

## Senate Bill No. 97

### CHAPTER 539

An act to amend Section 155 of the Family Code, relating to support orders.

[Approved by Governor September 13, 2002. Filed with Secretary of State September 15, 2002.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 97, Kuehl. Support orders.

Existing law provides that, unless the judgment provides otherwise, if a money judgment is payable in installments, interest commences to accrue as to each installment on the date the installment becomes due.

The California Court of Appeal, in *Dupont v. Dupont* (2001) 88 Cal.App.4th 192, held that a money judgment for child support arrearages that is payable in installments and does not otherwise provide for a different computation of interest is subject to the provision described above.

This bill would provide that, for the purposes of the provision of existing law described above, only the initial support order, whether temporary or final and whether contained in a judgment or not, shall be considered an installment judgment. The bill would also provide that a support order or other order or notice issued, which sets forth the amount of support owed for prior periods of time or establishes a periodic payment to liquidate the support owed for prior periods, may not be considered a money judgment for purposes of that provision. The bill would include a statement of legislative findings and declarations.

Existing law requires the Director of Child Support Services to conduct an analytic evaluation of the current amount of uncollected child support and to consider factors that may influence collections.

The bill would require the Department of Child Support Services to submit to the Legislature the analysis described above, on or before March 31, 2003, and to include in the analysis its recommendations for improving efficiency in the collection of child support.

*The people of the State of California do enact as follows:*

SECTION 1. (a) The Legislature finds and declares the following:

(1) The California Court of Appeal held in *Dupont v. Dupont* (2001) 88 Cal.App.4th 192, that a child support order which calculates the amount of past due support owed under a prior order and sets a monthly



amount to reduce the past due support constitutes a new installment judgment.

(2) The decision in Dupont has resulted in disparate application of the rules regarding accrual of interest from order to order, court to court, and county to county for the purpose of calculating interest under Section 685.020 of the Code of Civil Procedure.

(3) It is therefore the intent of the Legislature to abrogate the holding of the California Court of Appeal in Dupont v. Dupont, to reaffirm that the legislative intent is that no support order or notice issued, which sets forth the amount of support owed for prior periods of time or establishes a periodic payment to liquidate the support owed for prior periods, be considered a money judgment for the purposes of subdivision (b) of Section 685.020 of the Code of Civil Procedure. It is further the intent of the Legislature to ensure the consistent treatment of parents and their support obligations, and to allow the Department of Child Support Services to address the issue of interest as part of a comprehensive approach to maximize collections for families.

(b) (1) The Legislature further finds that the Department of Child Support Services is completing, pursuant to subdivision (b) of Section 17602 of the Family Code, an analytic evaluation of the current amount of uncollected child support debt and the factors that may influence collections. The analysis will address the type and amount of child support owed, and how and why the debts have accrued. The analysis will include comprehensive, programwide recommendations for strategies to increase collections on arrearages and prevent the accumulation on arrearages. Included in this analysis will be an examination of the effect interest on child support obligations has on collections and efforts to achieve self-sufficiency.

(2) The Department of Child Support Services shall submit to the Legislature the analysis prepared pursuant to subdivision (b) of Section 17602 of the Family Code, including recommendations for improving the efficient collection of child support, on or before March 31, 2003.

SEC. 2. Section 155 of the Family Code is amended to read:

155. "Support order" means a judgment or order of support in favor of an obligee, whether temporary or final, or subject to modification, termination, or remission, regardless of the kind of action or proceeding in which it is entered. For the purposes of Section 685.020 of the Code of Civil Procedure, only the initial support order, whether temporary or final, whether or not the order is contained in a judgment, shall be considered an installment judgment. No support order or other order or notice issued, which sets forth the amount of support owed for prior periods of time or establishes a periodic payment to liquidate the support owed for prior periods, shall be considered a money judgment for



purposes of subdivision (b) of Section 685.020 of the Code of Civil Procedure.

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