

Senate Bill No. 28

CHAPTER 137

An act to amend Section 4320 of the Family Code, relating to spousal support.

[Approved by Governor August 7, 2015. Filed with
Secretary of State August 7, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 28, Wieckowski. Spousal support factors: domestic violence.

Existing law requires a court to order spousal support in an amount, and for a period of time, that the court determines is just and reasonable based on the standard of living established during the marriage. In making spousal support awards, the court is required to consider, among other factors, documented evidence of any history of domestic violence between the parties or against the child of either party.

This bill would specify that a plea of nolo contendere is included within the documented evidence of domestic violence to be considered by the court.

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

SECTION 1. Section 4320 of the Family Code is amended to read:

4320. In ordering spousal support under this part, the court shall consider all of the following circumstances:

(a) The extent to which the earning capacity of each party is sufficient to maintain the standard of living established during the marriage, taking into account all of the following:

(1) The marketable skills of the supported party; the job market for those skills; the time and expenses required for the supported party to acquire the appropriate education or training to develop those skills; and the possible need for retraining or education to acquire other, more marketable skills or employment.

(2) The extent to which the supported party's present or future earning capacity is impaired by periods of unemployment that were incurred during the marriage to permit the supported party to devote time to domestic duties.

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

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

- (d) The needs of each party based on the standard of living established during the marriage.
- (e) The obligations and assets, including the separate property, of each party.
- (f) The duration of the marriage.
- (g) The ability of the supported party to engage in gainful employment without unduly interfering with the interests of dependent children in the custody of the party.
- (h) The age and health of the parties.
- (i) Documented evidence, including a plea of nolo contendere, of any history of domestic violence, as defined in Section 6211, between the parties or perpetrated by either party against either party's child, including, but not limited to, consideration of emotional distress resulting from domestic violence perpetrated against the supported party by the supporting party, and consideration of any history of violence against the supporting party by the supported party.
- (j) The immediate and specific tax consequences to each party.
- (k) The balance of the hardships to each party.
- (l) The goal that the supported party shall be self-supporting within a reasonable period of time. Except in the case of a marriage of long duration as described in Section 4336, a "reasonable period of time" for purposes of this section generally shall be one-half the length of the marriage. However, nothing in this section is intended to limit the court's discretion to order support for a greater or lesser length of time, based on any of the other factors listed in this section, Section 4336, and the circumstances of the parties.
- (m) The criminal conviction of an abusive spouse shall be considered in making a reduction or elimination of a spousal support award in accordance with Section 4324.5 or 4325.
- (n) Any other factors the court determines are just and equitable.