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SENATOR
JOHN M. W. MOORLACH
THIRTY-SEVENTH SENATE DISTRICT

FACT SHEET

Senate Bill 1255 – Date of Separation

BILL SUMMARY

Senate Bill 1255 would amend the California Family Code to allow for a couple to be considered “living separate and apart” while still living under the same roof for purposes of establishing a date of separation as a precursor of divorce.

SB 1255 defines “date of separation” to mean the date that a complete and final break in the marital relationship has occurred, as evidenced by the spouse’s expression of his or her intent to end the marriage and conduct that is consistent with that intent.

SB 1255 directs a court to take into account all relevant evidence in determining the date of separation. Under this bill, living under the same roof is not a bar to establishing a date of separation, merely a factor to consider in the court’s analysis.

ISSUE BACKGROUND

Currently, under the California Family Code, in order to establish date of separation in anticipation of dividing property through divorce proceedings, a couple must demonstrate that they are “living separate and apart.” In the recent case of *In re Marriage of Davis* (2015), the California Supreme Court ruled that in order to be living separate and apart, a couple must have separate residences.

The Court’s ruling removes the ability for a divorcing couple to continue to co-parent their children in the same house during the divorce proceedings and still keep their finances separate.

This forces at least one spouse to find and pay for alternative housing in order to establish a date of separation earlier than the final court order date at a time when families are trying to closely monitor their spending and transition the family unit through a trying time.

Often, one spouse cannot afford to move to a separate residence, and can only afford such a move once a divorce is finalized. This bill would remedy this situation, ensuring nobody is forced to either continue in a bad marriage, or face being thrown out in the streets.

SUPPORT

- Family Law Section of the California State Bar (FLEXCOM)
- Family Law Section of the Beverly Hills Bars Association (BHBA)
- American Academy of Matrimonial Lawyers, Southern California Chapter

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