

ASSEMBLY BILL

No. 500

Introduced by Assembly Member Lieu

February 20, 2007

An act to add Section 367.5 to the Code of Civil Procedure and to amend Section 1000 of the Probate Code, relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

AB 500, as introduced, Lieu. Civil actions: telephonic appearances.

Existing law regulates the procedure of civil actions and requires that every action be prosecuted by the real party in interest, except as specified. Existing law permits attorneys to make appearances by telephone at trial setting conferences, except as specified.

This bill would permit a party to appear by telephone in any conference or hearing at which witnesses are not expected to be called to testify. The bill would require the party choosing to appear by telephone to provide notice in either the moving or opposing papers or by oral or written notification at least 3 court days before the appearance. The bill would permit a court to provide teleconferencing appearances by entering into a contract with a private vendor, pursuant to which the vendor would be permitted to charge a party appearing by telephone a reasonable fee, and would also permit a court to require a particular call provider to be used for telephone appearances. The bill would require a court to publish notice providing the information necessary to appear by telephone at conferences and hearings. The bill would also specify the application of these provisions to probate proceedings.

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

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

1 SECTION 1. Section 367.5 is added to the Code of Civil
2 Procedure, to read:

3 367.5. (a) A party may appear by telephone in any conference
4 or hearing at which witnesses are not expected to be called to
5 testify.

6 (b) (1) A party choosing to appear by telephone at a hearing
7 pursuant to this section shall do either of the following:

8 (A) Place the phrase “Telephone Appearance” below the title
9 of the moving or opposing papers.

10 (B) At least three court days before the appearance, notify the
11 court and all other parties of the party’s intent to appear by
12 telephone. If the notice is oral, it shall be given either in person or
13 by telephone. If the notice is in writing, it shall be given by filing
14 a “Notice of Intent to Appear by Telephone” with the court at least
15 three court days before the hearing and by serving the notice at
16 that time on all other parties by personal delivery, facsimile,
17 express mail, or another means that will reasonably ensure delivery
18 to the parties no later than the close of the next business day.

19 (2) If a party that has given notice that he or she intends to
20 appear by telephone subsequently chooses to appear in person, the
21 party shall notify the court and all other parties that have appeared
22 in the action, by telephone, at least two court days before the
23 hearing at which the party has previously noticed an intent to
24 appear by telephone.

25 (c) A court may provide teleconferencing for court appearances
26 by entering into a contract with a private vendor. The contract may
27 provide that the vendor may charge the party appearing by
28 telephone a reasonable fee, specified in the contract, for its services.

29 (d) The court shall ensure that the statements of participants are
30 audible to all other participants and that the statements made by a
31 participant are identified as being made by that participant.

32 (e) All proceedings involving telephone appearances shall be
33 reported to the same extent and in the same manner as if the
34 participants had appeared in person.

35 (f) A court, by local rule, may designate a particular conference
36 call provider that shall be used for telephone appearances.

1 (g) The court shall publish notice providing parties with the
2 particular information necessary for them to appear by telephone
3 at conferences and hearings in that court under this section.

4 SEC. 2. Section 1000 of the Probate Code is amended to read:

5 1000. Except to the extent that this code provides applicable
6 rules, the rules of practice applicable to civil actions, including,
7 *but not limited to, Section 367.5 of the Code of Civil Procedure*
8 *or* discovery proceedings and proceedings under Title 3a
9 (commencing with Section 391) of Part 2 of the Code of Civil
10 Procedure, apply to, and constitute the rules of practice in,
11 proceedings under this code. All issues of fact joined in probate
12 proceedings shall be tried in conformity with the rules of practice
13 in civil actions.

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