

RESOLUTION 09-01-2015

DIGEST

Family Law: Deletes Reference to Family Code section 20102 from Family Code section 7612.
Amends Family Code section 7612 to delete reference to Family Code section 20102, which became inoperable in 1993.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Association recommends that legislation be sponsored to amend California Family Code section 7612 to read as follows:

§7612

- 1 (a) Except as provided in Chapter 1 (commencing with Section 7540) and Chapter 3
2 (commencing with Section 7570) of Part 2 ~~or in Section 20102~~, a presumption under Section
3 7611 is a rebuttable presumption affecting the burden of proof and may be rebutted in an
4 appropriate action only by clear and convincing evidence.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Bar Association of Northern San Diego County

STATEMENT OF REASONS

The Problem: Existing law contains a reference to Family Code section 20102 in Family Code section 7612. Family Code section 20102 was repealed in 1993, hence the reference to it in Family Code section 7612 is obsolete.

The Solution: This Resolution deletes the reference to Family Code section 20102 from Family Code section 7612.

IMPACT STATEMENT

This proposed resolution does not affect any other law, statute or rule.

CURRENT OR PRIOR RELATED LEGISLATION

Not known.

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RESPONSIBLE FLOOR DELEGATE: Mary V.J. Cataldo, Esq.

RESOLUTIONS COMMITTEE RECOMMENDATION
APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Family Code section 7612 to delete reference to Family Code section 20102, which became inoperable in 1993. This resolution should be approved in principle because Family Code section 20102 failed to become operative with the expiration of a pilot project and was repealed by statute in 1993.

This resolution cleans up an obsolete reference and should therefore be approved in principle.

SECTION COMMENTS TO RESOLUTION 09-01-2015

FAMILY LAW SECTION OF THE STATE BAR OF CALIFORNIA

Approve

Rationale:

The Executive Committee of the Family Law Section of the State Bar of California (FLEXCOM) approves this Resolution as being necessary given the repeal of the referenced Code Section.

Disclaimer:

This position is only that of the FAMILY LAW SECTION of the State Bar of California. This position has not been adopted by either the State Bar's Board of Trustees or overall membership, and is not to be construed as representing the position of the State Bar of California.

Membership in the FAMILY LAW SECTION is voluntary and funding for section activities, including all legislative activities, is obtained entirely from voluntary sources.