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March 15, 2023

The Honorable Tina McKinnor
California State Assembly
1021 O. St. Suite 5520
Sacramento, CA 95814

RE: ASSEMBLY BILL 1028 (MCKINNOR) – OPPOSED

Dear Assemblywoman McKinnor:

I strongly oppose AB 1028 because it reverses long standing protections for victims of abuse and violence and eliminates protections that currently exist for victims of serious crimes including domestic violence.

Current law requires a health practitioner, as defined, to make a report to law enforcement when they suspect a patient has suffered physical injury that is either self-inflicted, caused by a firearm, or caused by assaultive or abusive conduct, including elder abuse, sexual assault, or torture. This bill would, on and after January 1, 2025, remove the requirement that a health practitioner make a report to law enforcement when they suspect a patient has suffered physical injury caused by assaultive or abusive conduct.

Mandated reporting laws for suspicious injuries including domestic violence have been in existence since the 1990s and have served their purpose well. These laws recognize the ugly truth about the dynamic of intimate partner violence, and that it is a crime of power and control, fear, and isolation. The escalation of a small push or slap can turn quickly into violent beatings and attacks with weapons, and even cause death. Fear, shame, embarrassment, loyalty, or exhaustion often prevents victims from calling for help or reporting the abuse. Most victims don't even report the abuse when they have been seriously injured. Domestic violence is most often not an isolated event, but rather part of a larger experience of violence and control within an intimate partner relationship.

The current mandated reporting law is a safety net for victims of domestic violence when their abuser is so controlling that they don't want to call for help themselves. The current laws establish a minimum standard of care for health care providers and recognize that without intervention, violence often escalates in both frequency and severity result in repeat visits to healthcare systems or death.

Health care providers serve as gatekeepers to identify and report abuse where the family members and the abused themselves may not. These reporting laws ensure that a victim is protected, even if

the abuser stands in the lobby of the hospital, demanding the victim lie about the abuse. A physician is duty bound to report suspicious injuries under the current law if they reasonably suspect the injuries were as a result of “abusive or assaultive conduct.” This current language is broad enough, yet specific enough, and encompasses enough of the dangerous conduct that we as a society want “checked” on by a larger community response including law enforcement, advocacy services, and social services.

California has long protected its most vulnerable by legislating mandated reporting for domestic violence and child abuse, and more recently elder abuse. This bill *eliminates* physician-mandated reporting for any physical injury due to domestic violence other than the small percentage of domestic violence cases that result in injuries from firearms. This means that domestic violence victims who are bruised, attacked, stabbed, strangled, tortured, or maimed or are injured with weapons other than firearms, would not receive the current protection the law affords.

Additionally, the bill doesn’t follow California’s trend of *broadening* the duty to report and protect our most vulnerable victims. We have mandated reporting for child abuse, mandated reporting for domestic violence, and mandated reporting for elder abuse. The elder abuse mandated reporting laws previously only required reports of report physical abuse, but they have expanded to financial and mental abuse, neglect, and isolation. This progression shows California is *more* protective of its vulnerable, not less. Why would we go backwards?

An example of how this bill would drastically diminish the victim voice includes the following: imagine an attempted murder case where a domestic violence abuser strangled the victim to the point of unconsciousness and stabbed the victim repeatedly and brings the victim to the hospital, hovers over the victim, directs the victim what to do and say, not to report that it was abuse, either impliedly or expressly, and silences the victim even in the lobby of the emergency room. This bill would leave this victim with no protection by the health care provider who stands at the ready to help and report the suspicious injuries to law enforcement when that victim says, “I don’t know who did this to me.”

My county is the second largest in the state, and the 4th largest District Attorney’s office in the nation. We see roughly 17,000 domestic violence incidents per year, and a subset of those only come to our attention because of the good work of health care providers doing their duty to report suspicious injuries. Domestic violence is already one of the most under reported crimes because of the dynamics of power and control within an intimate partner relationship. Why would we remove the very protection that helps give these victims a voice?

Furthermore, this bill defies solid research on the risk that certain domestic violence incidents have for victims. Some of the most serious and dangerous reports that come from our health care professionals, include intimate partner strangulation cases. These cases, where the abuser occludes airflow and blood flow to the brain in the attack have been associated with a 7X more likelihood of being murdered by that same abuser. This bill would send that strangulation victim, 7X more likely to get murdered when she walks out the door, into a deadly risk this committee should not be willing to take. This bill literally is a link in the chain to a victim’s safety and the difference between life and death.

It is still unclear the “why” behind this bill. If a concern is that victims need “choice” in whether or not they report domestic violence, that is shortsighted and doesn’t consider the most basic dynamics that abusers are motivated to exercise control over their victim to forbid them from reporting the abuse. Research shows that in just the short period of time after a domestic violence incident, suspects often call or communicate with the victim and begin a manipulative progression pattern, asking them to drop charges, and recant their initial report of abuse. But the truth is that a crime occurred, and the victim needs services and support. Finally, if there is no mandated reporting how will the abuser ever be held accountable, and receive the treatment he/she desperately needs. Common sense and a basic promotion of public safety demands that health care providers get to be a gatekeeper and an intervention between the vulnerable victim and the abuser.

I strongly oppose AB 1028. The victims in our state we’ve been working for decades to protect deserve more.

If you would like to reach out to our office to discuss our oppose position, please call our Chief Deputy Patrick Espinoza, at (619) 417-3047.

Respectfully,

A handwritten signature in cursive script that reads "Summer Stephan". The signature is written in black ink and is positioned below the word "Respectfully,".

Summer Stephan
District Attorney, San Diego County