

AMENDED IN SENATE MARCH 28, 1995

AMENDED IN SENATE MARCH 20, 1995

SENATE BILL

No. 389

Introduced by Senator Kopp

February 14, 1995

An act to add Sections 2107.5, 2330.2, 2330.3, 2407, and 4324 to, to add Chapter 6 (commencing with Section 2450) and Chapter 7 (commencing with Section 2475) to Part 3 of Division 6 of, to repeal and add Chapter 5 (commencing with Section 2400) of Part 3 of Division 6 of, and to repeal Section 2342 of, the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

SB 389, as amended, Kopp. Family law: dissolution of marriage: support.

Existing provisions of the Family Code provide for dissolution of marriage, the division of property on dissolution of marriage, and for the custody and support of children. Existing law also provides for a summary dissolution of marriage where there are no children of the marriage, community property assets are less than \$25,000, and other requirements are met.

This bill would repeal the latter provisions as of July 1, 1996, and would enact special procedures applicable to dissolution actions based upon the total fair market value of the community property of the parties *and the parties' incomes*, as specified, operative on July 1, 1996. These action would be called summary dissolution, marital dissolution, and complex

dissolution. The bill would require each county to establish a program to train and provide family law advisers, who may be attorneys, law students, or paralegals, for parties to summary dissolution actions at no cost to the parties. The bill would limit permissible discovery in marital dissolution actions and would provide for judicial oversight of these cases to promote expedited processing and settlement. The bill would provide for judicial case management of complex dissolutions. By imposing new duties on local entities, the bill would establish a state-mandated local program.

The bill, among other things, would provide for the imposition of sanctions on a party who fails to provide information to substantiate the contents of a declaration of disclosure, as provided, and would require all dissolution actions, to the greatest extent possible, to be assigned to the same superior court department for all purposes. The bill would require the Judicial Council to, among other things, adopt a standard of judicial administration prescribing a minimum length of assignment of a judicial officer to a family law assignment; adopt a form for waiver of the right of appeal in summary dissolution proceedings; and prepare a recommendation for a simplified child support guideline for use in summary dissolution proceedings, as specified, and report to the Legislature thereon. These provisions would be operative on July 1, 1996. It also would require the Judicial Council to develop a statewide uniform guideline for determining temporary spousal support by July 1, 1996.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 the
2 following:

3 The complexity of the process of obtaining marital
4 dissolution and of the law pertaining thereto has
5 precluded persons ending their marriage from being able
6 to afford legal representation, and has required legal
7 services to be performed which are often unnecessary for
8 the particular case. The purposes of the changes made by
9 this act are to (a) provide a simplified process in which
10 parties can represent themselves in cases which do not
11 require legal representation, (b) simplify and make less
12 expensive the process for cases in which the parties do
13 require legal representation, and (c) encourage greater
14 judicial supervision of cases in which parties are
15 represented by counsel.

16 SEC. 2. Section 2107.5 is added to the Family Code, to
17 read:

18 2107.5. A party who fails to provide information to
19 substantiate the contents of a declaration of disclosure
20 within 30 days of receipt of a request pursuant to an
21 authorized method of discovery by the other party shall
22 be subject, in the discretion of the court, to the sanctions
23 provided in Section 2023 of the Code of Civil Procedure.

24 This section shall be operative on July 1, 1996.

25 SEC. 3. Section 2330.2 is added to the Family Code, to
26 read:

27 2330.2. The petition for dissolution of marriage and
28 the response thereto shall state whether the case is a
29 summary dissolution pursuant to Chapter 5
30 (commencing with Section 2400), a marital dissolution
31 pursuant to Chapter 6 (commencing with Section 2450),
32 or a complex dissolution pursuant to Chapter 7
33 (commencing with Section 2475). If the parties dispute
34 the designation, the case shall initially proceed according
35 to the designation made by the petitioner. However,
36 upon noticed motion, the court shall hold a hearing for
37 redesignation of the case. The court may, for good cause,
38 redesignate a case at any time.



1 This section shall be operative on July 1, 1996.

2 SEC. 4. Section 2330.3 is added to the Family Code, to
3 read:

4 2330.3. (a) All dissolution actions, to the greatest
5 extent possible, shall be assigned to the same superior
6 court department for all purposes, in order that all
7 decisions in a case through final judgment shall be made
8 by the same judicial officer.

9 (b) The Judicial Council shall adopt a standard of
10 judicial administration prescribing a minimum length of
11 assignment of a judicial officer to a family law assignment.

12 (c) This section shall be operative on July 1, 1996.

13 SEC. 5. Section 2342 of the Family Code is repealed.

14 SEC. 6. Chapter 5 (commencing with Section 2400)
15 is added to Part 3 of Division 6 of the Family Code, to read:

16

17 CHAPTER 5. SUMMARY DISSOLUTION

18

19 2400. A marriage may be dissolved by the summary
20 dissolution procedure provided in this chapter if all of the
21 following conditions exist at the time the proceeding is
22 commenced:

23 (a) Either party has met the jurisdictional
24 requirements of Chapter 3 (commencing with Section
25 2320) with regard to dissolution of marriage.

26 (b) Irreconcilable differences have caused the
27 irremediable breakdown of the marriage and the
28 marriage should be dissolved.

29 (c) The total fair market value of community property
30 assets, excluding the primary family residence and any
31 deferred compensation or retirement plan, is less than
32 fifty thousand dollars (\$50,000), *and the gross annual*
33 *income of neither party exceeds fifty thousand dollars*
34 *(\$50,000).*

35 2401. In all summary dissolution proceedings:

36 (a) All hearings shall be informal *and the rules of*
37 *evidence prescribed in the Evidence Code shall not*
38 *apply.*

39 (b) Each party shall be assisted by a family law adviser
40 pursuant to subdivision (b) of Section 2402.



1 (c) Notwithstanding Section 2550, the court shall
2 divide the community estate of the parties equitably.
3 However, absent good cause or an agreement of the
4 parties to the contrary, any interest in any deferred
5 compensation or retirement plan shall be divided
6 equally.

7 (d) Absent good cause, the parties may not present
8 evidence from expert witnesses.

9 2402. (a) No attorney may take part in the conduct
10 of a summary dissolution except if the attorney is a party.

11 (b) Each county shall establish a program to train and
12 provide family law advisers for parties to summary
13 dissolution actions at no cost to the parties. The advisers
14 may be attorneys, law students, or paralegals. The
15 advisers shall not represent any party, but shall assist each
16 party in preparing court papers and shall explain how to
17 proceed in the action.

18 (c) Ten dollars (\$10) of the initial filing fee for each
19 summary dissolution shall be deposited by each county
20 with the treasurer of the county or city and county in
21 whose jurisdiction the court is located, in a special
22 account. These funds shall be used to fund the family law
23 adviser program in that county. Records of these moneys
24 shall be available for inspection by the public on request.

25 2403. (a) Each party may appeal the judgment to the
26 superior court in the county in which the action was
27 heard. The appeal to the superior court shall consist of a
28 new hearing.

29 (b) The court hearing the appeal, in its discretion, may
30 order a party who appeals a judgment of dissolution to the
31 superior court to pay the reasonable attorney's fees and
32 costs of the other party in responding to the appeal if the
33 appealing party does not receive a more favorable
34 judgment on appeal, as determined by the court.

35 (c) The Judicial Council shall adopt a form for waiver
36 of the right of appeal in summary dissolution proceedings.

37 2404. (a) Each superior court shall make available a
38 brochure, the contents and form of which shall be
39 prescribed by the Judicial Council, describing the
40 requirements, nature, and effect of proceedings under



1 this chapter. The brochure shall be printed and
2 distributed by the Judicial Council in both English and
3 Spanish.

4 (b) The brochure shall state, in nontechnical
5 language, all of the following:

6 (1) The parties should not rely exclusively on this
7 brochure which is not intended as a guide for
8 self-representation in proceedings under this chapter.

9 (2) A concise summary of the provisions and
10 procedures of this chapter and Sections 2320 and 2322 and
11 Sections 2339 to 2344, inclusive.

12 (3) The nature of services of the conciliation court,
13 where available.

14 (4) The parties to the marriage retain the status of
15 married persons and cannot remarry until the judgment
16 dissolving the marriage is entered.

17 (5) Other matters as the Judicial Council considers
18 appropriate.

19 2405. (a) The Judicial Council shall adopt forms to
20 implement this chapter.

21 (b) The Judicial Council shall prepare a
22 recommendation for a simplified child support guideline
23 for obligor parents with a net monthly income of less than
24 one thousand dollars (\$1,000) for use in summary
25 dissolution proceedings. This simplified guideline shall
26 not factor in child timesharing arrangements or the
27 income of the obligee parent. The Judicial Council shall
28 report its recommendation to the Legislature on or
29 before January 1, 1997.

30 2406. All other provisions of this code that are
31 generally applicable to dissolution of marriage and that
32 are not inconsistent with the provisions of this chapter
33 shall apply to summary dissolution proceedings.

34 2407. This chapter shall be operative on July 1, 1996.
35 This chapter shall only apply to dissolution actions filed on
36 or after July 1, 1996.

37 SEC. 7. Section 2407 is added to the Family Code, to
38 read:

39 2407. (a) This chapter shall remain in effect only
40 until July 1, 1996, and as of that date is repealed, unless a



1 later enacted statute, that is enacted before July 1, 1996,
2 deletes or extends that date.

3 (b) This chapter shall only apply to summary
4 dissolution actions filed before July 1, 1996.

5 SEC. 8. Chapter 6 (commencing with Section 2450)
6 is added to Part 3 of Division 6 of the Family Code, to read:

7
8
9

CHAPTER 6. MARITAL DISSOLUTION

10 2450. The following procedures shall apply to
11 dissolution actions in which the total fair market value of
12 the community property assets, excluding the primary
13 family residence and any deferred compensation or
14 retirement plan, is fifty thousand dollars (\$50,000) or
15 more but less than two hundred thousand dollars
16 (\$200,000), *and the gross annual income of neither party*
17 *exceeds two hundred thousand dollars (\$200,000):*

18 (a) Discovery shall be limited to declarations of
19 disclosure, requests for the production of documents, and
20 family law form interrogatories promulgated by the
21 Judicial Council. The court may, by order, permit
22 additional discovery upon a showing of good cause.

23 (b) Each attorney representing a party who effects
24 discovery as limited by subdivision (a) shall be rebuttably
25 presumed to have fulfilled his or her duty of care to the
26 client as to the existence of community property.

27 (c) In addition to the sanctions authorized by Section
28 2107 for the intentional failure to disclose a community
29 property asset on the declaration of disclosure, the court,
30 in its discretion, may deem all or a portion of the
31 community property asset to be the separate property of
32 the other party.

33 (d) Absent good cause, if a party utilizes the services
34 of an expert, the expert shall be selected by the parties
35 jointly or shall be appointed by the court.

36 (e) The court is encouraged to provide judicial
37 oversight in every case for the purpose of assisting the
38 parties and counsel in expediting the processing of the
39 case, reducing expense, and focusing the parties and
40 counsel on settlement. The court is encouraged to *utilize*



1 *early neutral evaluation of the case to assist in settlement,*
2 *and to utilize telephone conference calls with counsel to*
3 *ascertain the status of the case, encourage cooperation,*
4 *and assist counsel in reaching agreement. However, if the*
5 *court is required to make any decision, a hearing shall be*
6 *held.*

7 2451. All other provisions of this code that are
8 generally applicable to dissolution of marriage and that
9 are not inconsistent with the provisions of this chapter
10 shall apply to dissolution proceedings under this chapter.

11 2452. This chapter shall be operative on July 1, 1996.
12 This chapter shall only apply to summary dissolution
13 actions filed on or after July 1, 1996.

14 SEC. 9. Chapter 7 (commencing with Section 2475)
15 is added to Part 3 of Division 6 of the Family Code, to read:

16
17 CHAPTER 7. COMPLEX DISSOLUTION
18

19 2475. The following procedures shall apply to
20 dissolution actions in which the total fair market value of
21 the community property assets, excluding the primary
22 family residence and any deferred compensation or
23 retirement plan, is two hundred thousand dollars
24 (\$200,000) or more, *or the gross annual income of either*
25 *party exceeds two hundred thousand dollars (\$200,000):*

26 (a) The court is encouraged to provide case
27 management in every case for the purpose of assisting the
28 parties to reach settlement discussions at the earliest
29 possible time. To the extent possible, case management
30 shall be carried out through telephone conference calls
31 between the court and counsel. The court may conduct
32 status conferences, regulate discovery, impose
33 appropriate sanctions for conduct of a party or counsel
34 which is detrimental to the settlement of the case, and
35 make any other case management decisions to expedite
36 the processing of the case, including bifurcation of issues
37 for trial, setting alternative valuation dates, and
38 regulating the use of experts.

39 (b) The court shall hold a preliminary status
40 conference within 30 days after a response has been filed



1 to consider whether judicial case management shall be
2 undertaken. The preliminary status conference shall be
3 attended by each party and by counsel. At the
4 preliminary status conference, the court shall discuss with
5 the parties and counsel how the case is to proceed ~~and~~, the
6 possible use of alternative dispute resolution, *and*
7 *obtaining early neutral evaluation of the case to assist in*
8 *settlement.*

9 (c) If a party utilizes the services of an expert, the
10 court may require that the expert be selected by the
11 parties jointly or be appointed by the court. However, if
12 at any time the court determines that the issues for which
13 experts are required cannot be settled under these
14 conditions, the court may permit each party to employ his
15 or her own expert.

16 2476. All other provisions of this code that are
17 generally applicable to dissolution of marriage and that
18 are not inconsistent with the provisions of this chapter
19 shall apply to dissolution proceedings under this chapter.

20 2477. This chapter shall be operative on July 1, 1996.
21 This chapter shall only apply to dissolution actions filed on
22 or after July 1, 1996.

23 SEC. 10. Section 4324 is added to the Family Code, to
24 read:

25 4324. The Judicial Council shall develop a statewide
26 uniform guideline for determining temporary spousal
27 support by July 1, 1996.

28 SEC. 11. Notwithstanding Section 17610 of the
29 Government Code, if the Commission on State Mandates
30 determines that this act contains costs mandated by the
31 state, reimbursement to local agencies and school
32 districts for those costs shall be made pursuant to Part 7
33 (commencing with Section 17500) of Division 4 of Title
34 2 of the Government Code. If the statewide cost of the
35 claim for reimbursement does not exceed one million
36 dollars (\$1,000,000), reimbursement shall be made from
37 the State Mandates Claims Fund.

38 Notwithstanding Section 17580 of the Government
39 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act
2 takes effect pursuant to the California Constitution.

O

