

ASSEMBLY BILL

No. 2155

Introduced by Assembly Member Kuehl

February 6, 1996

An act to amend Section 372 of the Code of Civil Procedure, and to amend Section 6301 of the Family Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 2155, as introduced, Kuehl. Restraining orders: minors.

Existing law requires that when a minor, or a person for whom a conservator is appointed, is a party to an action or proceeding, he or she shall appear by a guardian or conservator of the estate, or by a guardian ad litem, as specified.

This bill would create an exception to this provision to permit a minor who is 13 years of age or older to appear in court, without a guardian, conservator, counsel, or guardian ad litem, for the purpose of obtaining or opposing a restraining order against a person with whom the respondent is having or has had a dating or engagement relationship, 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 372 of the Code of Civil
- 2 Procedure is amended to read:

1 372. (a) When a minor, an incompetent person, or a
2 person for whom a conservator has been appointed is a
3 party, such person shall appear either by a guardian or
4 conservator of the estate or by a guardian ad litem
5 appointed by the court in which the action or proceeding
6 is pending, or by a judge thereof, in each case. A guardian
7 ad litem may be appointed in any case when it is deemed
8 by the court in which the action or proceeding is
9 prosecuted, or by a judge thereof, expedient to appoint
10 a guardian ad litem to represent the minor, incompetent
11 person, or person for whom a conservator has been
12 appointed, notwithstanding that such person may have a
13 guardian or conservator of the estate and may have
14 appeared by the guardian or conservator of the estate.
15 The guardian or conservator of the estate or guardian ad
16 litem so appearing for any minor, incompetent person, or
17 person for whom a conservator has been appointed shall
18 have power, with the approval of the court in which the
19 action or proceeding is pending, to compromise the same,
20 to agree to the order or judgment to be entered therein
21 for or against the ward or conservatee, and to satisfy any
22 judgment or order in favor of the ward or conservatee or
23 release or discharge any claim of the ward or conservatee
24 pursuant to such compromise. Any money or other
25 property to be paid or delivered pursuant to the order or
26 judgment for the benefit of a minor, incompetent person,
27 or person for whom a conservator has been appointed
28 shall be paid and delivered as provided in Chapter 4
29 (commencing with Section 3600) of Part 7 of Division 4
30 of the Probate Code.

31 Where reference is made in this section to
32 “incompetent person,” such reference shall be deemed
33 to include “a person for whom a conservator may be
34 appointed.”

35 Nothing in this section or in any other provision of this
36 code, the Civil Code, the Family Code, or the Probate
37 Code is intended by the Legislature to prohibit a minor
38 from exercising an intelligent and knowing waiver of his
39 constitutional rights in any proceedings under the
40 Juvenile Court Law, Chapter 2 (commencing with



1 Section 500) of Part 1 of Division 2 of the Welfare and
2 Institutions Code.

3 *(b) Notwithstanding subdivision (a), a minor 13 years*
4 *of age or older may appear in court without a guardian,*
5 *conservator, counsel, or guardian ad litem, for the*
6 *purpose of obtaining or opposing a restraining order*
7 *against a person with whom the respondent is having or*
8 *has had a dating or engagement relationship, pursuant to*
9 *the Domestic Violence Prevention Act, contained in*
10 *Division 10 (commencing with Section 6200) of the*
11 *Family Code.*

12 SEC. 2. Section 6301 of the Family Code is amended
13 to read:

14 6301. (a) An order under this part may be granted to
15 any person described in Section 6211, *including a minor*
16 *pursuant to subdivision (b) of Section 372 of the Code of*
17 *Civil Procedure.*

18 (b) The right to petition for relief shall not be denied
19 because the petitioner has vacated the household to avoid
20 abuse, and in the case of a marital relationship,
21 notwithstanding that a petition for dissolution of
22 marriage, for nullity of marriage, or for legal separation
23 of the parties has not been filed.

