

AMENDED IN SENATE MAY 24, 2004
AMENDED IN ASSEMBLY JANUARY 15, 2004
CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1704

Introduced by Committee on Judiciary (Corbett (Chair), Harman (Vice Chair), Dutra, Hancock, Jackson, Laird, Longville, Montanez, Steinberg, and Vargas)

February 26, 2003

~~An act to amend Section 27282 of the Government Code~~ *An act to amend Section 724.060 of the Code of Civil Procedure, to amend Sections 4014, 4202, 5002, 17400, 17406, 17432, and 17500 of, and to add Section 5003 to, the Family Code, to amend Section 27282 of the Government Code, and to amend Section 19271.6 of the Revenue and Taxation Code, relating to family law.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1704, as amended, Committee on Judiciary. Family law: ~~recorded documents~~ *local child support agencies.*

(1) Existing law specifies the information to be contained in an acknowledgment of satisfaction of judgment.

This bill would authorize a local child support agency director or his or her designee to execute and acknowledge an acknowledgment of satisfaction of judgment if the agency has been providing child support services, as specified, to be recorded pursuant to paragraph (1).

(2) Existing law sets forth the required informational contents of judgments for paternity and orders for child support.

This bill would make those requirements inapplicable in cases in which a local child support agency is providing child support services, and would make related changes.

(3) Existing law authorizes a local child support agency to serve a respondent with a form of a proposed judgment specifying his or her presumed income if the actual income is not known to the agency.

This bill would revise the determination of that presumed income.

(4) Existing law authorizes hearings regarding support orders that involve an out-of-state party to be conducted by telephone conference or other remote means.

This bill would extend this authorization to instances in which both parents reside in California, and would require the Judicial Council to adopt rules of court regarding such hearings on or before July 1, 2005.

(5) Existing law provides that once a parent has requested or is receiving support enforcement services, a local child support agency or the Attorney General is required to serve on a parent all child support pleadings served on the agency, as specified.

This bill would impose a state-mandated local program by extending this requirement to paternity pleadings served on a local child support agency. The bill would also apply to paternity pleadings served on the Attorney General.

(6) Existing law authorizes a court, on terms that may be just, to relieve a defendant from that part of a judgment or order concerning the amount of child support to be paid in an action filed by a local child support agency.

This bill would specify that a court may set aside that part of the judgment or order, and require the Judicial Council to revise related forms effective July 1, 2005.

(7) Existing law authorizes certain documents to be recorded without acknowledgment, certificate of acknowledgment, or further proof.

This bill would authorize to be recorded under these provisions a notice of support judgment and other specified documents completed and recorded by a local child support agency or a state agency acting pursuant to specified provisions of the federal Social Security Act.

(8) Existing law authorizes a support obligor to apply from a claim of exemption from a levy by the Franchise Tax Board, as specified.

This bill would limit that authorization to specified instances in which the support obligor is in compliance with scheduled payments on child support arrearages.



(9) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

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

1 SECTION 1. *Section 724.060 of the Code of Civil Procedure*
2 *is amended to read:*

3 724.060. (a) An acknowledgment of satisfaction of
4 judgment shall contain the following information:

5 (1) The title of the court.

6 (2) The cause and number of the action.

7 (3) The names and addresses of the judgment creditor, the
8 judgment debtor, and the assignee of record if any. If an abstract
9 of the judgment has been recorded in any county, the judgment
10 debtor's name shall appear on the acknowledgment of satisfaction
11 of judgment as it appears on the abstract of judgment.

12 (4) The date of entry of judgment and of any renewals of the
13 judgment and where entered in the records of the court.

14 (5) A statement either that the judgment is satisfied in full or
15 that the judgment creditor has accepted payment or performance
16 other than that specified in the judgment in full satisfaction of the
17 judgment.

18 (6) A statement whether an abstract of the judgment has been
19 recorded in any county and, if so, a statement of each county where
20 the abstract has been recorded and the book and page of the county
21 records where the abstract has been recorded, and a notice that the
22 acknowledgment of satisfaction of judgment (or a court clerk's
23 certificate of satisfaction of judgment) will have to be recorded
24 with the county recorder of each county where the abstract of



1 judgment has been recorded in order to release the judgment lien
2 on real property in that county.

3 (7) A statement whether a notice of judgment lien has been
4 filed in the office of the Secretary of State and, if such a notice has
5 been filed, a statement of the file number of such notice, and a
6 notice that the acknowledgment of satisfaction of judgment (or a
7 court clerk's certificate of satisfaction of judgment) will have to be
8 filed in that office in order to terminate the judgment lien on
9 personal property.

10 (b) The acknowledgment of satisfaction of judgment shall be
11 made in the manner of an acknowledgment of a conveyance of real
12 property.

13 (c) The acknowledgment of satisfaction of judgment shall be
14 executed and acknowledged by one of the following:

15 (1) The judgment creditor.

16 (2) The assignee of record.

17 (3) The attorney for the judgment creditor or assignee of record
18 unless a revocation of the attorney's authority is filed.

19 (4) *The local child support agency director or his or her*
20 *designee, if the local child support agency has been providing*
21 *child support services pursuant to Section 17400 of the Family*
22 *Code. The acknowledgement of satisfaction of judgment may be*
23 *recorded by the local child support agency pursuant to Section*
24 *27282 of the Government Code.*

25 SEC. 2. Section 4014 of the Family Code is amended to read:

26 4014. (a) Any order for child support issued or modified
27 pursuant to this chapter shall include a provision requiring the
28 obligor and child support obligee to notify the other parent or, if
29 the order requires payment through an agency designated under
30 Title IV-D of the Social Security Act (42 U.S.C. Sec. 651, et seq.),
31 the agency named in the order, of the name and address of his or
32 her current employer.

33 (b) *The requirements set forth in this subdivision apply only in*
34 *cases in which the local child support agency is not providing child*
35 *support services pursuant to Section 17400. To the extent required*
36 *by federal law, and subject to applicable confidentiality provisions*
37 *of state or federal law, any judgment for paternity and any order*
38 *for child support entered or modified pursuant to any provision of*
39 *law shall include a provision requiring the child support obligor*
40 *and obligee to file with the court all of the following information:*



- 1 (1) Residential and mailing address.
- 2 (2) Social security number.
- 3 (3) Telephone number.
- 4 (4) Driver's license number.
- 5 (5) Name, address, and telephone number of the employer.
- 6 (6) Any other information prescribed by the Judicial Council.

7 The judgment or order shall specify that each parent is
8 responsible for providing his or her own information, that the
9 information must be filed with the court within 10 days of the court
10 order, and that new or different information must be filed with the
11 court within 10 days after any event causing a change in the
12 previously provided information.

13 (c) ~~Once~~ *Except for cases in which the local child support*
14 *agency is not providing child support services pursuant to Section*
15 *17400, once* the child support registry, as described in Section
16 16576 of the Welfare and Institutions Code is operational, any
17 judgment for paternity and any order for child support entered or
18 modified pursuant to any provision of law shall include a provision
19 requiring the child support obligor and obligee to file and keep
20 updated the information specified in subdivision (b) with the child
21 support registry.

22 (d) The Judicial Council shall develop forms to implement this
23 section. The forms shall be developed so as not to delay the
24 implementation of the Statewide Child Support Registry
25 described in Section 16576 of the Welfare and Institutions Code
26 and shall be available no later than 30 days prior to the
27 implementation of the Statewide Child Support Registry.

28 *SEC. 3. Section 4202 of the Family Code is amended to read:*

29 4202. (a) Notwithstanding any other provision of law, in a
30 proceeding where the custodial parent resides in one county and
31 the parent ordered to pay support resides in another county, the
32 court may direct payment to be made to the county officer
33 designated by the court for those purposes in the county of
34 residence of the custodial parent, and may direct the local child
35 support agency of either county to enforce the order.

36 (b) ~~Civil enforcement by the local child support agency of the~~
37 ~~county of residence of the custodial parent, where the order is in~~
38 ~~the county of the noncustodial parent or any other county, may be~~
39 ~~brought in accordance with Section 4848.~~ If the court directs the
40 local child support agency of the county of residence of the



1 noncustodial parent to enforce the order, the expenses of the local
2 child support agency with respect to the enforcement is a charge
3 upon the county of residence of the noncustodial parent.

4 *SEC. 4. Section 5002 of the Family Code is amended to read:*

5 5002. (a) In an action pursuant to this chapter prosecuted by
6 the local child support agency or the Attorney General that is
7 initiated by service of summons and petition or other comparable
8 pleading, the respondent may also be served with a proposed
9 judgment consistent with the relief sought in the petition or other
10 comparable pleading. If the respondent's income or income
11 history is unknown to the local child support agency, the local child
12 support agency may serve a form of proposed judgment with the
13 petition and other documents on the respondent that shall inform
14 the respondent that income shall be presumed ~~in an amount that~~
15 ~~results in a court order equal to the minimum basic standard of~~
16 ~~adequate care for Region I provided in Sections 11452 and~~
17 ~~11452.018 of the Welfare and Institutions Code~~ *to be the amount*
18 *of the minimum wage, at 40 hours per week, established by the*
19 *Industrial Welfare Commission pursuant to Section 1182.11 of the*
20 *Labor Code*, unless information concerning the respondent's
21 income is provided to the court. The respondent shall also receive
22 notice that the proposed judgment will become effective if he or
23 she fails to file a response with the court within 30 days after
24 service.

25 (b) In any action pursuant to this chapter in which the judgment
26 was obtained pursuant to presumed income, as set forth in this
27 section, the court may ~~relieve the respondent from~~ *set aside* that
28 part of the judgment or order concerning the amount of child
29 support to be paid *on the grounds specified and* in the manner set
30 forth in Section 17432.

31 *SEC. 5. Section 5003 is added to the Family Code, to read:*

32 5003. *The Judicial Council shall adopt court rules*
33 *implementing the provisions of subdivision (f) of Section 4930*
34 *regarding hearings by telephone, audiovisual means, or other*
35 *electronic means on or before July 1, 2005. Hearings by telephone,*
36 *audiovisual means, or other electronic means shall also be*
37 *permitted in child support cases in which the local child support*
38 *agency is providing child support services, but both of the parents*
39 *reside in California, provided that the hearings are conducted in*



1 *accordance with the rules of court adopted pursuant to this*
2 *section.*

3 *SEC. 6. Section 17400 of the Family Code is amended to read:*

4 17400. (a) Each county shall maintain a local child support
5 agency, as specified in Section 17304, that shall have the
6 responsibility for promptly and effectively establishing,
7 modifying, and enforcing child support obligations, including
8 medical support, enforcing spousal support orders established by
9 a court of competent jurisdiction, and determining paternity in the
10 case of a child born out of wedlock. The local child support agency
11 shall take appropriate action, including criminal action in
12 cooperation with the district attorneys, to establish, modify, and
13 enforce child support and, when appropriate, enforce spousal
14 support orders when the child is receiving public assistance,
15 including Medi-Cal, and, when requested, shall take the same
16 actions on behalf of a child who is not receiving public assistance,
17 including Medi-Cal.

18 (b) Notwithstanding Sections 25203 and 26529 of the
19 Government Code, attorneys employed within the local child
20 support agency may direct, control, and prosecute civil actions and
21 proceedings in the name of the county in support of child support
22 activities of the Department of Child Support Services and the
23 local child support agency.

24 (c) Actions brought by the local child support agency to
25 establish paternity or child support or to enforce child support
26 obligations shall be completed within the time limits set forth by
27 federal law. The local child support agency's responsibility applies
28 to spousal support only where the spousal support obligation has
29 been reduced to an order of a court of competent jurisdiction. In
30 any action brought for modification or revocation of an order that
31 is being enforced under Title IV-D of the Social Security Act (42
32 U.S.C. Sec. 651 et seq.), the effective date of the modification or
33 revocation shall be as prescribed by federal law (42 U.S.C. Sec.
34 666(a)(9)), or any subsequent date.

35 (d) (1) The Judicial Council, in consultation with the
36 department and representatives of the California Family Support
37 Council, the Senate Committee on Judiciary, the Assembly
38 Committee on Judiciary, and a legal services organization
39 providing representation on child support matters, shall develop
40 simplified summons, complaint, and answer forms for any action



1 for support brought pursuant to this section or Section 17404. The
2 Judicial Council may combine the summons and complaint in a
3 single form.

4 (2) The simplified complaint form shall provide notice of the
5 amount of child support that is sought pursuant to the guidelines
6 set forth in Article 2 (commencing with Section 4050) of Chapter
7 2 of Part 2 of Division 9 based upon the income or income history
8 of the support obligor as known to the local child support agency.
9 If the support obligor's income or income history is unknown to
10 the local child support agency, the complaint shall inform the
11 support obligor that income shall be presumed to be the amount of
12 the minimum wage, at 40 hours per week, established by the
13 Industrial Welfare Commission pursuant to Section ~~1181.11~~
14 *1182.11* of the Labor Code unless information concerning the
15 support obligor's income is provided to the court. The complaint
16 form shall be accompanied by a proposed judgment. The
17 complaint form shall include a notice to the support obligor that
18 the proposed judgment will become effective if he or she fails to
19 file an answer with the court within 30 days of service. Except as
20 provided in paragraph (2) of subdivision (a) of Section 17402, if
21 the proposed judgment is entered by the court, the support order
22 in the proposed judgment shall be effective as of the first day of the
23 month following the filing of the complaint.

24 (3) (A) The simplified answer form shall be written in simple
25 English and shall permit a defendant to answer and raise defenses
26 by checking applicable boxes. The answer form shall include
27 instructions for completion of the form and instructions for proper
28 filing of the answer.

29 (B) The answer form shall be accompanied by a blank income
30 and expense declaration or simplified financial statement and
31 instructions on how to complete the financial forms. The answer
32 form shall direct the defendant to file the completed income and
33 expense declaration or simplified financial statement with the
34 answer, but shall state that the answer will be accepted by a court
35 without the income and expense declaration or simplified financial
36 statement.

37 (C) The clerk of the court shall accept and file answers, income
38 and expense declarations, and simplified financial statements that
39 are completed by hand provided they are legible.



1 (4) (A) The simplified complaint form prepared pursuant to
2 this subdivision shall be used by the local child support agency or
3 the Attorney General in all cases brought under this section or
4 Section 17404.

5 (B) The simplified answer form prepared pursuant to this
6 subdivision shall be served on all defendants with the simplified
7 complaint. Failure to serve the simplified answer form on all
8 defendants shall not invalidate any judgment obtained. However,
9 failure to serve the answer form may be used as evidence in any
10 proceeding under Section 17432 of this code or Section 473 of the
11 Code of Civil Procedure.

12 (C) The Judicial Council shall add language to the
13 governmental summons, for use by the local child support agency
14 with the governmental complaint to establish parental relationship
15 and child support, informing defendants that a blank answer form
16 should have been received with the summons and additional
17 copies may be obtained from either the local child support agency
18 or the superior court clerk.

19 (e) In any action brought or enforcement proceedings instituted
20 by the local child support agency pursuant to this section for
21 payment of child or spousal support, an action to recover an
22 arrearage in support payments may be maintained by the local
23 child support agency at any time within the period otherwise
24 specified for the enforcement of a support judgment,
25 notwithstanding the fact that the child has attained the age of
26 majority.

27 (f) The county shall undertake an outreach program to inform
28 the public that the services described in subdivisions (a) to (c),
29 inclusive, are available to persons not receiving public assistance.
30 There shall be prominently displayed in every public area of every
31 office of the agencies established by this section a notice, in clear
32 and simple language prescribed by the Director of Child Support
33 Services, that the services provided in subdivisions (a) to (c),
34 inclusive, are provided to all individuals, whether or not they are
35 recipients of public assistance.

36 (g) (1) In any action to establish a child support order brought
37 by the local child support agency in the performance of duties
38 under this section, the local child support agency may make a
39 motion for an order effective during the pendency of that action,
40 for the support, maintenance, and education of the child or



1 children that are the subject of the action. This order shall be
2 referred to as an order for temporary support. This order has the
3 same force and effect as a like or similar order under this code.

4 (2) The local child support agency shall file a motion for an
5 order for temporary support within the following time limits:

6 (A) If the defendant is the mother, a presumed father under
7 Section 7611, or any father where the child is at least six months
8 old when the defendant files his or her answer, the time limit is 90
9 days after the defendant files an answer.

10 (B) In any other case where the defendant has filed an answer
11 prior to the birth of the child or not more than six months after the
12 birth of the child, then the time limit is nine months after the birth
13 of the child.

14 (3) If more than one child is the subject of the action, the
15 limitation on reimbursement shall apply only as to those children
16 whose parental relationship and age would bar recovery were a
17 separate action brought for support of that child or those children.

18 (4) If the local child support agency fails to file a motion for an
19 order for temporary support within time limits specified in this
20 section, the local child support agency shall be barred from
21 obtaining a judgment of reimbursement for any support provided
22 for that child during the period between the date the time limit
23 expired and the motion was filed, or, if no motion is filed, when
24 a final judgment is entered.

25 (5) Except as provided in Section 17304, nothing in this section
26 prohibits the local child support agency from entering into
27 cooperative arrangements with other county departments as
28 necessary to carry out the responsibilities imposed by this section
29 pursuant to plans of cooperation with the departments approved by
30 the Department of Child Support Services.

31 (6) Nothing in this section otherwise limits the ability of the
32 local child support agency from securing and enforcing orders for
33 support of a spouse or former spouse as authorized under any other
34 provision of law.

35 (h) As used in this article, “enforcing obligations” includes,
36 but is not limited to, any of the following:

37 (1) The use of all interception and notification systems
38 operated by the department for the purposes of aiding in the
39 enforcement of support obligations.



1 (2) The obtaining by the local child support agency of an initial
2 order for child support that may include medical support or that is
3 for medical support only, by civil or criminal process.

4 (3) The initiation of a motion or order to show cause to increase
5 an existing child support order, and the response to a motion or
6 order to show cause brought by an obligor parent to decrease an
7 existing child support order, or the initiation of a motion or order
8 to show cause to obtain an order for medical support, and the
9 response to a motion or order to show cause brought by an obligor
10 parent to decrease or terminate an existing medical support order,
11 without regard to whether the child is receiving public assistance.

12 (4) The response to a notice of motion or order to show cause
13 brought by an obligor parent to decrease an existing spousal
14 support order when the child or children are residing with the
15 obligee parent and the local child support agency is also enforcing
16 a related child support obligation owed to the obligee parent by the
17 same obligor.

18 (5) The ~~transfer~~ *referral* of child support delinquencies to the
19 Franchise Tax Board under subdivision (c) of Section 17500 in
20 support of the local child support agency.

21 (i) As used in this section, “out of wedlock” means that the
22 biological parents of the child were not married to each other at the
23 time of the child’s conception.

24 (j) (1) The local child support agency is the public agency
25 responsible for administering wage withholding for current
26 support for the purposes of Title IV-D of the Social Security Act
27 (42 U.S.C. Sec. 651 et seq.).

28 (2) Nothing in this section limits the authority of the local child
29 support agency granted by other sections of this code or otherwise
30 granted by law, ~~except to the extent that the law is inconsistent with~~
31 ~~the transfer of delinquent child support to the Franchise Tax Board.~~

32 (k) In the exercise of the authority granted under this article, the
33 local child support agency may intervene, pursuant to subdivision
34 (b) of Section 387 of the Code of Civil Procedure, by ex parte
35 application, in any action under this code, or other proceeding in
36 which child support is an issue or a reduction in spousal support
37 is sought. By notice of motion, order to show cause, or responsive
38 pleading served upon all parties to the action, the local child
39 support agency may request any relief that is appropriate that the
40 local child support agency is authorized to seek.



1 (l) The local child support agency shall comply with all
2 regulations and directives established by the department that set
3 time standards for responding to requests for assistance in locating
4 noncustodial parents, establishing paternity, establishing child
5 support awards, and collecting child support payments.

6 (m) As used in this article, medical support activities that the
7 local child support agency is authorized to perform are limited to
8 the following:

9 (1) The obtaining and enforcing of court orders for health
10 insurance coverage.

11 (2) Any other medical support activity mandated by federal law
12 or regulation.

13 (n) (1) Notwithstanding any other law, venue for an action or
14 proceeding under this division shall be determined as follows:

15 (A) Venue shall be in the superior court in the county that is
16 currently expending public assistance.

17 (B) If public assistance is not currently being expended, venue
18 shall be in the superior court in the county where the child who is
19 entitled to current support resides or is domiciled.

20 (C) If current support is no longer payable through, or
21 enforceable by, the local child support agency, venue shall be in the
22 superior court in the county that last provided public assistance for
23 actions to enforce arrearages assigned pursuant to Section 11477
24 of the Welfare and Institutions Code.

25 (D) If subparagraphs (A), (B), and (C) do not apply, venue shall
26 be in the superior court in the county of residence of the support
27 obligee.

28 (E) If the support obligee does not reside in California, and
29 subparagraphs (A), (B), (C), and (D) do not apply, venue shall be
30 in the superior court of the county of residence of the obligor.

31 (2) Notwithstanding paragraph (1), if the child becomes a
32 resident of another county after an action under this part has been
33 filed, venue may remain in the county where the action was filed
34 until the action is completed.

35 (o) The local child support agency of one county may appear
36 on behalf of the local child support agency of any other county in
37 an action or proceeding under this part.

38 *SEC. 7. Section 17406 of the Family Code is amended to read:*

39 17406. (a) In all actions involving paternity or support,
40 including, but not limited to, other proceedings under this code,



1 and under Division 9 (commencing with Section 10000) of the
2 Welfare and Institutions Code, the local child support agency and
3 the Attorney General represent the public interest in establishing,
4 modifying, and enforcing support obligations. No attorney-client
5 relationship shall be deemed to have been created between the
6 local child support agency or Attorney General and any person by
7 virtue of the action of the local child support agency or the
8 Attorney General in carrying out these statutory duties.

9 (b) Subdivision (a) is declaratory of existing law.

10 (c) In all requests for services of the local child support agency
11 or Attorney General pursuant to Section 17400 relating to actions
12 involving paternity or support, not later than the same day an
13 individual makes a request for these services in person, and not
14 later than five working days after either (1) a case is referred for
15 services from the county welfare department, (2) receipt of a
16 request by mail for an application for services, or (3) an individual
17 makes a request for services by telephone, the local child support
18 agency or Attorney General shall give notice to the individual
19 requesting services or on whose behalf services have been
20 requested that the local child support agency or Attorney General
21 does not represent the individual or the children who are the
22 subject of the case, that no attorney-client relationship exists
23 between the local child support agency or Attorney General and
24 those persons, and that no such representation or relationship shall
25 arise if the local child support agency or Attorney General
26 provides the services requested. Notice shall be in bold print and
27 in plain English and shall be translated into the language
28 understandable by the recipient when reasonable. The notice shall
29 include the advice that the absence of an attorney-client
30 relationship means that communications from the recipient are not
31 privileged and that the local child support agency or Attorney
32 General may provide support enforcement services to the other
33 parent in the future.

34 (d) The local child support agency or Attorney General shall
35 give the notice required pursuant to subdivision (c) to all recipients
36 of services under Section 17400 who have not otherwise been
37 provided that notice, not later than the date of the next annual
38 notice required under Section 11476.2 of the Welfare and
39 Institutions Code. This notice shall include notification to the
40 recipient of services under Section 17400 that the recipient may



1 inspect the clerk’s file at the office of the clerk of the court, and
2 that, upon request, the local child support agency, or, if
3 appropriate, the Attorney General, will furnish a copy of the most
4 recent order entered in the case.

5 (e) The local child support agency or, if appropriate, the
6 Attorney General shall serve a copy of the complaint for paternity
7 or support, or both, on recipients of support services under Section
8 17400, as specified in paragraph (2) of subdivision (e) of Section
9 17404. A notice shall accompany the complaint that informs the
10 recipient that the local child support agency or Attorney General
11 may enter into a stipulated order resolving the complaint, and that
12 the recipient shall assist the prosecuting attorney, by sending all
13 information on the noncustodial parent’s earnings and assets to the
14 prosecuting attorney.

15 (f) (1) (A) The local child support agency or Attorney
16 General shall provide written notice to recipients of services under
17 Section 17400 of the initial date and time, and purpose of every
18 hearing in a civil action for paternity or support.

19 (B) Once the parent who has requested or is receiving support
20 enforcement services becomes a party to the action pursuant to
21 subdivision (e) of Section 17404, in lieu of the above, the local
22 child support agency or Attorney General shall serve on a parent
23 all pleadings relating to *paternity or* support that have been served
24 on the local child support agency by the other parent. The pleading
25 shall be accompanied by a notice.

26 (C) The notice provided subject to subparagraphs (A) and (B)
27 shall include the following language:

28
29 **IMPORTANT NOTICE**
30

31
32 It may be important that you attend the hearing. The local
33 child support agency does not represent you or your children.
34 You may have information about the other parent, such as
35 information about his or her income or assets that will not be
36 presented to the court unless you attend the hearing. You have
37 the right to attend the hearing and to be heard in court and tell
38 the court what you think the court should do with the child
39 support order. This hearing could change your rights or your
40 children’s rights to support.



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(2) The notice shall state the purpose of the hearing or be attached to the motion or other pleading which caused the hearing to be scheduled.

(3) The notice shall be provided separate from all other material and shall be in at least 14-point type. The failure of the local child support agency or Attorney General to provide the notice required pursuant to subparagraph (A) of paragraph (1) shall does not affect the validity of any order.

(4) (A) The notice required pursuant to subparagraph (A) of paragraph (1) shall be provided not later than seven calendar days prior to the hearing, or, if the local child support agency or Attorney General receives notice of the hearing less than seven days prior to the hearing, within two days of the receipt by the local child support agency or Attorney General of the notice of the hearing.

(B) Service of the notice and the pleadings required pursuant to subparagraph (B) of paragraph (1) shall be completed not later than five days after receipt of the pleadings served on the local child support agency by the parent.

(5) The local child support agency or Attorney General shall, in order to implement this subdivision, make reasonable efforts to ensure that the local child support agency or Attorney General has current addresses for all parties to the child support action.

(g) The local child support agency or Attorney General shall give notice to recipients of services under Section 17400 of every order obtained by the local child support agency or Attorney General that establishes or modifies the support obligation for the recipient or the children who are the subject of the order, by sending a copy of the order to the recipient. The notice shall be made within the time specified by federal law after the order has been filed. The local child support agency or Attorney General shall also give notice to these recipients of every order obtained in any other jurisdiction that establishes or modifies the support obligation for the recipient or the children who are the subject of the order, and which is received by the local child support agency or Attorney General, by sending a copy of the order to the recipient within the timeframe specified by federal law after the local child support agency or Attorney General has received a copy of the order. In any action enforced under Chapter 6 (commencing with



1 Section 4900) of Part 5 of Division 9, the notice shall be made in
2 compliance with the requirements of that chapter. The failure of
3 the local child support agency or Attorney General to comply with
4 this subdivision ~~shall~~ *does* not affect the validity of any order.

5 (h) The local child support agency or Attorney General shall
6 give notice to the noncustodial parent against whom a civil action
7 is filed that the local child support agency or Attorney General is
8 not the attorney representing any individual, including, but not
9 limited to, the custodial parent, the child, or the noncustodial
10 parent.

11 (i) Nothing in this section shall be construed to preclude any
12 person who is receiving services under Section 17400 from filing
13 and prosecuting an independent action to establish, modify, and
14 enforce an order for current support on behalf of himself or herself
15 or a child if that person is not receiving public assistance.

16 (j) A person who is receiving services under Section 17400 but
17 who is not currently receiving public assistance on his or her own
18 behalf or on behalf of a child shall be asked to execute, or consent
19 to, any stipulation establishing or modifying a support order in any
20 action in which that person is named as a party, before the
21 stipulation is filed. The local child support agency or Attorney
22 General ~~shall~~ *may* not submit to the court for approval a stipulation
23 to establish or modify a support order in the action without first
24 obtaining the signatures of all parties to the action, their attorneys
25 of record, or persons authorized to act on their behalf. Any
26 stipulation approved by the court in violation of this subdivision
27 shall be void.

28 (k) The local child support agency or Attorney General ~~shall~~
29 *may* not enter into a stipulation that reduces the amount of past due
30 support, including interest and penalties accrued pursuant to an
31 order of current support, on behalf of a person who is receiving
32 support enforcement services under Section 17400 and who is
33 owed support arrearages that exceed unreimbursed public
34 assistance paid to the recipient of the support enforcement
35 services, without first obtaining the consent of the person who is
36 receiving services under Section 17400 on his or her own behalf
37 or on behalf of the child.

38 (l) The notices required in this section shall be provided in the
39 following manner:



1 (1) In all cases in which the person receiving services under
2 Section 17400 resides in California, notice shall be provided by
3 mailing the item by first-class mail to the last known address of,
4 or personally delivering the item to, that person.

5 (2) In all actions enforced under Chapter 6 (commencing with
6 Section 4900) of Part 5 of Division 9, unless otherwise specified,
7 notice shall be provided by mailing the item by first-class mail to
8 the initiating court.

9 (m) Notwithstanding any other provision of this section, the
10 notices provided for pursuant to subdivisions (c) to (g), inclusive,
11 ~~shall~~ are not be required in foster care cases.

12 *SEC. 8. Section 17432 of the Family Code is amended to read:*

13 17432. (a) In any action filed by the local child support
14 agency pursuant to Section 17400, 17402, or 17404, the court may,
15 on any terms that may be just, ~~relieve the defendant from~~ *set aside*
16 that part of the judgment or order concerning the amount of child
17 support to be paid. This relief may be granted after the six-month
18 time limit of Section 473 of the Code of Civil Procedure has
19 elapsed, based on the grounds, and within the time limits, specified
20 in this section.

21 (b) This section shall apply only to judgments or orders for
22 support that were based upon presumed income as specified in
23 subdivision (d) of Section 17400 and that were entered after the
24 entry of the default of the defendant under Section 17430. This
25 section shall apply only to the amount of support ordered and not
26 that portion of the judgment or order concerning the determination
27 of parentage.

28 (c) The court may set aside the child support order contained
29 in a judgment described in subdivision (b) if the defendant's
30 income was substantially different for the period of time during
31 which judgment was effective compared with the income the
32 defendant was presumed to have. A "substantial difference"
33 means that amount of income that would result in an order for
34 support that deviates from the order entered by default by 10
35 percent or more.

36 (d) Application for relief under this section shall be filed
37 together with an income and expense declaration or simplified
38 financial statement or other information concerning income for
39 any relevant years. The Judicial Council may combine the



1 application for relief under this section and the proposed answer
2 into a single form.

3 (e) The burden of proving that the actual income of the
4 defendant deviated substantially from the presumed income shall
5 be on the party seeking to set aside the order.

6 (f) A motion for relief under this section shall be filed within
7 one year of the first collection of money by the local child support
8 agency or the obligee. The one-year time period shall run from the
9 date that the local child support agency receives the first collection.

10 (g) Within three months from the date the local child support
11 agency receives the first collection for any order established using
12 presumed income, the local child support agency shall check all
13 appropriate sources for income information, and if income
14 information exists, the local child support agency shall make a
15 determination whether the order qualifies for set aside under this
16 section. If the order qualifies for set aside, the local child support
17 agency shall bring a motion for relief under this section.

18 (h) In all proceedings under this section, before granting relief,
19 the court shall consider the amount of time that has passed since
20 the entry of the order, the circumstances surrounding the
21 defendant's default, the relative hardship on the child or children
22 to whom the duty of support is owed, the caretaker parent, and the
23 defendant, and other equitable factors that the court deems
24 appropriate.

25 (i) If the court grants the relief requested, the court shall issue
26 a new child support order using the appropriate child support
27 guidelines currently in effect. The new order shall have the same
28 commencement date as the order set aside.

29 (j) The Judicial Council shall review and modify any relevant
30 forms for purposes of this section. Any modifications to the forms
31 shall be effective July 1, ~~2004~~ 2005. Prior to the implementation
32 of any modified Judicial Council forms, the local child support
33 agency or custodial parent may file any request to set aside a
34 default judgment under this section using Judicial Council Form
35 FL-680 entitled "Notice of Motion (Governmental)" and form
36 FL-684 entitled "Request for Order and Supporting Declaration
37 (Governmental)."

38 *SEC. 9. Section 17500 of the Family Code is amended to read:*

39 17500. (a) In carrying out its obligations under Title IV-D of
40 the Social Security Act (42 U.S.C. Sec. 651 et seq.), the local child



1 support agency shall have the responsibility for promptly and
2 effectively collecting and enforcing child support obligations.

3 (b) The local child support agency is the public agency
4 responsible for administering wage withholding for the purposes
5 of Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et
6 seq.).

7 (c) Except as provided in paragraph (3) of subdivision (e) of
8 Section 19271 of the Revenue and Taxation Code, the local child
9 support agency shall ~~transfer~~ *refer* child support delinquencies to
10 the Franchise Tax Board for collection purposes in the form and
11 manner and at the time prescribed by the Franchise Tax Board.
12 Collection shall be made by the Franchise Tax Board in accordance
13 with Section 19271 of the Revenue and Taxation Code. For
14 purposes of this subdivision, “child support delinquency” means
15 an arrearage or otherwise past due amount that accrues when an
16 obligor fails to make any court-ordered support payment when
17 due, which is more than 60 days past due, and the aggregate
18 amount of which exceeds one hundred dollars (\$100).

19 (1) If a child support delinquency exists at the time a case is
20 opened by the local child support agency, the responsibility for the
21 collection of the child support delinquency shall be ~~transferred~~
22 *referred* to the Franchise Tax Board no later than 30 days after
23 receipt of the case by the local child support agency.

24 (2) The ~~transfer referral~~ of child support delinquencies
25 required by this subdivision is ~~in support for the purposes of~~
26 *supplementing the collection efforts* of the local child support
27 agency *and* for purposes of efficient and effective child support
28 enforcement and shall not in any manner transfer any
29 responsibilities the local child support agency may have and any
30 responsibilities the Department of Child Support Services may
31 have as the Title IV-D agency.

32 *SEC. 10.* Section 27282 of the Government Code is amended
33 to read:

34 27282. (a) The following documents may be recorded
35 without acknowledgment, certificate of acknowledgment, or
36 further proof:

37 (1) A judgment affecting the title to or possession of real
38 property, authenticated by the certificate of the clerk of the court
39 in which the judgment was rendered.



1 (2) A notice of support judgment, an interstate lien, a release of
2 lien, or any other document completed and recorded by a local
3 child support agency or a state agency acting pursuant to Title IV-D
4 of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

5 (3) A notice of location of mining claim.

6 (4) Certificates of amounts of taxes, interest and penalties due,
7 notices of state tax liens and extensions thereof executed by the
8 state, county, or city taxing agencies or officials pursuant to
9 Chapter 14 (commencing with Section 7150) of Division 7 of Title
10 1 of the Government Code, and Sections 2191.3, 2191.4, and
11 11495 of the Revenue and Taxation Code, and releases, partial
12 releases, and subordinations executed pursuant to Chapter 14
13 (commencing with Section 7150) of Division 7 of Title 1 of the
14 Government Code, and Sections 2191.4, 11496, 14307, and 14308
15 of the Revenue and Taxation Code.

16 (5) Notices of lien for postponed property taxes executed
17 pursuant to Section 16182.

18 (6) A release, discharge, or subordination of a lien for
19 postponed property taxes as authorized by Chapter 6
20 (commencing with Section 16180) of Part 1 of Division 4 of Title
21 2.

22 (7) A fixture filing as defined by paragraph (40) of subdivision
23 (a) of Section 9102 of the Commercial Code.

24 (8) An order affecting title to or possession of real property
25 issued by a court in an action subject to Section 12527,
26 authenticated by the certificate of the clerk of the court in which
27 the order was issued or a copy of that order authenticated by a
28 declaration under penalty of perjury by the Attorney General or by
29 an assistant or deputy of the Attorney General attesting that the
30 contents of the copy are the same as the original order issued by
31 the court.

32 (9) A court certified copy of a satisfaction of judgment.

33 (10) A certificate of correction filed pursuant to Sections
34 66470 and 66472.1.

35 (b) Any document described in this section, from the time it is
36 filed with the recorder for record, is constructive notice of the
37 contents thereof to subsequent purchasers and mortgagees.

38 *SEC. 11. Section 19271.6 of the Revenue and Taxation Code*
39 *is amended to read:*



1 19271.6. (a) The Franchise Tax Board, through a cooperative
2 agreement with the Department of Child Support Services, and in
3 coordination with financial institutions doing business in this state,
4 shall operate a Financial Institution Match System utilizing
5 automated data exchanges to the maximum extent feasible. The
6 Financial Institution Match System shall be implemented pursuant
7 to guidelines prescribed by the Department of Child Support
8 Services and the Franchise Tax Board. These guidelines shall
9 include a structure by which financial institutions, or their
10 designated data processing agents, shall receive from the
11 Franchise Tax Board the file or files of past-due support obligors
12 compiled in accordance with subdivision (c), that the institution
13 shall match with its own list of accountholders to identify past-due
14 support obligor accountholders at the institution. To the extent
15 allowed by the federal Personal Responsibility and Work
16 Opportunity Reconciliation Act of 1996, the guidelines shall
17 include an option by which financial institutions without the
18 technical ability to process the data exchange, or without the
19 ability to employ a third-party data processor to process the data
20 exchange, may forward to the Franchise Tax Board a list of all
21 accountholders and their social security numbers, so that the
22 Franchise Tax Board shall match that list with the file or files of
23 past-due support obligors compiled in accordance with
24 subdivision (c).

25 (b) The Financial Institution Match System shall not be subject
26 to any limitation set forth in Chapter 20 (commencing with Section
27 7460) of Division 7 of Title 1 of the Government Code. However,
28 any use of the information provided pursuant to this section for any
29 purpose other than the enforcement and collection of a child
30 support delinquency, as set forth in Section 19271, shall be a
31 violation of Section 19542.

32 (c) (1) Each county shall compile a file of support obligors
33 with judgments and orders that are being enforced by local child
34 support agencies pursuant to Section 17400 of the Family Code,
35 and who are past due in the payment of their support obligations.
36 The file shall be compiled, updated, and forwarded to the
37 Franchise Tax Board, in accordance with the guidelines prescribed
38 by the Department of Child Support Services and the Franchise
39 Tax Board.



1 (2) The Department of Child Support Services, shall compile
2 a file of obligors with support arrearages from requests made by
3 other states for administrative enforcement in interstate cases, in
4 accordance with federal requirements (42 U.S.C. Sec.
5 666(a)(14)). This file shall be compiled and forwarded to the
6 Franchise Tax Board in accordance with the guidelines prescribed
7 by the Department of Child Support Services and the Franchise
8 Tax Board. The file shall include, to the extent possible, the
9 obligor's address.

10 (d) To effectuate the Financial Institution Match System,
11 financial institutions subject to this section shall do all of the
12 following:

13 (1) Provide to the Franchise Tax Board on a quarterly basis the
14 name, record address and other addresses, social security number
15 or other taxpayer identification number, and other identifying
16 information for each noncustodial parent who maintains an
17 account at the institution and who owes past-due support, as
18 identified by the Franchise Tax Board by name and social security
19 number or other taxpayer identification number.

20 (2) Except as provided in subdivision (j), in response to a notice
21 or order to withhold issued by the Franchise Tax Board, withhold
22 from any accounts of the obligor the amount of any past-due
23 support stated on the notice or order and transmit the amount to the
24 Franchise Tax Board in accordance with Section 18670 or
25 18670.5.

26 (e) Unless otherwise required by applicable law, a financial
27 institution furnishing a report or providing information to the
28 Franchise Tax Board pursuant to this section shall not disclose to
29 a depositor or an accountholder, or a codepositor or
30 coaccountholder, that the name, address, social security number,
31 or other taxpayer identification number or other identifying
32 information of that person has been received from or furnished to
33 the Franchise Tax Board.

34 (f) A financial institution shall incur no obligation or liability
35 to any person arising from any of the following:

36 (1) Furnishing information to the Franchise Tax Board as
37 required by this section.

38 (2) Failing to disclose to a depositor or accountholder that the
39 name, address, social security number, or other taxpayer
40 identification number or other identifying information of that



1 person was included in the data exchange with the Franchise Tax
2 Board required by this section.

3 (3) Withholding or transmitting any assets in response to a
4 notice or order to withhold issued by the Franchise Tax Board as
5 a result of the data exchange. This paragraph shall not preclude any
6 liability that may result if the financial institution does not comply
7 with subdivision (b) of Section 18674.

8 (4) Any other action taken in good faith to comply with the
9 requirements of this section.

10 (g) Information required to be submitted to the Franchise Tax
11 Board pursuant to this section shall only be used by the Franchise
12 Tax Board to collect past-due support pursuant to Section 19271.
13 If the Franchise Tax Board has issued an earnings withholding
14 order and the condition described in subparagraph (C) of
15 paragraph (1) of subdivision (i) exists with respect to the obligor,
16 the Franchise Tax Board shall not use the information it receives
17 under this section to collect the past-due support from that obligor.

18 (1) With respect to files compiled under paragraph (1) of
19 subdivision (c), the Franchise Tax Board shall forward to the
20 counties, in accordance with guidelines prescribed by the
21 Department of Child Support Services and the Franchise Tax
22 Board, information obtained from the financial institutions
23 pursuant to this section. No county shall use this information for
24 directly levying on any account. Each county shall keep the
25 information confidential as provided by Section 17212 of the
26 Family Code.

27 (2) With respect to files compiled under paragraph (2) of
28 subdivision (c), the amount collected by the Franchise Tax Board
29 shall be deposited and distributed to the referring state in
30 accordance with Section 19272.

31 (h) For those noncustodial parents owing past-due support for
32 which there is a match under paragraph (1) of subdivision (d), the
33 amount past due as indicated on the file or files compiled pursuant
34 to subdivision (c) at the time of the match shall be a delinquency
35 under this article for the purposes of the Franchise Tax Board
36 taking any collection action pursuant to Section 18670 or 18670.5.

37 (i) A child support delinquency need not be referred to the
38 Franchise Tax Board for collection if a jurisdiction outside this
39 state is enforcing the support order.



1 (j) (1) Each county shall notify the Franchise Tax Board upon
2 the occurrence of the circumstances described in the following
3 subparagraphs with respect to an obligor of past-due support:

4 (A) A court has ordered an obligor to make scheduled
5 payments on a child support arrearages obligation and the obligor
6 is in compliance with that order.

7 (B) An earnings assignment order or an order/notice to
8 withhold income that includes an amount for past-due support has
9 been served on the obligated parent's employer and earnings are
10 being withheld pursuant to the earnings assignment order or an
11 order/notice to withhold income.

12 (C) At least 50 percent of the obligated parent's earnings are
13 being withheld for support.

14 (2) Notwithstanding Section 704.070 of the Code of Civil
15 Procedure, if any of the conditions set forth in paragraph (1) exist,
16 the assets of an obligor held by a financial institution are subject
17 to levy as provided by paragraph (2) of subdivision (d). However,
18 the first three thousand five hundred dollars (\$3,500) of an
19 obligor's assets are exempt from collection under this subdivision
20 without the obligor having to file a claim of exemption.

21 (3) ~~An~~ *If any of the conditions set forth in paragraph (1) exist,*
22 *an* obligor may apply for a claim of exemption pursuant to Article
23 2 (commencing with Section 703.510) of Chapter 4 of Division 2
24 of Title 9 of Part 2 of the Code of Civil Procedure for an amount
25 that is less than or equal to the total amount levied. The sole basis
26 for a claim of exemption under this subdivision shall be the
27 financial hardship for the obligor and the obligor's dependents.

28 (4) For the purposes of a claim of exemption made pursuant to
29 paragraph (3), Section 688.030 of the Code of Civil Procedure
30 shall not apply.

31 (5) For claims of exemption made pursuant to paragraph (3),
32 the local child support agency responsible for enforcement of the
33 obligor's child support order shall be the levying officer for the
34 purpose of compliance with the provisions set forth in Article 2
35 (commencing with Section 703.510) of Chapter 4 of Division 2 of
36 Title 9 of Part 2 of the Code of Civil Procedure except for the
37 release of property required by subdivision (e) of Section 703.580
38 of the Code of Civil Procedure.

39 (6) The local child support agency shall notify the Franchise
40 Tax Board within two business days of the receipt of a claim of



1 exemption from an obligor. The Franchise Tax Board shall direct
2 the financial institution subject to the order to withhold to hold any
3 funds subject to the order pending notification by the Franchise
4 Tax Board to remit or release the amounts held.

5 (7) The superior court in the county in which the local child
6 support agency enforcing the support obligation is located shall
7 have jurisdiction to determine the amount of exemption to be
8 allowed. The court shall consider the needs of the obligor, the
9 obligee, and all persons the obligor is required to support, and all
10 other relevant circumstances in determining whether to allow any
11 exemption pursuant to this subdivision. The court shall give effect
12 to its determination by an order specifying the extent to which the
13 amount levied is exempt.

14 (8) Within two business days of receipt of an endorsed copy of
15 a court order issued pursuant to subdivision (e) of Section 703.580
16 of the Code of Civil Procedure, the local child support agency shall
17 provide the Franchise Tax Board with a copy of the order. The
18 Franchise Tax Board shall instruct the financial institution to remit
19 or release the obligor's funds in accordance with the court's order.

20 (k) For purposes of this section:

21 (1) "Account" means any demand deposit account, share or
22 share draft account, checking or negotiable withdrawal order
23 account, savings account, time deposit account, or a money market
24 mutual fund account, whether or not the account bears interest.

25 (2) "Financial institution" has the same meaning as defined in
26 Section 669A(d)(1) of Title 42 of the United States Code.

27 (3) "Past-due support" means any child support obligation that
28 is unpaid on the due date for payment.

29 (l) Out of any money received from the federal government for
30 the purpose of reimbursing financial institutions for their actual
31 and reasonable costs incurred in complying with this section, the
32 state shall reimburse those institutions. To the extent that money
33 is not provided by the federal government for that purpose, the
34 state shall not reimburse financial institutions for their costs in
35 complying with this section.

36 *SEC. 12. Notwithstanding Section 17610 of the Government*
37 *Code, if the Commission on State Mandates determines that this*
38 *act contains costs mandated by the state, reimbursement to local*
39 *agencies and school districts for those costs shall be made*
40 *pursuant to Part 7 (commencing with Section 17500) of Division*



1 *4 of Title 2 of the Government Code. If the statewide cost of the*
2 *claim for reimbursement does not exceed one million dollars*
3 *(\$1,000,000), reimbursement shall be made from the State*
4 *Mandates Claims Fund.*

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