
THIRD READING

Bill No: AB 3364
Author: Committee on Judiciary
Amended: 8/20/20 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 8/13/20
AYES: Jackson, Borgeas, Durazo, Lena Gonzalez, Melendez, Monning, Stern,
Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/20/20
AYES: Portantino, Bates, Bradford, Hill, Jones, Leyva, Wieckowski

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Judiciary omnibus

SOURCE: Author

DIGEST: This bill makes various noncontroversial changes to existing law including, among others, clarifying existing law, deleting obsolete references, extending sunsets, and removing sunsets thereby indefinitely extending certain provisions of law.

ANALYSIS: This bill makes various changes to the Civil Code and Code of Civil Procedure to update cross references, clarify existing provisions of law, and remove or update obsolete references, as provided.

Existing law requires that the mandatory continuing legal education curriculum for all attorney licensees include training on implicit bias and the promotion of bias-reducing strategies, as provided, and requires a licensee to meet the training requirements for each compliance period ending after January 31, 2023. (Bus. & Prof. Code § 6070.5.)

This bill clarifies that the mandatory continuing legal education curriculum related to implicit bias training for California attorneys commences with the compliance period ending after January 31, 2022.

Existing law requires the clerk of a court to allow access to limited civil case records if 60 days have elapsed since the complaint was filed with the court, and, as of that date, judgment against all defendants has been entered for the plaintiff after a trial. (Code Civ. Proc. § 1161.2.)

This bill provides that the clerk of a court must allow access to limited civil case records to any other person only if judgment against all defendants has been filed for the plaintiff.

Existing law recognizes and declares that the opportunity to seek, obtain, and hold employment without discrimination because of military and veteran status is a civil right. (Gov. Code § 12921(a).)

This bill clarifies that veteran or military status is a civil right.

Existing law provides that it is an unlawful employment practice for an employer, because of the military and veteran status of any person to, among other things, refuse to hire or employ the person. (Gov. Code § 12940.)

This bill clarifies that it is an unlawful employment practice for an employer to discriminate against a person's veteran or military status as described above.

Existing law requires the Judicial Council to provide two reports each year to the Joint Legislative Budget Committee and the State Auditor that detail information related to procurement of contracts for the judicial branch. (Pub. Contract Code § 19209(a).)

This bill instead requires only one annual report to be submitted to the Legislature by the Judicial Council and modifies the information required to be in the report.

Existing law requires a notice of sale to be posted before any power of sale may be exercised under the power of sale contained in a deed of trust or mortgage. (Civ. Code § 2924f.)

This bill, effective March 1, 2021, reenacts a provision of law that was originally enacted under the California Homeowner Bill of Rights that requires a notice to be sent to tenants when a notice of sale is posted on the property that informs the

tenant that foreclosure process has begun on the property and what rights the tenants may have under the law.

Existing law places various meet and confer requirements on parties in civil cases related to various actions and motions, and sunsets these provisions on January 1, 2021. (Code Civ. Proc. §§ 430.41, 435.5, 439, 472a, and 472.)

This bill removes the sunset on Sections 430.41, 435.5, 439, 472a, and 472 of the Code of Civil Procedure, thereby extending the provisions indefinitely.

Existing law permits the owner of a self-storage facility to send an initial notice and/or the sale notice to the occupant, when the occupant has failed to pay all or part of the rent due for 14 consecutive days, via email when the occupant has provided an email address and certain conditions are met. Repeals the authorization to send an email notice on January 1, 2021. (Bus. & Prof. Code, §§ 21703, 21705, 21712.)

This bill extends the sunset date on the provisions allowing an owner to send a notice to an occupant via email to January 1, 2023. The bill also allows the owner to demonstrate that the occupant received a notice if the occupant acknowledges receipt of the document by sending a reply email to the owner's email communication, as specified. This provision will also sunset on January 1, 2023.

Existing law provides that if a confidential marriage license is lost, damaged, or destroyed after the performance of the marriage but before it is returned to the county clerk, or deemed unacceptable for registration by the county clerk, the person solemnizing the marriage must obtain a duplicate marriage license by filing an affidavit setting forth the facts with the county clerk. Requires that the duplicate license be returned by the person solemnizing the marriage to the county clerk within one year of the issuance date shown on the original marriage license. (Fam. Code § 510.)

This bill instead requires a duplicate confidential license must be returned within one year of the date of the confidential marriage.

Existing law creates, until January 1, 2021, a rebuttable presumption that an obligor with net disposable income of less than \$1,500 a month is entitled to a low-income adjustment to their child support obligation that may be rebutted. Requires, until January 1, 2018, the Judicial Council to annually update the low-income

adjustment based on the California Consumer Price Index, as specified. (Fam. Code § 4055(b)(7).)

This bill eliminates the sunset date for the low-income adjustment, thereby extending it indefinitely.

Existing law generally requires all files, applications, papers, documents, and records established or maintained by a public entity pursuant to the administration and implementation of the child and spousal support enforcement program to be confidential and not be open to examination or released for disclosure for any purpose not directly connected with the administration of the child and spousal support enforcement program. Prohibits a public entity from disclosing any file, application, paper, document, or record, or the information contained therein, except as authorized. (Fam. Code § 17212(b)(1).)

This bill clarifies that “public entity” for these purposes does not include courts. The bill states that these changes are declaratory of existing law.

Existing law requires the Judicial Council to establish a request-for-proposal process to establish, maintain, or expand local court-appointed special advocate programs and require local matching funds or in-kind funds equal to the proposal request. (*Id.*)

This bill provides that, in administering the request-for-proposal process the Judicial Council may, instead of must, require local matching funds or in-kind funds equal to the amount requested. The bill also allows for the proposal amount to be less than equal to the amount requested.

Existing law requires pretrial risk assessment tools used in California to be validated by January 1, 2021, as provided, and requires certain reports to be completed by specified dates. (Pen. Code §§ 1320.35.)

This bill delays each of the time-related provisions related to the pretrial risk assessment program described above by six months.

Existing law replaced cash bail with risk assessments for detained suspects awaiting trial, as provided. These provisions of law were suspended pursuant to a referendum petition and will become effective only if the referendum measure is approved by the voters at the November 3, 2020 general election.

This bill delays the effective date of these provisions to October 1, 2021, in the event that the voters approve the referendum measure.

[NOTE: For a more detailed analysis of this bill's provisions please refer to the Senate Judiciary Committee analysis of August 13, 2020.]

Comments

This is the biennial Assembly Judiciary omnibus bill that makes various noncontroversial changes to existing law with the purpose of increasing efficiencies in the legislative process and eliminating the need to unnecessarily hear a number of technical, clarifying, or modest stand-alone bills that might otherwise have to be introduced and require individual consideration by the Legislature. Some of the changes made by the bill include the following.

- 1) *Creating efficiencies in civil litigation.* In civil litigation, there are various, formal procedural devices for resolving relevant disputes between the parties. In recent years it has been recognized that many of these disputes could be resolved more efficiently, and without extensive court involvement, if parties conferred with each other and sought to resolve or pare down the issues in conflict. SB 383 (Wieckowski, Ch. 418, Stats. 2015) was enacted into law, creating Section 430.41 of the Code of Civil Procedure, which requires a party, before filing a demurrer, to meet and confer in person or over the phone with the party who filed the relevant pleading, as provided. In an effort to extend these benefits, AB 644 (Berman, Ch. 273, Stats. 2017) created Sections 435.5 and 439 of the Code of Civil Procedure, which applied nearly identical meet-and-confer requirements and procedures to two additional methods of responding to pleadings – motions to strike and motions for judgment on the pleadings. Given the success of these mechanisms, this bill removes the sunset dates of January 1, 2021, indefinitely extending these procedures. The California Judges Association, the Consumer Attorneys of California, and California Defense Counsel support the removal of the sunsets effectuated by this bill.
- 2) *Self-storage facilities.* This bill will extend the sunset provision on the existing email notice provisions related to self-storage facilities, until January 1, 2023, and also adds one more method by which the owner can demonstrate occupant receipt of an emailed notice. Specifically, it would allow the owner to show that an occupant received a notice where the occupant responded to the email sending the notice *and* the owner can present evidence of the email's delivery path. The bill includes a sunset provision for this new method of proof, set for

January 1, 2023. These provisions are supported by the Self Storage Association.

- 3) *Family law.* If a marriage license is lost or damaged after the marriage ceremony but before the license is returned to the county recorder, the person solemnizing the marriage can obtain and complete a duplicate license within prescribed timeframes. The timeframe differs for regular and confidential marriages. To alleviate any confusion, this bill provides that the requirement to return a duplicate confidential license must be done within one year of the date of the confidential marriage, instead of the date of the issuance of the license.

To determine the appropriate amount of child support, courts must use the “statewide uniform child support guideline.” (Fam. Code §§ 4050 et seq.) To prevent low-income obligors from being overwhelmed with child support obligations, the guideline provides that an obligor whose net income is less than \$1,500 is rebuttably presumed to be entitled to a low-income adjustment of the guideline amount to be adjusted annually (the 2019 adjustment was \$1,755), which sunsets on January 1, 2021. This bill removes the sunset so the increase in the adjustment will remain in effect. The California Association of Certified Family Law Specialists is in support of removing the sunset on this provision.

Under existing law, child support court records are not confidential. However, there is confusion in some counties because non-court child support records belonging to the Department of Child Support Services and the local child support agencies are confidential. This bill clarifies that court records are not confidential child support records and states that the clarification is declarative of existing law.

In many cases, children in the foster care system are served by “court appointed special advocates” (CASA), trained and supervised volunteers who represent children and aid the court in better understanding the needs of the children. To assist county CASA programs, the Judicial Council runs a grant program of up to \$70,000 for small counties and \$100,000 for large counties. CASA programs must provide local matching funds equal to the proposal request. Because of the COVID-19 pandemic and ensuing economic crisis, some CASA programs will have a difficult time meeting this requirement. This bill allows, but no longer requires, the Judicial Council to mandate matching funds, and allows for the proposal amount to be less than equal to the amount requested.

- 4) *Posting of notice of pending foreclosure sale.* This bill reenacts, effective March 1, 2021, a provision of law that was originally enacted under the California Homeowner Bill of Rights in 2008 (Perata, Ch. 69, Stats. 2008) that

requires a notice to be posted to tenants when a notice of sale is posted on the property that informs the tenant that foreclosure process has begun on the property and what rights the tenants may have under the law. The prior provision had a sunset of January 1, 2020, which was not extended. This posting notice provides vital information to tenants that live in residential property that is being foreclosed on about their rights under the law resulting in increased protections for tenants.

- 5) *Delayed date for implementation of SB 10 (Hertzberg, Chapter 244, Statutes of 2018)*. SB 10 replaced cash bail with risk assessments for detained suspects awaiting trial. The bill's provisions were delayed by a referendum (Proposition 25) that will be on the November 3, 2020 ballot. This bill delays the effective date of the provisions of SB 10 to make October 1, 2021 the effective date in the event that the voters support Proposition 25 in the referendum and uphold the legislation. This extension of the effective date will provide the courts, local justice system partners, and the Judicial Council with sufficient time to meet the requirements of the legislation.
- 6) *Delayed reporting date for SB 36 (Hertzberg, Chapter 589, Statutes of 2019)*. SB 36 requires pretrial risk assessment tools used in California to be validated by January 1, 2021, requires that, commencing December 31, 2020, the Judicial Council publish certain outcome-based data on its website, and that the Judicial Council provide a report to the courts and the Legislature with recommendations to mitigate bias in pretrial decision-making by July 1, 2022. Because of the impact of COVID 19 on arrest rates and the adoption of Judicial Council emergency orders such as the COVID-19 Emergency Bail Schedule (\$0 bail), the Judicial Council will not have the data necessary to effectively meet the requirements of the law. This bill delays each of the time-related provisions in the SB 36 by six months.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee,

- *Departments of Business Oversight & Real Estate:* Unknown costs, potentially in the thousands of dollars to make translations in certain languages a specified notice regarding tenant protection. (General Fund)
- *Courts:* Unknown, potential-significant cost savings to the courts and the Judicial Council for tasks and responsibilities related to risk assessment tools and a pretrial release system the due dates for which would be extended. Cost

savings related to the pretrial release program would be realized only if Proposition 25 (2020) is passed by the voters in November 2020. (General Fund)

SUPPORT: (Verified 8/21/20)

California Association of Certified Family Law Specialists
California Defense Counsel
California Judges Association
Consumer Attorneys of California
Self Storage Association

OPPOSITION: (Verified 8/21/20)

None received

ASSEMBLY FLOOR: 76-0, 6/8/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/25/20 10:26:40

**** END ****