

Assembly Bill No. 965

CHAPTER 904

An act to amend Section 1211 of the Code of Civil Procedure, and to add Section 292 to, and to amend Section 6222 of, the Family Code, relating to family law.

[Approved by Governor October 13, 1995. Filed
with Secretary of State October 16, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 965, Kuehl. Family law: domestic violence: contempt.

(1) Under existing law, a judgment or order made or entered pursuant to the Family Code may be enforced by the court by specified means, including by contempt. Under existing law, when a contempt is not committed in the immediate view and presence of the court, an affidavit of the facts constituting the contempt is required to be presented to the court, as specified.

This bill would require the Judicial Council to modify the title of an existing form relating to enforcement by contempt, and would provide that filing this form constitutes compliance with the latter provision described above. The bill would require the Judicial Council to prescribe, as specified, a form that a party seeking to enforce a judgment or order under the Family Code by contempt may use as an attachment. The bill would specify the contents of this attachment form. The bill would make a conforming change.

(2) Existing law provides that there is no filing fee for a petition, response, or modification of a protective order filed in a proceeding brought pursuant to the Domestic Violence Prevention Act.

This bill would revise this provision to specify that there is no filing fee for a petition or response, or for a paper seeking the modification or enforcement of a protective order filed in such a proceeding. The bill would also incorporate further changes to these provisions proposed by SB 187, contingent upon its prior enactment.

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

SECTION 1. Section 1211 of the Code of Civil Procedure is amended to read:

1211. (a) When a contempt is committed in the immediate view and presence of the court, or of the judge at chambers, it may be punished summarily; for which an order must be made, reciting the facts as occurring in such immediate view and presence, adjudging that the person proceeded against is thereby guilty of a contempt, and that he be punished as therein prescribed.

When the contempt is not committed in the immediate view and presence of the court, or of the judge at chambers, an affidavit shall be presented to the court or judge of the facts constituting the contempt, or a statement of the facts by the referees or arbitrators, or other judicial officers.

(b) Filing of the Judicial Council form entitled “Order to Show Cause and Affidavit for Contempt (Family Law)” shall constitute compliance with this section.

SEC. 2. Section 292 is added to the Family Code, to read:

292. (a) The Judicial Council shall modify the title of its existing form, “Order to Show Cause and Declaration for Contempt (Family Law),” to “Order to Show Cause and Affidavit for Contempt (Family Law).”

(b) The Judicial Council shall prescribe a form entitled “Affidavit of Facts Constituting Contempt” that a party seeking to enforce a judgment or order made or entered pursuant to this code by contempt may use as an attachment to the Judicial Council form entitled “Order to Show Cause and Affidavit for Contempt (Family Law).” The form shall provide in the simplest language possible:

(1) The basic information needed to sustain a cause of action for contempt, including, but not limited to, the elements of a cause of action for contempt.

(2) Instructions on how to prepare and submit the Order to Show Cause and Affidavit for Contempt (Family Law) and the Affidavit of Facts Constituting Contempt.

(3) Lines for the date and a signature made under penalty of perjury.

(c) Section 1211.5 of the Code of Civil Procedure shall apply to the Order to Show Cause and Affidavit for Contempt (Family Law) and the Affidavit of Facts Constituting Contempt.

SEC. 3. Section 6222 of the Family Code is amended to read:

6222. (a) There is no filing fee for a petition or response, or for a paper seeking the modification or enforcement of a protective order filed in a proceeding brought pursuant to this division.

(b) Fees otherwise payable by a petitioner to a law enforcement agency for serving an order issued under this division may be waived in any case in which the petitioner has requested a fee waiver on the initiating petition and has filed a declaration that demonstrates, to the satisfaction of the court, the financial need of the petitioner for the fee waiver.

(c) The declaration required by subdivision (b) shall be on one of the following forms:

(1) The form formulated and adopted by the Judicial Council for litigants proceeding in forma pauperis pursuant to Section 68511.3 of the Government Code, but the petitioner is not subject to any other requirements of litigants proceeding in forma pauperis.



(2) Any other form that the Judicial Council may adopt for this purpose pursuant to Section 6226.

(d) In conjunction with a hearing pursuant to this division, the court may make an order for the waiver of fees otherwise payable by the petitioner to a law enforcement agency for serving an order issued under this division.

SEC. 4. Section 6222 of the Family Code is amended to read:

6222. (a) There is no filing fee for a petition, or response, or for a paper seeking the modification or enforcement of a protective order filed in a proceeding brought pursuant to this division.

(b) There is no fee payable by a petitioner to a law enforcement agency for serving an order issued under this division.

SEC. 5. Section 4 of this bill incorporates amendments to Section 6222 of the Family Code proposed by both this bill and SB 187. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1996, (2) each bill amends Section 6222 of the Family Code, and (3) this bill is enacted after SB 187, in which case Section 3 of this bill shall not become operative.

