

Assembly Bill No. 16

CHAPTER 364

An act to add Sections 274, 782.5, and 4324 to the Family Code, relating to civil actions.

[Approved by Governor August 3, 1995. Filed with
Secretary of State August 4, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 16, Rainey. Exemplary damages.

Existing law provides that where a married person is injured by his or her spouse, as specified, the community property may not be used to discharge the liability of the tortfeasor spouse to the injured spouse or the liability to make contribution to a joint tortfeasor until the separate property of the tortfeasor spouse is exhausted, as specified.

This bill would provide that, in addition to any other remedy authorized by law, when a spouse is convicted of attempting to murder the other spouse, as specified, the injured spouse shall be entitled to 100% of the community property interest in his or her retirement and pension benefits, and a prohibition of specified support or insurance benefits from the injured spouse to the other spouse, as specified. The bill would define injured spouse for these purposes. The bill would also authorize a court to award attorney's fees and costs in the form of a sanction in these cases, as specified.

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

SECTION 1. Section 274 is added to the Family Code, to read:

274. (a) Notwithstanding any other provision of law, where the injured spouse is entitled to a remedy authorized pursuant to subdivision (a) of Section 4324, the injured spouse shall be entitled to an award of reasonable attorney's fees and costs as a sanction pursuant to this section.

(b) An award of attorney's fees and costs as a sanction pursuant to this section shall be imposed only after notice to the party against whom the sanction is proposed to be imposed and opportunity for that party to be heard.

(c) An award of attorney's fees and costs as a sanction pursuant to this section is payable only from the property or income of the party against whom the sanction is imposed, except that the award may be against the sanctioned party's share of the community property. In order to obtain an award under this section, the party requesting an award of attorney's fees and costs is not required to demonstrate any financial need for the award.

SEC. 2. Section 782.5 is added to the Family Code, to read:

782.5. In addition to any other remedy authorized by law, when a spouse is convicted of attempting to murder the other spouse, as punishable pursuant to subdivision (a) of Section 664 of the Penal Code, the injured spouse shall be entitled to an award to the injured spouse of 100 percent of the community property interest in the retirement and pension benefits of the injured spouse.

SEC. 3. Section 4324 is added to the Family Code, to read:

4324. In addition to any other remedy authorized by law, when a spouse is convicted of attempting to murder the other spouse, as punishable pursuant to subdivision (a) of Section 664 of the Penal Code, the injured spouse shall be entitled to a prohibition of any temporary or permanent award for spousal support or medical, life, or other insurance benefits or payments from the injured spouse to the other spouse.

As used in this section, “injured spouse” means the spouse who has been the subject of the attempted murder for which the other spouse was convicted, whether or not actual physical injury occurred.

