

AMENDED IN ASSEMBLY JULY 11, 2001

AMENDED IN ASSEMBLY JUNE 27, 2001

AMENDED IN SENATE JUNE 4, 2001

AMENDED IN SENATE MAY 2, 2001

SENATE BILL

No. 943

**Introduced by Committee on Judiciary (Senators Escutia
(Chair), Kuehl, O'Connell, Peace, and Sher)**

February 23, 2001

An act to amend Sections 3751.5, 3767, 7571, 17304, 17306, 17404, 17525, 17714, 17800, and 17804 of the Family Code, and to amend Section 903.7 of the Welfare and Institutions Code, relating to child support, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 943, as amended, Committee on Judiciary. Child support: health insurance coverage.

Existing law requires, in a case where a parent is enrolled in health insurance coverage but fails to apply to obtain coverage of a child as required by a court or administrative order, that the employer or insurer enroll the child under the health coverage upon presentation of the court order or request by the district attorney, the other parent or person having custody of the child, or the Medi-Cal program. Existing law also requires, in any case in which health insurance is provided to a child pursuant to a court order or administrative order, for the insurer to provide certain information, as specified, to the district attorney. In addition, an employer or other person providing health insurance must provide evidence of coverage and any information necessary for a child

to obtain benefits through the coverage to the district attorney when requested by the district attorney.

This bill would change all references from the district attorney to the local child support agency and make other technical and related administrative changes.

Existing law sets forth provisions governing administrative procedures relating to the enforcement of child support. Among other provisions, existing law requires the Department of Child Support Services to adopt regulations implementing the statewide use of uniform forms, policies, and procedures for the enforcement of child support by July 1, 2001.

This bill would extend that date to July 1, 2002, and make related changes.

Existing law requires each local child support agency to maintain a complaint resolution process and to provide a written resolution of a complaint within 30 days of receiving the complaint.

This bill would authorize the director of a local child support agency to extend that period for resolution of a complaint an additional 30 days.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 3751.5 of the Family Code is amended
2 to read:

3 3751.5. (a) Notwithstanding any other provision of law, an
4 employer or insurer shall not deny enrollment of a child under the
5 health insurance coverage of a child’s parent on any of the
6 following grounds:

- 7 (1) The child was born out of wedlock.
- 8 (2) The child is not claimed as a dependent on the parent’s
9 federal income tax return.
- 10 (3) The child does not reside with the parent or within the
11 insurer’s service area.

12 (b) Notwithstanding any other provision of law, in any case in
13 which a parent is required by a court or administrative order to
14 provide health insurance coverage for a child and the parent is
15 eligible for family health coverage through an employer or an



1 insurer, the employer or insurer shall do all of the following, as
2 applicable:

3 (1) Permit the parent to enroll under health insurance coverage
4 any child who is otherwise eligible to enroll for that coverage,
5 without regard to any enrollment period restrictions.

6 (2) If the parent is enrolled in health insurance coverage but
7 fails to apply to obtain coverage of the child, enroll that child under
8 the health coverage upon presentation of the court order or request
9 by the local child support agency, the other parent or person having
10 custody of the child, or the Medi-Cal program.

11 (3) The employer or insurer shall not disenroll or eliminate
12 coverage of a child unless either of the following applies:

13 (A) The employer has eliminated family health insurance
14 coverage for all of the employer's employees.

15 (B) The employer or insurer is provided with satisfactory
16 written evidence that either of the following apply:

17 (i) The court order or administrative order is no longer in effect
18 or is terminated pursuant to Section 3770.

19 (ii) The child is or will be enrolled in comparable health
20 insurance coverage through another insurer that will take effect not
21 later than the effective date of the child's disenrollment.

22 (c) In any case in which health insurance coverage is provided
23 for a child pursuant to a court or administrative order, the insurer
24 shall do all of the following:

25 (1) Provide any information, including, but not limited to, the
26 health insurance membership or identification card regarding the
27 child, the evidence of coverage and disclosure form, and any other
28 information provided to the covered parent about the child's health
29 care coverage to the noncovered parent having custody of the child
30 or any other person having custody of the child and to the local
31 child support agency when requested by the local child support
32 agency.

33 (2) Permit the noncovered parent or person having custody of
34 the child, or a provider with the approval of the noncovered parent
35 or person having custody, to submit claims for covered services
36 without the approval of the covered parent.

37 (3) Make payment on claims submitted in accordance with
38 subparagraph (2) directly to the noncovered parent or person
39 having custody, the provider, or to the Medi-Cal program.
40 Payment on claims for services provided to the child shall be made



1 to the covered parent for claims submitted or paid by the covered
2 parent.

3 (d) For purposes of this section, “insurer” includes every
4 health care service plan, self-insured welfare benefit plan,
5 including those regulated pursuant to the Employee Retirement
6 Income Security Act of 1974 (29 U.S.C. Sec. 1001, et seq.),
7 self-funded employer plan, disability insurer, nonprofit hospital
8 service plan, labor union trust fund, employer, and any other
9 similar plan, insurer, or entity offering a health coverage plan.

10 (e) For purposes of this section, “person having custody of the
11 child” is defined as a legal guardian, a caregiver who is authorized
12 to enroll the child in school or to authorize medical care for the
13 child pursuant to Section 6550, or a person with whom the child
14 resides.

15 (f) For purposes of this section, “employer” has the meaning
16 provided in Section 5210.

17 (g) For purposes of this section, the insurer shall notify the
18 covered parent and noncovered parent having custody of the child
19 or any other person having custody of the child in writing at any
20 time that health insurance for the child is terminated.

21 (h) The requirements of subdivision (g) shall not apply unless
22 the court, employer, or person having custody of the child provides
23 the insurer with one of the following:

24 (1) A qualified medical child support order that meets the
25 requirements of subdivision (a) of Section 1169 of Title 29 of the
26 United States Code.

27 (2) A health insurance coverage assignment or assignment
28 order made pursuant to Section 3761.

29 (3) A national medical support notice made pursuant to Section
30 3773.

31 (i) The noncovered parent or person having custody of the child
32 may contact the insurer, by telephone or in writing, and request
33 information about the health insurance coverage for the child.
34 Upon request of the noncovered parent or person having custody
35 of the child, the insurer shall provide the requested information
36 that is specific to the health insurance coverage for the child.

37 SEC. 2. Section 3767 of the Family Code is amended to read:
38 3767. The employer or other person providing health
39 insurance shall do all of the following:



1 (a) Notify the applicant for the assignment order or notice of
2 assignment of the commencement date of the coverage of the
3 child.

4 (b) Provide evidence of coverage and any information
5 necessary for the child to obtain benefits through the coverage to
6 both parents or the person having custody of the child and to the
7 local child support agency when requested by the local child
8 support agency.

9 (c) Upon request by the parents or person having custody of the
10 child, provide all forms and other documentation necessary for the
11 purpose of submitting claims to the insurance carrier which the
12 employer or other person providing health insurance usually
13 provides to insureds.

14 SEC. 3. Section 7571 of the Family Code is amended to read:

15 7571. (a) On and after January 1, 1995, upon the event of a
16 live birth, prior to an unmarried mother leaving any hospital, the
17 person responsible for registering live births under Section 102405
18 of the Health and Safety Code shall provide to the natural mother
19 and shall attempt to provide, at the place of birth, to the man
20 identified by the natural mother as the natural father, a voluntary
21 declaration of paternity together with the written materials
22 described in Section 7572. Staff in the hospital shall witness the
23 signatures of parents signing a voluntary declaration of paternity
24 and shall forward the signed declaration to the Department of
25 Child Support Services within 20 days of the date the declaration
26 was signed. A copy of the declaration shall be made available to
27 each of the attesting parents.

28 (b) No health care provider shall be subject to any civil,
29 criminal, or administrative liability for any negligent act or
30 omission relative to the accuracy of the information provided, or
31 for filing the declaration with the appropriate state or local
32 agencies.

33 (c) The local child support agency shall pay the sum of ten
34 dollars (\$10) to birthing hospitals and other entities that provide
35 prenatal services for each completed declaration of paternity that
36 is filed with the Department of Child Support Services, provided
37 that the local child support agency and the hospital or other entity
38 providing prenatal services has entered into a written agreement
39 that specifies the terms and conditions for the payment as required
40 by federal law.



1 (d) If the declaration is not registered by the person responsible
2 for registering live births at the hospital, it may be completed by
3 the attesting parents, notarized, and mailed to the Department of
4 Child Support Services at any time after the child's birth.

5 (e) Prenatal clinics shall offer prospective parents the
6 opportunity to sign a voluntary declaration of paternity. In order
7 to be paid for their services as provided in subdivision (c), prenatal
8 clinics must ensure that the form is witnessed and forwarded to the
9 Department of Child Support Services within 20 days of the date
10 the declaration was signed.

11 (f) Declarations shall be made available without charge at all
12 local child support agency offices, offices of local registrars of
13 births and deaths, courts, and county welfare departments within
14 this state. Staff in these offices shall witness the signatures of
15 parents wishing to sign a voluntary declaration of paternity and
16 shall be responsible for forwarding the signed declaration to the
17 Department of Child Support Services within 20 days of the date
18 the declaration was signed.

19 (g) The Department of Child Support Services, at its option,
20 may pay the sum of ten dollars (\$10) to local registrars of births
21 and deaths, county welfare departments, or courts for each
22 completed declaration of paternity that is witnessed by staff in
23 these offices and filed with the Department of Child Support
24 Services. In order to receive payment, the Department of Child
25 Support Services and the entity shall enter into a written agreement
26 that specifies the terms and conditions for payment as required by
27 federal law. The Department of Child Support Services shall study
28 the effect of the ten dollar (\$10) payment on obtaining completed
29 voluntary declaration of paternity forms and shall report to the
30 Legislature on any recommendations to change the ten dollar
31 (\$10) optional payment, if appropriate, by January 1, 2000.

32 (h) The Department of Child Support Services and local child
33 support agencies shall publicize the availability of the
34 declarations. The local child support agency shall make the
35 declaration, together with the written materials described in
36 subdivision (a) of Section 7572, available upon request to any
37 parent and any agency or organization that is required to offer
38 parents the opportunity to sign a voluntary declaration of paternity.
39 The local child support agency shall also provide qualified staff to



1 answer parents' questions regarding the declaration and the
2 process of establishing paternity.

3 (i) Copies of the declaration *and any rescissions* filed with the
4 Department of Child Support Services shall be made available
5 only to the parents, the child, the local child support agency, the
6 county welfare department, the county counsel, the State
7 Department of Health Services, and the courts.

8 (j) Publicly funded or licensed health clinics, pediatric offices,
9 Head Start programs, child care centers, social services providers,
10 prisons, and schools may offer parents the opportunity to sign a
11 voluntary declaration of paternity. In order to be paid for their
12 services as provided in subdivision (c), publicly funded or licensed
13 health clinics, pediatric offices, Head Start programs, child care
14 centers, social services providers, prisons, and schools shall ensure
15 that the form is witnessed and forwarded to the Department of
16 Child Support Services.

17 (k) Any agency or organization required to offer parents the
18 opportunity to sign a voluntary declaration of paternity shall also
19 identify parents who are willing to sign, but were unavailable
20 when the child was born. The organization shall then contact these
21 parents within 10 days and again offer the parent the opportunity
22 to sign a voluntary declaration of paternity.

23 SEC. 4. Section 17304 of the Family Code is amended to read:
24 17304. To address the concerns stated by the Legislature in
25 Section 17303, each county shall establish a new county
26 department of child support services. Each department is also
27 referred to in this division as the local child support agency. The
28 local child support agency shall be separate and independent from
29 any other county department and shall be responsible for promptly
30 and effectively establishing, modifying, and enforcing child
31 support obligations, including medical support, enforcing spousal
32 support orders established by a court of competent jurisdiction,
33 and determining paternity in the case of a child born out of
34 wedlock. The local child support agency shall refer all cases
35 requiring criminal enforcement services to the district attorney and
36 the district attorney shall prosecute those cases, as appropriate. If
37 a district attorney fails to comply with this section, the director
38 shall notify the Attorney General and the Attorney General shall
39 take appropriate action to secure compliance. The director shall be
40 responsible for implementing and administering all aspects of the



1 state plan that direct the functions to be performed by the local
2 child support agencies relating to their Title IV-D operations. In
3 developing the new system, all of the following shall apply:

4 (a) The director shall negotiate and enter into cooperative
5 agreements with county and state agencies to carry out the
6 requirements of the state plan and provide services relating to the
7 establishment of paternity or the establishment, modification, or
8 enforcement of child support obligations as required pursuant to
9 Section 654 of Title 42 of the United States Code. The cooperative
10 agreements shall require that the local child support agencies are
11 reasonably accessible to the citizens of each county and are visible
12 and accountable to the public for their activities. The director, in
13 consultation with the impacted counties, may consolidate the local
14 child support agencies, or any function of the agencies, in more
15 than one county into a single local child support agency, if the
16 director determines that the consolidation will increase the
17 efficiency of the state Title IV-D program and each county has at
18 least one local child support office accessible to the public.

19 (b) The director shall have direct oversight and supervision of
20 the Title IV-D operations of the local child support agency, and no
21 other local or state agency shall have any authority over the local
22 child support agency as to any function relating to its Title IV-D
23 operations. The local child support agency shall be responsible for
24 the performance of child support enforcement activities required
25 by law and regulation in a manner prescribed by the department.
26 The administrator of the local child support agency shall be
27 responsible for reporting to and responding to the director on all
28 aspects of the child support program.

29 (c) Nothing in this section prohibits the local child support
30 agency, with the prior approval of the director, from entering into
31 cooperative arrangements with other county departments, as
32 necessary to carry out the responsibilities imposed by this section
33 pursuant to plans of cooperation submitted to the department and
34 approved by the director. The local child support agency may not
35 enter into a cooperative agreement or contract with any county
36 department or independently elected official, including the office
37 of the district attorney, to run, supervise, manage, or oversee the
38 Title IV-D functions of the local child support agency. Until
39 September 1, 2004, the local child support agency may enter into
40 a cooperative agreement or contract of restricted scope and



1 duration with a district attorney to utilize individual attorneys as
2 necessary to carry out limited attorney services. Any cooperative
3 agreement or contract for the attorney services shall be subject to
4 approval by the department and contingent upon a written finding
5 by the department that either the relatively small size of the local
6 child support agency program, or other serious programmatic
7 needs, arising as a result of the transition make it most efficient and
8 cost-effective to contract for limited attorney services. The
9 department shall ensure that any cooperative agreement or
10 contract for attorney services provides that all attorneys be
11 supervised by, and report directly to, the local child support
12 agency, and comply with all state and federal child support laws
13 and regulations. The office of the Legislative Analyst shall review
14 and assess the efficiency and effectiveness of ~~any such~~ *that*
15 cooperative agreement or contract, and shall report its findings to
16 the Legislature by January 1, 2004. Within 60 days of receipt of
17 a plan of cooperation or contract from the local child support
18 agency, the department shall either approve the plan of
19 cooperation or contract or notify the agency that the plan is denied.
20 If an agency is notified that the plan is denied, the agency shall
21 have the opportunity to resubmit a revised plan of cooperation or
22 contract. If the director fails to respond in writing within 60 days
23 of receipt, the plan shall otherwise be deemed approved. Nothing
24 in this section shall be deemed an approval of program costs
25 relative to the cooperative arrangements entered into by the
26 counties with other county departments.

27 (d) In order to minimize the disruption of services provided and
28 to capitalize on the expertise of employees, the director shall create
29 a program that builds on existing staff and facilities to the fullest
30 extent possible. All assets of the family support division in the
31 district attorney's office shall become assets of the local child
32 support agency.

33 (e) (1) (A) Except as provided in subparagraph (B), all
34 employees and other personnel who serve the office of the district
35 attorney and perform child support collection and enforcement
36 activities shall become the employees and other personnel of the
37 county child support agency at their existing or equivalent
38 classifications, and at their existing salaries and benefits that
39 include, but are not limited to, accrued and unused vacation, sick
40 leave, personal leave, and health and pension plans.



1 (B) The IV-D director is entitled to become an employee of the
2 local child support agency or may be selected as the administrator
3 pursuant to the provisions of subdivision (f).

4 (2) Permanent employees of the office of the district attorney
5 on the effective date of this chapter shall be deemed qualified, and
6 no other qualifications shall be required for employment or
7 retention in the county child support agency. Probationary
8 employees on the effective date of this chapter shall retain their
9 probationary status and rights, and shall not be deemed to have
10 transferred, so as to require serving a new probationary period.

11 (3) Employment seniority of an employee of the office of the
12 district attorney on the effective date of this chapter shall be
13 counted toward seniority in the county child support agency and
14 all time spent in the same, equivalent, or higher classification shall
15 be counted toward classification seniority.

16 (4) An employee organization that has been recognized as the
17 representative or exclusive representative of an established
18 appropriate bargaining unit of employees who perform child
19 support collection and enforcement activities shall continue to be
20 recognized as the representative or exclusive representative of the
21 same employees of the county.

22 (5) An existing memorandum of understanding or agreement
23 between the county or the office of the district attorney and the
24 employee organization shall remain in effect and be fully binding
25 on the parties involved for the term of the agreement.

26 (6) Nothing in this section shall be construed to limit the rights
27 of employees or employee organizations to bargain in good faith
28 on matters of wages, hours, or other terms and conditions of
29 employment, including the negotiation of workplace standards
30 within the scope of bargaining as authorized by state and federal
31 law.

32 (7) (A) Except as provided in subparagraph (B), a public
33 agency shall, in implementing programs affected by the act of
34 addition or amendment of this chapter to this code, perform
35 program functions exclusively through the use of employees
36 ~~employed in conformity with applicable merit system standards~~
37 ~~under Part 2.5 (commencing with Section 19800) of Division 5 of~~
38 ~~Title 2 of the Government Code. merit civil service employees of~~
39 *the public agency.*



1 (B) Prior to transition from the district attorney to the local
2 child support agency under Section 17305, the district attorney
3 may continue existing contracts and their renewals, as appropriate.
4 After the transition under Section 17305, any contracting out of
5 program functions shall be approved by the director consistent
6 with Section 31000 and following of the Government Code,
7 except as otherwise provided in subdivision (c) with regard to
8 attorney services. The director shall approve or disapprove a
9 proposal to contract out within 60 days. Failure of the director to
10 respond to a request to contract out within 60 days after receipt of
11 the request shall be deemed approval, unless the director submits
12 an extension to respond, which in no event shall be longer than 30
13 days.

14 (f) The administrator of the local child support agency shall be
15 an employee of the county selected by the board of supervisors, or
16 in the case of a city and county, selected by the mayor, pursuant to
17 the qualifications established by the department. The
18 administrator may hire staff, including attorneys, to fulfill the
19 functions required by the agency and in conformity with any
20 staffing requirements adopted by the department, including all
21 those set forth in Section 17306. All staff shall be employees of the
22 county and shall comply with all local, state, and federal child
23 support laws, regulations, and directives.

24 SEC. 5. Section 17306 of the Family Code is amended to read:

25 17306. (a) The Legislature finds and declares all of the
26 following:

27 (1) While the State Department of Social Services has had
28 statutory authority over the child support system, the locally
29 elected district attorneys have operated their county programs with
30 a great deal of autonomy.

31 (2) District attorneys have operated the child support programs
32 with different forms, procedures and priorities, making it difficult
33 to adequately evaluate and modify performance statewide.

34 (3) Problems collecting child support reflect a fundamental
35 lack of leadership and accountability in the collection program.
36 These management problems have cost California taxpayers and
37 families billions of dollars.

38 (b) The director shall develop uniform forms, policies and
39 procedures to be employed statewide by all local child support
40 agencies. Pursuant to this subdivision, the director shall:



- 1 (1) Adopt uniform procedures and forms.
- 2 (2) Establish standard caseworker to case staffing ratios,
3 adjusted as appropriate to meet the varying needs of local
4 programs.
- 5 (3) Establish standard attorney-to-caseworker ratios, adjusted
6 as appropriate to meet the varying needs of local programs.
- 7 (4) Institute a consistent statewide policy on the
8 appropriateness of closing cases to ensure that, without relying
9 solely on federal minimum requirements, all cases are fully and
10 pragmatically pursued for collections prior to closing.
- 11 (5) Evaluate the best practices for the establishment,
12 enforcement, and collection of child support, for the purpose of
13 determining which practices should be implemented statewide in
14 an effort to improve performance by local child support agencies.
15 In evaluating the best practices, the director shall review existing
16 practices in better performing counties within California, as well
17 as practices implemented by other state Title IV-D programs
18 nationwide.
- 19 (6) Evaluate the best practices for the management of effective
20 child support enforcement operations for the purpose of
21 determining what management structure should be implemented
22 statewide in an effort to improve the establishment, enforcement,
23 and collection of child support by local child support agencies,
24 including an examination of the need for attorneys in management
25 level positions. In evaluating the best practices, the director shall
26 review existing practices in better performing counties within
27 California, as well as practices implemented by other state Title
28 IV-D programs nationwide.
- 29 (7) Set priorities for the use of specific enforcement
30 mechanisms for use by both the local child support agency and the
31 Franchise Tax Board. As part of establishing these priorities, the
32 director shall set forth caseload processing priorities to target
33 enforcement efforts and services in a way that will maximize
34 collections and avoid welfare dependency.
- 35 (8) Develop uniform training protocols, require periodic
36 training of all child support staff, and conduct training sessions as
37 appropriate.
- 38 (9) Review and approve annual budgets submitted by the local
39 child support agencies to ensure each local child support agency
40 operates an effective and efficient program that complies with all



1 federal and state laws, regulations, and directives, including the
2 directive to hire sufficient staff.

3 (c) The director shall submit any forms intended for use in
4 court proceedings to the Judicial Council for approval at least six
5 months prior to the implementation of the use of the forms.

6 (d) In adopting the forms, policies, and procedures, the director
7 shall consult with the California Family Support Council, the
8 California State Association of Counties, labor organizations,
9 custodial and noncustodial parent advocates, child support
10 commissioners, family law facilitators, and the appropriate
11 committees of the Legislature.

12 (e) (1) Notwithstanding the provisions of the Administrative
13 Procedure Act, Chapter 3.5 (commencing with Section 11340) of
14 Part 1 of Division 3 of Title 2 of the Government Code, through
15 June 30, 2002, the department may implement the applicable
16 provisions of this division through family support division letters
17 or similar instructions from the director.

18 (2) The department shall adopt regulations implementing the
19 forms, policies, and procedures established pursuant to this section
20 not later than July 1, 2002. The director may delay implementation
21 of any of these regulations in any county for such time as the
22 director deems necessary for the smooth transition and efficient
23 operation of a local child support agency, but implementation shall
24 not be delayed beyond the time at which the transition to the new
25 county department of child support services is completed. The
26 department may adopt regulations to implement this division in
27 accordance with the Administrative Procedure Act. The adoption
28 of any emergency regulation filed with the Office of
29 Administrative Law on or before January 1, 2003, shall be deemed
30 to be an emergency and necessary for the immediate preservation
31 of the public peace, health, and safety or general welfare. These
32 emergency regulations shall remain in effect for no more than 180
33 days.

34 SEC. 6. Section 17404 of the Family Code is amended to read:
35 17404. (a) Notwithstanding any other statute, in any action
36 brought by the local child support agency for the support of a
37 minor child or children, the action may be prosecuted in the name
38 of the county on behalf of the child, children, or a parent of the
39 child or children. The parent who has requested or is receiving
40 support enforcement services of the local child support agency



1 shall not be a necessary party to the action but may be subpoenaed
2 as a witness. Except as provided in subdivision (e), in an action
3 under this section there shall be no joinder of actions, or
4 coordination of actions, or cross-complaints, and the issues shall
5 be limited strictly to the question of parentage, if applicable, and
6 child support, including an order for medical support. A final
7 determination of parentage may be made in any action under this
8 section as an incident to obtaining an order for support. An action
9 for support or parentage pursuant to this section shall not be
10 delayed or stayed because of the pendency of any other action
11 between the parties.

12 (b) Judgment in an action brought pursuant to this section, and
13 in an action brought pursuant to Section 17402, if at issue, may be
14 rendered pursuant to a noticed motion, that shall inform the
15 defendant that in order to exercise his or her right to trial, he or she
16 must appear at the hearing on the motion.

17 If the defendant appears at the hearing on the motion, the court
18 shall inquire of the defendant if he or she desires to subpoena
19 evidence and witnesses, if parentage is at issue and genetic tests
20 have not already been conducted whether he or she desires genetic
21 tests, and if he or she desires a trial. If the defendant's answer is in
22 the affirmative, a continuance shall be granted to allow the
23 defendant to exercise those rights. A continuance shall not
24 postpone the hearing to more than 90 days from the date of service
25 of the motion. If a continuance is granted, the court may make an
26 order for temporary support without prejudice to the right of the
27 court to make an order for temporary support as otherwise allowed
28 by law.

29 (c) In any action to enforce a spousal support order the action
30 may be pled in the name of the county in the same manner as an
31 action to establish a child support obligation. The same restrictions
32 on joinder of actions, coordination of actions, cross-complaints,
33 and delay because of the pendency of any other action as relates
34 to actions to establish a child support obligation shall also apply
35 to actions to enforce a spousal support order.

36 (d) Nothing contained in this section shall be construed to
37 prevent the parties from bringing an independent action under
38 other provisions of this code and litigating the issues of support,
39 custody, visitation, or protective orders. In that event, any support,
40 custody, visitation, or protective order issued by the court in an



1 action pursuant to this section shall be filed in the action
2 commenced under the other provisions of this code and shall
3 continue in effect until modified by a subsequent order of the
4 court. To the extent that the orders conflict, the court order last
5 issued shall supersede all other orders and be binding upon all
6 parties in that action.

7 (e) (1) After a support order, including a temporary support
8 order and an order for medical support only, has been entered in
9 an action brought pursuant to this section, the parent who has
10 requested or is receiving support enforcement services of the local
11 child support agency shall become a party to the action brought
12 pursuant to this section, only in the manner and to the extent
13 provided by this section, and only for the purposes allowed by this
14 section.

15 (2) Notice of the parent's status as a party shall be given to the
16 parent by the local child support agency in conjunction with the
17 notice required by subdivision (e) of Section 17406. The
18 complaint shall contain this notice. Service of the complaint on the
19 parent in compliance with Section 1013 of the Code of Civil
20 Procedure, or as otherwise provided by law, shall constitute
21 compliance with this section. In all actions commenced under the
22 procedures and forms in effect on or before December 31, 1996,
23 the parent who has requested or is receiving support enforcement
24 services of the local child support agency shall not become a party
25 to the action until he or she is joined as a party pursuant to an ex
26 parte application or noticed motion for joinder filed by the local
27 child support agency or a noticed motion filed by either parent.
28 The local child support agency shall serve a copy of any order for
29 joinder of a parent obtained by the local child support agency's
30 application on both parents in compliance with Section 1013 of the
31 Code of Civil Procedure.

32 (3) Once both parents are parties to an action brought pursuant
33 to this section in cases where Title IV-D services are currently
34 being provided, the local child support agency shall be required,
35 within five days of receipt, to mail the nonmoving party in the
36 action all pleadings relating solely to the support issue in the action
37 that have been served on the local child support agency by the
38 moving party in the action, as provided in subdivision (f) of
39 Section 17406. There shall be a rebuttable presumption that
40 service on the local child support agency consistent with the



1 provisions of this paragraph constitutes valid service on the
2 nonmoving party. Where this procedure is used to effectuate
3 service on the nonmoving party, the pleadings shall be served on
4 the local child support agency not less than 30 days prior to the
5 hearing.

6 (4) The parent who has requested or is receiving support
7 enforcement services of the local child support agency is a party
8 to an action brought under this section for issues relating to the
9 support, custody, and visitation of a child, and for restraining
10 orders, and for no other purpose. The local child support agency
11 shall not be required to serve or receive service of papers,
12 pleadings, or documents, or participate in, or attend any hearing
13 or proceeding relating to issues of custody or visitation, except as
14 otherwise required by law. Orders concerning custody and
15 visitation may be made in an action pursuant to this subdivision
16 only if orders concerning custody and visitation have not been
17 previously made by a court of competent jurisdiction in this state
18 or another state and the court has jurisdiction and is the proper
19 venue for custody and visitation determinations. All issues
20 regarding custody and visitation shall be heard and resolved in the
21 manner provided by this code. Except as otherwise provided by
22 law, the local child support agency shall control support and
23 parentage litigation brought pursuant to this section, and the
24 manner, method, and procedures used in establishing parentage
25 and in establishing and enforcing support obligations unless and
26 until the parent who requested or is receiving support enforcement
27 services has requested in writing that the local child support
28 agency close his or her case and the case has been closed in
29 accordance with state and federal regulation or policy.

30 (f) (1) A parent who has requested or is receiving support
31 enforcement services of the local child support agency may take
32 independent action to modify a support order made pursuant to this
33 section while support enforcement services are being provided by
34 the local child support agency. The parent shall serve the local
35 child support agency with notice of any action filed to modify the
36 support order and provide the local child support agency with a
37 copy of the modified order within 15 calendar days after the date
38 the order is issued.

39 (2) A parent who has requested or is receiving support
40 enforcement services of the local child support agency may take



1 independent action to enforce a support order made pursuant to
2 this section while support enforcement services are being provided
3 by the local child support agency with the written consent of the
4 local child support agency. At least 30 days prior to filing an
5 independent enforcement action, the parent shall provide the local
6 child support agency with written notice of the parent’s intent to
7 file an enforcement action that includes a description of the type
8 of enforcement action the parent intends to file. Within 30 days of
9 receiving the notice, the local child support agency shall either
10 provide written consent for the parent to proceed with the
11 independent enforcement action or notify the parent that the local
12 child support agency objects to the parent filing the proposed
13 independent enforcement action. The local child support agency
14 may object only if the local child support agency is currently using
15 an administrative or judicial method to enforce the support
16 obligation or if the proposed independent enforcement action
17 would interfere with an investigation being conducted by the local
18 child support agency. If the local child support agency does not
19 respond to the parent’s written notice within 30 days, the local
20 child support agency shall be deemed to have given consent.

21 (3) The court shall order that all payments of support shall be
22 made to the local child support agency in any action filed under this
23 section by the parent who has requested, or is receiving, support
24 enforcement services of the local child support agency unless
25 support enforcement services have been terminated by the local
26 child support agency by case closure as provided by state and
27 federal law. Any order obtained by a parent prior to support
28 enforcement services being terminated in which the local child
29 support agency did not receive proper notice pursuant to this
30 section shall be voidable upon the motion of the local child support
31 agency.

32 (g) Any notice from the local child support agency requesting
33 a meeting with the support obligor for any purpose authorized
34 under this section shall contain a statement advising the support
35 obligor of his or her right to have an attorney present at the
36 meeting.

37 (h) For the purpose of this section, “a parent who is receiving
38 support enforcement services” includes a parent who has assigned
39 his or her rights to support pursuant to Section 11477 of the
40 Welfare and Institutions Code.



1 (i) The Judicial Council shall develop forms to implement this
2 section.

3 SEC. 7. Section 17525 of the Family Code is amended to read:

4 17525. (a) Whenever a state or local governmental agency
5 issues a notice of support delinquency, the notice shall state the
6 date upon which the amount of the delinquency was calculated,
7 and shall notify the obligor that the amount calculated may, or may
8 not, include accrued interest. This requirement shall not be
9 imposed until the local child support agency has instituted the
10 California Child Support Automation System defined in Section
11 10081 of the Welfare and Institutions Code. The notice shall
12 further notify the obligor of his or her right to an administrative
13 determination of arrears by requesting that the local child support
14 agency review the arrears, but that payments on arrears continue
15 to be due and payable unless and until the local child support
16 agency notifies the obligor otherwise. A state agency shall not be
17 required to suspend enforcement of any arrearages as a result of the
18 obligor's request for an administrative determination of arrears,
19 unless the agency receives notification of a suspension pursuant to
20 subdivision (b) of Section 17526.

21 (b) For purposes of this section, "notice of support
22 delinquency" means a notice issued to a support obligor that
23 includes a specific statement of the amount of delinquent support
24 due and payable.

25 (c) This section shall not require a state or local entity to
26 calculate the amount of a support delinquency, except as otherwise
27 required by law.

28 SEC. 8. Section 17714 of the Family Code is amended to read:

29 17714. (a) (1) Any funds paid to a county pursuant to this
30 chapter prior to June 30, 1999, which exceed the county's cost of
31 administering the child support program of the local child support
32 agency pursuant to Section 17400 to that date, hereafter referred
33 to as "excess funds," shall be expended by the county only upon
34 that program. All these excess funds shall be deposited by the
35 county into a special fund established by the county for this
36 purpose.

37 (2) Performance incentive funds shall include, but not be
38 limited to, incentive funds paid pursuant to Section 17704, and
39 performance incentive funds paid pursuant to Section 14124.93 of
40 the Welfare and Institutions Code and all interest earned on



1 deposits in the special fund. Performance incentive funds shall not
2 include funds paid pursuant to Section 17706. Performance
3 incentive funds shall be expended by the county only upon that
4 program. All performance incentive funds shall be deposited by
5 the county into a special fund established by the county for this
6 purpose.

7 (b) All excess funds and performance incentive funds shall be
8 expended by the county on the support enforcement program of the
9 local child support agency within two fiscal years following the
10 fiscal year of receipt of the funds by the county. Except as provided
11 in subdivision (c), any excess funds or performance incentive
12 funds paid pursuant to this chapter since July 1, 1992, that the
13 department determines have not been spent within the required
14 two-year period shall revert to the state General Fund, and shall be
15 distributed by the department only to counties that have complied
16 with this section. The formula for distribution shall be based on the
17 number of CalWORKs cases within each county.

18 (c) A county that submits to the department a written plan
19 approved by that county's local child support agency for the
20 expenditure of excess funds or performance incentive funds shall
21 be exempted from the requirements of subdivision (b), if the
22 department determines that the expenditure will be cost-effective,
23 will maximize federal funds, and the expenditure plan will require
24 more than the time provided for in subdivision (b) to expend the
25 funds. Once the department approves a plan pursuant to this
26 subdivision, funds received by a county and designated for an
27 expenditure in the plan shall not be expended by the county for any
28 other purpose.

29 (d) Nothing in this section shall be construed to nullify the
30 recovery and reversion to the General Fund of unspent incentive
31 funds as provided in Section 6 of Chapter 479 of the Statutes of
32 1999.

33 SEC. 9. Section 17800 of the Family Code is amended to read:

34 17800. Each local child support agency shall maintain a
35 complaint resolution process. The department shall specify by
36 regulation, no later than July 1, 2001, uniform forms and
37 procedures that each local child support agency shall use in
38 resolving all complaints received from custodial and noncustodial
39 parents. A complaint shall be made within 90 days after the
40 custodial or noncustodial parent affected knew or should have



1 known of the child support action complained of. The local child
2 support agency shall provide a written resolution of the complaint
3 within 30 days of the receipt of the complaint. The director of the
4 local child support agency may extend the period for resolution of
5 the complaint an additional 30 days in accordance with the
6 regulations adopted pursuant to Section 17804.

7 SEC. 10. Section 17804 of the Family Code is amended to
8 read:

9 17804. Each local child support agency shall establish the
10 complaint resolution process specified in Section 17800. The
11 department shall implement the state hearing requirements
12 specified in Section 17801 no later than July 1, 2001.

13 SEC. 11. Section 903.7 of the Welfare and Institutions Code
14 is amended to read:

15 903.7. (a) There is in the State Treasury the Foster Children
16 and Parent Training Fund, the moneys contained in which shall be
17 used exclusively for the purposes set forth in this section.

18 (b) For each fiscal year beginning with fiscal year 1981–82,
19 except as provided in Sections 15200.1, 15200.2, 15200.3,
20 15200.8, and 15200.81, and Section 17704 of the Family Code, the
21 Department of Child Support Services shall determine the amount
22 equivalent to the state share of collections attributable to the
23 enforcement of parental fiscal liability pursuant to Sections 903,
24 903.4, and 903.5. On July 1, 1982, and every three months
25 thereafter, the department shall notify the Chancellor of the
26 Community Colleges, the Department of Finance, and the
27 Superintendent of Public Instruction of the above-specified
28 amount. The Department of Child Support Services shall
29 authorize the quarterly transfer of any portion of this amount for
30 any particular fiscal year exceeding three million seven hundred
31 fifty thousand dollars (\$3,750,000) to the Treasurer for deposit in
32 the Foster Children and Parent Training Fund.

33 (c) If sufficient moneys are available in the Foster Children and
34 Parent Training Fund, up to three million dollars (\$3,000,000)
35 shall be allocated for the support of foster parent training programs
36 conducted in community colleges. The maximum amount
37 authorized to be allocated pursuant to this subdivision shall be
38 adjusted annually by a cost-of-living increase each year based on
39 the percentage given to discretionary education programs. Funds
40 for the training program shall be provided in a separate budget item



1 in that portion of the Budget Act pertaining to the Chancellor of
2 the California Community Colleges, to be deposited in a separate
3 bank account by the Chancellor of the California Community
4 Colleges.

5 The chancellor shall use these funds exclusively for foster
6 parent training, as specified by the chancellor in consultation with
7 the California State Foster Parents Association and the State
8 Department of Social Services.

9 The plans for each foster parent training program shall include
10 the provision of training to facilitate the development of foster
11 family homes and small family homes to care for no more than six
12 children who have special mental, emotional, developmental, or
13 physical needs.

14 The State Department of Social Services shall facilitate the
15 participation of county welfare departments in the foster parent
16 training program. The California State Foster Parents Association,
17 or the local chapters thereof, and the State Department of Social
18 Services shall identify training participants and shall advise the
19 chancellor on the form, content, and methodology of the training
20 program. Funds shall be paid monthly to the foster parent training
21 program until the maximum amount of funds authorized to be
22 expended for that program is expended. No more than 10 percent
23 or seventy-five thousand dollars (\$75,000) of these moneys,
24 whichever is greater, shall be used for administrative purposes; of
25 the 10 percent or seventy-five thousand dollars (\$75,000), no more
26 than ten thousand dollars (\$10,000) shall be expended to
27 reimburse the State Department of Social Services for its services
28 pursuant to this paragraph.

29 (d) Beginning with fiscal year 1983–84, and each fiscal year
30 thereafter, after all allocations for foster parent training in
31 community colleges have been made, any moneys remaining in
32 the Foster Children and Parent Training Fund may be allocated for
33 foster children services programs pursuant to Chapter 11.3
34 (commencing with Section 42920) of Part 24 of the Education
35 Code.

36 (e) The Controller shall transfer moneys from the Foster
37 Children and Parent Training Fund to the Chancellor of the
38 California Community Colleges and the Superintendent of Public
39 Instruction as necessary to fulfill the requirements of subdivisions
40 (c) and (d).



1 After the maximum amount authorized in any fiscal year has
2 been transferred to the Chancellor of the California Community
3 Colleges and the Superintendent of Public Instruction, the
4 Controller shall transfer any remaining funds to the General Fund
5 for expenditure for any public purpose.

6 *SEC. 12. This act is an urgency statute necessary for the*
7 *immediate preservation of the public peace, health, or safety*
8 *within the meaning of Article IV of the Constitution and shall go*
9 *into immediate effect. The facts constituting the necessity are:*

10 *To ensure immediate implementation of provisions clarifying*
11 *procedures for the enforcement of child support, it is necessary that*
12 *this act take effect immediately.*

