AMENDED IN SENATE SEPTEMBER 4, 2007

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AMENDED IN ASSEMBLY MARCH 8, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

# ASSEMBLY BILL No. 176

**Introduced by Assembly Member Jones**
**(Principal coauthor: Assembly Member Beall)**

January 23, 2007

An act to amend Section 3680.5 of the Family Code, and to amend Section 11477 of~~, and to amend, repeal, and add Section 11475.3 of,~~ the Welfare and Institutions Code, relating to CalWORKs.

LEGISLATIVE COUNSEL'S DIGEST

AB 176, as amended, Jones. CalWORKs: child support.

Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states. Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program for the allocation of federal funds received through the TANF program, under which each county provides cash assistance and other benefits to qualified low-income families.

Under existing law, a recipient of CalWORKs aid is required to assign to the county any rights to support from any other person that the recipient may have, on his or her behalf, or on behalf of any other family member for whom the recipient is receiving aid, not exceeding the total amount of CalWORKs cash assistance provided to the family.~~ Existing law also requires the first $50 of any amount of child support collected~~

~~in a month in payment of the required support obligation for that month to be paid to a recipient of CalWORKs aid, except as specified.~~

~~This bill, commencing October 1, 2008, would increase the amount of child support to be paid to a recipient of CalWORKs aid from any amount of child support collected during a month in payment of the required support obligation, to $100 until the date that federal certification of Version 1 of the California Child Support Automation System occurs, as specified. After that date, the bill would establish the amount of support paid to $100 for a recipient with one child, or $200 for a recipient with 2 or more children. To the extent that it would increase duties of counties in administering the CalWORKs program, this bill would impose a state-mandated local program.~~ This bill would require assignment *to the county* of all rights to support for applications received on or after October 1, 2009, with respect to support that accrues during the period of time that the applicant or recipient is receiving CalWORKs assistance.

Existing law requires a local child support agency to monitor child support cases, and seek modifications when needed.

This bill would impose a state-mandated local program by additionally requiring the local child support agency, at least once every 3 years, to review, and if necessary, seek modification of, each child support case for which assistance is being provided under the CalWORKs program.

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.

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: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 3680.5 of the Family Code is amended
2 to read:
3 3680.5. (a) The local child support agency shall monitor child
4 support cases and seek modifications, when needed.
5 (b) At least once every three years, the local child support
6 agency shall review, and, if appropriate, seek modification of, each

child support case for which assistance is being provided under the CalWORKs program, pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code.

~~SEC. 2. Section 11475.3 of the Welfare and Institutions Code is amended to read:~~

~~11475.3. (a) The first fifty dollars ($50) of any amount of child support collected in a month in payment of the required support obligation for that month shall be paid to a recipient of aid under this chapter, except recipients of foster care payments under Article 5 (commencing with Section 11400), shall not be considered income or resources of the recipient family, and shall not be deducted from the amount of aid to which the family would otherwise be eligible. The local child support agency in each county shall ensure that payments are made to recipients as required by this section.~~

~~(b) This section shall remain in effect only until October 1, 2008, and as of that date is repealed.~~

~~SEC. 3. Section 11475.3 is added to the Welfare and Institutions Code, to read:~~

~~11475.3. (a) (1) The first one hundred dollars ($100) of any amount of child support collected in a month in payment of the required support obligation for that month shall be paid to a recipient of aid under this chapter, except recipients of foster care payments under Article 5 (commencing with Section 11400), shall not be considered income or resources of the recipient family, and shall not be deducted from the amount of aid to which the family would otherwise be eligible.~~

~~(2) This subdivision shall cease to be operative one year after the date that federal certification of Version 1 of the California Child Support Automation System occurs.~~

~~(b) (1) For a recipient of aid under this chapter with one child, except recipients of foster care payments under Article 5 (commencing with Section 11400), the first one hundred dollars ($100) of any amount of child support collected during a month in payment of the required support obligation shall be paid to that recipient, shall not be considered income or resources of the recipient family, and shall not be deducted from the amount of aid for which the family would otherwise be eligible.~~

~~(2) For a recipient of aid under this chapter with two or more children, except recipients of foster care payments under Article 5 (commencing with Section 11400), the first two hundred dollars ($200) of any amount of child support collected during a month in payment of the required support obligation shall be paid to that recipient, shall not be considered income or resources of the recipient family, and shall not be deducted from the amount of aid for which the family would otherwise be eligible.~~

~~(3) This subdivision shall become operative one year after the date that federal certification of Version 1 of the California Child Support Automation System occurs.~~

~~(c) The local child support agency in each county shall ensure that payments are made to recipients as required by this section.~~

~~(d) This section shall become operative on October 1, 2008.~~

~~SEC. 4.~~

*SEC. 2.* Section 11477 of the Welfare and Institutions Code is amended to read:

11477. As a condition of eligibility for aid paid under this chapter, each applicant or recipient shall do all of the following:

(a) (1) Do either of the following:

(i) For applications received before October 1, 2009, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, not exceeding the total amount of cash assistance provided to the family under this chapter. Receipt of public assistance under this chapter shall operate as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state. If support rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the local child support agency or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

(ii) For applications received on or after October 1, 2009, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf, or on behalf of any other family member for whom the applicant or

recipient is applying for or receiving aid. The assignment shall apply only to support that accrues during the period of time that the applicant is receiving assistance under this chapter, and shall not exceed the total amount of cash assistance provided to the family under this chapter. Receipt of public assistance under this chapter shall operate as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state. If support rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the local child support agency or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

(2) Support that has been assigned pursuant to paragraph (1) and that accrues while the family is receiving aid under this chapter shall be permanently assigned until the entire amount of aid paid has been reimbursed.

(3) If the federal government does not permit states to adopt the same order of distribution for preassistance and postassistance child support arrears that are assigned on or after October 1, 1998, support arrears that accrue before the family receives aid under this chapter that are assigned pursuant to this subdivision shall be assigned as follows:

(A) Child support assigned prior to January 1, 1998, shall be permanently assigned until aid is no longer received and the entire amount of aid has been reimbursed.

(B) Child support assigned on or after January 1, 1998, but prior to October 1, 2000, shall be temporarily assigned until aid under this chapter is no longer received and the entire amount of aid paid has been reimbursed or until October 1, 2000, whichever comes first.

(C) On or after October 1, 2000, support assigned pursuant to this subdivision that was not otherwise permanently assigned shall be temporarily assigned to the county until aid is no longer received.

(D) On or after October 1, 2000, support that was temporarily assigned pursuant to this subdivision shall, when a payment is received from the federal tax intercept program, be temporarily assigned until the entire amount of aid paid has been reimbursed.

(4) If the federal government permits states to adopt the same order of distribution for preassistance and postassistance child support arrears, child support arrears shall be assigned, as follows:

(A) Child support assigned pursuant to this subdivision prior to October 1, 1998, shall be assigned until aid under this chapter is no longer received and the entire amount has been reimbursed.

(B) On or after October 1, 1998, child support assigned pursuant to this subdivision that accrued before the family receives aid under this chapter and that was not otherwise permanently assigned, shall be temporarily assigned until aid under this chapter is no longer received.

(C) On or after October 1, 1998, support that was temporarily assigned pursuant to this subdivision shall, when a payment is received from the federal tax intercept program, be temporarily assigned until the entire amount of aid paid has been reimbursed.

(b) (1) Cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained, unless the applicant or recipient qualifies for a good cause exception as provided in Section 11477.04. The granting of aid shall not be delayed or denied if the applicant is otherwise eligible, if the applicant completes the necessary forms and agrees to cooperate with the local child support agency in securing support and determining paternity, where applicable. The local child support agency shall have staff available, in person or by telephone, at all county welfare offices and shall conduct an interview with each applicant to obtain information necessary to establish paternity and establish, modify, or enforce a support order at the time of the initial interview with the welfare office. The local child support agency shall make the determination of cooperation. If the applicant or recipient attests under penalty of perjury that he or she cannot provide the information required by this subdivision, the local child support agency shall make a finding regarding whether the individual could reasonably be expected to provide the information, before the local child support agency determines whether the individual is cooperating. In making the finding, the local child support agency shall consider all of the following:

(A) The age of the child for whom support is sought.

(B) The circumstances surrounding the conception of the child.

(C) The age or mental capacity of the parent or caretaker of the child for whom aid is being sought.

(D) The time that has elapsed since the parent or caretaker last had contact with the alleged father or obligor.

(2) Cooperation includes the following:

(A) Providing the name of the alleged parent or obligor and other information about that person if known to the applicant or recipient, such as address, social security number, telephone number, place of employment or school, and the names and addresses of relatives or associates.

(B) Appearing at interviews, hearings, and legal proceedings provided the applicant or recipient is provided with reasonable advance notice of the interview, hearing, or legal proceeding and does not have good cause not to appear.

(C) If paternity is at issue, submitting to genetic tests, including genetic testing of the child, if necessary.

(D) Providing any additional information known to or reasonably obtainable by the applicant or recipient necessary to establish paternity or to establish, modify, or enforce a child support order.

(3) A recipient or applicant shall not be required to sign a voluntary declaration of paternity, as set forth in Chapter 3 (commencing with Section 7570) of Part 2 of Division 12 of the Family Code, as a condition of cooperation.

~~SEC. 5.~~

*SEC. 3.* If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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