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AB-1179 Family law: attorney's fees. (2023-2024)

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Assembly Bill No. 1179

CHAPTER 67

An act to amend Section 271 of the Family Code, relating to family law.

[Approved by Governor July 13, 2023. Filed with Secretary of State July 13, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1179, Pacheco. Family law: attorney's fees.

Existing law authorizes the award of attorney's fees in family law cases as a sanction. Existing law authorizes the court to base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation between the parties and attorneys. Existing law permits an award of attorney's fees and costs as a sanction to be imposed only after notice to the party against whom the sanction is proposed and opportunity for that party to be heard.

This bill would authorize the court to base an award of attorney's fees and costs on the extent to which any conduct of each party or attorney furthers or frustrates the above-described policy of the law. The bill would permit an award of attorney's fees and costs as a sanction pursuant to these provisions only after notice by the requesting party or the court to the party against whom the sanction is proposed and opportunity for that party to be heard is provided by the court.

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

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

SECTION 1. Section 271 of the Family Code is amended to read:

271. (a) Notwithstanding any other provision of this code, the court may base an award of attorney's fees and costs on the extent to which any conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation between the parties and attorneys. An award of attorney's fees and costs pursuant to this section is in the nature of a sanction. In making an award pursuant to this section, the court shall take into consideration all evidence concerning the parties' incomes, assets, and liabilities. The court shall not impose a sanction pursuant to this section that imposes an unreasonable financial burden on the party against whom the sanction is imposed. In order to obtain an award under this section, the party requesting an award of attorney's fees and costs is not required to demonstrate any financial need for the award.

(b) An award of attorney's fees and costs as a sanction pursuant to this section shall be imposed only after notice by the requesting party or the court to the party against whom the sanction is proposed and opportunity for that party to be heard is provided by the court.

(c) An award of attorney's fees and costs as a sanction pursuant to this section is payable only from the property or income of the party against whom the sanction is imposed, except that the award may be against the sanctioned party's share of the community property.