

AMENDED IN SENATE MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 9, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 681

Introduced by Assembly Member Members Melendez and Skinner

February 21, 2013

An act to amend Section 4011.2 of the Penal Code, relating to county jails; amend Section 4320 of, and to add Section 4324.7 to, the Family Code, relating to spousal support.

LEGISLATIVE COUNSEL'S DIGEST

AB 681, as amended, Melendez. ~~County inmates; medical visits; Spousal support.~~

Existing law provides that when a spouse is convicted of a specified violent sexual felony against the other spouse, an award of spousal support to the convicted spouse from the injured spouse is prohibited, and the injured spouse is entitled to 100% of the community property interest in the retirement and pension benefits of the injured spouse. Existing law requires a family court to consider the criminal conviction of an abusive spouse in making a reduction or elimination of a spousal support award in accordance with these provisions.

This bill would prohibit the award of spousal support to a spouse convicted of a violent sexual felony against a child that was committed on or after January 1, 2014, in any proceeding for dissolution of marriage filed on or after January 1, 2014. The bill would provide that the conviction of this felony constitutes a change in circumstances for purposes of a spousal support modification request. The bill would require a family court to consider the criminal conviction of an abusive

spouse in making a reduction or elimination of a spousal support award in accordance with these provisions.

~~Existing law authorizes a city or county to make claim for and recovery of the costs of necessary hospital, medical, surgical, dental, or optometric care rendered to any prisoner confined in a county or city jail, who would otherwise be entitled to that care under the Medi-Cal program, as specified, or under the provisions of any private program or policy. Existing law provides that the city or county is only liable for the costs of that care that cannot be recovered. Existing law also authorizes a sheriff, chief or director of corrections, or chief of police to charge a fee in the amount of \$3 for each inmate-initiated medical visit of an inmate confined in a county or city jail. Existing law provides that the fee is charged to the inmate’s personal account at the facility, and that, if the inmate does not have any money in his or her personal account, there is no charge for the medical visit. Existing law also provides that an inmate shall not be denied medical care because of a lack of funds in his or her personal account at the facility.~~

~~This bill would instead authorize a fee in the amount of \$5 for each inmate-initiated medical visit of an inmate confined in a county or city jail, except as specified.~~

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 4320 of the Family Code is amended to
- 2 read:
- 3 4320. In ordering spousal support under this part, the court
- 4 shall consider all of the following circumstances:
- 5 (a) The extent to which the earning capacity of each party is
- 6 sufficient to maintain the standard of living established during the
- 7 marriage, taking into account all of the following:
- 8 (1) The marketable skills of the supported party; the job market
- 9 for those skills; the time and expenses required for the supported
- 10 party to acquire the appropriate education or training to develop
- 11 those skills; and the possible need for retraining or education to
- 12 acquire other, more marketable skills or employment.
- 13 (2) The extent to which the supported party’s present or future
- 14 earning capacity is impaired by periods of unemployment that

1 were incurred during the marriage to permit the supported party
2 to devote time to domestic duties.

3 (b) The extent to which the supported party contributed to the
4 attainment of an education, training, a career position, or a license
5 by the supporting party.

6 (c) The ability of the supporting party to pay spousal support,
7 taking into account the supporting party's earning capacity, earned
8 and unearned income, assets, and standard of living.

9 (d) The needs of each party based on the standard of living
10 established during the marriage.

11 (e) The obligations and assets, including the separate property,
12 of each party.

13 (f) The duration of the marriage.

14 (g) The ability of the supported party to engage in gainful
15 employment without unduly interfering with the interests of
16 dependent children in the custody of the party.

17 (h) The age and health of the parties.

18 (i) Documented evidence of any history of domestic violence,
19 as defined in Section 6211, between the parties, including, but not
20 limited to, consideration of emotional distress resulting from
21 domestic violence perpetrated against the supported party by the
22 supporting party, and consideration of any history of violence
23 against the supporting party by the supported party.

24 (j) The immediate and specific tax consequences to each party.

25 (k) The balance of the hardships to each party.

26 (l) The goal that the supported party shall be self-supporting
27 within a reasonable period of time. Except in the case of a marriage
28 of long duration as described in Section 4336, a "reasonable period
29 of time" for purposes of this section generally shall be one-half
30 the length of the marriage. However, nothing in this section is
31 intended to limit the court's discretion to order support for a greater
32 or lesser length of time, based on any of the other factors listed in
33 this section, Section 4336, and the circumstances of the parties.

34 (m) The criminal conviction of an abusive spouse shall be
35 considered in making a reduction or elimination of a spousal
36 support award in accordance with Section 4324.5-~~or~~, 4324.7, or
37 4325.

38 (n) Any other factors the court determines are just and equitable.

39 *SEC. 2. Section 4324.7 is added to the Family Code, to read:*

1 4324.7. (a) *In any proceeding for dissolution of marriage filed*
2 *on or after January 1, 2014, where there is a criminal conviction*
3 *for a violent sexual felony that was committed by one spouse*
4 *against a child on or after January 1, 2014, and the petition for*
5 *dissolution is filed within five years following the conviction and*
6 *any time served in custody, on probation, or on parole, an award*
7 *of spousal support to the convicted spouse from the other spouse*
8 *is prohibited.*

9 (b) *As used in this section, “violent sexual felony” means those*
10 *offenses described in paragraphs (3), (4), (5), (11), and (18) of*
11 *subdivision (c) of Section 667.5 of the Penal Code.*

12 (c) *As used in this section, “child” means a child as defined in*
13 *subdivision (e) of Section 6211.*

14 (d) *A criminal conviction for a violent sexual felony that was*
15 *committed by one spouse against a child, as described in*
16 *subdivision (a), shall constitute a change in circumstances for*
17 *purposes of a spousal support modification request. If a change*
18 *in circumstances occurs as a result of a conviction for a violent*
19 *sexual felony as described in subdivision (a), any spousal support*
20 *owed in arrears to the convicted spouse shall be vacated.*

21 (e) *A court may order a convicted spouse to repay to the other*
22 *spouse any spousal support received from the other spouse from*
23 *the date of commission of the violent sexual felony against a child,*
24 *as described in subdivision (a), to the date of conviction.*

25 ~~SECTION 1. Section 4011.2 of the Penal Code is amended to~~
26 ~~read:~~

27 ~~4011.2. (a) Notwithstanding Section 4011.1, a sheriff, chief~~
28 ~~or director of corrections, or chief of police is authorized to charge~~
29 ~~a fee in the amount of five dollars (\$5) for each inmate-initiated~~
30 ~~medical visit of an inmate confined in a county or city jail.~~

31 ~~(b) The fee shall be charged to the inmate’s personal account~~
32 ~~at the facility. If the inmate does not have any money in his or her~~
33 ~~personal account, there shall be no charge for the medical visit.~~

34 ~~(c) An inmate shall not be denied medical care because of a~~
35 ~~lack of funds in his or her personal account at the facility.~~

36 ~~(d) The medical provider may waive the fee for any~~
37 ~~inmate-initiated treatment and shall waive the fee in any~~
38 ~~life-threatening or emergency situation, defined as those health~~
39 ~~services required for alleviation of severe pain or for immediate~~
40 ~~diagnosis and treatment of unforeseen medical conditions that if~~

1 not immediately diagnosed and treated could lead to disability or
2 death.

3 (e) ~~Followup medical visits at the direction of the medical staff~~
4 ~~shall not be charged to the inmate.~~

5 (f) ~~All moneys received by a sheriff, chief or director of~~
6 ~~corrections, or chief of police pursuant to this section shall be~~
7 ~~transferred to the county or city general fund.~~

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