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AB-712 Civil actions: change of venue. (2017-2018)

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Assembly Bill No. 712

CHAPTER 316

An act to amend Section 399 of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 27, 2017. Filed with Secretary of State September 27, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 712, Bloom. Civil actions: change of venue.

Existing law provides that the proper court for trial of a proceeding to enforce a child support obligation is the superior court in the county where the child resides. Existing law authorizes a court, on motion, to change the place of trial in certain cases, and requires the court to which the case is transferred to have and exercise jurisdiction over the case as if it had been originally commenced in that court.

This bill would require a court transferring jurisdiction of a family law action to retain jurisdiction, if another court has not assumed jurisdiction over the action or proceeding, to make orders designed to prevent immediate danger or irreparable harm to a party or to the children involved in the matter, or to prevent the immediate loss or damage to property subject to disposition in the matter. The bill would require the Judicial Council, by January 1, 2019, to establish timeframes for a court to transfer and to assume jurisdiction over a family law action or proceeding. The bill would also make nonsubstantive changes to that provision.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 399 of the Code of Civil Procedure is amended to read:

399. (a) If an order is made transferring an action or proceeding under any provision of this title, the clerk shall, after expiration of the time within which a petition for writ of mandate could have been filed pursuant to Section 400, or if a writ petition is filed after judgment denying the writ becomes final, and upon payment of the costs and fees, transmit the pleadings and papers of the action or proceeding, or, if the pleadings are oral, a transcript of the pleadings, to the clerk of the court to which the action or proceeding is transferred. If the transfer is sought on any ground specified in subdivision (b), (c), (d), or (e) of Section 397, the costs and fees of the transfer, and of filing the papers in the court to which the transfer is ordered, shall be paid at the time the notice of motion is filed by the party making the motion for the transfer. If the transfer is sought solely, or is ordered, because the action or proceeding was commenced in a court other than that designated as proper by this title, those costs and fees, including any expenses and attorney's fees awarded to the defendant pursuant to Section 396b, shall be paid by the plaintiff before the transfer is made. If the defendant has paid those costs and fees at the time of filing a notice of motion, those costs and fees shall be repaid to the defendant, upon the making of the transfer order. If those costs and fees have not been paid by the plaintiff within five days after service of notice of the transfer order, any other party interested in the action or proceeding, whether named in the

complaint as a party or not, may pay those costs and fees, and the clerk shall transmit the papers and pleadings of the action or proceeding as if those costs and fees had been originally paid by the plaintiff, and those costs and fees shall be a proper item of costs of the party paying them, recoverable by that party if that party prevails in the action. Otherwise, those costs and fees shall be offset against and deducted from the amount, if any, awarded the plaintiff if the plaintiff prevails against that party in the action. The cause of action shall not be further prosecuted in any court until those costs and fees are paid. If those costs and fees are not paid within 30 days after service of notice of the transfer order, if a copy of a petition for writ of mandate pursuant to Section 400 is filed in the trial court, or if an appeal is taken pursuant to Section 904.2, then, within 30 days after notice of finality of the order of transfer, the court on a duly noticed motion by any party may dismiss the action without prejudice to the cause on the condition that no other action on the cause may be commenced in another court before satisfaction of the court's order for costs and fees. If a petition for writ of mandate or appeal does not result in a stay of proceedings, the time for payment of those costs and fees shall be 60 days after service of the notice of the order.

(b) At the time of transmittal of the papers and pleadings, the clerk shall mail notice to all parties who have appeared in the action or special proceeding, stating the date on which the transmittal occurred. Promptly upon receipt of the papers and pleadings, the clerk of the court to which the action or proceeding is transferred shall mail notice to all parties who have appeared in the action or special proceeding, stating the date of the filing of the case and number assigned to the case in the court.

(c) The court to which an action or proceeding is transferred under this title shall have and exercise over the action or proceeding the like jurisdiction as if it had been originally commenced in that court, all prior proceedings being saved, and the court may require amendment of the pleadings, the filing and service of amended, additional, or supplemental pleadings, and the giving of notice, as may be necessary for the proper presentation and determination of the action or proceeding in the court.

(d) Notwithstanding subdivision (c), the court transferring jurisdiction of a family law action or proceeding pursuant to Section 398 shall, if another court has not assumed jurisdiction over the action or proceeding, retain jurisdiction to make orders designed to prevent:

- (1) Immediate danger or irreparable harm to a party or to the children involved in the matter.
- (2) Immediate loss or damage to property subject to disposition in the matter.

(e) By January 1, 2019, the Judicial Council shall, by rule of court, establish:

- (1) The timeframe for a court to transfer jurisdiction over a family law action or proceeding.
- (2) The timeframe for a court to assume jurisdiction over a family law action or proceeding.