

ASSEMBLY BILL

No. 1727

Introduced by Assembly Member Silva

February 16, 2012

An act to amend Section 5240 of the Family Code, relating to support orders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1727, as introduced, Silva. Support orders: termination.

Existing law governs court orders for spousal support in proceedings for dissolution of marriage or legal separation of the parties. Existing law also establishes statewide uniform guidelines for calculating court-ordered child support. A court ordering spousal or child support is required to include in its order an earnings assignment order for support, ordering the obligor's employer to pay a specified portion of the obligor's earnings to the obligee. Under existing law, upon the filing and service of a motion and a notice of motion by the obligor, an earnings assignment order for spousal support may be terminated if, among other things, the spouse has died or remarried and any past due support has been paid in full. An earnings support order for child support may be terminated if any past due support has been paid in full and the child has died or has been emancipated.

This bill would authorize an obligor to file an ex parte motion or order to show cause for termination of the earnings assignment order if the spouse or child being supported by the individual has died.

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 5240 of the Family Code is amended to
2 read:

3 5240. Upon the filing and service of a motion and a notice of
4 motion by the obligor, *or if the obligee has died, upon the filing*
5 *of an ex parte motion or order to show cause by the obligor*; the
6 court shall terminate the service of an assignment order if past due
7 support has been paid in full, including any interest due, and if any
8 of the following conditions exist:

9 (a) With regard to orders for spousal support, the death or
10 remarriage of the spouse to whom support is owed.

11 (b) With regard to orders for child support, the death or
12 emancipation of the child for whom support is owed.

13 (c) The court determines that there is good cause, as defined in
14 Section 5260, to terminate the assignment order. This subdivision
15 does not apply if there has been more than one application for an
16 assignment order.

17 (d) The obligor meets the conditions of an alternative
18 arrangement specified in paragraph (2) of subdivision (b) of Section
19 5260, and a wage assignment has not been previously terminated
20 and subsequently initiated.

21 (e) There is no longer a current order for support.

22 (f) The termination of the stay of an assignment order under
23 Section 5261 was improper, but only if that termination was based
24 upon the obligor’s failure to make timely support payments as
25 described in subdivision (b) of Section 5261.

26 (g) The employer or agency designated to provide services under
27 Title IV-D of the Social Security Act or the State Disbursement
28 Unit is unable to deliver payment for a period of six months due
29 to the failure of the obligee to notify that employer or agency or
30 the State Disbursement Unit of a change in the obligee’s address.

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