

Senate Bill No. 1482

CHAPTER 297

An act to amend Section 4326 of the Family Code, relating to spousal support.

[Approved by Governor September 23, 2010. Filed with
Secretary of State September 24, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1482, Wright. Spousal support: modification: change of circumstances.

Existing law provides that in a proceeding for dissolution of marriage or for legal separation, the court may order a party to submit to an examination by a vocational training counselor upon a noticed motion, for good cause, by one of the parties. Existing law authorizes a court to terminate or modify an award of child or spousal support at any time as the court determines to be necessary, except as specified. In this regard, existing case law requires that the court grant a request for modification of spousal support only if there is a material change of circumstances, other than those accounted for in the previous order.

Existing law provides, until January 1, 2011, that in a proceeding in which a spousal support order exists or in which the court has retained jurisdiction over a spousal support order, if a companion child support order is in effect, the termination of child support shall constitute a change of circumstances that may be the basis for a request for modification of spousal support.

This bill would extend the above repeal date until January 1, 2014. The bill would revise these provisions to require that a motion to modify spousal support on the basis of the change in circumstances caused by the termination of a child support order be filed within 6 months of the termination of the child support order. The bill would authorize either party to request the appointment of a vocational training counselor if a motion to modify spousal support on that basis is filed. The bill would also enumerate specified circumstances in which termination of the child support order does not constitute a change of circumstances.

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

SECTION 1. Section 4326 of the Family Code is amended to read:

4326. (a) Except as provided in subdivision (d), in a proceeding in which a spousal support order exists or in which the court has retained jurisdiction over a spousal support order, if a companion child support order is in effect, the termination of child support pursuant to subdivision (a) of Section 3901

constitutes a change of circumstances that may be the basis for a request by either party for modification of spousal support.

(b) A motion to modify spousal support based on the change of circumstances described in subdivision (a) shall be filed by either party no later than six months from the date the child support order terminates.

(c) If a motion to modify a spousal support pursuant to subdivision (a) is filed, either party may request the appointment of a vocational training counselor pursuant to Section 4331.

(d) Notwithstanding subdivision (a), termination of the child support order does not constitute a change of circumstances under subdivision (a) in any of the following circumstances:

(1) The child and spousal support orders are the result of a marital settlement agreement or judgment and the marital settlement agreement or judgment contains a provision regarding what is to occur when the child support order terminates.

(2) The child and spousal support orders are the result of a marital settlement agreement or judgment, which provides that the spousal support order is nonmodifiable or that spousal support is waived and the court's jurisdiction over spousal support has been terminated.

(3) The court's jurisdiction over spousal support was previously terminated.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.