



1-1-1970

Domestic Relations Review of Selected 1970 California Legislation

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Recommended Citation

University of the Pacific; McGeorge School of Law, *Domestic Relations Review of Selected 1970 California Legislation*, 2 PAC. L. J. 392 (1971).

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Domestic Relations

Support and Custody

Civil Code §§4813 (new); 4455, 4600, 4801, 4811 (amended).
AB 1595; STATS 1970, Ch 1545

As amended, Section 4455 deletes repetitive and confusing language regarding the putative spouse doctrine as it relates to temporary support payments. The amendment makes it clear that in a nullity proceeding, only the spouse seeking support need be innocent of fraud or wrongdoing or free of prejudicial knowledge in entering the marriage. The former wording seemed to require that *both* spouses be innocent of any knowledge nullifying a good faith intent in entering into the marriage. The Family Law Act made significant changes in the law applicable to custody issues, but Section 4600 still adhered to certain preferences. As a result of a drafting error, when Section 4600(a) of the Civil Code was finally incorporated into the Act, it stated that "custody *shall* be given to the mother if the child is of tender years." Section 4600(a) now states "*should* be given"

Section 4801(c) is amended to allow the court to reduce or terminate support payments where the supported party is living with another person of the opposite sex. The previous language was unclear and several courts denied motions to reduce or terminate support where the supported party was living with another, because they were not pretending to be man and wife as required prior to this amendment.

Section 4811 which deals with modification of support is amended to limit its application to property settlement agreements entered into on or after January 1, 1970 and is not construed to affect those entered into prior thereto.

Section 4813 is added to provide that when service of a summons is made by publication pursuant to Section 415.50 of the Code of Civil Procedure, upon a spouse in a proceeding under provisions of Part 5 Division 4 of the Civil Code (*The Family Law Act*), the court shall have and may exercise jurisdiction over the following without aid of attachment or appointment of a receiver:

- (a) The community real property of the spouse so served situated

in this state as it has or may exercise over the community real property of a spouse in a proceeding under this part who is personally served with process within this state.

- (b) The quasi-community real property of the spouse so served situated in this state as it has or may exercise over the quasi-community real property of a spouse in a proceeding under this part who is personally served with process within this state.

Reference:

- 1) 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Parent and Child* §§1a, 28a (Supp. 1969); 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Husband and Wife* §110 (Supp. 1969); 4 WITKIN, SUMMARY OF CALIFORNIA LAW, *Community Property* §§10, 14 (Supp. 1969).

Uniform Reciprocal Enforcement of Support Act; revisions

Code of Civil Procedure §§1653, 1656, 1695-1697 (new); 1650, 1660, 1661, 1670-1681, 1684-1687, 1689-1693 (amended); 1683, 1683.5 (renumbered); 1653, 1682 (repealed).

SB 753; STATS 1970, Ch 1126

This act revised various provisions of the code to conform to corresponding provisions of the Revised Uniform Reciprocal Enforcement of Support Act enacted in 1968. This act was designed to increase interstate uniformity of child support actions.

Most of these revisions are language changes intended to correct or conform the code to the Revised Uniform Enforcement of Support Act and are not substantive in nature.

There are certain Sections which modify the prior law, however. Section 1653(f) of the Act includes any person, state or political subdivision to whom support is owed, but also any person, state or political subdivision that has commenced a proceeding for enforcement of an alleged obligation to support. Consequently a county can prosecute support actions under its own authority, even in the face of objection by the recipient of state aid. Under prior law if the obligee was being supported by a public agency, a state or local government agency could prosecute in the name of the obligee only with his consent.

Section 1672 of the Act is amended to allow for the collection of delinquent support payments. The collection of these "arrearages" (back payments) was not provided for under the 1968 Act.

Section 1674 is amended to require that the prosecuting attorney represent the obligee in an action for support, upon request of the court if

California is the initiating state. Under the amendment of this Act an obligee could upon court approval demand district attorney services, irrespective of the financial status of the obligee. Failure to represent the obligee due to neglect or refusal may now result in an order to comply by the Attorney General.

Under Section 1678 of the Act an obligor arrested because the court believed he was about to flee, can be released on his own recognizance. Prior law required that a mandatory \$300 bail be posted as assurance that the obligor would not leave the state.

Section 1696 of the Act is added to provide that if the obligor asserts as a defense that he is not the father of the child for whom support is being sought, the court may adjudicate the paternity question if both parties are present in court, or the proof required in the case indicates that the presence of both is not necessary, and one parent is present.

References:

- 1) 3 WITKIN, *SUMMARY OF CALIFORNIA LAW, Parent and Child* §§14-19 (7th ed. 1960).
- 2) Ehrenzweig, *Interstate Recognition of Support Duties*, 42 CAL. L. REV. 382 (1954).
- 3) Annot., 42 A.L.R.2d 768 (1955).

Grounds for Withholding Support Orders

Civil Code §4806 (amended).

AB 513; STATS 1970, Ch 988

This amendment to Section 4806 of the Family Law Act (*grounds when court may withhold an allowance paid to one spouse from separate property of the other spouse*) makes this Section expressly applicable to either an original proceeding of dissolution or modification proceeding (*Section 4809*). In addition the amendment also provides that in either proceeding, where the parties have no children, and either party has or acquires a separate estate including income from employment sufficient for his or her proper support no support order may be made by the court or continued against the other party. The effect of this change is to bring within the consideration of the court before which the proceeding is held, the estate acquired by either spouse after separation or dissolution, particularly including income derived from employment in order to determine need for support of one of the spouses. An additional change by the amendment substitutes the phrase support order for the word allowance.

Reference:

- 1) 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Husband and Wife* §110 (7th ed. 1960), (Supp. 1969); 4 WITKIN, SUMMARY OF CALIFORNIA LAW, *Community Property* §84 (Supp. 1969).

Division of Property

Civil Code §§4800.5 (new); 4356, 4452, 4800, 4801, 5126 (amended); 149, 4808 (repealed).

SB 360; STATS 1970, Ch 962

AB 1146; STATS 1970, Ch 1575

Section 4800 which provides for the division of community and quasi-community property upon dissolution of marriage, is amended to permit the court some flexibility in making a division. Under the amendment, the court may accept a written agreement or an oral stipulation of the parties before the court in determining a division of the property. In addition, if the net value of the aggregate property is less than \$5,000 and one party cannot be located through the exercise of reasonable diligence, the court may award all such property to the other party on such conditions as it deems proper. Absent the agreement or circumstances as described where the aggregate value of the property is less than \$5,000, or where one of the parties has deliberately misappropriated part of the marital property, the court is typically required to make a substantially equal division of the community and quasi-community property.

One additional change in this Section with respect to personal injury awards or settlements provides that, in instances where the court determines that the interests of justice require a disposition of such property other than to the party who suffered the injuries, that they must assign at least one-half of such damages to the party who suffered the injuries. Previously, there was no limit on the court's discretion to assign such property.

Section 4800.5 is added providing that when service by publication (*pursuant to Code of Civil Procedure Section 415.50*) is made upon a spouse in a proceeding for dissolution of marriage, the court shall have and may exercise jurisdiction, without the aid of attachment, over all of the community and quasi-community real property situated in this state belonging to the spouse so served the same as if the party had been personally served. (*See similar provision in new Section 4813, added by Chapter 1545, page 392.*)

Section 4800.1 which provides for alimony upon dissolution of mar-

riage is amended to provide that such obligation for support or alimony shall terminate upon the death of either party.

Section 4452 which provides for the division of property (quasi-marital property) under circumstances where one of the parties is determined to be a putative spouse is amended to provide that the court shall divide property acquired during the union as provided under Section 4800 ". . . if the division of property is in issue."

Prior to this amendment, the language of the Section required the court to divide any property acquired during the union in every case where a determination was made that a marriage was void or voidable.

Section 5126 relating to when personal injury damages are the separate property of one of the spouses, is amended to provide that such award or settlement will be separate property after renditions of a decree of legal separation or final judgment of dissolution of the marriage and no longer after the rendition of an interlocutory decree.

The amendment to Section 4356 (*added by CAL. STATS., 1970, c. 311*) is merely technical, making reference in that Section to Title 3 of this part, Dissolution of Marriage.

Section 4808 which provided for the assignment of homestead upon any judgment decreeing the dissolution of marriage or legal separation is repealed.

Section 149 which provided for jurisdiction by the court over community or quasi-community real property after service by publication, etc. is repealed. The substance of this Section has been added in new Section 1800.5.

Quasi-Community and Separate Property

Civil Code §§4800.5 (new); 1237.5, 4803 (amended); Probate Code §201.5 (amended); Revenue and Taxation Code §15300 (amended).

AB 124; STATS 1970, Ch 312

Civil Code Section 4803 is amended to now include within the definition of quasi-community property all property, real or personal, wherever situated, which would have been treated as community property had the acquiring spouse been domiciled in California at the time of acquisition.

Formerly, real property situated in another state was excluded from the definition of quasi-community property and was subject to charac-

terization and treatment as separate property. This was true even though the property was acquired with what would have been community funds had the spouse acquiring the property been domiciled in California at the time of acquisition.

This change was recommended by The California Law Revision Commission. The change is based on the rationale that presently any real property situated in another state, acquired by a California domiciliary with community funds is treated (by application of tracing principles) as community property for purposes of distribution upon dissolution of marriage or for legal separation. Following this same reasoning, similar property acquired by a spouse while domiciled elsewhere with funds which would have been community property had the spouse acquiring the property been domiciled in California at the time of the acquisition should also be treated as quasi-community—not separate—property upon dissolution of marriage or legal separation.

There was considerable opposition to this bill from the California Land Title Association. There was concern that a California decree, effecting title of real property located in another state lacked certainty and marketability [*cf. Fall v. Eastin*, 215 U.S. 1 (1969)].

As a result of this consideration several additional changes were made to affect distribution of the quasi-community real property.

Section 4800.5 is added to the Civil Code to provide alternative methods for division of the quasi-community property in the event of a dissolution of marriage.

Section 4800 requires quasi-community property to be divided evenly between the spouses in the absence of special circumstances. Section 4800.5 provides that if there is real property situated in another state the court shall, if possible, divide the community property and quasi-community property in accordance with Section 4800 in such a manner that it is not necessary to change the nature of the interests held in the real property situated in the other state. The section further provides that if it is not possible to divide the property as above the court may (1) require the parties to execute such conveyances or take such other actions with respect to the real property situated in the other state as are necessary; (2) award to the party who would have been benefited by such conveyances or other actions the money value of the interest in such property that he would have received if such conveyances had been executed or other actions taken. (It should be noted that Section 4800.5 was added by three different enactments during the 1970 session. Each contains different concepts and there is no conflict. Hence each

will be operative.)

The definitions of quasi-community property in Civil Code Section 1237.5, Probate Code Section 1237.5, Probate Code Section 201.5 and Revenue and Taxation Code Section 15300 are amended to conform with the new addition of real property as quasi-community property.

References:

- 1) 4 WITKIN, SUMMARY OF CALIFORNIA LAW, *Community Property* §§35, 79, 81-83 (7th ed. 1960); 4 WITKIN, SUMMARY OF CALIFORNIA LAW, *Community Property* §§84, 86 (Supp. 1969); 4 WITKIN, SUMMARY OF CALIFORNIA LAW, *Wills and Probate* § 308 (7th ed. 1960); 4 WITKIN, SUMMARY OF CALIFORNIA LAW, *Husband and Wife* §7 (Supp. 1969); 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Taxation* §108 (7th ed. 1960); 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Taxation* §§114, 126A (Supp. 1969).
- 2) Comment, *Testamentary Disposition of Personal Property Acquired By Residents of California Prior to California Domicile As Affected By Section 201.5 of the Probate Code*, 19 S. CAL. L. REV. 39 (1945); Cooper, *Aspects of "Quasi-Community Property" In the Conflict of Laws*, 36 CAL. S.B.J. 613 (1961); Comment, *Background and General Effect of 1961 New Edition*, 36 CAL. S.B.J. 672 (1961).

Community Property Trusts

Civil Code §§5110, 5113.5 (amended); Probate Code §204 (amended).

SB 650; STATS 1970, Ch 517

Section 5110 is amended to extend the definition of community property to apply to any property held in trust pursuant to Section 5113.5.

Section 5113.5 refers to trusts created by both husband and wife. The type of trust referred to is an inter vivos, revocable trust which by the terms of the trust is community property.

The amendment to Section 5113.5 provides that where the husband and wife transfer property to a trust, such property is to remain community property during the continuance of their marriage, unless the trust expressly provides otherwise.

Prior to this amendment the trust was to remain community property unless expressly stated otherwise. There was no provision that it should remain community property for the continuance of the marriage.

The amendment to Section 204 of the Probate Code specifies that community property held in a revocable trust described in Section 5113.5 of the Civil Code shall be governed by the provision in the trust for disposition in the event of death.

Section 204 formerly applied to Section 164.8 of the Civil Code which was repealed effective January 1, 1970.

References:

- 1) 2 WITKIN, SUMMARY OF CALIFORNIA LAW, *Torts* §150 (Supp. 1969); 4 WITKIN, SUMMARY OF CALIFORNIA LAW, *Community Property* §§7B, 16A, 25, 84 (Supp. 1969).
- 2) CONTINUING EDUCATION OF THE BAR, REVIEW OF SELECTED 1969 CODE LEGISLATION, 14, 183.

Adeption; custody and control

Civil Code §232.9 (new).

SB 638; STATS 1970, Ch 583

Section 232.9 now allows an action to declare a child free from the custody and control of his parents to be initiated by the State Department of Social Welfare, a county welfare department, a county adoption department, a county probation department which is planning adoptive placement of a child with a licensed adoption agency, or the State Department of Social Welfare acting as an adoption agency in counties not served by a county adoption agency. The fact that a child is not living with his parents, but is in a licensed foster home will not prevent initiation of an action under this Section by one of the above enumerated agencies.

Prior to the addition of this Section the only agencies which could bring an action to have a child declared free from the custody and control of his parents were a licensed county adoption agency or the county counsel, or if there is no county counsel, the district attorney (*see Section 232*).

It is the express intent of the Legislature in enacting this legislation to extend adoption services to children residing in foster homes.

References:

- 1) 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Parent and Child* §§127-134 (Supp. 1969).
- 2) Comment, *Custody of Children: Best Interests of Child vs. Rights of Parents*, 33 CAL. L. REV. 306 (1945).

Adoption; hearing

Civil Code §227 (amended).

AB 1194; STATS 1970, Ch 655

This amendment to Section 227 adds a "report to the court from any investigating agency" to the list of documents concerning adoptions which previously included petition, relinquishment, agreement, order, and any power of attorney. These documents cannot be inspected by

anyone other than the parties to the action and their attorneys and the State Department of Social Welfare except upon written order from a judge of the superior court.

The judge of the superior court may authorize others who petition the court to inspect any of the above documents only in exceptional circumstances.

Two additional provisions are incorporated into Section 227 by this amendment. First, if a party to the action so requests, and a judge of the superior court concurs, the above noted documents may not be inspected unless the name of the natural parents of the child, or any information tending to identify the natural parents, is first deleted from the documents. Second, upon the request of the adoptive parents or the child, a county clerk may issue a certificate of adoption which states the date and place of adoption, the child's birthday, the name of the adoptive parents, and the name which the child has taken. Unless the child has been adopted by a stepparent, the certificate shall not state the name of the natural parents of the child.

References:

- 1) 3 WITKIN, *SUMMARY OF CALIFORNIA LAW, Parent and Child* §§87, 88 (7th ed. 1960), (Supp. 1969).
- 2) CONTINUING EDUCATION OF THE BAR, REVIEW OF SELECTED 1965 CODE LEGISLATION, 44; CONTINUING EDUCATION OF THE BAR, REVIEW OF SELECTED 1968 CODE LEGISLATION, 27.
- 3) Olsen, *Summary of the Work of the 1968 Legislature Relating to Adoptive Matters*, 44 L.A. BAR BULL. 53 (1968).

Adoption; children released from parental custody by the court

Civil Code §§244n, 235 (amended).

SB 1247; STATS 1970, Ch 1091

Section 224n of the Civil Code is amended to provide that no petition may be filed to adopt a child declared free from the custody and control of either or both of his parents (*see Civil Code Sections 232-239*) and referred to a licensed adoption agency for adoptive placement. This provision applies to all persons except the prospective adoptive parents with whom the child has been placed for adoption by the adoption agency.

Paragraph (a) of Section 235 is amended to provide for the method of serving notice upon relatives of a child subject to a proceeding to release him from the custody and control of one or both parents when the

parent's place of residence is not known and either the father or mother of the child has not given consent to the adoption. Service shall be in the manner provided by law for the service of a summons in a civil action, other than by publication. Prior to this amendment it was not clear what method of service was required to give notice to relatives.

Paragraph (b) of this Section is amended to clarify when the prospective adoptive parents may seek an order from the court permitting service by publication. Under the prior wording of the statute, it appeared that the unlocatable father or mother to whom the prospective adoptive parents were seeking to give notice, had to be residing outside of the state before an order for notice by publication would issue despite the fact that other language implied that the order would issue whether the unknown parents were in or out of the state.

The phrase, "residing outside the state" was removed and replaced by the phrase that if the father or mother "cannot with reasonable diligence be served" the petitioner may seek an order for service of publication.

Where the residence of the mother or father is known, though service cannot be made with due diligence, the court shall also require a copy of the citation to be served by mail. Such service is effected when the copy is deposited in the post office. Where publication is ordered, service of a copy of the citation in the manner provided for in subdivision (a) is equivalent to publication and deposit in the post office. Service is complete at the expiration of the time prescribed by the order for publication or when service is made as provided for in subdivision (a), whichever event occurs first.

References:

- 1) 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Parent and Child* §§89, 128 (7th ed. 1960), (Supp. 1969).
- 2) 1 CALIFORNIA FAMILY LAWYER §19.55, CONTINUING EDUCATION OF THE BAR (1962); CONTINUING EDUCATION OF THE BAR, REVIEW OF SELECTED 1965 CODE LEGISLATION, 42.

Visitation Rights; grandparents

Civil Code §197.5 (amended).

AB 2005; STATS 1970, Ch 1188

Civil Code Section 197.5 allows the parents of a deceased person to visit a grandchild during its minority. Reasonable visitation rights may be established by a superior court upon a finding that such visitation rights if the child is adopted by anyone other than a step parent (*i.e.*,

This amendment automatically terminates the grandparents visitation

rights if the child is adopted by anyone other than a step-parent (i.e., —*the surviving parent gives the child up for adoption*).

References:

- 1) CONTINUING EDUCATION OF THE BAR, REVIEW OF SELECTED 1967 CODE LEGISLATION, 23.
- 2) Annot., 98 A.L.R.2d 325 (1964).

Marriages; capacity to consent, counseling

Civil Code §4101 (amended).

AB 402; STATS 1970, Ch 474

This amendment requires both males and females under 18 to obtain parental permission and a court order to marry.

Prior to the amendment, males 18 to 21 and females 16 to 18 were required to obtain either parental permission or a court order to marry. Males under 18 and females under 16 were required to obtain both a court order and parental permission. Under the new law, as under the old, males over 21 and females over 18 are capable of consenting to marriage.

This amendment also provides that as part of the order to marry, the court may require that the parties under 18 participate in premarital counseling if it is deemed necessary. The determination of the necessity for counseling may be dependent upon the parties' ability to pay.

This Chapter received wide support from community social action organizations and various secular and religious groups. The original legislation required 6 hours of counseling from a secular counselor, priest, rabbi or minister. This was eliminated because of possible constitutional problems of equal protection and freedom of religion. There may still be an equal protection problem if it appears:

- 1) that indigents under 18 are systematically excluded from marrying because they are required to obtain counseling but cannot afford the high cost;
- 2) that persons who can afford counseling are discriminated against because they are required to obtain counseling while indigents are not; or
- 3) that counseling is considered a substantive right and indigent persons are not afforded the benefits of this right because they cannot afford it.

References:

- 1) THE CALIFORNIA FAMILY LAWYER, *Marriage* §3.8, CONTINUING EDUCATION OF THE BAR (1961).
- 2) 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Husband & Wife* §10 (1960).
- 3) Weiss, Collada, *Judicial Consent to Marry—Its Complex Demands*, 3 FAMILY L.Q. 288 (1969).

Minors; student loans

Civil Code §§42.1-42.5 (new).

AB 1454; STATS 1970, Ch 747

Part 1.5 of Division I of the Civil Code entitled "Uniform Minor Student Capacity To Borrow Act" is added to provide that under certain conditions an educational loan to a minor over 18 years of age may be enforced against the minor as if he were an adult.

In order to be enforceable each agreement must:

1. be in writing;
2. be signed by the minor;
3. be in consideration of an educational loan;
4. be approved by "the superior court of the county in which the minor resides;"
5. have been certified prior to the making of the loan by an educational institution in writing that the minor is "enrolled, or has been accepted for enrollment, in the educational institution."

Though this legislation appears to be a benefit to a lender for student loans, it is uncertain whether much reliance should be placed on the right to enforce against a minor since the language concerning approval by the superior court is somewhat ambiguous. It does not specify when the court's approval must be obtained—whether before the making of the loan or upon enforcement of the loan. If approval is required before the loan is made, the heavy burden of the costs involved in obtaining court approval will fall either on the lender, reducing profits, or on the student, reducing the amount of the loan. On the other hand, if approval of the court must be obtained upon enforcement of the loan, the lender runs the risk that the minor may have already returned the consideration and disaffirmed the contract (*See Section 35 which permits a minor to effect a disaffirmance by return of consideration*) or that the costs of obtaining court approval and the subsequent litigation of enforcement will exceed the amount of interest collectable.

References:

- 1) CAL. CIV. CODE §§34, 35.
- 2) 1 WITKIN, SUMMARY OF CALIFORNIA LAW, *Contracts* §§115-118 (7th ed. 1960).

Guardian and Ward; powers and duties

Probate Code §1510 (amended).

AB 103; STATS 1970, Ch 293

Section 1510 establishes procedures for control of any money or other property awarded as a result of a court action to a minor who has no guardian. Any time a court approves a compromise of a minor's disputed claim or pending action, or awards a judgment to a minor and the minor has no guardian, the court may prescribe the method of disposition of the award to protect the minor's interests. If the amount is over \$10,000 a guardian must be appointed, or the money deposited in a trust fund subject to withdrawal only by order of the court. If the amount is under \$10,000, the court, in its discretion, may appoint a guardian; order the money to be deposited in a bank, trust company or insured savings and loan association, subject to withdrawal by order of the court; or make any other arrangements deemed to be in the best interests of the minor. Any expenses or fees approved by the court will be deducted by the court before the settlement or award is disposed of.

Chapter 293 added a new paragraph to Section 1510 providing that the court may expressly retain jurisdiction of any money paid, delivered or deposited under the provisions of the Section until the minor reaches 21 years of age. Thus, for example, a court may now retain its jurisdiction over money paid to a guardian or deposited in a trust fund.

If a court decides to retain jurisdiction over the money, it may do so until the minor reaches 21, and not just until he achieves his majority. Under Civil Code Section 25 a minor over 18 may achieve his majority by marrying, even though he is not yet 21.

References:

- 1) 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Parent and Child* §43 (7th ed. 1960), (Supp. 1969).
- 2) Comment, *Selected 1963 Legislation*, 38 CAL. S.B.J. 780 (1963).
- 3) CAL. PRACTICE, *Parties, Plaintiff and Defendant* §§1025, 1027, 1029.

Juvenile Court; access to records

Welfare and Institutions Code §827 (amended).

AB 506; STATS 1970, Ch 1236

Chapter 1236 amends Section 827 (*concerning preparation of petitions in juvenile court proceedings*) by adding to the list of documents subject to restricted inspection any documents that are made available to the probation officer in making his report, or to the judge, referee or

other hearing officer, and are thereafter retained by such persons. Such documents may not be inspected except by the court personnel, the minor who is subject to the proceedings, his parents or guardian, the attorneys for such parties, and other parties who may be designated by court order of the judge of the juvenile court.

Juveniles; petition for sealing of court records

Penal Code §§851.7, 1203.45 (amended); Welfare and Institutions Code §781 (amended).

AB 904; STATS 1970, Ch 497

Chapter 497 amends Penal Code Sections 851.7 and 1203.45 and Welfare and Institutions Code Section 781 (*These Sections pertain to the sealing of a minor's records in certain juvenile proceedings*) to provide that in an action based on defamation the court may now, upon a showing of good cause, order the opening of records which have been sealed.

The records shall be confidential and shall be available for inspection only to the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

Chapter 497 was sponsored by the California Newspaper Publishers Association. The Association claimed it was not possible for a newspaper to accurately report that a person had been convicted of a crime as a juvenile. If the person brought suit for defamation, the newspaper would be unable to substantiate the report from court records since before this amendment, only the person whose juvenile records had been sealed could petition to have the records opened. It is unlikely that he would do so. This amendment allows anyone to show good cause to the court that is hearing any action based on defamation why such records should be opened.

References:

- 1) 3 WATKIN, SUMMARY OF CALIFORNIA LAW, *Parent and Child* §199A (7th ed. 1960).
- 2) CONTINUING EDUCATION OF THE BAR, REVIEW OF SELECTED 1967 CODE LEGISLATION, 186, 252; CONTINUING EDUCATION OF THE BAR, REVIEW OF SELECTED 1965 CODE LEGISLATION, 188, 288.