

ASSEMBLY BILL

No. 1582

Introduced by Assembly Member Wagner

February 2, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1582, as introduced, Wagner. Civil actions: telephone appearances.

Existing law authorizes a court to permit parties to appear by telephone in designated conferences, hearings, and proceedings in civil cases and to require, at its discretion, a personal appearance in those matters if it would assist in the determination of the proceedings or in the management or resolution of the case. Under existing law, the Judicial Council was required to adopt rules by January 1, 2008, prescribing the notice for telephonic appearances and the procedure for conducting those appearances.

This bill would require a court to permit a telephonic appearance by parties and their attorneys and would expand the types of hearings, conferences, and proceedings where those telephonic appearances must be permitted by the court. The bill would specify that this requirement is subject to the court's discretion, which may require a personal appearance under the circumstances specified in existing law. The bill would extend the time for the Judicial Council to prescribe the notice and procedure for telephonic appearances to July 1, 2013.

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 of the Code of Civil Procedure is
2 amended to read:

3 367.5. (a) It is the intent of this section to promote uniformity
4 in the procedures and practices relating to telephone appearances
5 in civil cases. To improve access to the courts ~~and~~, reduce litigation
6 costs, *and reduce the environmental impact associated with*
7 *personal appearances*, ~~courts should, to the extent feasible, shall,~~
8 *except as provided by subdivision (c), permit parties and their*
9 *attorneys to appear by telephone at appropriate conferences,*
10 *hearings, and proceedings in civil cases identified in subdivision*
11 *(b).*

12 (b) Except as provided in subdivision (c), in all general civil
13 cases, as defined in the California Rules of Court, a *moving party*
14 *or an opposing party* that has provided notice may appear by
15 telephone at the following conferences, hearings, and proceedings:

16 (1) A case management conference, ~~provided the party has made~~
17 ~~a good faith effort to meet and confer before the conference as~~
18 ~~required by law and has timely served and filed a case management~~
19 ~~statement.~~

20 (2) A trial setting conference.

21 ~~(3) A hearing on law and motion, except motions in limine.~~

22 ~~(4)~~

23 (3) A hearing on a discovery motion.

24 ~~(5)~~

25 (4) A conference to review the status of an arbitration or
26 mediation.

27 ~~(6)~~

28 (5) A hearing to review the dismissal of an action.

29 (6) *An ex parte hearing.*

30 (7) *A motion to set aside a default or default judgment.*

31 (8) *A motion to quash.*

32 (9) *A demurrer or motion to strike.*

33 (10) *A motion for judgment on the pleadings.*

34 (11) *A status conference.*

35 (12) *A hearing on a motion for summary judgment or*
36 *adjudication.*

37 (13) *A motion to be relieved as counsel.*

1 (14) A motion for good faith settlement or opposition to an
2 application for good faith settlement.

3 (15) A motion to tax or strike costs.

4 (16) A motion for attorney's fees.

5 (17) A motion for sanctions.

6 (18) A motion to continue trial.

7 (19) A motion to enforce a settlement or to enter judgment
8 pursuant to Section 664.6.

9 (20) A hearing on any law and motion matter not identified in
10 paragraphs (1) to (19), inclusive, except motions in limine.

11 ~~(7)~~

12 (21) Any other hearing, conference, or proceeding if the court
13 determines that a telephone appearance is appropriate.

14 (c) The court may require a party to appear in person at a
15 hearing, conference, or proceeding listed in subdivision (b) if the
16 court determines on a hearing-by-hearing basis that a personal
17 appearance would materially assist in the determination of the
18 proceedings or in the effective management or resolution of the
19 particular case.

20 (d) Consistent with its constitutional rulemaking authority, the
21 Judicial Council shall adopt rules effectuating the policies and
22 provisions in this section by ~~January~~ July 1, ~~2008~~ 2013, and may
23 adopt rules relating to matters not covered by subdivision (a). The
24 rules may prescribe, but are not limited to prescribing, the notice
25 to be given by a party requesting a telephone appearance under
26 subdivision (a), the manner in which telephone appearances are
27 to be conducted, the conditions required for a party to be permitted
28 to appear by telephone, and provisions relating to the courts' use
29 of private vendors to provide telephone services.

30 (e) This section does not apply to any types of cases or types
31 of conferences, hearings, and proceedings except those specified
32 in subdivision (b). Consistent with its constitutional rulemaking
33 authority, the Judicial Council may by rule provide for the
34 procedures and practices, and for the administration of, telephone
35 appearances for all types of cases and matters not specified in
36 subdivision (b). For these other cases and matters, the Judicial
37 Council may specify the types of cases and matters in which parties
38 may appear by telephone, the types of cases and matters in which
39 parties shall appear personally, the conditions under which a party
40 may be permitted to appear by telephone, and any other rules

- 1 governing telephone and personal appearances that are within its
- 2 rulemaking authority.

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