

ASSEMBLY BILL

No. 933

Introduced by Assembly Member Keeley

February 25, 1999

An act to amend Sections 2554 and 6303 of the Family Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 933, as introduced, Keeley. Arbitration: domestic violence.

Under existing law, in any case where the parties do not agree in writing to a voluntary division of the community estate, the issues of the character, value, and division of the community estate may be submitted by the court to arbitration for resolution, as specified.

This bill would provide that, if domestic violence between the parties is alleged or where a protective order, as specified, is in effect and the party protected by the order or alleging domestic violence in a written declaration under penalty of perjury so requests, the arbitrator shall meet with the parties separately and at separate times. The bill would also require the court to advise the parties of this right to separate arbitration meetings. Because this bill would expand the crime of perjury it would impose a state-mandated local program.

Existing law authorizes a party, who is protected by a protective order relating to alleged domestic violence, to be accompanied by a support person during any mediation

orientation or session held pursuant to specified family law proceedings.

This bill would expand that authorization to any arbitration orientation or session held pursuant to those proceedings.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 2554 of the Family Code is
2 amended to read:

3 2554. (a) Notwithstanding any other provision of this
4 division, in any case in which the parties do not agree in
5 writing to a voluntary division of the community estate of
6 the parties, the issue of the character, the value, and the
7 division of the community estate may be submitted by the
8 court to arbitration for resolution pursuant to Chapter 2.5
9 (commencing with Section 1141.10) of Title 3 of Part 3 of
10 the Code of Civil Procedure, if the total value of the
11 community and quasi-community property in
12 controversy in the opinion of the court does not exceed
13 fifty thousand dollars (\$50,000). The decision of the court
14 regarding the value of the community and
15 quasi-community property for purposes of this section is
16 not appealable.

17 (b) The court may submit the matter to arbitration at
18 any time it believes the parties are unable to agree upon
19 a division of the property.

20 (c) *If the court submits the matter to arbitration in a*
21 *case in which domestic violence between the parties is*
22 *alleged, or where a protective order as defined in Section*
23 *6218 is in effect, at the request of the party protected by*
24 *the order or alleging domestic violence in a written*
25 *declaration under penalty of perjury, the appointed*



1 *arbitrator shall meet with the parties separately and at*
2 *separate times. The court shall advise the parties of their*
3 *rights pursuant to this subdivision at the time it submits*
4 *the matter to arbitration.*

5 SEC. 2. Section 6303 of the Family Code is amended
6 to read:

7 6303. (a) It is the function of a support person to
8 provide moral and emotional support for a person who
9 alleges he or she is a victim of domestic violence. The
10 person who alleges that he or she is a victim of domestic
11 violence may select any individual to act as a support
12 person. No certification, training, or other special
13 qualification is required for an individual to act as a
14 support person. The support person shall assist the person
15 in feeling more confident that he or she will not be
16 injured or threatened by the other party during the
17 proceedings where the person and the other party must
18 be present in close proximity. The support person is not
19 present as a legal adviser and shall not give legal advice.

20 (b) A support person shall be permitted to accompany
21 either party to any proceeding to obtain a protective
22 order, as defined in Section 6218. Where the party is not
23 represented by an attorney, the support person may sit
24 with the party at the table that is generally reserved for
25 the party and the party's attorney.

26 (c) Notwithstanding any other provision of law to the
27 contrary, if a court has issued a protective order, a support
28 person shall be permitted to accompany a party
29 protected by the order during any mediation orientation
30 or mediation session, including separate mediation
31 sessions, *or any arbitration orientation or session,*
32 *including separate arbitration sessions,* held pursuant to
33 a proceeding described in Section 3021. The agency
34 charged with providing family court services shall advise
35 the party protected by the order of the right to have a
36 support person during mediation *or arbitration.* A
37 mediator *or arbitrator* may exclude a support person
38 from a mediation *or arbitration* session if the support
39 person participates in the ~~mediation~~ session, or acts as an
40 advocate, or the presence of a particular support person



1 is disruptive or disrupts the process of mediation *or*
2 *arbitration*. The presence of the support person does not
3 waive the confidentiality of the mediation *or arbitration*,
4 and the support person is bound by the confidentiality of
5 the mediation *or arbitration*.

6 (d) In a proceeding subject to this section, a support
7 person shall be permitted to accompany a party in court
8 where there are allegations or threats of domestic
9 violence and, where the party is not represented by an
10 attorney, may sit with the party at the table that is
11 generally reserved for the party and the party’s attorney.

12 (e) Nothing in this section precludes a court from
13 exercising its discretion to remove a person from the
14 courtroom when it would be in the interest of justice to
15 do so, or when the court believes the person is prompting,
16 swaying, or influencing the party protected by the order.

17 SEC. 3. No reimbursement is required by this act
18 pursuant to Section 6 of Article XIII B of the California
19 Constitution because the only costs that may be incurred
20 by a local agency or school district will be incurred
21 because this act creates a new crime or infraction,
22 eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section
24 17556 of the Government Code, or changes the definition
25 of a crime within the meaning of Section 6 of Article
26 XIII B of the California Constitution.

