

Assembly Bill No. 2358

CHAPTER 806

An act to amend Sections 5237, 17306, 17500, 17502, 17506, and 17522.5 of, and to add Section 17309.5 to, and Article 1.5 (commencing with Section 17450) to Chapter 2 of Division 17 of, the Family Code, to add Section 24351.5 to the Government Code, and to add Sections 19270 and 19276 to, and to repeal Article 5 (commencing with Section 19271) of Chapter 5 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, relating to child support.

[Approved by Governor September 27, 2004. Filed with Secretary of State September 27, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2358, Steinberg. Enforcement of support orders.

Existing law provides that the Franchise Tax Board shall collect child support delinquencies, as specified.

This bill would specify the procedure in cases in which child support payments cannot be delivered for a period of 45 days due to the failure of a child support obligee to notify specified entities of a change of address. The bill would require employers, as specified, to make child support payments to the State Disbursement Unit by electronic fund transfer. The bill would further implement an agreement pursuant to which the Department of Child Support Services shall assume responsibility for the collection of child support delinquencies from the Franchise Tax Board, as specified.

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

SECTION 1. Section 5237 of the Family Code is amended to read: 5237. (a) Except as provided in subdivisions (b) and (c), the obligee shall notify the employer of the obligor, by first-class mail, postage prepaid, of any change of address within a reasonable period of time after the change.

(b) Where payments have been ordered to be made to a county officer designated by the court, the obligee who is the parent, guardian, or other person entitled to receive payment through the designated county officer shall notify the designated county officer by first-class mail, postage prepaid, of any address change within a reasonable period of time after the change.

(c) If the obligee is receiving support payments from the State Disbursement Unit as required by Section 17309, the obligee shall notify the State Disbursement Unit instead of the employer of the obligor as provided in subdivision (a).

(d) (1) Except as set forth in paragraph (2), if the employer, designated county officer, or the State Disbursement Unit is unable to deliver payments under the assignment order for a period of six months due to the failure of the obligee to notify the employer, designated county officer, or State Disbursement Unit, of a change of address, the employer, designated county officer, or State Disbursement Unit shall not make any further payments under the assignment order and shall return all undeliverable payments to the obligor.

(2) If payments are being directed to the State Disbursement Unit pursuant to subdivision (e) of Section 5235, but the case is not otherwise receiving services from the Title IV-D agency, and the State Disbursement Unit is unable to deliver payments under the assignment order for a period of 45 days due to the failure of the obligee to notify the employer, designated county officer, or State Disbursement Unit of a change of address, the Title IV-D agency shall take the following actions:

(A) Immediately return the undeliverable payments to the obligor if the obligee cannot be located.

(B) Notify the employer to suspend withholding pursuant to the wage assignment until the employer or Title IV-D agency is notified of the obligee's whereabouts.

SEC. 2. Section 17306 of the Family Code is amended to read:

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

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

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

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

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

(1) Adopt uniform procedures and forms.



(2) Establish standard caseworker to case staffing ratios, adjusted as appropriate to meet the varying needs of local programs.

(3) Establish standard attorney to caseworker ratios, adjusted as appropriate to meet the varying needs of local programs.

(4) Institute a consistent statewide policy on the appropriateness of closing cases to ensure that, without relying solely on federal minimum requirements, all cases are fully and pragmatically pursued for collections prior to closing.

(5) Evaluate the best practices for the establishment, enforcement, and collection of child support, for the purpose of determining which practices should be implemented statewide in an effort to improve performance by local child support agencies. In evaluating the best practices, the director shall review existing practices in better performing counties within California, as well as practices implemented by other state Title IV-D programs nationwide.

(6) Evaluate the best practices for the management of effective child support enforcement operations for the purpose of determining what management structure should be implemented statewide in an effort to improve the establishment, enforcement, and collection of child support by local child support agencies, including an examination of the need for attorneys in management level positions. In evaluating the best practices, the director shall review existing practices in better performing counties within California, as well as practices implemented by other state Title IV-D programs nationwide.

(7) Set priorities for the use of specific enforcement mechanisms for use by both the local child support agency and the Franchise Tax Board. As part of establishing these priorities, the director shall set forth caseload processing priorities to target enforcement efforts and services in a way that will maximize collections and avoid welfare dependency.

(8) Develop uniform training protocols, require periodic training of all child support staff, and conduct training sessions as appropriate.

(9) Review and approve annual budgets submitted by the local child support agencies to ensure each local child support agency operates an effective and efficient program that complies with all federal and state laws, regulations, and directives, including the directive to hire sufficient staff.

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

(d) In adopting the forms, policies, and procedures, the director shall consult with the California Family Support Council, the California State Association of Counties, labor organizations, custodial and



noncustodial parent advocates, child support commissioners, family law facilitators, and the appropriate committees of the Legislature.

(e) (1) Notwithstanding the provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, through December 31, 2007, the department may implement the applicable provisions of this division through child support services letters or similar instructions from the director.

The department shall adopt regulations implementing the forms, policies, and procedures established pursuant to this section. The director may delay implementation of any of these regulations in any county for any time as the director deems necessary for the smooth transition and efficient operation of a local child support agency, but implementation shall not be delayed beyond the time at which the transition to the new county department of child support services is completed. The department may adopt regulations to implement this division in accordance with the Administrative Procedure Act. The adoption of any emergency regulation filed with the Office of Administrative Law on or before December 31, 2007, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare. These emergency regulations shall remain in effect for no more than 180 days.

(2) It is the intent of the Legislature that the amendments to paragraph (1) of this subdivision made by Assembly Bill 3032 of the 2001–02 Regular Session shall be retroactive to June 30, 2002.

SEC. 3. Section 17309.5 is added to the Family Code, to read:

17309.5. (a) An employer who is required to withhold and, by electronic fund transfer, pay tax pursuant to Section 19011 of the Revenue and Taxation Code or Section 13021 of the Unemployment Insurance Code, shall make child support payments to the State Disbursement Unit by electronic fund transfer. All child support payments required to be made to the State Disbursement Unit shall be remitted to the State Disbursement Unit by electronic fund transfer pursuant to Division 11 (commencing with Section 11101) of the Commercial Code.

(b) An employer not required to make payment to the State Disbursement Unit pursuant to paragraph (a), may elect to make payment by electronic fund transfer under the following conditions:

(1) The election shall be made in a form, and shall contain information, as prescribed by the Director of the Department of Child Support Services, and shall be subject to approval of the department.

(2) The election may be terminated upon written request to the Department of Child Support Services.



(c) For the purposes of this section:

(1) “Electronic fund transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic fund transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(2) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearinghouse Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(3) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(4) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(5) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic fund transfers pursuant to this section may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the department. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 4. Section 17500 of the Family Code is amended to read:

17500. (a) In carrying out its obligations under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), the department and the local child support agency shall have the responsibility for promptly and effectively collecting and enforcing child support obligations.

(b) The department and the local child support agency are the public agencies responsible for administering wage withholding for the



purposes of Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

(c) Except as provided in Section 17450, the local child support agency shall submit child support delinquencies to the department for purposes of supplementing the collection efforts of the local child support agencies. Submissions shall be in the form and manner and at the time prescribed by the department. Collection shall be made by the department in accordance with Section 17450. For purposes of this subdivision, “child support delinquency” means an arrearage or otherwise past due amount that accrues when an obligor fails to make any court-ordered support payment when due, which is more than 60 days past due, and the aggregate amount of which exceeds one hundred dollars (\$100).

(d) If a child support delinquency exists at the time a case is opened by the local child support agency, the responsibility for the collection of the child support delinquency shall be submitted to the department no later than 30 days after receipt of the case by the local child support agency.

SEC. 5. Section 17502 of the Family Code is amended to read:

17502. A local child support agency that is collecting child support payments on behalf of a child and who is unable to deliver the payments to the obligee because the local child support agency is unable to locate the obligee shall make all reasonable efforts to locate the obligee for a period of six months. If the local child support agency is unable to locate the obligee within the six-month period, it shall return the undeliverable payments to the obligor, with written notice advising the obligor that (a) the return of the funds does not relieve the obligor of the support order, and (b) the obligor should consider placing the funds aside for purposes of child support in case the obligee appears and seeks collection of the undistributed amounts. No interest shall accrue on any past-due child support amount for which the obligor made payment to the local child support agency for six consecutive months, or on any amounts due thereafter until the obligee is located, provided that the local child support agency returned the funds to the obligor because the local child support agency was unable to locate the obligee and, when the obligee was located, the obligor made full payment for all past-due child support amounts.

SEC. 6. Article 1.5 (commencing with Section 17450) is added to Chapter 2 of Division 17 of the Family Code, to read:



Article 1.5. Delinquent Child Support Obligations and Financial Institution Data Match

17450. (a) For purposes of this article:

(1) “Child support delinquency” means a delinquency defined in subdivision (c) of Section 17500.

(2) “Earnings” shall include the items described in Section 5206.

(b) (1) When a delinquency is submitted to the department pursuant to subdivision (c) of Section 17500, the amount of the child support delinquency shall be collected by the department in any manner authorized under state or federal law.

(2) Any compensation, fee, commission, expense, or any other fee for service incurred by the department in the collection of a child support delinquency authorized under this article shall not be an obligation of, or collected from, the obligated parent.

(c) (1) The department may return or allow a local child support agency to retain a child support delinquency for a specified purpose for collection where the department determines that the return or retention of the delinquency for the purpose so specified will enhance the collectibility of the delinquency. The department shall establish a process whereby a local child support agency may request and shall be allowed to withdraw, rescind, or otherwise recall the submittal of an account that has been submitted.

(2) If an obligor is disabled, meets the federal Supplemental Security Income resource test, and is receiving Supplemental Security Income/State Supplementary Payments (SSI/SSP), or, but for excess income as described in Section 416.1100 and following of Part 416 of Title 20 of the Code of Federal Regulations, would be eligible to receive as SSI/SSP, pursuant to Section 12200 of the Welfare and Institutions Code, and the obligor has supplied the local child support agency with proof of his or her eligibility for, and, if applicable, receipt of, SSI/SSP or Social Security Disability Insurance benefits, then the child support delinquency shall not be referred to the department for collection, and, if referred, shall be withdrawn, rescinded, or otherwise recalled from the department by the local child support agency. The department shall not take any collection action, or if the local child support agency has already taken collection action, shall cease collection actions in the case of a disabled obligor when the delinquency is withdrawn, rescinded, or otherwise recalled by the local child support agency in accordance with the process established as described in paragraph (1).

(d) It is the intent of the Legislature that when the California Child Support Automation System (CCSAS) is fully operational, any statutes that should be modified based upon the status of the system shall be



revised. During the development and implementation of CCSAS, the department, as the Title IV-D agency, may, through appropriate interagency agreement, delegate any and all of the functions or procedures specified in this article to the Franchise Tax Board. The Franchise Tax Board shall perform those functions or procedures as specified in Sections 19271 to 19275, inclusive, of the Revenue and Taxation Code until such time as the director, by letter to the executive officer of the Franchise Tax Board, revokes such delegation of Title IV-D functions. Sections 19271 to 19275, inclusive, of the Revenue and Taxation Code shall be effective for these purposes until the revocation of delegation to the Franchise Tax Board.

(e) Consistent with the development and implementation of the California Child Support Automation System (CCSAS), the Franchise Tax Board and the department shall enter into a letter of agreement and an interagency agreement whereby the department shall assume responsibility for collection of child support delinquencies and the Financial Institution Data Match System as set forth in this article. The letter of agreement and interagency agreement shall, at a minimum, set forth all of the following:

(1) Contingent upon the enactment of the Budget Act, and staffing authorization from the Department of Finance and the Department of Personnel Administration, the department shall assume responsibility for leadership and staffing of the collection of child support delinquencies and the Financial Institution Data Match System.

(2) All employees and other personnel who staff or provide support for the collection of child support delinquencies and the Financial Institution Data Match System at the Franchise Tax Board shall become the employees of the department at their existing or equivalent classification, salaries, and benefits.

(3) Any other provisions necessary to ensure continuity of function and meet or exceed existing levels of service, including, but not limited to, agreements for continued use of automated systems used by the Franchise Tax Board to locate child support obligors and their assets.

17452. (a) Subject to state and federal privacy and information security laws, the Franchise Tax Board shall make tax return information available to the department, upon request, for the purpose of collecting child support delinquencies referred to the department.

(b) For purposes of this article, the Franchise Tax Board shall incur no obligation or liability to any person arising from any of the following:

(1) Furnishing information to the department as required by this section.

(2) Failing to disclose to a taxpayer or accountholder that the name, address, social security number, or other taxpayer identification number



or other identifying information of that person was included in the data exchange with the department required by this section.

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

(c) It is the intent of the Legislature that any provision of income tax return information by the Franchise Tax Board to the department pursuant to this article shall be done in accordance with the privacy and confidential information laws of this state and of the United States, and to the satisfaction of the Franchise Tax Board.

17453. (a) The department, in coordination with financial institutions doing business in this state, shall operate a Financial Institution Data Match System utilizing automated data exchanges to the maximum extent feasible. The Financial Institution Data Match System shall be implemented and maintained pursuant to guidelines prescribed by the department. These guidelines shall include a structure by which financial institutions, or their designated data-processing agents, shall receive from the department the file or files of past-due support obligors compiled in accordance with subdivision (c), so that the institution shall match with its own list of accountholders to identify past-due support obligor accountholders at the institution. To the extent allowed by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), the guidelines shall include an option by which financial institutions without the technical ability to process the data exchange, or without the ability to employ a third-party data processor to process the data exchange, may forward to the department a list of all accountholders and their social security numbers, so that the department shall match that list with the file or files of past-due support obligors compiled in accordance with subdivision (c).

(b) The Financial Institution Data Match System shall not be subject to any limitation set forth in Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code. However, any use of the information provided pursuant to this section for any purpose other than the enforcement and collection of a child support delinquency, as set forth in Section 17450, shall be a violation of Section 17212.

(c) (1) Until implementation of the California Child Support Automation System, each county shall compile a file of support obligors with judgments and orders that are being enforced by local child support agencies pursuant to Section 17400, and who are past due in the payment of their support obligations. The file shall be compiled, updated, and forwarded to the department, in accordance with the guidelines prescribed by the department.

(2) The department shall compile a file of obligors with support arrearages from requests made by other states for administrative



enforcement in interstate cases, in accordance with federal requirements pursuant to paragraph 14 of subsection (a) of Section 666 of Title 42 of the United States Code. The file shall include, to the extent possible, the obligor's address.

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

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

(2) Except as provided in subdivision (j), in response to a notice or order to withhold issued by the department, withhold from any accounts of the obligor the amount of any past-due support stated on the notice or order and transmit the amount to the department in accordance with Section 17454.

(e) Unless otherwise required by applicable law, a financial institution furnishing a report or providing information to the department pursuant to this section shall not disclose to a depositor, accountholder, codepositor, or coaccountholder, that the name, address, social security number, or other taxpayer identification number or other identifying information of that person has been received from, or furnished to, the department.

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

(1) Furnishing information to the department as required by this section.

(2) Failing to disclose to a depositor, accountholder, codepositor, or coaccountholder, that the name, address, social security number, or other taxpayer identification number or other identifying information of that person was included in the data exchange with the department required by this section.

(3) Withholding or transmitting any assets in response to a notice or order to withhold issued by the department as a result of the data exchange. This paragraph shall not preclude any liability that may result if the financial institution does not comply with subdivision (b) of Section 17456.

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

(g) (1) With respect to files compiled under paragraph (1) of subdivision (c), the department shall forward to the counties, in accordance with guidelines prescribed by the department, information



obtained from the financial institutions pursuant to this section. No county shall use this information for directly levying on any account. Each county shall keep the information confidential as provided by Section 17212.

(2) With respect to files compiled under paragraph (2) of subdivision (c), the amount collected by the department shall be deposited and distributed to the referring state in accordance with Section 17458.

(h) For those noncustodial parents owing past-due support for which there is a match under paragraph (1) of subdivision (d), the amount past due as indicated on the file or files compiled pursuant to subdivision (c) at the time of the match shall be a delinquency under this article for the purposes of the department taking any collection action pursuant to Section 17454.

(i) A child support delinquency need not be referred to the department for collection if a jurisdiction outside this state is enforcing the support order.

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

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

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

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

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

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



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

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

(6) The local child support agency shall notify the department within two business days of the receipt of a claim of exemption from an obligor. The department shall direct the financial institution subject to the order to withhold to hold any funds subject to the order pending notification by the department to remit or release the amounts held.

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

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

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

(l) For purposes of this section:

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

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



17454. (a) At least 45 days before sending a notice to withhold, the department shall request that a depository institution provide the department with a designated address for receiving notices to withhold.

(b) Once the depository institution has specified a designated address pursuant to subdivision (a), the department shall send all notices to that address unless the depository institution provides notification of another address. The department shall send all notices to withhold to a new designated address 30 days after notification.

(c) If a notice to withhold is mailed to the branch where the account is located or principal banking office, the depository institution shall be liable for a failure to withhold only to the extent that the accounts can be identified in information normally maintained at that location in the ordinary course of business.

(d) The department may by notice, served by magnetic media, electronic transmission, or other electronic technology, require any depository institution, as defined in the Federal Reserve Act (12 U.S.C.A. Sec. 461 (b)(1)(A)), that the department, in its sole discretion, has reason to believe may have in its possession, or under its control, any credits or other personal property or other things of value, belonging to a child support obligor, to withhold, from the credits or other personal property or other things of value, the amount of any child support delinquency, and interest, due from an obligor and transmit that amount withheld to the department at the times that it may designate, but not less than 10 business days from receipt of the notice. The notice shall state the amount due from the obligor and shall be delivered or transmitted to the branch or office reported pursuant to subdivision (a), or other address designated by that depository institution for purposes of the department serving notice by magnetic media, electronic transmission, or other electronic technology.

(e) For purposes of this section, the term “address” shall include telephone or modem number, facsimile number, or any other number designated by the depository institution to receive data by electronic means.

17456. (a) Any person required to withhold and transmit any amount pursuant to this article shall comply with the requirement without resort to any legal or equitable action in a court of law or equity. Any person paying to the department any amount required by it to be withheld is not liable therefore to the person from whom withheld unless the amount withheld is refunded to the withholding agent. However, if a depository institution, as defined in the Federal Reserve Act (12 U.S.C.A. Sec. 461(b)(1)(A)) withholds and pays to the department pursuant to this article any moneys held in a deposit account in which the delinquent obligor and another person or persons have an interest, or



in an account held in the name of a third party or parties in which the delinquent obligor is ultimately determined to have no interest, the depository institution paying those moneys to the department is not liable therefore to any of the persons who have an interest in the account, unless the amount withheld is refunded to the withholding agent.

(b) In the case of a deposit account or accounts for which this notice to withhold applies, the depository institution shall send a notice by first-class mail to each person named on the account or accounts included in the notice from the department, provided that a current address for each person is available to the institution. This notice shall inform each person as to the reason for the hold placed on the account or accounts, the amount subject to being withheld, and the date by which this amount is to be remitted to the department. An institution may assess the account or accounts of each person receiving this notice a reasonable service charge not to exceed three dollars (\$3).

17458. Any child support delinquency collected by the department, including those amounts that result in overpayment of a child support delinquency, shall be deposited in the State Treasury, after clearance of the remittance, to the credit of the Special Deposit Fund and distributed as specified by interagency agreement executed by the Franchise Tax Board and the department, with the concurrence of the Controller. Notwithstanding Section 13340 of the Government Code, all moneys deposited in the Special Deposit Fund pursuant to this article are hereby continuously appropriated, without regard to fiscal years, for purposes of making distributions. Upon availability of the State Disbursement Unit, any child support delinquency collected shall be deposited in a manner such that the deposit and subsequent disbursement is consistent with federal law.

17460. (a) As necessary, the department shall seek reciprocal agreements with other states to improve its ability to collect child support payments from out-of-state obligated parents on behalf of custodial parents residing in California. The department may pursue agreements with the Internal Revenue Service, as permitted by federal law, to improve collections of child support delinquencies from out-of-state obligated parents through cooperative agreements with the service.

(b) The California Child Support Automation System, established pursuant to Chapter 4 (commencing with Section 10080) of Part 1 of Division 9 of the Welfare and Institutions Code, shall, for purposes of this article, include the capacity to interface and exchange information, if feasible, with the Internal Revenue Service, to enable the immediate reporting and tracking of obligated parent information.



(c) The department shall enter into any interagency agreements that are necessary for the implementation of this article. State departments and boards shall cooperate with the department to the extent necessary for the implementation of this article. Out of any money received from the federal government for the purpose of reimbursing state departments and boards for their actual and reasonable costs incurred in complying with this section, the department shall reimburse those departments and boards. To the extent that money is not provided by the federal government for that purpose, and subject to the annual Budget Act, the state shall fund departments and boards for their costs in complying with this section.

SEC. 7. Section 17506 of the Family Code is amended to read:

17506. (a) There is in the department a California Parent Locator Service and Central Registry that shall collect and disseminate all of the following, with respect to any parent, putative parent, spouse, or former spouse:

(1) The full and true name of the parent together with any known aliases.

(2) Date and place of birth.

(3) Physical description.

(4) Social security number.

(5) Employment history and earnings.

(6) Military status and Veterans Administration or military service serial number.

(7) Last known address, telephone number, and date thereof.

(8) Driver's license number, driving record, and vehicle registration information.

(9) Criminal, licensing, and applicant records and information.

(10) (A) Any additional location, asset, and income information, including income tax return information obtained pursuant to Section 19285.1 of the Revenue and Taxation Code, and to the extent permitted by federal law, the address, telephone number, and social security number obtained from a public utility, cable television corporation, a provider of electronic digital pager communication, or a provider of cellular telephone services that may be of assistance in locating the parent, putative parent, abducting, concealing, or detaining parent, spouse, or former spouse, in establishing a parent and child relationship, in enforcing the child support liability of the absent parent, or enforcing the spousal support liability of the spouse or former spouse to the extent required by the state plan pursuant to Section 17604.

(B) For purposes of this subdivision, "income tax return information" means all of the following regarding the taxpayer:

(i) Assets.



- (ii) Credits.
- (iii) Deductions.
- (iv) Exemptions.
- (v) Identity.
- (vi) Liabilities.
- (vii) Nature, source, and amount of income.
- (viii) Net worth.
- (ix) Payments.
- (x) Receipts.
- (xi) Address.
- (xii) Social security number.

(b) Pursuant to a letter of agreement entered into between the Department of Child Support Services and the Department of Justice, the Department of Child Support Services shall assume responsibility for the California Parent Locator Service and Central Registry. The letter of agreement shall, at a minimum, set forth all of the following:

(1) Contingent upon funding in the Budget Act, the Department of Child Support Services shall assume responsibility for leadership and staff of the California Parent Locator Service and Central Registry commencing July 1, 2003.

(2) All employees and other personnel who staff or provide support for the California Parent Locator Service and Central Registry shall, at the time of the transition, at their option, become the employees of the Department of Child Support Services at their existing or equivalent classification, salaries, and benefits.

(3) Until the department's automation system for the California Parent Locator Service and Central Registry functions is fully operational, the department shall use the automation system operated by the Department of Justice.

(4) Any other provisions necessary to ensure continuity of function and meet or exceed existing levels of service.

(c) To effectuate the purposes of this section, the California Child Support Automation System, the California Parent Locator Service and Central Registry, and the Franchise Tax Board shall utilize the federal Parent Locator Service to the extent necessary, and may request and shall receive from all departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, and those entities shall provide, that assistance and data that will enable the Department of Child Support Services and other public agencies to carry out their powers and duties to locate parents, spouses, and former spouses, and to identify their assets, to establish parent-child relationships, and to enforce liability for child or spousal support, and for any other obligations incurred on behalf of children, and shall also provide that information to any local child



support agency in fulfilling the duties prescribed in Section 270 of the Penal Code, and in Chapter 8 (commencing with Section 3130) of Part 2 of Division 8 of this code, relating to abducted, concealed, or detained children. The California Child Support Automation System shall be entitled to the same cooperation and information as the California Parent Locator Service and Central Registry to the extent allowed by law. The California Child Support Automation System shall be allowed access to criminal record information only to the extent that access is allowed by state and federal law.

(d) (1) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry and the California Child Support Automation System may request and shall receive from public utilities, as defined in Section 216 of the Public Utilities Code, customer service information, including the full name, address, telephone number, date of birth, employer name and address, and social security number of customers of the public utility, to the extent that this information is stored within the computer database of the public utility.

(2) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry and the California Child Support Automation System may request and shall receive from cable television corporations, as defined in Section 215.5 of the Public Utilities Code, the providers of electronic digital pager communication, as defined in Section 629.51 of the Penal Code, and the providers of cellular telephone services, as defined in Section 17538.9 of the Business and Professions Code, customer service information, including the full name, address, telephone number, date of birth, employer name and address, and social security number of customers of the cable television corporation, customers of the providers of electronic digital pager communication, and customers of the providers of cellular telephone services.

(3) In order to protect the privacy of utility, cable television, electronic digital pager communication, and cellular telephone customers, a request to a public utility, cable television corporation, provider of electronic digital pager communication, or provider of cellular telephone services for customer service information pursuant to this section shall meet the following requirements:

(A) Be submitted to the public utility, cable television corporation, provider of electronic digital pager communication, or provider of cellular telephone services in writing, on a transmittal document prepared by the California Parent Locator Service and Central Registry



or the California Child Support Automation System and approved by all of the public utilities, cable television corporations, providers of electronic digital pager communication, and providers of cellular telephone services. The transmittal shall be deemed to be an administrative subpoena for customer service information.

(B) Have the signature of a representative authorized by the California Parent Locator Service and Central Registry or the California Child Support Automation System.

(C) Contain at least three of the following data elements regarding the person sought:

- (i) First and last name, and middle initial, if known.
- (ii) Social security number.
- (iii) Driver's license number.
- (iv) Birth date.
- (v) Last known address.
- (vi) Spouse's name.

(D) The California Parent Locator Service and Central Registry and the California Child Support Automation System shall ensure that each public utility, cable television corporation, provider of electronic digital pager communication services, and provider of cellular telephone services has at all times a current list of the names of persons authorized to request customer service information.

(E) The California Child Support Automation System and the California Parent Locator Service and Central Registry shall ensure that customer service information supplied by a public utility, cable television corporation, providers of electronic digital pager communication, or provider of cellular telephone services is applicable to the person who is being sought before releasing the information pursuant to subdivision (d).

(4) During the development of the California Child Support Automation System, the department shall determine the necessity of additional locate sources, including those specified in this section, based upon the cost-effectiveness of those sources.

(5) The public utility, cable television corporation, electronic digital pager communication provider, or cellular telephone service provider may charge a fee to the California Parent Locator Service and Central Registry or the California Child Support Automation System for each search performed pursuant to this subdivision to cover the actual costs to the public utility, cable television corporation, electronic digital pager communication provider, or cellular telephone service provider for providing this information.

(6) No public utility, cable television corporation, electronic digital pager communication provider, or cellular telephone service provider or



official or employee thereof, shall be subject to criminal or civil liability for the release of customer service information as authorized by this subdivision.

(e) Notwithstanding Section 14202 of the Penal Code, any records established pursuant to this section shall be disseminated only to the Department of Child Support Services, the California Child Support Automation System, the California Parent Locator Service and Central Registry, the parent locator services and central registries of other states as defined by federal statutes and regulations, a local child support agency of any county in this state, and the federal Parent Locator Service. The California Child Support Automation System shall be allowed access to criminal offender record information only to the extent that access is allowed by law.

(f) (1) At no time shall any information received by the California Parent Locator Service and Central Registry or by the California Child Support Automation System be disclosed to any person, agency, or other entity, other than those persons, agencies, and entities specified pursuant to Section 17505, this section, or any other provision of law.

(2) This subdivision shall not otherwise affect discovery between parties in any action to establish, modify, or enforce child, family, or spousal support, that relates to custody or visitation.

(g) (1) The Department of Justice, in consultation with the Department of Child Support Services, shall promulgate rules and regulations to facilitate maximum and efficient use of the California Parent Locator Service and Central Registry. Upon implementation of the California Child Support Automation System, the Department of Child Support Services shall assume all responsibility for promulgating rules and regulations for use of the California Parent Locator Service and Central Registry.

(2) The Department of Child Support Services, the Public Utilities Commission, the cable television corporations, providers of electronic digital pager communication, and the providers of cellular telephone services shall develop procedures for obtaining the information described in subdivision (c) from public utilities, cable television corporations, providers of electronic digital pager communication, and providers of cellular telephone services and for compensating the public utilities, cable television corporations, providers of electronic digital pager communication, and providers of cellular telephone services for providing that information.

(h) The California Parent Locator Service and Central Registry may charge a fee not to exceed eighteen dollars (\$18) for any service it provides pursuant to this section that is not performed or funded



pursuant to Section 651 and following of Title 42 of the United States Code.

(i) This section shall be construed in a manner consistent with the other provisions of this article.

SEC. 8. Section 17522.5 of the Family Code is amended to read:

17522.5. (a) Notwithstanding Section 8112 of the Commercial Code and Section 700.130 of the Code of Civil Procedure, when a local child support agency pursuant to Section 17522, or the Franchise Tax Board pursuant to Section 18670 or 18670.5 of the Revenue and Taxation Code, or the department pursuant to Section 17454 or 17500, issues a levy upon, or requires by notice any employer, person, political officer or entity, or depository institution to withhold the amount of, as applicable, a financial asset for the purpose of collecting a delinquent child support obligation, the person, financial institution, or securities intermediary (as defined in Section 8102 of the Commercial Code) in possession or control of the financial asset shall liquidate the financial asset in a commercially reasonable manner within 20 days of the issuance of the levy or the notice to withhold. Within five days of liquidation, the person, financial institution, or securities intermediary shall transfer to the local child support agency, the Franchise Tax Board, or the department, as applicable, the proceeds of the liquidation, less any reasonable commissions or fees, or both, which are charged in the normal course of business.

(b) If the value of the financial assets exceed the total amount of support due, the obligor may, within 10 days after the service of the levy or notice to withhold upon the person, financial institution, or securities intermediary, instruct the person, financial institution, or securities intermediary who possesses or controls the financial assets as to which financial assets are to be sold to satisfy the obligation for delinquent support. If the obligor does not provide instructions for liquidation, the person, financial institution, or securities intermediary who possesses or controls the financial assets shall liquidate the financial assets in a commercially reasonable manner and in an amount sufficient to cover the obligation for delinquent child support, and any reasonable commissions or fees, or both, which are charged in the normal course of business, beginning with the financial assets purchased most recently.

(c) For the purposes of this section, a financial asset shall include, but not be limited to, an uncertificated security, certificated security, or security entitlement (as defined in Section 8102 of the Commercial Code), security (as defined in Section 8103 of the Commercial Code), or a securities account (as defined in Section 8501 of the Commercial Code).

SEC. 9. Section 24351.5 is added to the Government Code, to read:



24351.5. Upon implementation of the State Disbursement Unit pursuant to Section 17309 of the Family Code, and notwithstanding Section 24351, the local child support agency shall deposit support payments paid to that office to an account in a manner as specified by the Department of Child Support Services to permit the processing of child support payments within the timeframes set forth in federal law.

SEC. 10. Section 19270 is added to the Revenue and Taxation Code, to read:

19270. (a) Consistent with the development and implementation of the California Child Support Automation System (CCSAS), the Franchise Tax Board and the Department of Child Support Services shall enter into a letter of agreement and an interagency agreement whereby the Department of Child Support Services shall assume responsibility for collection of child support delinquencies and the Financial Institution Data Match System as set forth in this article. The letter of agreement and the interagency agreement shall, at a minimum, set forth all of the following:

(1) Contingent upon the enactment of the Budget Act, and staffing authorization from the Department of Finance and the Department of Personnel Administration, the Department of Child Support Services shall assume responsibility for leadership and staff of collection of child support delinquencies and the Financial Institution Data Match System.

(2) All employees and other personnel who staff or provide support for the collection of child support delinquencies and the Financial Institution Data Match System at the Franchise Tax Board shall become the employees of the Department of Child Support Services at their existing or equivalent classification, salaries, and benefits.

(3) Any other provisions necessary to ensure continuity of function and meet or exceed existing levels of service, including, but not limited to, agreements for continued use of automated systems used by the Franchise Tax Board to locate child support obligors and their assets.

(b) It is the intent of the Legislature that any provision of income tax return information by the Franchise Tax Board to the Department of Child Support Services pursuant to this article shall be done in accordance with the privacy and confidential information laws of this state and the United States, and to the satisfaction of the Franchise Tax Board.

SEC. 11. Section 19276 is added to the Revenue and Taxation Code, to read:

19276. This article shall remain in effect only until the California Child Support Automated System becomes fully operational and the Director of the Department of Child Support Services revokes delegation of his or her authority to the executive officer of the Franchise



Tax Board to collect child support delinquencies, pursuant to Article 1.5 (commencing with Section 17450) of Chapter 2 of Division 17 of the Family Code, and as of January 1 of the year following that date is repealed.

