammunition.

Authorizes the court, upon making this finding, to set a review hearing, to determine whether the person has possession or control of a firearm or ammunition in violation of the above provisions

Requires courts to order the restrained person to relinquish ammunition, to notify the parties of how any firearms or ammunition still in the restrained party's possession are to be relinquished, and how to submit a receipt to the court.

Requires courts to review the file to determine whether the receipt has been filed and inquire as to whether the person has complied with the requirement.

Require violations of the firearms or ammunition prohibition to be reported to the prosecuting attorney in the jurisdiction where the order has been issued within 2 business days of the court hearing

Requires the court, as part of pre-RO hearing background search, to make a written record as to whether the subject has relinquished the firearm.

If evidence of compliance with the prohibition on firearms or ammunition is not provided, requires the clerk of the court to notify law enforcement officials and would require those law enforcement officials to take all actions necessary to obtain any firearms or ammunition owned, possessed, or controlled and to address any violation of the order with respect to firearms or ammunition.

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QUESTIONS? THANK YOU!

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