

Memorandum Urging Approval

FAMILY LAW SECTION

FLS # 7-GOV

November 12, 2015

A. 7221
S. 5190

By: M. of A. Weinstein
By: Senator Bonacic
Assembly Committee: Judiciary
Senate Committee: Judiciary
Effective Date: Immediately

AN ACT to amend the Domestic Relations Law in relation to counsel fees and expenses in matrimonial actions

RULE & SECTION OF LAW REFERRED TO: DRL §237(a)

THE FAMILY LAW SECTION SUPPORTS THIS LEGISLATION AND URGES ITS APPROVAL

In its current form, Section 237(a) of the Domestic Relations Law (DRL) requires any litigant seeking an award of counsel fees to submit an affidavit detailing the fee arrangement with counsel, including the amount of the retainer deposit, the amounts paid, or to be paid, amounts outstanding pursuant to such arrangement, the attorney's hourly rate, any experts, and any costs and disbursements. Thus, a literal reading of the statute does contain any exception for the *pro se* litigant who does not have the resources to retain an attorney from submitting the required counsel fee affidavit. The proposed amendment clarifies that in the case of a *pro se* litigant seeking an award of counsel fees, there is no requirement to submit an affidavit detailing the fee arrangement, so long as he or she has submitted an affidavit stating that he or she is unable to afford counsel with supporting proof, including a Statement of Net Worth, W-2 statements and income tax returns. Thus, the proposed amendment offers a practical and sensible solution to the absence of any allowance for *pro se* litigants in the statute's current form.

Based on the foregoing, the Family Law Section **SUPPORTS this legislation and URGES its approval by the Governor.**

Memorandum prepared by:
Chair of the Section:

The Family Law Section Committee on Legislation
Alton L. Abramowitz, Esq.