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AB-2338 Courts: contempt orders. (2019-2020)

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Assembly Bill No. 2338

CHAPTER 283

An act to amend Section 1218 of the Code of Civil Procedure, relating to courts.

[Approved by Governor September 29, 2020. Filed with Secretary of State September 29, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2338, Weber. Courts: contempt orders.

Existing law requires a court to order a \$1000 fine or a term of imprisonment not to exceed five days for a person adjudged in contempt of court. Existing law specifies different terms of imprisonment and community service that a court shall order for a person found in contempt of court for failure to comply with a court order pursuant to the Family Code.

This bill would permit the court to grant probation or a conditional sentence, as defined, in lieu of an order for community service, imprisonment, or both, for a party found in contempt for failure to comply with a court order pursuant to the Family Code.

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

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

SECTION 1. Section 1218 of the Code of Civil Procedure is amended to read:

1218. (a) Upon the answer and evidence taken, the court or judge shall determine whether the person proceeded against is guilty of the contempt charged, and if it be adjudged that the person is guilty of the contempt, a fine may be imposed on the person not exceeding one thousand dollars (\$1,000), payable to the court, or the person may be imprisoned not exceeding five days, or both. In addition, a person who is subject to a court order as a party to the action, or any agent of this person, who is adjudged guilty of contempt for violating that court order may be ordered to pay to the party initiating the contempt proceeding the reasonable attorney's fees and costs incurred by this party in connection with the contempt proceeding.

(b) Any party, who is in contempt of a court order or judgment in a dissolution of marriage, dissolution of domestic partnership, or legal separation action, shall not be permitted to enforce such an order or judgment, by way of execution or otherwise, either in the same action or by way of a separate action, against the other party. This restriction shall not affect nor apply to the enforcement of child or spousal support orders.

(c) (1) In any court action in which a party is found in contempt of court for failure to comply with a court order pursuant to the Family Code, the court shall, subject to the sentencing option provided in paragraph (2), order the following:

(A) Upon a first finding of contempt, the court shall order the contemner to perform community service of up to 120 hours, or to be imprisoned up to 120 hours, for each count of contempt.

(B) Upon the second finding of contempt, the court shall order the contemner to perform community service of up to 120 hours, in addition to ordering imprisonment of the contemner up to 120 hours, for each count of contempt.

(C) Upon the third or any subsequent finding of contempt, the court shall order that the contemner serve a term of imprisonment of up to 240 hours and perform community service of up to 240 hours, for each count of contempt. The court shall also order the contemner to pay an administrative fee, not to exceed the actual cost of the contemner's administration and supervision, while assigned to a community service program pursuant to this paragraph.

(D) The court shall take parties' employment schedules into consideration when ordering either community service or imprisonment, or both.

(2) In lieu of an order of imprisonment, community service, or both, as set forth in paragraph (1), the court may grant probation or a conditional sentence for a period not to exceed one year upon a first finding of contempt, a period not to exceed two years upon a second finding of contempt, and a period not to exceed three years upon a third or any subsequent finding of contempt.

(3) For purposes of this subdivision, "probation" and "conditional sentence" shall have the meanings set forth in subdivision (a) of Section 1203 of the Penal Code.

(d) Pursuant to Section 1211 and this section, a district attorney or city attorney may initiate and pursue a court action for contempt against a party for failing to comply with a court order entered pursuant to the Domestic Violence Protection Act (Division 10 (commencing with Section 6200) of the Family Code). Any attorney's fees and costs ordered by the court pursuant to subdivision (a) against a party who is adjudged guilty of contempt under this subdivision shall be paid to the Office of Emergency Services' account established for the purpose of funding domestic violence shelter service providers pursuant to subdivision (f) of Section 13823.15 of the Penal Code.