

AMENDED IN ASSEMBLY MARCH 15, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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 amended, 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~~ *Under* existing law, upon the filing and service of a motion and a notice of motion by the obligor, *the court is required to terminate* 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 and if certain conditions exist. 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~~ *request ex parte relief in lieu of the filing and service requirements described above, except in specified circumstances.*

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. (a) Upon the filing and service of a motion and a notice
 4 of 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,~~
 6 the court shall terminate the service of an assignment order if past
 7 due support has been paid in full, including any interest due, and
 8 if any of the following conditions exist:
 9 (a)
 10 (1) With regard to orders for spousal support, the death or
 11 remarriage of the spouse to whom support is owed.
 12 (b)
 13 (2) With regard to orders for child support, the death or
 14 emancipation of the child for whom support is owed.
 15 (c)
 16 (3) The court determines that there is good cause, as defined in
 17 Section 5260, to terminate the assignment order. This subdivision
 18 does not apply if there has been more than one application for an
 19 assignment order.
 20 (d)
 21 (4) The obligor meets the conditions of an alternative
 22 arrangement specified in paragraph (2) of subdivision (b) of Section
 23 5260, and a wage assignment has not been previously terminated
 24 and subsequently initiated.
 25 (e)
 26 (5) There is no longer a current order for support.
 27 (f)
 28 (6) The termination of the stay of an assignment order under
 29 Section 5261 was improper, but only if that termination was based
 30 upon the obligor's failure to make timely support payments as
 31 described in subdivision (b) of Section 5261.
 32 (g)
 33 (7) The employer or agency designated to provide services under
 34 Title IV-D of the Social Security Act or the State Disbursement
 35 Unit is unable to deliver payment for a period of six months due

1 to the failure of the obligee to notify that employer or agency or
2 the State Disbursement Unit of a change in the obligee's address.
3 *(b) In lieu of filing and serving a motion and a notice of motion*
4 *pursuant to subdivision (a), an obligor may request ex parte relief,*
5 *except ex parte relief shall not be available in the circumstances*
6 *described in paragraphs (3) and (4) of subdivision (a).*

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