

AMENDED IN ASSEMBLY JUNE 7, 2010  
AMENDED IN SENATE JANUARY 13, 2010  
AMENDED IN SENATE DECEMBER 15, 2009

**SENATE BILL**

**No. 580**

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**Introduced by Senator Wright**

February 27, 2009

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An act to amend Sections 3751, 4061, 4063, and 17422 of the Family Code, relating to child support.

LEGISLATIVE COUNSEL'S DIGEST

SB 580, as amended, Wright. Child support: health insurance.

Existing law provides that in a case in which an amount is set for child support, the court is required to order either or both parties to provide health insurance coverage for the supported child, if the cost of the insurance is reasonable. Under existing law, health insurance is rebuttably presumed to be reasonable in cost if it is employment-related or other group health insurance.

This bill would instead require that the court determine that the cost of health insurance is reasonable if it does not exceed 5% of the obligor's gross income, as specified, unless the obligor is entitled to a low-income adjustment, as defined, in which case the court would be required to determine that the cost of health insurance is not reasonable, *unless the court determines that not requiring medical support would be unjust and inappropriate*.

Existing law provides that when either parent uses a health care provider other than the preferred provider designated by the health care insurance coverage, the parent obtaining that care is solely responsible for any nonreimbursable health care costs in excess of the costs that

would have been incurred under the court-ordered health care insurance coverage had the preferred provider been used. Existing law requires a court, in evaluating a motion based on this provision, to consider the geographic access and reasonable availability of necessary health care for the child which complies with the terms of the health care insurance coverage paid for by either parent pursuant to a court order.

This bill would require the court to apply a rebuttable presumption that health care insurance is accessible if medical services to be provided are within 50 miles of the residence of the supported child. The bill would require the court, if it determines that health care insurance is not accessible, to state the reason on the record.

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

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

1 SECTION 1. Section 3751 of the Family Code is amended to  
2 read:

3 3751. (a) (1) Support orders issued or modified pursuant to  
4 this chapter shall include a provision requiring the child support  
5 obligor to keep the agency designated under Title IV-D of the  
6 Social Security Act (42 U.S.C. Sec. 651 et seq.) informed of  
7 whether the obligor has health insurance coverage at a reasonable  
8 cost and, if so, the health insurance policy information.

9 (2) In any case in which an amount is set for current support,  
10 the court shall require that health insurance coverage for a  
11 supported child shall be maintained by either or both parents if  
12 that insurance is available at no cost or at a reasonable cost to the  
13 parent. Health insurance coverage shall be rebuttably presumed  
14 to be reasonable in cost if the cost to the responsible parent  
15 providing medical support does not exceed 5 percent of his or her  
16 gross income. In applying the 5 percent for the cost of health  
17 insurance, the cost is the difference between self-only and family  
18 coverage. If the obligor is entitled to a low-income adjustment as  
19 provided in paragraph (7) of subdivision (b) of Section 4055,  
20 medical support shall be deemed not reasonable, *unless the court*  
21 *determines that not requiring medical support would be unjust*  
22 *and inappropriate in the particular case.* If the court determines  
23 that the cost of health insurance coverage is not reasonable, the  
24 court shall state its reasons on the record. *If the court determines*

1 *that, although the obligor is entitled to a low-income adjustment,*  
2 *not requiring medical support would be unjust and inappropriate,*  
3 *the court shall state its reasons on the record.*

4 (b) If the court determines that health insurance coverage is not  
5 available at no cost or at a reasonable cost, the court's order for  
6 support shall contain a provision that specifies that health insurance  
7 coverage shall be obtained if it becomes available at no cost or at  
8 a reasonable cost. Upon health insurance coverage at no cost or at  
9 a reasonable cost becoming available to a parent, the parent shall  
10 apply for that coverage.

11 (c) The court's order for support shall require the parent who,  
12 at the time of the order or subsequently, provides health insurance  
13 coverage for a supported child to seek continuation of coverage  
14 for the child upon attainment of the limiting age for a dependent  
15 child under the health insurance coverage if the child meets the  
16 criteria specified under Section 1373 of the Health and Safety Code  
17 or Section 10277 or 10278 of the Insurance Code and that health  
18 insurance coverage is available at no cost or at a reasonable cost  
19 to the parent or parents, as applicable.

20 SEC. 2. Section 4061 of the Family Code is amended to read:  
21 4061. The amounts in Section 4062 shall be considered  
22 additional support for the children and shall be computed in  
23 accordance with the following:

24 (a) If there needs to be an apportionment of expenses pursuant  
25 to Section 4062, the expenses shall be divided one-half to each  
26 parent, unless either parent requests a different apportionment  
27 pursuant to subdivision (b) and presents documentation which  
28 demonstrates that a different apportionment would be more  
29 appropriate.

30 (b) If requested by either parent, and the court determines it is  
31 appropriate to apportion expenses under Section 4062 other than  
32 one-half to each parent, the apportionment shall be as follows:

33 (1) The basic child support obligation shall first be computed  
34 using the formula set forth in subdivision (a) of Section 4055, as  
35 adjusted for any appropriate rebuttal factors in subdivision (b) of  
36 Section 4057.

37 (2) Any additional child support required for expenses pursuant  
38 to Section 4062 shall thereafter be ordered to be paid by the parents  
39 in proportion to their net disposable incomes as adjusted pursuant  
40 to subdivisions (c) and (d).

1 (c) In cases where spousal support is or has been ordered to be  
2 paid by one parent to the other, for purposes of allocating additional  
3 expenses pursuant to Section 4062, the gross income of the parent  
4 paying spousal support shall be decreased by the amount of the  
5 spousal support paid and the gross income of the parent receiving  
6 the spousal support shall be increased by the amount of the spousal  
7 support received for as long as the spousal support order is in effect  
8 and is paid.

9 (d) For purposes of computing the adjusted net disposable  
10 income of the parent paying child support for allocating any  
11 additional expenses pursuant to Section 4062, the net disposable  
12 income of the parent paying child support shall be reduced by the  
13 amount of any basic child support ordered to be paid under  
14 subdivision (a) of Section 4055. However, the net disposable  
15 income of the parent receiving child support shall not be increased  
16 by any amount of child support received.

17 SEC. 3. Section 4063 of the Family Code is amended to read:

18 4063. (a) When making an order pursuant to paragraph (2) of  
19 subdivision (a) of Section 4062, the court shall:

20 (1) Advise each parent, in writing or on the record, of his or her  
21 rights and liabilities, including financial responsibilities.

22 (2) Include in its order the time period for a parent to reimburse  
23 the other parent for the reimbursing parent's share of the reasonable  
24 additional child support costs subject to the requirements of this  
25 section.

26 (b) Unless there has been an assignment of rights pursuant to  
27 Section 11477 of the Welfare and Institutions Code, when either  
28 parent accrues or pays costs pursuant to an order under this section,  
29 that parent shall provide the other parent with an itemized statement  
30 of the costs within a reasonable time, but not more than 30 days  
31 after accruing the costs. These costs shall then be paid as follows:

32 (1) If a parent has already paid all of these costs, that parent  
33 shall provide proof of payment and a request for reimbursement  
34 of his or her court-ordered share to the other parent.

35 (2) If a parent has paid his or her court-ordered share of the  
36 costs only, that parent shall provide proof of payment to the other  
37 parent, request the other parent to pay the remainder of the costs  
38 directly to the provider, and provide the reimbursing parent with  
39 any necessary information about how to make the payment to the  
40 provider.

1 (3) The other parent shall make the reimbursement or pay the  
2 remaining costs within the time period specified by the court, or,  
3 if no period is specified, within a reasonable time not to exceed  
4 30 days from notification of the amount due, or according to any  
5 payment schedule set by the health care provider for either parent  
6 unless the parties agree in writing to another payment schedule or  
7 the court finds good cause for setting another payment schedule.

8 (4) If the reimbursing parent disputes a request for payment,  
9 that parent shall pay the requested amount and thereafter may seek  
10 judicial relief under this section and Section 290. If the reimbursing  
11 parent fails to pay the other parent as required by this subdivision,  
12 the other parent may seek judicial relief under this section and  
13 Section 290.

14 (c) Either parent may file a noticed motion to enforce an order  
15 issued pursuant to this section. In addition to the court's powers  
16 under Section 290, the court may award filing costs and reasonable  
17 attorney's fees if it finds that either party acted without reasonable  
18 cause regarding his or her obligations pursuant to this section.

19 (d) There is a rebuttable presumption that the costs actually paid  
20 for the uninsured health care needs of the children are reasonable,  
21 except as provided in subdivision (e).

22 (e) Except as provided in subdivision (g):

23 (1) The health care insurance coverage, including, but not  
24 limited to, coverage for emergency treatment, provided by a parent  
25 pursuant to a court order, shall be the coverage to be utilized at all  
26 times, consistent with the requirements of that coverage, unless  
27 the other parent can show that the health care insurance coverage  
28 is inadequate to meet the child's needs.

29 (2) If either parent obtains health care insurance coverage in  
30 addition to that provided pursuant to the court order, that parent  
31 shall bear sole financial responsibility for the costs of that  
32 additional coverage and the costs of any care or treatment obtained  
33 pursuant thereto in excess of the costs that would have been  
34 incurred under the health care insurance coverage provided for in  
35 the court order.

36 (f) Except as provided in subdivision (g):

37 (1) If the health care insurance coverage provided by a parent  
38 pursuant to a court order designates a preferred health care  
39 provider, that preferred provider shall be used at all times,  
40 consistent with the terms and requirements of that coverage.

1 (2) If either parent uses a health care provider other than the  
 2 preferred provider inconsistent with the terms and requirements  
 3 of the court-ordered health care insurance coverage, the parent  
 4 obtaining that care shall bear the sole responsibility for any  
 5 nonreimbursable health care costs in excess of the costs that would  
 6 have been incurred under the court-ordered health care insurance  
 7 coverage had the preferred provider been used.

8 (g) When ruling on a motion made pursuant to this section, in  
 9 order to ensure that the health care needs of the child under this  
 10 section are met, the court shall consider all relevant facts, including,  
 11 but not limited to, the following:

12 (1) The geographic access and reasonable availability of  
 13 necessary health care for the child which complies with the terms  
 14 of the health care insurance coverage paid for by either parent  
 15 pursuant to a court order. Health insurance shall be rebuttably  
 16 presumed to be accessible if services to be provided are within 50  
 17 miles of the residence of the child subject to the support order. If  
 18 the court determines that health insurance is not accessible, the  
 19 court shall state the reason on the record.

20 (2) The necessity of emergency medical treatment that may  
 21 have precluded the use of the health care insurance, or the preferred  
 22 health care provider required under the insurance, provided by  
 23 either parent pursuant to a court order.

24 (3) The special medical needs of the child.

25 (4) The reasonable inability of a parent to pay the full amount  
 26 of reimbursement within a 30-day period and the resulting necessity  
 27 for a court-ordered payment schedule.

28 SEC. 4. Section 17422 of the Family Code is amended to read:

29 17422. (a) The state medical insurance form required in Article  
 30 1 (commencing with Section 3750) of Chapter 7 of Part 1 of  
 31 Division 9 shall include, but shall not be limited to, all of the  
 32 following:

33 (1) The parent or parents' names, addresses, and social security  
 34 numbers.

35 (2) The name and address of each parent's place of employment.

36 (3) The name or names, addresses, policy number or numbers,  
 37 and coverage type of the medical insurance policy or policies of  
 38 the parents, if any.

39 (4) The name, CalWORKs case number, social security number,  
 40 and Title IV-E foster care case number or Medi-Cal case numbers

1 of the parents and children covered by the medical insurance policy  
2 or policies.

3 (b) (1) In any action brought or enforcement proceeding  
4 instituted by the local child support agency under this division for  
5 payment of child or spousal support, a completed state medical  
6 insurance form shall be obtained and sent by the local child support  
7 agency to the State Department of Health Services in the manner  
8 prescribed by the State Department of Health Services.

9 (2) Where it has been determined under Section 3751 that health  
10 insurance coverage is not available at no or reasonable cost, the  
11 local child support agency shall seek a provision in the support  
12 order that provides for health insurance coverage should it become  
13 available at no or reasonable cost.

14 (3) Health insurance coverage shall be considered reasonable  
15 in cost if the cost to the responsible parent providing medical  
16 support does not exceed 5 percent of his or her gross income. In  
17 applying the 5 percent for the cost of health insurance, the cost is  
18 the difference between self-only and family coverage. If the obligor  
19 is entitled to a low-income adjustment as provided in paragraph  
20 (7) of subdivision (b) of Section 4055, health insurance shall not  
21 be enforced, *unless the court determines that not requiring medical*  
22 *support would be unjust and inappropriate in the particular case.*  
23 As used in this section, “health insurance coverage” also includes  
24 providing for the delivery of health care services by a fee for  
25 service, health maintenance organization, preferred provider  
26 organization, or any other type of health care delivery system under  
27 which medical services could be provided to the dependent child  
28 or children of an absent parent.

29 (c) (1) The local child support agency shall request employers  
30 and other groups offering health insurance coverage that is being  
31 enforced under this division to notify the local child support agency  
32 if there has been a lapse in insurance coverage. The local child  
33 support agency shall be responsible for forwarding information  
34 pertaining to the health insurance policy secured for the dependent  
35 children for whom the local child support agency is enforcing the  
36 court-ordered medical support to the custodial parent.

37 (2) The local child support agency shall periodically  
38 communicate with the State Department of Health Services to  
39 determine if there have been lapses in health insurance coverage  
40 for public assistance applicants and recipients. The State

1 Department of Health Services shall notify the local child support  
2 agency when there has been a lapse in court-ordered insurance  
3 coverage.

4 (3) The local child support agency shall take appropriate action,  
5 civil or criminal, to enforce the obligation to obtain health  
6 insurance when there has been a lapse in insurance coverage or  
7 failure by the responsible parent to obtain insurance as ordered by  
8 the court.

9 (4) The local child support agency shall inform all individuals  
10 upon their application for child support enforcement services that  
11 medical support enforcement services are available.