

#F-634

01/09/84

Memorandum 84-11

Subject: Study F-634 - Support (Communications Recently Received by
Commission)

In recent years the Commission has received a substantial amount of information concerning the inadequacy of child and spousal support awards. This perception concerning the adequacy of support is not shared by everyone, however, and the Commission has recently received a number of communications indicating a belief that support awards are excessive. See Exhibits 1 to 3. Exhibit 2 includes a copy of a form letter, one of 10 identical letters forwarded to the Commission.

Respectfully submitted,

Nathaniel Sterling
Assistant Executive Secretary

EXHIBIT 1
California State Senate

STATE CAPITOL
SACRAMENTO 95814
(916) 445-3952

2755 NAVAJO ROAD
EL CAJON 92020-2184
(619) 464-7204
(619) 237-7573

JIM ELLIS
SENATOR
THIRTY-NINTH DISTRICT

November 7, 1983

Mr. Henry Zaks
5787 College Avenue, #48
San Diego, California 92120

Dear Mr. Zaks:

Thank you for your October 16 letter, suggesting legislation regarding spousal support. I can appreciate the fact that often court orders in family law matters lead to frustration and disappointment and at times to unfairness. However, I do believe that in general the courts respond to these complicated and difficult situations in an equitable and reasonable manner.

Because of the Legislature's awareness of problems in this area, we have authorized the California Law Revision Commission to study and recommend amendments to the family law statutes. Therefore, I have taken the liberty of forwarding to the Commission a copy of your letter. That body is interested in receiving information from both practitioners and the general public, so they will give your suggestions every consideration possible.

While we are awaiting the Commission's report, I would hesitate to introduce any comprehensive changes to existing provisions. Nevertheless, I want to assure you that I am cognizant of the issues that you raise and of the hardships faced by second families. I encourage you to work with other people who share your perspective and to keep me informed of your progress in organizing your support group.

Thank you for taking the time to write me with your concerns and for all the thought that you have put into this matter.

Truly yours,

..i

JIM ELLIS
Senator, 39th District

JE:LD:ms

October 16, 1983

The Honorable Jim Ellis
California State Senate
State Capitol
Sacramento, CA 95814

Dear Senator Ellis:

Senator Pete Wilson has advised me that the way to have a bill introduced in the State Senate is through a State Senator, hence this letter to start my request expedition through the proper channels, in the hope that said bill will become law as soon as possible.

For too many years, many of our Dissolution of Marriage laws have been antiquated, one-sided and unfair, especially when they concern spousal support where there are no minor children.

The bill that my husband and I would like you to have acted upon relates us us, and I'm sure countless other husbands, or wives, who are taken advantage of, and are victims of unfair court orders based upon laws which are obsolete in the light of today's employment structure for men and women alike. Although I am sure that this bill can be written into a more acceptable form, the following is the gist of it:

In the case of a divorce, when one of the spouses is ordered to pay spousal support to the other, and the spouse receiving support is ordered by the court to seek employment and has been found to be mentally and/or physically capable of working, but makes no concerted effort to find employment, or does not find employment for any reason in a period of one year from date of Dissolution of Marriage, then, no matter the longevity of the marriage, spousal support should be waived on the anniversary of the one year date of the final Dissolution of Marriage, for all time.

This can be added as you see fit:

If the spouse receiving spousal support lives with another person or persons, either male or female, who supports him/her, fully or partially, or appears to support him/her, fully or partially, in any way whatsoever, for a period of one (1) month, or more, then spousal support should be waived for all time.

I know that my request can be acted upon because new laws, per my attorney, are constantly being effected pertaining to the Dissolution of Marriage and up-dating same.

I would greatly appreciate your advising me of your progress in the above instance, and your consideration of this matter.

Please find herein enclosed an article which is self-explanatory, and which I intend to follow up today by contacting Suzanne Boals to learn of her progress in our common goal.

Thank you for all of your efforts in our behalf and your immediate attention to the above matter.

Sincerely,



Henry Zaks
5787 College Avenue
#48
San Diego, CA 92120

Second families hurt by alimony payments

DEAR MEG: The letter from Furious whose husband is still paying child support to his ex-wife when the "children" are over 18 sure got my dander up. The alimony and child support laws in this country are far from fair.

My husband has to pay his ex \$500 per month for the rest of her life. The child support stopped when his daughter turned 18, but the divorce was complicated, and he must still pay his wife, even though she has a job.

Because second families are getting such a raw deal, I am starting a campaign called Second Families Have Rights, Too and I'd like to hear from your readers who are in the same predicament — a husband scrimping and saving at the expense of his second family in order to pay child support and/or alimony to grown-up children and working ex-wives. When I have

enough signatures, I plan to take it to legislature. Already I have several talk shows interested, along with TV's 60 Minutes. Too many divorce cases involving children are being treated unfairly in the court system. — Suzanne Boals, Zionsville, Ind.

DEAR SUZANNE: An excellent cause that is long past its due. Interested readers can write Suzanne at Box 461, Zionsville, Ind. 46077.

PLEASE REPLY TO:

- SACRAMENTO ADDRESS:
STATE CAPITOL
95814
(916) 445-3353
- DISTRICT OFFICE ADDRESSES:
415 MAIN STREET
WOODLAND, CA 95695
(916) 662-7315
- 1700 2ND STREET
SUITE 315
NAPA, CA 94558
(707) 253-7212
- 726 MENDOCINO AVE.
SANTA ROSA, CA 95401
(707) 523-1502
- 2400 WASHINGTON AVE.
SUITE 410
REDDING, CA 96001
(916) 244-4300

California State Senate



JIM NIELSEN
Senator

Fourth District
Colusa, Glenn, Lake, Napa, Shasta
Sonoma, Tehama, Trinity, and Yolo Counties

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STATE ALLOCATION BOARD

November 15, 1983

John H. DeMouilly, Executive Secretary
California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, California 94306

Dear Mr. DeMouilly:

Enclosed you will find some letters that were sent to my office regarding the spousal support laws

I understand your office is currently reviewing these laws, and I felt these letters may be of interest to you.

Sincerely,


JIM NIELSEN

Enclosures

8/15/83

JACK F. STUART
30 THIRD ST.
WINDSOR, CA 95492

The Honorable Jim Nielsen,
Senator
Santa Rosa, California

Senator Nielsen :

It is respectfully implored that the following philosophies be incorporated into California law. The subject of this letter is dissolution of marriage and determination of support.

1. Those who pay spousal support to a former spouse shall be freed from all or part of that support burden in the event that they remarry and consequently experience greater needs. At no time after termination of marriage shall the level of spousal support be increased.

2. Veterans Administration benefits and United States military retirement benefits shall not be considered as income in the determination of spousal support if those benefits were earned as a result of service prior to marriage. If the marriage existed during only part of the veterans period of service, only a proportional part of the earned benefits that the veteran used to support spouse shall be regarded as income for the purpose of determining spousal support.

3. A definite termination date for spousal support shall be given in all dissolutions and that date shall not exceed five years from the date of filing.

Sincerely,

Jack F. Stuart
(signature)

JACK F. STUART
(print full name)

05 January 1984

Post Office Box 76

Santa Rosa, California 95402

Mr. John H. DeMouilly, Executive Secretary
California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, California 94306

Dear Mr. DeMouilly:

This letter is regarding family law and in response to your request for my ideas on the subject. We live in an era in which many consider marriage a mere business arrangement rather than a sacred bond between souls. When one of the former mindset is joined with one of the latter, the natural result is usually dispute and divorce. Because of this dichotomy it is respectfully requested that the following philosophies be incorporated into California family law:

1. Because the nature of military duty is a factor that inhibits the martial patriot's pursuit of a compatible mate, Veterans Benefits and U.S. Military Retirement Benefits awarded to a veteran due to active duty service rendered prior to marriage shall be separate property and separate income of the veteran, not to be apportioned by the state or used to justify an award of spousal support. The state may justify child support awards by virtue of a veteran's income from Benefits or Pension but only in a manner consistent with child support awards based on other sources of income. The state must correct and amend any such unequal enforcement of child support laws upon written request of the veteran.
2. The state shall not award child support based on unsubstantiated allegations of paternity or without positive proof of paternity. The state shall not force the burden of paternity on an individual if it

can be proven that he, regardless of marital status, is not the natural parent of the child.

3. Those who pay spousal support to a former spouse shall be free from all or part of that support burden in the event that they remarry and experience greater needs. At no time after termination of marriage shall the level of spousal support be increased.

4. A definite termination date for spousal support shall be given upon termination of marriage and that date shall not exceed five years from the date of filing. Where no minor children are involved, the termination date for spousal support shall not exceed two years from the date of filing.

5. In a dissolution of marriage where both parties are disabled and U.S. Military Retirement Benefits or Veterans Benefits were the sole source of income providing support for the family and those benefits were awarded as a result of active duty service rendered prior to marriage, no spousal support shall be awarded. But if one of the disabled parties provided support for the family from some other source of income in addition to the aforementioned Benefits, the court shall determine the level of support to be awarded from this portion without prejudice to the disability of either party since both parties exhibit demonstrable need.

6. Sex discrimination in the determination of child custody matters shall be forbidden and this shall be assured by the assigning of a male and a female probation officer, each of good moral character, to investigate each case deemed worthy of investigation by the county of residence. The male and female investigators shall each submit separate recommendations to the person adjudicating the case. (This is not to suggest that a nursing infant should be torn from it's mother's breasts.)

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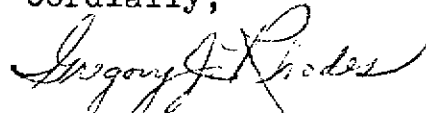
7. If the spouse obligated to provide support, during the term of marriage provided support for child(ren) of spouse not his/her own, the provider of support may request that the fact be considered by the court as a justification for a reduced support obligation following termination of the marriage.

8. In the event that evidence suggests that a parent was maimed or battered by the other parent or a third party associated with the other parent with intent by either or both to obtain full custody of minor child(ren) by intimidation or force, the parent so deprived of visitation rights or custody may be absolved of all or part of any support obligation to such an estranged household.

Please give these suggestions serious consideration. It is a privilege to live in a free and democratic nation. Let's keep our values high and hope that those who are seeking an edifying marriage will find it. Perhaps all that is needed is a little positive action.

Please place me on your mailing list regarding tentative drafts and proposals. I am very interested in becoming involved in the present reformation of family law here in California. Thanks.

Cordially,



GREGORY J. RHODES

copies:

Senator Jim Nielsen, Fourth District
State Capital 95814

Veterans of Foreign Wars
of the U.S.A.

VFW Building
Kansas City, Mo 64111

American Legion
Post Office Box 1055
700 North Pennsylvania Street
Indianapolis, In. 46204

Disabled American Veterans
3725 Alexandria Pike
Cold Spring, Ky. 41076

Flower Of The Dragon, Inc.
75 Henry
Cotati, California 94928