

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 1297 (Stefani)
Version: March 19, 2025
Hearing Date: June 17, 2025
Fiscal: No
Urgency: No

SUBJECT

Automatic temporary restraining orders

DIGEST

This bill adds, to the temporary restraining order entered in a proceeding for nullification or dissolution of a marriage, or legal separation, a prohibition on allowing insurance coverage to lapse for nonpayment of premiums or failure to renew, when the policy is for the benefit of parties to the marriage or minor children for whom support may be ordered.

EXECUTIVE SUMMARY

When a party to a marriage files and serves a petition for nullification or dissolution of the marriage, or for legal separation, the summons served with the petition includes a temporary restraining order that prevents both parties from taking specified actions relating to their minor children, specified property, and insurance coverage. With respect to insurance coverage, the temporary restraining order prohibits either party from significantly impacting or modifying various forms of insurance coverage, including life, health, car, and disability insurance, held on behalf of either of the parties or their children.

This bill is intended to address a potential loophole with respect to the insurance coverage, by clarifying that the temporary restraining order prevents a party from allowing existing insurance coverage to lapse for nonpayment of premiums or failing to renew the insurance plan.

This bill is sponsored by the Family Law Section of the California Lawyers Association. The Committee has not received timely opposition to this bill.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes procedures and requirements for the legal proceedings for nullification or dissolution of marriage, and for legal separation. (Fam. Code, div. 6, §§ 2000 et seq.)
- 2) Requires a petition for dissolution of marriage, nullity of marriage, or legal separation of the parties, to be filed with the court and served upon the other party along with a summons. If the parties are filing a joint petition for dissolution of marriage, the joint petition shall be deemed served upon the filing of the joint petition and a joint summons. (Fam. Code, §§ 2250, 2230, 2231, 2342.5.)
- 3) Requires the summons in a proceeding under 2) to contain specified information relating to the action and warnings relating to the nature of community property. (Fam. Code, § 2040; Code Civ. Proc., § 412.20.)
- 4) Requires the summons in a proceeding under 2) to also contain a temporary restraining order which restrains both parties from doing all of the following:
 - a) Removing any minor children of the parties from the state, or from applying for a new or replacement passport for any minor children, without the prior written consent of the other party or an order of the court.
 - b) Transferring or otherwise disposing of any real or personal property without the written consent of the other party or order of the court, except in the usual course of business or for the necessities of life, as specified; a party must notify the other party of any proposed extraordinary expenditures at least five days before incurring those expenses.
 - c) Cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of insurance or other coverage held for the benefit of the parties and any of their children for whom support may be ordered.
 - d) Creating a nonprobate transfer, as defined, or modifying a nonprobate transfer in a manner that affects the disposition of property subject to the transfer, without the written consent of the other party or an order of the court. (Fam. Code, § 2040(a).)
- 5) Provides that the temporary restraining order in 4) shall be in effect against the parties until final judgment is entered, the petition is dismissed, or until further order of the court. (Fam. Code, § 233.)

This bill:

- 1) Adds, to the temporary restraining order set forth in the summons served with a petition for dissolution of marriage, nullity of marriage, or legal separation of the

parties, provisions restraining the parties from allowing insurance or other coverage to lapse for nonpayment of premiums, or failing to renew insurance or other coverage, held for the benefit of the parties and any of their children for whom support may be ordered.

2) Provides that 1) shall take effect on January 1, 2027.

COMMENTS

1. Author's comment

Automatic temporary restraining orders are critical to maintaining stability while a petition for dissolution, legal separation, or nullity is pending, thereby protecting spouses and their children. One of the restraining orders deals with insurance and provides that both parties are restrained from “canceling” insurance held for the benefit of the parties and their children for whom support may be ordered. It is fundamentally unfair, and inconsistent with the intent of existing law, to avoid the prohibition on canceling insurance by having a spouse allow the insurance to lapse for nonpayment of premiums or failing to renew the insurance when both of these are, in effect, equivalent to canceling insurance. AB 1297 would close this loophole and avoid ongoing disputes about the scope of the term “canceling” by explicitly restraining both spouses from allowing insurance to lapse for nonpayment of premiums or failing to renew insurance while a petition for dissolution, legal separation, or nullity is pending.

2. This bill clarifies that a party may not functionally terminate insurance coverage during the pendency of a nullification, dissolution, or legal separation proceeding by failing to pay premiums or failing to renew the policy

When a party files for the nullification or dissolution of marriage, or for a legal separation, the filing party has to serve the other party with the petition and a summons.¹ The summons must include, in addition to specified information about the case, a temporary restraining order.² The restraining order prohibits both parties from taking certain actions, including removing minor children from the state, transferring or otherwise disposing of property – except in the ordinary course of business or for the necessities of life – and canceling or otherwise disposing of insurance coverage.³ These provisions are intended to maintain the status quo ante during the pendency of the proceeding, thereby allowing the court to distribute assets, determine custody issues, and make support orders based on the parties’ positions during the marriage.

¹ Fam. Code, §§ 2250, 2230, 2231, 2342.5.

² *Id.*, § 2040(a); Code Civ. Proc., § 412.20.

³ Fam. Code, § 2040(a).

This bill is intended to clarify the provisions of the temporary restraining order relating to the requirement to maintain the same insurance coverage and beneficiaries during the pendency of the proceeding. According to the bill's sponsor, the Family Law Section of the California Law Association, the temporary restraining order's prohibition on "canceling" insurance or other coverage⁴ does not unambiguously prohibit a party from allowing an insurance policy to lapse by failing to make payments or declining to renew an expiring policy. To avoid any potential confusion in court, this bill prohibits, within the list of prohibited conduct relating to insurance and similar coverage, allowing coverage to lapse for nonpayment of premiums and failing to renew such coverage held for the benefit of the parties and their child or children for whom support may be ordered. These new provisions will take effect on January 1, 2027.

3. Arguments in support

According to the Family Law Section of the California Law Association, the bill's sponsor:

Family Code Section 2040 sets forth the contents required in a summons served with a petition for dissolution, legal separation, or nullity, including the language of automatic temporary restraining orders. This language is included in the Judicial Council's mandatory summons form (family law), FL-110.

Questions and disputes often arise about the exact scope of the restrained conduct relating to insurance. Some contend that "canceling" insurance is limited to an affirmative act by one spouse, telling the insurer to cancel the insurance covering the other spouse or children for whom support may be ordered. Others contend that allowing insurance to lapse for nonpayment of premiums or failing to renew are within the scope of the restrained conduct because they are, in effect, equivalent to canceling insurance.

AB 1297 would resolve any questions and disputes by amending Family Code Section 2040 as follows: "In addition to the contents required by Section 412.20 of the Code of Civil Procedure, the summons shall contain a temporary restraining order:... Restraining both parties from cashing, borrowing against, canceling, **allowing to lapse for nonpayment of premiums, failing to renew**, transferring, disposing of, or changing the beneficiaries of insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties and their child or children for whom support may be ordered."

SUPPORT

Family Law Section of the California Law Association (sponsor)

⁴ See *id.*, § 2040(a)(3).

OPPOSITION

None received

RELATED LEGISLATION

Pending legislation: None known.

Prior legislation: None known.

PRIOR VOTES:

Assembly Floor (Ayes 76, Noes 0)
Assembly Judiciary Committee (Ayes 12, Noes 0)
