

Introduced by Senator Harman

February 10, 2011

An act to amend Section 2251 of the Family Code, relating to marriage.

LEGISLATIVE COUNSEL'S DIGEST

SB 254, as introduced, Harman. Marriage: putative spouses.

Existing law specifies the circumstances under which a marriage is void or voidable. Existing law requires a court, if a determination is made that a marriage is void or voidable and either party believed in good faith that the marriage was valid, to declare the party or parties to have the status of putative spouse and to divide the property that would have been community property if the marriage was valid as if it were community property.

This bill would prohibit the court from making these declarations or orders unless the party or parties that believed in good faith that the marriage was valid request the court to do so.

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

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

1 SECTION 1. Section 2251 of the Family Code is amended to
2 read:

3 2251. (a) If a determination is made that a marriage is void or
4 voidable and the court finds that either party or both parties
5 believed in good faith that the marriage was valid, the court shall:

6 (1) Declare the party or parties to have the status of a putative
7 spouse.

- 1 (2) If the division of property is in issue, divide, in accordance
2 with Division 7 (commencing with Section 2500), that property
3 acquired during the union which would have been community
4 property or quasi-community property if the union had not been
5 void or voidable. This property is known as “quasi-marital
6 ~~property~~” *property*.”
- 7 (b) If the court expressly reserves jurisdiction, it may make the
8 property division at a time after the judgment.
- 9 (c) *A court shall not make the orders or declarations authorized*
10 *in subdivision (a) unless the party or parties that believed in good*
11 *faith that the marriage was valid requests the court to do so.*