

Assembly Bill No. 2882

CHAPTER 474

An act to amend Sections 302, 304, 306.5, 308, 360, 500, 2103, 4014, 4052.5, 8714, 17212, 17306, 17400, 17434, 17450, 17460, 17506, 17508, 17522.5, 17523.5, 17525, 17528, 17710, and 17801 of, to add Section 17504.1 to, to add Article 4 (commencing with Section 17390) to Chapter 1 of Division 17 of, and to repeal Sections 17458 and 17802 of, the Family Code, to add Section 69619.5 to the Government Code, and to amend Section 361 of, to repeal Sections 11475.2, 11475.3, and 11476.2 of, to repeal Chapter 4 (commencing with Section 10080) of Part 1 of, and to repeal Chapter 6 (commencing with Section 16575) of Part 4 of, Division 9 of, the Welfare and Institutions Code, relating to family law.

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LEGISLATIVE COUNSEL'S DIGEST

AB 2882, Committee on Judiciary. Judiciary omnibus: family law.

(1) Existing law provides that an unmarried person under 18 years of age is capable of consenting to and consummating marriage upon obtaining a court order granting permission of the underage person or persons to marry. Existing law requires the court order and written consent of the parents of each underage person, or of one of the parents or the guardian of each underage person, to be filed with the clerk of the court, and requires a certified copy of the order to be presented to the county clerk at the time the marriage license is issued.

This bill would instead require the court order and written consent of at least one of the parents or the guardian of each underage person to be filed with the clerk of the court.

Existing law provides that parties to a marriage are not required to have the same name. Existing law provides that one party or both parties to a marriage may elect to change the middle or last names, or both, by which that party wishes to be known after solemnization of the marriage, and authorizes a person to adopt any of the specified last names and middle names, including a hyphenated combination of last names and a hyphenated combination of the current middle name and current last name of the person or spouse or a hyphenated combination of the current middle name and the last name given at birth of the person or spouse.

This bill would instead authorize a person to adopt a combination of last names, and a combination of the current middle name and the current last name of the person or spouse or a combination of the current middle name and the last name given at birth of the person or spouse.

Existing law requires the person solemnizing the marriage to obtain a duplicate marriage license, if a marriage license is lost, damaged, or destroyed after the marriage ceremony, but before it is returned to the county recorder, or deemed unacceptable for registration by the county recorder. Existing law prohibits the duplicate marriage license from being issued later than one year after the issuance of the original license and requires the license to be returned by the person solemnizing the marriage to the county recorder within one year of the issuance date shown on the original license.

This bill would instead prohibit the duplicate marriage license from being issued later than one year after the date of marriage, and would require the license to be returned by the person solemnizing the marriage to the county recorder within one year of the date of marriage.

(2) Existing law authorizes a person desiring to adopt a nondependent child to file an adoption request in an authorized county. Under existing law, a petition for adoption of a nondependent child may be filed in specified locations, including the county in which the petitioner resides or where the adoption agency, department, or public adoption agency is located. If a child has been adjudged to be a dependent of the juvenile court, and thereafter has been freed for adoption by the juvenile court, existing law authorizes the petition to be filed in either the county where the petitioner resides or in the county where the child was freed for adoption.

This bill would instead provide that a petitioner desiring to adopt a dependent child who is freed for adoption by the juvenile court and with whom that dependent child is placed for adoption may file the adoption request either in the county where the petitioner resides or in the county where the child was freed for adoption.

(3) Existing law authorizes the court to limit the control to be exercised over a dependent child by any parent or guardian and requires the court, by its order, to clearly and specifically set forth all those limitations in all cases in which a minor is adjudged to be a dependent child of the court. Existing law provides that the court's authority does not limit the ability of a parent to voluntarily relinquish his or her child to the State Department of Social Services, to a county adoption agency, or to a licensed private adoption agency at any time while the child is the subject of a petition to declare him or her a dependent child, if the department, county adoption agency, or licensed private adoption agency is willing to accept the relinquishment. When accepting the relinquishment of a child subject to a petition to declare him or her a dependent child, existing law requires a licensed private adoption agency to file with the court one original and 10 copies of a request to approve the relinquishment within 5 court days of accepting the relinquishment.

This bill would instead require a licensed private adoption agency, or allow another party or that party's counsel, to file with the court one original and 5 copies of a request to approve the relinquishment within 10 court days of accepting the relinquishment.

(4) Existing law establishes the Department of Child Support Services within the California Health and Human Services Agency, which administers

all services and performs all functions necessary to establish, collect, and distribute child support. Existing state law establishes within the Department of Child Support Services a Statewide Child Support Registry and a single statewide automated child support system as required under federal law, referred to as the California Child Support Automation System. Existing law requires the Statewide Child Support Registry to include storage and data retrieval of specified information, including any information required under federal law, for all California child support orders.

This bill would reenact those provisions relating to the Statewide Child Support Registry in the Family Code. The bill would delete obsolete provisions in the Welfare and Institutions Code relating to the procurement and development of the California Child Support Automation System.

Existing law requires each clerk of the court to provide the child support information described above within 20 days to the Department of Child Support Services or the registry from each new or modified child support order. Existing law requires the department to, among other things, ensure that all child support data received from the clerks of the court are entered into the registry within 10 days of receipt. Existing law requires any information maintained by the Statewide Child Support Registry received from the clerks of the court to be provided to county district attorneys, the Franchise Tax Board, the courts, and others as provided by law.

This bill would instead require the department to ensure that all child support data received from the clerks of the court are entered into the Statewide Child Support Registry within 5 business days of receipt. The bill would instead require any information maintained by the registry received from the clerks of the court to be provided to local child support agencies, the court, and others as provided by law. The bill would require the registry to operate to ensure that all data in the registry can be accessed and integrated for statistical analysis and reporting purposes with all child support order data contained in the California Child Support Enforcement System.

(5) Existing law establishes within the Department of Child Support Services the State Disbursement Unit for the collection and disbursement of payments under support orders. Existing law requires any child support delinquency collected by the department to be deposited into the State Treasury to the credit of the Special Deposit Fund, which is a continuously appropriated fund, and distributed as specified by interagency agreement executed by the Franchise Tax Board and the department, with concurrence of the Controller. Upon availability of the State Disbursement Unit, existing law requires any child support delinquency collected to be deposited in a manner that the deposit and subsequent disbursement are consistent with federal law.

This bill would repeal these requirements.

(6) Existing law requires each county to maintain a local child support agency that is responsible for promptly and effectively establishing, modifying, and enforcing child support obligations. Existing law requires local child support agencies, on a monthly basis, to provide to any

CalWORKs recipient or former recipient from whom an assignment is currently effective, a notice of amount assigned support payments made on behalf of the recipient or former recipient.

This bill would reenact this requirement in the Family Code.

(7) Existing law requires any person, financial institution, or securities intermediary in possession or control of a financial asset upon which a levy has been issued to withhold the amount of the financial asset for the purpose of collecting a delinquent child support obligation to liquidate the financial asset in a commercially reasonable manner within 20 days of issuance of the levy or notice to withhold. Existing law requires, within 5 business days of liquidation, the person, financial institution, or securities intermediary to transfer to the local child support agency, the Franchise Tax Board, or the department, as applicable, the proceeds of the liquidation, as specified.

This bill would instead require the person, financial institution, or securities intermediary to transfer to the State Disbursement Unit the proceeds of the liquidation.

(8) This bill would delete references to the California Child Support Automation System and would refer instead to the California Child Support Enforcement System. The bill would delete obsolete references to the Franchise Tax Board and the California Family Support Council, and would also delete other obsolete provisions and make other conforming changes.

(9) Existing law specifies the number of judges of the superior court for each county, and allocates additional judgeships to the various counties in accordance with uniform standards for factually determining additional need in each county, as approved by the Judicial Council, and other specified criteria. Existing law provides for the conversion of 146 subordinate judicial officer positions in eligible superior courts upon the occurrence of specified conditions, including that the proposed action is ratified by the Legislature, except that no more than 16 positions may be converted to judgeships in any fiscal year. Notwithstanding this provision, existing law authorizes up to 10 additional subordinate judicial officer positions to be converted to judgeships in any fiscal year if the conversions will result in a judge being assigned to a family law or juvenile law assignment previously presided over by a subordinate judicial officer and the proposed action is ratified by the Legislature.

This bill would ratify the authority of the Judicial Council to convert 10 subordinate judicial officer positions to judgeships in the 2016–17 fiscal year when the conversion will result in a judge being assigned to a family law or juvenile law assignment previously presided over by a subordinate judicial officer.

(10) The bill would delete an obsolete provision, and make other nonsubstantive changes.

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

SECTION 1. Section 302 of the Family Code is amended to read:

302. (a) An unmarried person under 18 years of age is capable of consenting to and consummating marriage upon obtaining a court order granting permission to the underage person or persons to marry.

(b) The court order and written consent of at least one of the parents or the guardian of each underage person shall be filed with the clerk of the court, and a certified copy of the order shall be presented to the county clerk at the time the marriage license is issued.

SEC. 2. Section 304 of the Family Code is amended to read:

304. As part of the court order granting permission to marry under Section 302 or 303, the court shall, if it considers it necessary, require the parties to the prospective marriage of a minor to participate in premarital counseling concerning social, economic, and personal responsibilities incident to marriage. The parties shall not be required, without their consent, to confer with counselors provided by religious organizations of any denomination. In determining whether to order the parties to participate in the premarital counseling, the court shall consider, among other factors, the ability of the parties to pay for the counseling. The court may impose a reasonable fee to cover the cost of any premarital counseling provided by the county or the court. The fees shall be used exclusively to cover the cost of the counseling services authorized by this section.

SEC. 3. Section 306.5 of the Family Code is amended to read:

306.5. (a) Parties to a marriage shall not be required to have the same name. Neither party shall be required to change his or her name. A person's name shall not change upon marriage unless that person elects to change his or her name pursuant to subdivision (b).

(b) (1) One party or both parties to a marriage may elect to change the middle or last names, or both, by which that party wishes to be known after solemnization of the marriage by entering the new name in the spaces provided on the marriage license application without intent to defraud.

(2) A person may adopt any of the following last names pursuant to paragraph (1):

(A) The current last name of the other spouse.

(B) The last name of either spouse given at birth.

(C) A name combining into a single last name all or a segment of the current last name or the last name of either spouse given at birth.

(D) A combination of last names.

(3) A person may adopt any of the following middle names pursuant to paragraph (1):

(A) The current last name of either spouse.

(B) The last name of either spouse given at birth.

(C) A combination of the current middle name and the current last name of the person or spouse.

(D) A combination of the current middle name and the last name given at birth of the person or spouse.

(4) (A) An election by a person to change his or her name pursuant to paragraph (1) shall serve as a record of the name change. A certified copy of a marriage certificate containing the new name, or retaining the former

name, shall constitute proof that the use of the new name or retention of the former name is lawful.

(B) A certified copy of a marriage certificate shall be accepted as identification establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code.

(C) Nothing in this section shall be construed to prohibit the Department of Motor Vehicles from accepting as identification other documents establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code. Those documents may include, without limitation, a certified copy of a marriage certificate recording a marriage outside of this state.

(D) This section shall be applied in a manner consistent with the requirements of Sections 1653.5 and 12801 of the Vehicle Code.

(5) The adoption of a new name, or the choice not to adopt a new name, by means of a marriage license application pursuant to paragraph (1) shall only be made at the time the marriage license is issued. After a marriage certificate is registered by the local registrar, the certificate shall not be amended to add a new name or change the name adopted pursuant to paragraph (1). An amendment may be issued to correct a clerical error in the new name fields on the marriage license. In this instance, the amendment shall be signed by one of the parties to the marriage and the county clerk or his or her deputy, and the reason for the amendment shall be stated as correcting a clerical error. A clerical error as used in this part is an error made by the county clerk, his or her deputy, or a notary authorized to issue confidential marriage licenses, whereby the information shown in the new name field does not match the information shown on the marriage license application. This requirement shall not abrogate the right of either party to adopt a different name through usage at a future date, or to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

(c) Nothing in this section shall be construed to abrogate the common law right of any person to change his or her name, or the right of any person to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

SEC. 4. Section 308 of the Family Code is amended to read:

308. A marriage contracted outside this state that would be valid by laws of the jurisdiction in which the marriage was contracted is valid in California.

SEC. 5. Section 360 of the Family Code is amended to read:

360. (a) If a marriage license is lost, damaged, or destroyed after the marriage ceremony, but before it is returned to the county recorder, or deemed unacceptable for registration by the county recorder, the person solemnizing the marriage, in order to comply with Section 359, shall obtain a duplicate marriage license by filing an affidavit setting forth the facts with the county clerk of the county in which the license was issued.

(b) The duplicate marriage license shall not be issued later than one year after the date of marriage and shall be returned by the person solemnizing the marriage to the county recorder within one year of the date of marriage.

(c) The county clerk may charge a fee to cover the actual costs of issuing a duplicate marriage license.

(d) If a marriage license is lost, damaged, or destroyed before a marriage ceremony takes place, the applicants shall purchase a new marriage license and the old license shall be voided.

SEC. 6. Section 500 of the Family Code is amended to read:

500. When two unmarried people, not minors, have been living together as spouses, they may be married pursuant to this chapter by a person authorized to solemnize a marriage under Chapter 1 (commencing with Section 400) of Part 3.

SEC. 7. Section 2103 of the Family Code is amended to read:

2103. In order to provide full and accurate disclosure of all assets and liabilities in which one or both parties may have an interest, each party to a proceeding for dissolution of the marriage or legal separation of the parties shall serve on the other party a preliminary declaration of disclosure under Section 2104, unless service of the preliminary declaration of disclosure is waived as provided in Section 2107 or is not required pursuant to Section 2110, and a final declaration of disclosure under Section 2105, unless service of the final declaration of disclosure is waived pursuant to Section 2105, 2107, or 2110, and shall file proof of service of each with the court.

SEC. 8. Section 4014 of the Family Code is amended to read:

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

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

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

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

(c) The requirements set forth in this subdivision shall only apply in cases in which the local child support agency is not providing child support

services pursuant to Section 17400. Once the child support registry, as described in Section 17391 is operational, any judgment for paternity and any order for child support entered or modified pursuant to any provision of law shall include a provision requiring the child support obligor and obligee to file and keep updated the information specified in subdivision (b) with the child support registry.

(d) The Judicial Council shall develop forms to implement this section. The forms shall be developed so as not to delay the implementation of the Statewide Child Support Registry described in Section 17391 and shall be available no later than 30 days prior to the implementation of the Statewide Child Support Registry.

SEC. 9. Section 4052.5 of the Family Code is amended to read:

4052.5. (a) The statewide uniform guideline, as required by federal regulations, shall apply in any case in which a child has more than two parents. The court shall apply the guideline by dividing child support obligations among the parents based on income and amount of time spent with the child by each parent, pursuant to Section 4053.

(b) Consistent with federal regulations, after calculating the amount of support owed by each parent under the guideline, the presumption that the guideline amount of support is correct may be rebutted if the court finds that the application of the guideline in that case would be unjust or inappropriate due to special circumstances, pursuant to Section 4057. If the court makes that finding, the court shall divide child support obligations among the parents in a manner that is just and appropriate based on income and amount of time spent with the child by each parent, applying the principles set forth in Section 4053 and this article.

(c) Nothing in this section shall be construed to require reprogramming of the California Child Support Enforcement System, a change to the statewide uniform guideline for determining child support set forth in Section 4055, or a revision by the Department of Child Support Services of its regulations, policies, procedures, forms, or training materials.

SEC. 10. Section 8714 of the Family Code is amended to read:

8714. (a) A person desiring to adopt a nondependent child may for that purpose file an adoption request in a county authorized by Section 8609.5. A person desiring to adopt a child who has been adjudged to be a dependent of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code, freed for adoption by the juvenile court, and placed for adoption with the petitioner, may file the adoption request either in the county where the petitioner resides or in the county where the child was freed for adoption.

(b) The court clerk shall immediately notify the department at Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(c) If the petitioner has entered into a postadoption contact agreement with the birth parent as set forth in Section 8616.5, the agreement, signed by the participating parties, shall be attached to and filed with the petition for adoption under subdivision (a).

(d) The caption of the adoption petition shall contain the names of the petitioners, but not the child's name. The petition shall state the child's sex and date of birth. The name the child had before adoption shall appear in the joinder signed by the licensed adoption agency.

(e) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioners shall notify the court of any petition for guardianship or temporary guardianship filed after the adoption petition. The guardianship proceeding shall be consolidated with the adoption proceeding.

(f) The order of adoption shall contain the child's adopted name, but not the name the child had before adoption.

SEC. 11. Section 17212 of the Family Code is amended to read:

17212. (a) It is the intent of the Legislature to protect individual rights of privacy, and to facilitate and enhance the effectiveness of the child and spousal support enforcement program, by ensuring the confidentiality of support enforcement and child abduction records, and to thereby encourage the full and frank disclosure of information relevant to all of the following:

(1) The establishment or maintenance of parent and child relationships and support obligations.

(2) The enforcement of the child support liability of absent parents.

(3) The enforcement of spousal support liability of the spouse or former spouse to the extent required by the state plan under Section 17604 and Part 6 (commencing with Section 5700.101) of Division 9.

(4) The location of absent parents.

(5) The location of parents and children abducted, concealed, or detained by them.

(b) (1) Except as provided in subdivision (c), all files, applications, papers, documents, and records established or maintained by any public entity pursuant to the administration and implementation of the child and spousal support enforcement program established pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this division, shall be confidential, and shall not be open to examination or released for disclosure for any purpose not directly connected with the administration of the child and spousal support enforcement program. No public entity shall disclose any file, application, paper, document, or record, or the information contained therein, except as expressly authorized by this section.

(2) In no case shall information be released or the whereabouts of one party or the child disclosed to another party, or to the attorney of any other party, if a protective order has been issued by a court or administrative agency with respect to the party, a good cause claim under Section 11477.04 of the Welfare and Institutions Code has been approved or is pending, or the public agency responsible for establishing paternity or enforcing support has reason to believe that the release of the information may result in physical or emotional harm to the party or the child. When a local child support

agency is prohibited from releasing information pursuant to this subdivision, the information shall be omitted from any pleading or document to be submitted to the court and this subdivision shall be cited in the pleading or other document as the authority for the omission. The information shall be released only upon an order of the court pursuant to paragraph (6) of subdivision (c).

(3) Notwithstanding any other law, a proof of service filed by the local child support agency shall not disclose the address where service of process was accomplished. Instead, the local child support agency shall keep the address in its own records. The proof of service shall specify that the address is on record at the local child support agency and that the address may be released only upon an order from the court pursuant to paragraph (6) of subdivision (c). The local child support agency shall, upon request by a party served, release to that person the address where service was effected.

(c) Disclosure of the information described in subdivision (b) is authorized as follows:

(1) All files, applications, papers, documents, and records as described in subdivision (b) shall be available and may be used by a public entity for all administrative, civil, or criminal investigations, actions, proceedings, or prosecutions conducted in connection with the administration of the child and spousal support enforcement program approved under Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and to the county welfare department responsible for administering a program operated under a state plan pursuant to Part A, Subpart 1 or 2 of Part B, or Part E of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

(2) A document requested by a person who wrote, prepared, or furnished the document may be examined by or disclosed to that person or his or her designee.

(3) The payment history of an obligor pursuant to a support order may be examined by or released to the court, the obligor, or the person on whose behalf enforcement actions are being taken or that person's designee.

(4) An income and expense declaration of either parent may be released to the other parent for the purpose of establishing or modifying a support order.

(5) Public records subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) may be released.

(6) After a noticed motion and a finding by the court, in a case in which establishment or enforcement actions are being taken, that release or disclosure to the obligor or obligee is required by due process of law, the court may order a public entity that possesses an application, paper, document, or record as described in subdivision (b) to make that item available to the obligor or obligee for examination or copying, or to disclose to the obligor or obligee the contents of that item. Article 9 (commencing with Section 1040) of Chapter 4 of Division 8 of the Evidence Code shall not be applicable to proceedings under this part. At any hearing of a motion

filed pursuant to this section, the court shall inquire of the local child support agency and the parties appearing at the hearing if there is reason to believe that release of the requested information may result in physical or emotional harm to a party. If the court determines that harm may occur, the court shall issue any protective orders or injunctive orders restricting the use and disclosure of the information as are necessary to protect the individuals.

(7) To the extent not prohibited by federal law or regulation, information indicating the existence or imminent threat of a crime against a child, or location of a concealed, detained, or abducted child or the location of the concealing, detaining, or abducting person, may be disclosed to any district attorney, any appropriate law enforcement agency, or to any state or county child protective agency, or may be used in any judicial proceedings to prosecute that crime or to protect the child.

(8) The social security number, most recent address, and the place of employment of the absent parent may be released to an authorized person as defined in Section 653(c) of Title 42 of the United States Code, only if the authorized person has filed a request for the information, and only if the information has been provided to the California Parent Locator Service by the federal Parent Locator Service pursuant to Section 653 of Title 42 of the United States Code.

(9) A parent's or relative's name, social security number, most recent address, telephone number, place of employment, or other contact information may be released to a county child welfare agency or county probation department pursuant to subdivision (c) of Section 17506.

(d) (1) "Administration and implementation of the child and spousal support enforcement program," as used in this division, means the carrying out of the state and local plans for establishing, modifying, and enforcing child support obligations, enforcing spousal support orders, and determining paternity pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article.

(2) For purposes of this division, "obligor" means any person owing a duty of support.

(3) As used in this division, "putative parent" shall refer to any person reasonably believed to be the parent of a child for whom the local child support agency is attempting to establish paternity or establish, modify, or enforce support pursuant to Section 17400.

(e) Any person who willfully, knowingly, and intentionally violates this section is guilty of a misdemeanor.

(f) Nothing in this section shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if that information is required to be kept confidential by the federal law or regulations relating to the program.

SEC. 12. 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 local child support agencies. 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 appropriate organizations representing stakeholders in California, such as 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) (A) Notwithstanding 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.

(B) 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. 13. Article 4 (commencing with Section 17390) is added to Chapter 1 of Division 17 of the Family Code, to read:

Article 4. Statewide Registry for Child Support

17390. (a) The Legislature finds and declares that there is no single statewide database containing statistical data regarding child support orders.

(b) The California Child Support Enforcement System or its replacement may be utilized to provide a single statewide registry of all child support orders in California, including orders for cases under Title IV-D of the Social Security Act and all cases with child support orders.

17391. (a) The department shall develop an implementation plan for the Statewide Child Support Registry. The Statewide Child Support Registry shall be operated by the agency responsible for operation of the California Child Support Enforcement System or its replacement. The Statewide Child Support Registry shall include storage and data retrieval of the data elements

specified in Section 17392 for all California child support orders. The Statewide Child Support Registry will operate to ensure that all data in the Statewide Child Support Registry can be accessed and integrated for statistical analysis and reporting purposes with all child support order data contained in the California Child Support Enforcement System.

(b) Each clerk of the court shall provide the information specified in Section 17392 within 20 days to the department or the Statewide Child Support Registry from each new or modified child support order, including child support arrearage orders.

(c) The department shall maintain a system for compiling the child support data received from the clerks of the court, ensure that all child support data received from the clerks of the court are entered into the Statewide Child Support Registry within five business days of receipt in the Statewide Child Support Registry, and ensure that the Statewide Child Support Registry is fully implemented statewide.

(d) The department shall provide aggregate data on a periodic basis on the data maintained by the Statewide Child Support Registry to the Judicial Council, the appropriate agencies of the executive branch, and the Legislature for statistical analysis and review. The data shall not include individual identifying information for specific cases.

(e) Any information maintained by the Statewide Child Support Registry received from clerks of the court shall be provided to local child support agencies, the courts, and others as provided by law.

17392. (a) The Judicial Council shall develop any forms that may be necessary to implement the Statewide Child Support Registry. The forms may be in electronic form or in hardcopy, as appropriate. The forms shall be developed so as not to delay implementation, and shall be available no later than 30 days prior to the implementation, of the Statewide Child Support Registry.

(b) The information transmitted from the clerks of the court to the Statewide Child Support Registry shall include all of the following:

- (1) Any information required under federal law.
- (2) Any other information the department and the Judicial Council find appropriate.

17393. The Judicial Council shall develop the forms necessary to implement this article.

SEC. 14. Section 17400 of the Family Code is amended to read:

17400. (a) Each county shall maintain a local child support agency, as specified in Section 17304, that shall have the responsibility for promptly and effectively establishing, modifying, and enforcing child support obligations, including medical support, enforcing spousal support orders established by a court of competent jurisdiction, and determining paternity in the case of a child born out of wedlock. The local child support agency shall take appropriate action, including criminal action in cooperation with the district attorneys, to establish, modify, and enforce child support and, if appropriate, enforce spousal support orders if the child is receiving public assistance, including Medi-Cal, and, if requested, shall take the same actions

on behalf of a child who is not receiving public assistance, including Medi-Cal.

(b) (1) Notwithstanding Sections 25203 and 26529 of the Government Code, attorneys employed within the local child support agency may direct, control, and prosecute civil actions and proceedings in the name of the county in support of child support activities of the Department of Child Support Services and the local child support agency.

(2) Notwithstanding any other law, and except for pleadings or documents required to be signed under penalty of perjury, a local child support agency may substitute original signatures with any form of electronic signatures, including, but not limited to, typed, digital, or facsimile images of signatures, digital signatures, or other computer-generated signatures, on pleadings filed for the purpose of establishing, modifying, or enforcing paternity, child support, or medical support. Any substituted signature used by a local child support agency shall have the same effect as an original signature, including, but not limited to, the requirements of Section 128.7 of the Code of Civil Procedure.

(3) Notwithstanding any other law, effective July 1, 2016, a local child support agency may electronically file pleadings signed by an agent of the local child support agency under penalty of perjury. An original signed pleading shall be executed prior to, or on the same day as, the day of electronic filing. Original signed pleadings shall be maintained by the local child support agency for the period of time prescribed by subdivision (a) of Section 68152 of the Government Code. A local child support agency may maintain the original signed pleading by way of an electronic copy in the Statewide Automated Child Support System. The Judicial Council, by July 1, 2016, shall develop rules to implement this subdivision.

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

(d) (1) The Judicial Council, in consultation with the department, the Senate Committee on Judiciary, the Assembly Committee on Judiciary, and a legal services organization providing representation on child support matters, shall develop simplified summons, complaint, and answer forms for any action for support brought pursuant to this section or Section 17404. The Judicial Council may combine the summons and complaint in a single form.

(2) The simplified complaint form shall provide notice of the amount of child support that is sought pursuant to the guidelines set forth in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9 based

upon the income or income history of the support obligor as known to the local child support agency. If the support obligor's income or income history is unknown to the local child support agency, the complaint shall inform the support obligor that income shall be presumed to be the amount of the minimum wage, at 40 hours per week, established by the Industrial Welfare Commission pursuant to Section 1182.11 of the Labor Code unless information concerning the support obligor's income is provided to the court. The complaint form shall be accompanied by a proposed judgment. The complaint form shall include a notice to the support obligor that the proposed judgment will become effective if he or she fails to file an answer with the court within 30 days of service. Except as provided in paragraph (2) of subdivision (a) of Section 17402, if the proposed judgment is entered by the court, the support order in the proposed judgment shall be effective as of the first day of the month following the filing of the complaint.

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

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

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

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

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

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

(e) In any action brought or enforcement proceedings instituted by the local child support agency pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the local child support agency at any time within the period

otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority.

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

(g) (1) In any action to establish a child support order brought by the local child support agency in the performance of duties under this section, the local child support agency may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order has the same force and effect as a like or similar order under this code.

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

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

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

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

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

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

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

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

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

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

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

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

(5) The referral of child support delinquencies to the department under subdivision (c) of Section 17500 in support of the local child support agency.

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

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

(2) Nothing in this section limits the authority of the local child support agency granted by other sections of this code or otherwise granted by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 15. Section 17434 of the Family Code is amended to read:

17434. (a) The department shall publish a booklet describing the proper procedures and processes for the collection and payment of child and spousal support. The booklet shall be written in language understandable to the lay person and shall direct the reader to obtain the assistance of the local child support agency, the family law facilitator, or legal counsel where appropriate. The department may contract on a competitive basis with an organization or individual to write the booklet.

(b) The department shall have primary responsibility for the design and development of the contents of the booklet. The department shall solicit comment regarding the content of the booklet from the Director of the Administrative Office of the Courts. The department shall verify the appropriateness and accuracy of the contents of the booklet with at least one representative of each of the following organizations:

(1) A local child support agency.

(2) The State Attorney General's office.

(3) A community organization that advocates for the rights of custodial parents.

(4) A community organization that advocates for the rights of supporting parents.

(c) Upon receipt of booklets on support collection, each county welfare department shall provide a copy to each head of household whose application for public assistance under Division 9 (commencing with Section 10000)

of the Welfare and Institutions Code has been approved and for whom support rights have been assigned pursuant to Section 11477 of the Welfare and Institutions Code. The department shall provide copies of the booklet to local child support agencies for distribution, and to any person upon request. The department shall also distribute the booklets to all superior courts. Upon receipt of those booklets, each clerk of the court shall provide two copies of the booklet to the petitioner or plaintiff in any action involving the support of a minor child. The moving party shall serve a copy of the booklet on the responding party.

(d) The department shall expand the information provided under its toll-free information hotline in response to inquiries regarding the process and procedures for collection and payment of child and spousal support. This toll-free number shall be advertised as providing information on child and spousal support. The hotline personnel shall not provide legal consultation or advice, but shall provide only referral services.

(e) The department shall maintain a file of referral sources to provide callers to the telephone hotline with the following information specific to the county in which the caller resides:

(1) The location and telephone number of the local child support agency, the county welfare office, the family law facilitator, and any other government agency that handles child and spousal support matters.

(2) The telephone number of the local bar association for referral to attorneys in family law practice.

(3) The name and telephone number of at least one organization that advocates the payment of child and spousal support or the name and telephone number of at least one organization that advocates the rights of supporting parents, if these organizations exist in the county.

SEC. 16. Section 17450 of the Family Code is amended to read:

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 Enforcement System (CSE) 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 CSE, 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 Enforcement System, 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 Human Resources, 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.

SEC. 17. Section 17458 of the Family Code is repealed.

SEC. 18. Section 17460 of the Family Code is amended to read:

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 Enforcement System 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. 19. Section 17504.1 is added to the Family Code, to read:

17504.1. On a monthly basis, the local child support agency shall provide to any CalWORKs recipient or former recipient for whom an assignment pursuant to subdivision (a) of Section 11477 of the Welfare and Institutions Code is currently effective, a notice of the amount of assigned support payments made on behalf of the recipient or former recipient or any other family member for whom public assistance is received.

SEC. 20. 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 19548 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 mobile telephony 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 Enforcement System and the California Parent Locator Service and Central Registry 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 and to any county child welfare agency or county probation department in fulfilling the duties prescribed in Article 5.5 (commencing with Section 290.1) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, and prescribed in Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code to identify, locate, and notify parents or relatives of children who are the subject of juvenile court proceedings, to establish parent and child relationships pursuant to Section 316.2 of the Welfare and Institutions Code, and to assess the appropriateness of placement of a child with a noncustodial parent pursuant to Section 361.2 of the Welfare and Institutions Code. Consistent with paragraph (1) of subdivision (e) of Section 309 of, and paragraph (2) of subdivision (d) of Section 628 of, the Welfare and Institutions Code, in order for county child welfare and probation departments to carry out their duties to identify and locate all grandparents, adult siblings, and other adult relatives of the child as defined in paragraph (2) of subdivision (f) of Section 319 of the Welfare and Institutions Code, including any other adult relatives suggested by the parents, county personnel are permitted to request and receive information from the California Parent Locator Service and Federal Parent Locator Service. County child welfare agencies and probation departments shall be entitled to the information described in this subdivision regardless of whether an all-county letter or similar instruction is issued pursuant to subparagraph (C) of paragraph (8) of subdivision (c) of Section 11478.1 of the Welfare and Institutions Code. The California Child Support Enforcement 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 Enforcement 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 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 Enforcement 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 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 Enforcement System may request and shall receive from cable television corporations, as defined in Section 216.4 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 mobile telephony services, as defined in Section 224.4 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 cable television corporation, customers of the providers of electronic digital pager communication, and customers of the providers of mobile telephony services.

(3) In order to protect the privacy of utility, cable television, electronic digital pager communication, and mobile telephony service customers, a request to a public utility, cable television corporation, provider of electronic digital pager communication, or provider of mobile telephony 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 mobile telephony services in writing, on a transmittal document prepared by the California Parent Locator Service and Central Registry or the California Child Support Enforcement System and approved by all of the public utilities, cable television corporations, providers of electronic digital pager communication, and providers of mobile telephony 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 Enforcement 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 Enforcement System shall ensure that each public utility, cable television corporation, provider of electronic digital pager communication services, and provider of mobile telephony services has at all times a current list of the names of persons authorized to request customer service information.

(E) The California Child Support Enforcement System and the California Parent Locator Service and Central Registry shall ensure that customer service information supplied by a public utility, cable television corporation, provider of electronic digital pager communication, or provider of mobile telephony 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 Enforcement 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 mobile telephony service provider may charge a fee to the California Parent Locator Service and Central Registry or the California Child Support Enforcement 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 mobile telephony service provider for providing this information.

(6) No public utility, cable television corporation, electronic digital pager communication provider, or mobile telephony 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 14203 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 Enforcement 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 Enforcement 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 Enforcement 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.

(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 Enforcement 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 mobile telephony 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 mobile telephony services and for compensating the public utilities, cable television corporations, providers of electronic digital pager communication, and providers of mobile telephony 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. 21. Section 17508 of the Family Code is amended to read:

17508. (a) The Employment Development Department shall, when requested by the Department of Child Support Services local child support agency, the federal Parent Locator Service, or the California Parent Locator Service, provide access to information collected pursuant to Division 1 (commencing with Section 100) of the Unemployment Insurance Code to the requesting department or agency for purposes of administering the child support enforcement program, and for purposes of verifying employment of applicants and recipients of aid under this chapter or CalFresh under Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code.

(b) (1) To the extent possible, the Employment Development Department shall share information collected under Sections 1088.5 and 1088.8 of the Unemployment Insurance Code immediately upon receipt. This sharing of information may include electronic means.

(2) This subdivision shall not authorize the Employment Development Department to share confidential information with any individuals not otherwise permitted by law to receive the information or preclude batch runs or comparisons of data.

SEC. 22. 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 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 State Disbursement Unit, established under Section 17309, 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. 23. Section 17523.5 of the Family Code is amended to read:

17523.5. (a) (1) Notwithstanding any other law, in connection with the duty of the department and the local child support agency to promptly and effectively collect and enforce child support obligations under Title IV-D, the transmission, filing, and recording of a lien record by departmental and local child support agency staff that arises pursuant to subdivision (a) of Section 4506 of this code or Section 697.320 of the Code of Civil Procedure against the real property of a support obligor in the form of a digital or a digitized electronic record shall be permitted and governed only by this section.

(2) A facsimile signature that complies with the requirements of paragraph (2) of subdivision (b) of Section 27201 of the Government Code shall be accepted on any document relating to a lien that is filed or recorded pursuant to this section.

(3) The department and the local child support agency may use the California Child Support Enforcement System to transmit, file, and record a lien record under this section.

(b) Nothing in this section shall be construed to require a county recorder to establish an electronic recording delivery system or to enter into a contract with an entity to implement this section.

(c) For purposes of this section, the following terms have the following meanings:

(1) “Digital electronic record” means a record containing information that is created, generated, sent, communicated, received, or stored by electronic means, but not created in original paper form.

(2) “Digitized electronic record” means a scanned image of the original paper document.

SEC. 24. Section 17525 of the Family Code is amended to read:

17525. (a) Whenever a state or local governmental agency issues a notice of support delinquency, the notice shall state the date upon which the amount of the delinquency was calculated, and shall notify the obligor that the amount calculated may, or may not, include accrued interest. This requirement shall not be imposed until the local child support agency has instituted the California Child Support Enforcement System implemented and maintained by the Department of Child Support Services pursuant to Section 17308. The notice shall further notify the obligor of his or her right to an administrative determination of arrears by requesting that the local child support agency review the arrears, but that payments on arrears continue to be due and payable unless and until the local child support agency notifies the obligor otherwise. A state agency shall not be required to suspend enforcement of any arrearages as a result of the obligor’s request for an administrative determination of arrears, unless the agency receives notification of a suspension pursuant to subdivision (b) of Section 17526.

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

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

SEC. 25. Section 17528 of the Family Code is amended to read:

17528. (a) As authorized by subdivision (c) of Section 704.110 of the Code of Civil Procedure, the following actions shall be taken in order to enforce support obligations that are not being met:

(1) Within 18 months of implementation of the California Child Support Enforcement System (CSE), or its replacement as prescribed by former Section 10815 of the Welfare and Institutions Code, and certification of CSE or its replacement by the United States Department of Health and Human Services, the department shall compile a file of all support judgments and orders that are being enforced by local child support agencies pursuant to Section 17400 that have sums overdue by at least 60 days or by an amount equal to 60 days of support.

(2) The file shall contain the name and social security number of the person who owes overdue support, the amount of overdue support as of the date the file is created, the name of the county in which the support obligation is being enforced by the local child support agency, and any other information that is deemed necessary by the department and the Public Employees’ Retirement System.

(3) The department shall provide the certified file to the Public Employees' Retirement System for the purpose of matching the names in the file with members and beneficiaries of the Public Employees' Retirement System that are entitled to receive Public Employees' Retirement System benefits. The department and the Public Employees' Retirement System shall work cooperatively to develop an interface in order to match the names in their respective electronic data processing systems. The interface required to intercept benefits that are payable periodically shall be done as soon as it is technically feasible.

(4) The department shall update the certified file no less than on a monthly basis to add new cases within the local child support agencies or existing cases that become delinquent and to delete persons who are no longer delinquent. The department shall provide the updated file no less than on a monthly basis to the Public Employees' Retirement System.

(5) Information contained in the certified file provided to the Public Employees' Retirement System by the department and the local child support agencies and information provided by the Public Employees' Retirement System to the department shall be used exclusively for child support enforcement purposes and may not be used for any other purpose.

(b) Notwithstanding any other law, the Public Employees' Retirement System shall withhold the amount certified from the benefits and refunds to be distributed to members with overdue support obligations or from benefits to be distributed to beneficiaries with overdue support obligations. If the benefits are payable periodically, the amount withheld pursuant to this section shall not exceed the amount permitted to be withheld for an earnings withholding order for support under Section 706.052 of the Code of Civil Procedure.

(c) The Public Employees' Retirement System shall forward the amounts withheld pursuant to subdivision (b) within 10 days of withholding to the department for distribution to the appropriate county.

(d) On an annual basis, the department shall notify individuals with overdue support obligations that PERS benefits or PERS contribution refunds may be intercepted for the purpose of enforcing family support obligations.

(e) No later than the time of the first withholding, the Public Employees' Retirement System shall send those persons subject to withholding the following:

(1) Notice that his or her benefits or retirement contribution refund have been reduced by payment on a support judgment pursuant to this section.

(2) A form developed by the department that the applicant shall use to request either a review by the local child support agency or a court hearing, as appropriate.

(f) The notice shall include the address and telephone number of the local child support agency that is enforcing the support obligation pursuant to Section 17400, and shall specify that the form requesting either a review by the local child support agency or a court hearing must be received by the local child support agency within 20 days of the date of the notice.

(g) The form shall include instructions that are designed to enable the member or beneficiary to obtain a review or a court hearing as appropriate on his or her own behalf. The form shall specify that if the member or beneficiary disputes the amount of support arrearages certified by the local child support agency pursuant to this section, he or she may request a review by the local child support agency.

(h) The department shall develop procedures that are consistent with this section to be used by each local child support agency in conducting the requested review. The local child support agency shall complete the review in accordance with the procedures developed by the department and shall notify the member or beneficiary of the result of the review within 20 days of receiving the request for review. The notification of review results shall include a request for hearing form and shall inform the member or beneficiary that if he or she returns the completed request for hearing form within 20 days of the date of the notice of review results, the local child support agency shall calendar the matter for court review. If the local child support agency cannot complete the review within 20 days, the local child support agency shall calendar the matter for hearing as specified in subdivision (k).

(i) The form specified in subdivision (g) shall also notify the member or beneficiary that he or she may request a court hearing to claim an exemption of any benefit not payable periodically by returning the completed form to the local child support agency within 20 days. If the local child support agency receives a timely request for a hearing for a claim of exemption, the local child support agency shall calendar a court hearing. The amount of the exemption, if any, shall be determined by the court in accordance with the procedures set forth in Section 703.070 of the Code of Civil Procedure.

(j) If the local child support agency receives the form requesting either a review by the local child support agency or a court hearing within the 20 days specified in subdivision (f), the local child support agency shall not distribute the amount intercepted until the review by the local child support agency or the court hearing is completed. If the local child support agency determines that all or a portion of the member's or beneficiary's benefits were intercepted in error, or if the court determines that any amount of the benefits are exempt, the local child support agency shall refund any amount determined to be exempt or intercepted in excess of the correct amount to the member or beneficiary within 10 days of determination that a refund is due.

(k) Any hearing properly requested pursuant to this section shall be calendared by the local child support agency. The hearing shall be held within 20 days from the date that the local child support agency receives the request for hearing. The local child support agency shall provide notice of the time and place for hearing by first-class mail no later than five days prior to the hearing.

(l) Nothing in this section shall limit any existing rights of the member or beneficiary, including, but not limited to, the right to seek a determination of arrearages or other appropriate relief directly from the court. However,

if the procedures of this section are not utilized by the member or beneficiary, the court may not require the local child support agency to refund any money that was distributed to the child support obligee prior to the local child support agency receiving notice of a court determination that a refund is due to the member or beneficiary.

(m) The Department of Child Support Services and the Public Employees' Retirement System shall enter into any agreement necessary to implement this section which shall include provisions for the department to provide funding to the Public Employees' Retirement System to develop, implement, and maintain the intercept process described in this section.

(n) The Public Employees' Retirement System shall not assess service charges on members or beneficiaries in order to recover any administrative costs resulting from complying with this section.

SEC. 26. Section 17710 of the Family Code is amended to read:

17710. (a) Each county shall be responsible for any administrative expenditures for administering the child support program not covered by federal and state funds.

(b) Notwithstanding subdivision (a), effective July 1, 1991, to June 30, 1992, inclusive, counties shall pay the nonfederal share of the administrative costs of conducting the reviews required under former Section 15200.8 of the Welfare and Institutions Code from the savings counties will obtain as a result of the reduction in the maximum aid payments specified in Section 11450. Effective July 1, 1992, to June 30, 1993, inclusive, the state shall pay the nonfederal share of administrative costs of conducting the reviews required under former Section 15200.8 of the Welfare and Institutions Code. Funding for county costs after June 30, 1993, shall be subject to the availability of funds in the annual Budget Act.

SEC. 27. Section 17801 of the Family Code is amended to read:

17801. (a) A custodial or noncustodial parent who is dissatisfied with the local child support agency's resolution of a complaint shall be accorded an opportunity for a state hearing when any one or more of the following actions or failures to take action by the department or the local child support agency is claimed by the parent:

(1) An application for child support services has been denied or has not been acted upon within the required timeframe.

(2) The child support services case has been acted upon in violation of state or federal law or regulation or department letter ruling, or has not yet been acted upon within the required timeframe, including services for the establishment, modification, and enforcement of child support orders and child support accountings.

(3) Child support collections have not been distributed or have been distributed or disbursed incorrectly, or the amount of child support arrears, as calculated by the department or the local child support agency is inaccurate. The amount of the court order for support, including current support and arrears, is not subject to a state hearing under this section.

(4) The child support agency's decision to close a child support case.

(b) Prior to requesting a hearing pursuant to subdivision (a), the custodial or noncustodial parent shall exhaust the complaint resolution process required in Section 17800, unless the local child support agency has not, within the 30-day period required by that section, submitted a written resolution of the complaint. If the custodial or noncustodial parent does not receive that timely written resolution he or she may request a hearing pursuant to subdivision (a).

(c) A hearing shall be provided under subdivision (a) when the request for a hearing is made within 90 days after receiving the written notice of resolution required in Section 17800 or, if no written notice of resolution is provided within 30 days from the date the complaint was made, within 90 days after making the complaint.

(d) (1) A hearing under subdivision (a) shall be set to commence within 45 days after the request is received by the state hearing office, and at least 10 days prior to the hearing, all parties shall be given written notice of the time and place of the hearing. Unless the time period is waived by the complainant, the proposed hearing decision shall be rendered by the state hearing office within 75 days after the request for a state hearing is received by the state hearing office. The department shall have 15 days from the date the proposed decision is rendered to act upon the decision. When a hearing is postponed, continued, or reopened with the consent of the complainant, the time for issuance of the decision, and action on the decision by the department, shall be extended for a period of time consistent with the postponement, continuance, or reopening.

(2) For purposes of this subdivision, the “state hearing office” refers to the division of the office or agency designated by the department to carry out state hearings, that conducts those state hearings.

(e) To the extent not inconsistent with this section, hearings under subdivision (a) shall be provided in the same manner in which hearings are provided in Sections 10950 to 10967 of the Welfare and Institutions Code and the State Department of Social Services’ regulations implementing and interpreting those sections.

(f) Pendency of a state hearing shall not affect the obligation to comply with an existing child support order.

(g) Any child support determination that is subject to the jurisdiction of the superior court and that is required by law to be addressed by motion, order to show cause, or appeal under this code shall not be subject to a state hearing under this section. The director shall, by regulation, specify and exclude from the subject matter jurisdiction of state hearings provided under subdivision (a), grievances arising from a child support case in the superior court which must, by law, be addressed by motion, order to show cause, or appeal under this code.

(h) The local child support agency shall comply with, and execute, every decision of the director rendered pursuant to this section.

(i) The director shall contract with the State Department of Social Services or the Office of Administrative Hearings for the provision of state hearings in accordance with this section.

(j) This section shall be implemented only to the extent that there is federal financial participation available at the child support funding rate set forth in Section 655(a)(2) of Title 42 of the United States Code.

SEC. 28. Section 17802 of the Family Code is repealed.

SEC. 29. Section 69619.5 is added to the Government Code, to read:

69619.5. (a) The Legislature hereby ratifies the authority of the Judicial Council to convert 10 subordinate judicial officer positions to judgeships in the 2016–17 fiscal year when the conversion will result in a judge being assigned to a family law or juvenile law assignment previously presided over by a subordinate judicial officer, pursuant to subparagraph (C) of paragraph (1) of subdivision (c) of Section 69615.

(b) The action described in subdivision (a) shall be in addition to any action that may be taken pursuant to the authority described in subparagraph (B) of paragraph (1) of subdivision (c) of Section 69615 to convert up to 16 subordinate judicial officer positions to judgeships.

SEC. 30. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) (1) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent or guardian to make educational or developmental services decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational or developmental services decisions for the child, or, for the nonminor dependent, if the court finds the appointment of a developmental services decisionmaker to be in the best interests of the nonminor dependent, the court shall at the same time appoint a responsible adult to make educational or developmental services decisions for the child or nonminor dependent until one of the following occurs:

(A) The minor reaches 18 years of age, unless the child or nonminor dependent chooses not to make educational or developmental services decisions for himself or herself, or is deemed by the court to be incompetent.

(B) Another responsible adult is appointed to make educational or developmental services decisions for the minor pursuant to this section.

(C) The right of the parent or guardian to make educational or developmental services decisions for the minor is fully restored.

(D) A successor guardian or conservator is appointed.

(E) The child is placed into a planned permanent living arrangement pursuant to paragraph (5) of subdivision (g) of Section 366.21, Section 366.22, Section 366.26, or subdivision (i) of Section 366.3, at which time, for educational decisionmaking, the foster parent, relative caretaker, or nonrelative extended family member as defined in Section 362.7, has the right to represent the child in educational matters pursuant to Section 56055 of the Education Code, and for decisions relating to developmental services,

unless the court specifies otherwise, the foster parent, relative caregiver, or nonrelative extended family member of the planned permanent living arrangement has the right to represent the child or nonminor dependent in matters related to developmental services.

(2) An individual who would have a conflict of interest in representing the child or nonminor dependent shall not be appointed to make educational or developmental services decisions. For purposes of this section, “an individual who would have a conflict of interest” means a person having any interests that might restrict or bias his or her ability to make educational or developmental services decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorney’s fees for the provision of services pursuant to this section. A foster parent shall not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

(3) If the court limits the parent’s educational rights pursuant to this subdivision, the court shall determine whether there is a responsible adult who is a relative, nonrelative extended family member, or other adult known to the child who is available and willing to serve as the child’s educational representative before appointing an educational representative or surrogate who is not known to the child.

If the court cannot identify a responsible adult who is known to the child and available to make educational decisions for the child, subparagraphs (A) to (E), inclusive, of paragraph (1) do not apply, and the child has either been referred to the local educational agency for special education and related services, or has a valid individualized education program, the court shall refer the child to the local educational agency for appointment of a surrogate parent pursuant to Section 7579.5 of the Government Code.

If the court cannot identify a responsible adult to make educational decisions for the child, the appointment of a surrogate parent as defined in subdivision (a) of Section 56050 of the Education Code is not warranted, and there is no foster parent to exercise the authority granted by Section 56055 of the Education Code, the court may, with the input of any interested person, make educational decisions for the child.

(4) If the court appoints a developmental services decisionmaker pursuant to this section, he or she shall have the authority to access the child’s or nonminor dependent’s information and records pursuant to subdivision (u) of Section 4514 and subdivision (y) of Section 5328, and to act on the child’s or nonminor dependent’s behalf for the purposes of the individual program plan process pursuant to Sections 4646, 4646.5, and 4648 and the fair hearing process pursuant to Chapter 7 (commencing with Section 4700) of Division 4.5, and as set forth in the court order.

If the court cannot identify a responsible adult to make developmental services decisions for the child or nonminor dependent, the court may, with the input of any interested person, make developmental services decisions for the child or nonminor dependent. If the child is receiving services from a regional center, the provision of any developmental services related to the

court's decision must be consistent with the child's or nonminor dependent's individual program plan and pursuant to the provisions of the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)).

(5) All educational and school placement decisions shall seek to ensure that the child is in the least restrictive educational programs and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils. In all instances, educational and school placement decisions shall be based on the best interests of the child. If an educational representative or surrogate is appointed for the child, the representative or surrogate shall meet with the child, shall investigate the child's educational needs and whether those needs are being met, and shall, prior to each review hearing held under this article, provide information and recommendations concerning the child's educational needs to the child's social worker, make written recommendations to the court, or attend the hearing and participate in those portions of the hearing that concern the child's education.

(6) Nothing in this section in any way removes the obligation to appoint surrogate parents for students with disabilities who are without parental representation in special education procedures as required by state and federal law, including Section 1415(b)(2) of Title 20 of the United States Code, Section 56050 of the Education Code, Section 7579.5 of the Government Code, and Rule 5.650 of the California Rules of Court.

(b) (1) Subdivision (a) does not limit the ability of a parent to voluntarily relinquish his or her child to the State Department of Social Services, to a county adoption agency, or to a licensed private adoption agency at any time while the child is the subject of a petition to declare him or her, or is, a dependent child of the juvenile court, if the department, county adoption agency, or licensed private adoption agency is willing to accept the relinquishment.

(2) When accepting the relinquishment of a child described in paragraph (1), the department or a county adoption agency shall comply with Section 8700 of the Family Code and, within five court days of accepting the relinquishment, shall file written notice of that fact with the court and all parties to the case and their counsel.

(3) When accepting the relinquishment of a child described in paragraph (1), a licensed private adoption agency shall comply with Section 8700 of the Family Code and, within 10 court days of accepting the relinquishment, shall file or allow another party or that party's counsel to file with the court one original and five copies of a request to approve the relinquishment. The clerk of the court shall file the request under seal, subject to examination only by the parties and their counsel or by others upon court approval. If the request is accompanied by the written agreement of all parties, the court may issue an ex parte order approving the relinquishment. Unless approved pursuant to that agreement, the court shall set the matter for hearing no later than 10 court days after filing, and shall provide notice of the hearing to all parties and their counsel, and to the licensed private adoption agency and

its counsel. The licensed private adoption agency and any prospective adoptive parent or parents named in the relinquishment shall be permitted to attend the hearing and participate as parties regarding the strictly limited issue of whether the court should approve the relinquishment. The court shall issue an order approving or denying the relinquishment within 10 court days after the hearing.

(c) A dependent child shall not be taken from the physical custody of his or her parents or guardian or guardians with whom the child resides at the time the petition was initiated, unless the juvenile court finds clear and convincing evidence of any of the following circumstances listed in paragraphs (1) to (5), inclusive, and, in an Indian child custody proceeding, paragraph (6):

(1) There is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's or guardian's physical custody. The fact that a minor has been adjudicated a dependent child of the court pursuant to subdivision (e) of Section 300 shall constitute prima facie evidence that the minor cannot be safely left in the physical custody of the parent or guardian with whom the minor resided at the time of injury. The court shall consider, as a reasonable means to protect the minor, each of the following:

(A) The option of removing an offending parent or guardian from the home.

(B) Allowing a nonoffending parent or guardian to retain physical custody as long as that parent or guardian presents a plan acceptable to the court demonstrating that he or she will be able to protect the child from future harm.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.26, the minor may be declared permanently free from their custody and control.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward himself or herself or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.

(4) The minor or a sibling of the minor has been sexually abused, or is deemed to be at substantial risk of being sexually abused, by a parent, guardian, or member of his or her household, or other person known to his or her parent, and there are no reasonable means by which the minor can be protected from further sexual abuse or a substantial risk of sexual abuse without removing the minor from his or her parent or guardian, or the minor does not wish to return to his or her parent or guardian.

(5) The minor has been left without any provision for his or her support, or a parent who has been incarcerated or institutionalized cannot arrange

for the care of the minor, or a relative or other adult custodian with whom the child has been left by the parent is unwilling or unable to provide care or support for the child and the whereabouts of the parent is unknown and reasonable efforts to locate him or her have been unsuccessful.

(6) In an Indian child custody proceeding, continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child, and that finding is supported by testimony of a “qualified expert witness” as described in Section 224.6.

(A) Stipulation by the parent, Indian custodian, or the Indian child’s tribe, or failure to object, may waive the requirement of producing evidence of the likelihood of serious damage only if the court is satisfied that the party has been fully advised of the requirements of the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), and has knowingly, intelligently, and voluntarily waived them.

(B) Failure to meet non-Indian family and child-rearing community standards, or the existence of other behavior or conditions that meet the removal standards of this section, will not support an order for placement in the absence of the finding in this paragraph.

(d) The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home or, if the minor is removed for one of the reasons stated in paragraph (5) of subdivision (c), whether it was reasonable under the circumstances not to make any of those efforts, or, in the case of an Indian child custody proceeding, whether active efforts as required in Section 361.7 were made and that these efforts have proved unsuccessful. The court shall state the facts on which the decision to remove the minor is based.

(e) The court shall make all of the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parent or guardian and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

SEC. 31. Chapter 4 (commencing with Section 10080) of Part 1 of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 32. Section 11475.2 of the Welfare and Institutions Code is repealed.

SEC. 33. Section 11475.3 of the Welfare and Institutions Code is repealed.

SEC. 34. Section 11476.2 of the Welfare and Institutions Code is repealed.

SEC. 35. Chapter 6 (commencing with Section 16575) of Part 4 of Division 9 of the Welfare and Institutions Code is repealed.