

ASSEMBLY BILL

No. 257

Introduced by Assembly Member Speier

February 6, 1995

An act to amend Sections 415.20 and 417.10 of, and to add Sections 415.35, 415.48, and 1013.1 to, the Code of Civil Procedure, to amend Sections 355, 4000, and 4009 of the Family Code, and to amend Section 11350.6 of the Welfare and Institutions Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

AB 257, as introduced, Speier. Family law: service of process: child support: marriage.

(1) Under existing law, in lieu of service by personal delivery, a summons may be served by leaving a copy of the summons and complaint at the person's office, dwelling house, usual place of abode or business, or usual mailing address, with the person who is apparently in charge or a competent member of the household, as specified.

This bill would provide that in specified actions and proceedings relating to family law and child support enforcement, acceptance of the documents by the person appearing to be in charge or a competent member of the household is not necessary.

(2) Existing law specifies procedures for service of a summons by mail. Under existing law, a summons may be served on a person outside this state by sending a copy of the summons and complaint to the person by first-class mail, postage prepaid, requiring a return receipt. Under this

provision, service is deemed complete on the 10th day after mailing.

This bill would provide that in specified actions and proceedings relating to family law and child support enforcement, a summons may be served by mailing a copy of the summons and complaint to the person by first-class mail, postage prepaid, requiring a return receipt. The bill would provide that service in this manner is deemed complete on the 10th day after mailing, and that proof of service in this manner shall include evidence satisfactory to the court establishing actual delivery, by a signed return receipt or other evidence of actual receipt.

This bill would also provide special procedures, in any action or proceeding under the Family Code, for the service of a notice of motion, order to show cause, order, judgment, subpoena, or subpoena duces tecum within this state on a person by the delivery of a copy to the person at the person's place of employment or at a postsecondary educational institution in which the person is enrolled, as specified.

(3) Existing law provides that where service is made by mail, or by Express Mail or another method of overnight delivery, the document must be addressed to the person on whom it is to be served, at the office address as last given by that person on any document filed in the cause and served on the party making service, or otherwise at that party's place of residence.

This bill would provide that in specified actions and proceedings relating to family law and child support enforcement, the document may be addressed to the person at an address where the person receives mail, as specified.

(4) Existing law provides that an order for child support may be made retroactive to the date of filing the notice of motion or order to show cause, or to any subsequent date, except as provided by specified federal law.

This bill would provide that notwithstanding the provision described above, an initial order for child support in a case to which that federal law is not applicable may be made retroactive to the date of the filing of the complaint or petition.



(5) Existing law requires the parties to obtain a marriage license before entering a marriage. Existing law requires the State Department of Health Services to prescribe the form for the application for a marriage license, and specifies certain requirements for that form.

This bill would require the form for the application for a marriage license to require the applicants to provide their social security numbers.

(6) Under existing law, if a parent has the duty to provide for the support of the parent's child and willfully fails to so provide, the other parent or the child by a guardian ad litem may bring an action against the parent to enforce the duty.

This bill would authorize the child's permanent guardian who is a relative of the child to bring such an action.

(7) Existing law precludes state professional licensing agencies from issuing or renewing a license if the licensee is on a list of persons who have not complied with support orders. The unauthorized use of information received by such an agency is a misdemeanor.

This bill would expressly apply this provision to sales and use tax permits and appointments and commissions by the Secretary of State as a notary public. The bill would state that it is the intent of the Legislature in making this change to clarify existing law and not to expand its application. The bill would also expand the application of this provision to include any driver's license, motor vehicle registration, or undocumented vessel registration issued by the Department of Motor Vehicles, and any license or permit issued by a city, county, or city and county that has adopted an authorizing ordinance, as specified, thereby imposing a state-mandated local program by adding to the duties of district attorneys. The bill would also impose a state-mandated local program by changing the definition of a crime.

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



procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. Section 415.20 of the Code of Civil
2 Procedure is amended to read:

3 415.20. (a) In lieu of personal delivery of a copy of the
4 summons and of the complaint to the person to be served
5 as specified in Section 416.10, 416.20, 416.30, 416.40, or
6 416.50, a summons may be served by leaving a copy of the
7 summons and of the complaint during usual office hours
8 in his or her office with the person who is apparently in
9 charge thereof, and by thereafter mailing a copy of the
10 summons and of the complaint (by first-class mail,
11 postage prepaid) to the person to be served at the place
12 where a copy of the summons and of the complaint were
13 left. Service of a summons in this manner is deemed
14 complete on the 10th day after ~~such~~ *the* mailing. *In any*
15 *action or proceeding under the Family Code or Article 4*
16 *(commencing with Section 11350) or Article 7*
17 *(commencing with Section 11475) of Chapter 2 of Part 3*
18 *of Division 9 of the Welfare and Institutions Code,*
19 *acceptance of the documents by the person appearing to*
20 *be in charge is not necessary.*

21 (b) If a copy of the summons and of the complaint
22 cannot with reasonable diligence be personally delivered
23 to the person to be served as specified in Section 416.60,
24 416.70, 416.80, or 416.90, a summons may be served by
25 leaving a copy of the summons and of the complaint at



1 ~~such~~ the person's dwelling house, usual place of abode,
2 usual place of business, or usual mailing address other
3 than a United States Postal Service post office box, in the
4 presence of a competent member of the household or a
5 person apparently in charge of his or her office, place of
6 business, or usual mailing address other than a United
7 States Postal Service post office box, at least 18 years of
8 age, who shall be informed of the contents thereof, and
9 by thereafter mailing a copy of the summons and of the
10 complaint (by first-class mail, postage prepaid) to the
11 person to be served at the place where a copy of the
12 summons and of the complaint were left. Service of a
13 summons in this manner is deemed complete on the 10th
14 day after the mailing. *In any action or proceeding under*
15 *the Family Code or Article 4 (commencing with Section*
16 *11350) or Article 7 (commencing with Section 11475) of*
17 *Chapter 2 of Part 3 of Division 9 of the Welfare and*
18 *Institutions Code, acceptance of the documents by the*
19 *person appearing to be in charge or a competent member*
20 *of the household is not necessary.*

21 SEC. 2. Section 415.35 is added to the Code of Civil
22 Procedure, to read:

23 415.35. In any action or proceeding under the Family
24 Code or Article 4 (commencing with Section 11350) or
25 Article 7 (commencing with Section 11475) of Chapter 2
26 of Part 3 of Division 9 of the Welfare and Institutions
27 Code, a summons may be served by mail as provided in
28 this section. A copy of the summons and the complaint
29 shall be mailed to the person to be served by first-class
30 mail, postage prepaid, requiring a return receipt. Service
31 of a summons in this manner is deemed complete on the
32 10th day after receipt.

33 SEC. 3. Section 415.48 is added to the Code of Civil
34 Procedure, to read:

35 415.48. (a) Unless the provision or context otherwise
36 requires, the following definitions govern the
37 construction of this section.

38 (1) "Employer" has the meaning provided in Section
39 5210 of the Family Code.



1 (2) “Postsecondary educational institution” has the
2 same meaning as the definitions of university, state
3 university, and community college provided in
4 subdivision (a) of Section 626 of the Penal Code, and also
5 includes a private university or college, vocational
6 technical institution, or private postsecondary school.

7 (b) (1) In any action or proceeding under the Family
8 Code, service of a notice of motion, order to show cause,
9 order, judgment, subpoena, or subpoena duces tecum
10 within this state may be made upon a person by
11 delivering a copy to the person as provided in paragraph
12 (2), or by substituted service pursuant to Section 415.20,
13 at the person’s place of employment or at a postsecondary
14 educational institution in which the person is enrolled.

15 (2) The employer or postsecondary educational
16 institution shall make the person available for the purpose
17 of effecting service, or shall deliver the process to the
18 person.

19 (c) An employer shall not discharge or otherwise
20 discipline an employee, nor shall a postsecondary
21 educational institution dismiss or discipline a student, as
22 a result of service under this section.

23 (d) An employer or postsecondary educational
24 institution which does not comply with this section may
25 be assessed a civil penalty of a maximum of five hundred
26 dollars (\$500) plus attorney’s fees and costs for each
27 violation of this section. Proceedings to impose the civil
28 penalty shall be commenced by the filing and service of
29 an order to show cause.

30 SEC. 4. Section 417.10 of the Code of Civil Procedure
31 is amended to read:

32 417.10. Proof that a summons was served on a person
33 within this state shall be made:

34 (a) If served under Section 415.10, 415.20, ~~or~~ 415.30, *or*
35 *415.35*, by the affidavit of the person making ~~such~~ service
36 showing the time, place, and manner of service and facts
37 showing that ~~such~~ service was made in accordance with
38 this chapter. ~~Such~~ *The* affidavit shall recite or in other
39 manner show the name of the person to whom a copy of
40 the summons and of the complaint were delivered, and,



1 if appropriate, his *or her* title or the capacity in which he
2 *or she* is served, and that the notice required by Section
3 412.30 appeared on the copy of the summons served, if in
4 fact it did appear.

5 If service is made by mail pursuant to Section 415.30,
6 proof of service shall include the acknowledgement of
7 receipt of summons in the form provided by that section
8 or other written acknowledgment of receipt of summons
9 satisfactory to the court.

10 *If service is made by mail pursuant to Section 415.35,*
11 *proof of service shall include evidence satisfactory to the*
12 *court establishing actual delivery to the person to be*
13 *served, by a signed return receipt or other evidence of*
14 *actual receipt.*

15 (b) If served by publication pursuant to Section 415.50,
16 by the affidavit of the publisher or printer, or his foreman
17 or principal clerk, showing the time and place of
18 publication, and an affidavit showing the time and place
19 a copy of the summons and of the complaint were mailed
20 to the party to be served, if in fact mailed.

21 (c) If served pursuant to another statute of this state,
22 in the manner prescribed by ~~such~~ *that* statute or, if no
23 manner is prescribed, in the manner prescribed by this
24 section for proof of a similar manner of service.

25 (d) By the written admission of the party.

26 (e) If served by posting pursuant to Section 415.45, by
27 the affidavit of the person who posted the premises,
28 showing the time and place of posting, and an affidavit
29 showing the time and place copies of the summons and
30 of the complaint were mailed to the party to be served,
31 if in fact mailed.

32 (f) All proof of personal service shall be made on a
33 form adopted by the Judicial Council.

34 SEC. 5. Section 1013.1 is added to the Code of Civil
35 Procedure, to read:

36 1013.1. (a) This section shall apply in any action or
37 proceeding under the Family Code or Article 4
38 (commencing with Section 11350) or Article 7
39 (commencing with Section 11475) of Chapter 2 of Part 3
40 of Division 9 of the Welfare and Institutions Code.



1 (b) In case of service by mail, the notice or other paper
2 must be deposited in a post office, mailbox, subpost office,
3 substation, or mail chute, or other like facility regularly
4 maintained by the United States Postal Service, in a
5 sealed envelope, with postage paid, addressed to the
6 person on whom it is to be served, at the office address as
7 last given by that person on any document filed in the
8 cause and served on the party making service by mail;
9 otherwise at that party's place of residence or an address
10 where that party receives mail. There is a rebuttable
11 presumption that a party receives mail at the address of
12 record of that party with the Department of Motor
13 Vehicles. The service is complete at the time of the
14 deposit, but any prescribed period of notice and any right
15 or duty to do any act or make any response within any
16 prescribed period or on a date certain after the service of
17 the document served by mail shall be extended five days
18 if the place of address is within the State of California, 10
19 days if the place of address is outside the State of
20 California but within the United States, and 20 days if the
21 place of address is outside the United States, but the
22 extension shall not apply to extend the time for filing
23 notice of intention to move for new trial, notice of
24 intention to move to vacate judgment pursuant to Section
25 663a, or notice of appeal.

26 (c) The copy of the notice or other paper served by
27 mail pursuant to this chapter shall bear a notation of the
28 date and place of mailing or be accompanied by an
29 unsigned copy of the affidavit or certificate of mailing.

30 (d) In case of service by Express Mail, the notice or
31 other paper must be deposited in a post office, mailbox,
32 subpost office, substation, or mail chute, or other like
33 facility regularly maintained by the United States Postal
34 Service for receipt of Express Mail, in a sealed envelope,
35 with Express Mail postage paid, addressed to the person
36 on whom it is to be served, at the office address as last
37 given by that person on any document filed in the cause
38 and served on the party making service by Express Mail;
39 otherwise at that party's place of residence or an address
40 where that party receives mail. In case of service by



1 another method of delivery providing for overnight
2 delivery, the notice or other paper must be deposited in
3 a box or other facility regularly maintained by the express
4 service carrier, or delivered to an authorized courier or
5 driver authorized by the express service carrier to
6 receive documents, in an envelope or package
7 designated by the express service carrier with delivery
8 fees paid or provided for, addressed to the person on
9 whom it is to be served, at the office address as last given
10 by that person on any document filed in the cause and
11 served on the party making service; otherwise at that
12 party's place of residence or an address where that party
13 receives mail. The service is complete at the time of the
14 deposit, but any prescribed period of notice and any right
15 or duty to do any act or make any response within any
16 prescribed period or on a date certain after the service of
17 the document served by Express Mail or other method of
18 delivery providing for overnight delivery shall be
19 extended by two court days, but the extension shall not
20 apply to extend the time for filing notice of intention to
21 move for new trial, notice of intention to move to vacate
22 judgment pursuant to Section 663a, or notice of appeal.

23 For purposes of this subdivision, there is a rebuttable
24 presumption that a party receives mail at the address of
25 record of that party with the Department of Motor
26 Vehicles.

27 (e) The copy of the notice or other paper served by
28 Express Mail or another means of delivery providing for
29 overnight delivery pursuant to this chapter shall bear a
30 notation of the date and place of deposit or be
31 accompanied by an unsigned copy of the affidavit or
32 certificate of deposit.

33 (f) Service by facsimile transmission shall be
34 permitted only where the parties agree and a written
35 confirmation of that agreement is made. The Judicial
36 Council may adopt rules implementing the service of
37 documents by facsimile transmission and may provide a
38 form for the confirmation of the agreement required by
39 this subdivision. In case of service by facsimile
40 transmission, the notice or other paper must be



1 transmitted to a facsimile machine maintained by the
 2 person on whom it is served at the facsimile machine
 3 telephone number as last given by that person on any
 4 document which he or she has filed in the cause and
 5 served on the party making the service. The service is
 6 complete at the time of transmission, but any prescribed
 7 period of notice and any right or duty to do any act or
 8 make any response within any prescribed period or on a
 9 date certain after the service of the document served by
 10 facsimile transmission shall be extended by two court
 11 days, but the extension shall not apply to extend the time
 12 for filing notice of intention to move for new trial, notice
 13 of intention to move to vacate judgment pursuant to
 14 Section 663a, or notice of appeal.

15 (g) The copy of the notice or other paper served by
 16 facsimile transmission pursuant to this chapter shall bear
 17 a notation of the date and place of transmission and the
 18 facsimile telephone number to which transmitted or be
 19 accompanied by an unsigned copy of the affidavit or
 20 certificate of transmission which shall contain the
 21 facsimile telephone number to which the notice or other
 22 paper was transmitted.

23 (h) Subdivisions (c), (e), and (g) are directory.

24 SEC. 6. Section 355 of the Family Code is amended to
 25 read:

26 355. (a) The forms for the application for a marriage
 27 license and the marriage license shall be prescribed by
 28 the State Department of Health Services, and shall be
 29 adapted to set forth the facts required in this part.

30 (b) The form for the application for a marriage license
 31 shall include an affidavit on the back, which the
 32 applicants shall sign, affirming that they have received
 33 the brochure provided for in Section 358.

34 (c) The affidavit required by subdivision (b) shall
 35 state:

36

37 AFFIDAVIT

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39 I acknowledge that I have received the brochure
 40 titled _____



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| Signature of Groom | Date |

(d) The form for the application for a marriage license shall require the applicants to provide their social security numbers.

SEC. 7. Section 4000 of the Family Code is amended to read:

4000. If a parent has the duty to provide for the support of the parent’s child and willfully fails to so provide, the other parent, ~~or~~ the child by a guardian ad litem, *or the child’s permanent guardian who is a relative of the child* may bring an action against the parent to enforce the duty.

SEC. 8. Section 4009 of the Family Code is amended to read:

4009. (a) An order for child support may be made retroactive to the date of filing the notice of motion or order to show cause, or to any subsequent date, except as provided by federal law (42 U.S.C. Sec. 666(a)(9)).

(b) Notwithstanding subdivision (a), in a case to which federal law is not applicable (42 U.S.C. Sec. 666(a)(9)), an initial order for child support may be made retroactive to the date of the filing of the complaint or petition. This subdivision does not affect any obligation for support for any periods prior to the filing of the complaint or petition.

SEC. 9. Section 11350.6 of the Welfare and Institutions Code, as amended by Section 3.6 of Chapter 906 of the Statutes of 1994, is amended to read:

11350.6. (a) As used in this section:

(1) “Applicant” means any person applying for issuance or renewal of a license.

(2) “Board” means any entity specified in Section 101 of the Business and Professions Code, the entities referred



1 to in Sections 1000 and 3600 of the Business and
2 Professions Code, the State Bar, the Department of Real
3 Estate, *the Department of Motor Vehicles, the State*
4 *Board of Equalization, the Secretary of State*, and any
5 other state commission, department, committee,
6 examiner, or agency that issues a license, certificate,
7 credential, or registration authorizing a person to engage
8 in a business, occupation, or profession. “Board” also
9 means any agency or department of a city, county, or city
10 and county that is authorized by local ordinance to act
11 under this section.

12 (3) “Certified list” means a list provided by the district
13 attorney to the State Department of Social Services in
14 which the district attorney verifies, under penalty of
15 perjury, that the names contained therein are support
16 obligors found to be out of compliance with a judgment
17 or order for support in a case being enforced under Title
18 IV-D of the Social Security Act.

19 (4) “Compliance with a judgment or order for
20 support” means that, as set forth in a judgment or order
21 for child or family support, the obligor is no more than 30
22 calendar days in arrears in making payments in full for
23 current support, in making periodic payments in full,
24 whether court-ordered or by agreement with the district
25 attorney, on a support arrearage, or in making periodic
26 payments in full, whether court-ordered or by agreement
27 with the district attorney, on a judgment for
28 reimbursement for public assistance, or has obtained a
29 judicial finding that equitable estoppel as provided in
30 statute or case law precludes enforcement of the order.
31 The district attorney is authorized to use this section to
32 enforce orders for spousal support only when the district
33 attorney is also enforcing a related child support
34 obligation owed to the obligee parent by the same
35 obligor, pursuant to Sections 11475.1 and 11475.2.

36 (5) “License” includes membership in the State Bar,
37 and a certificate, permit, registration, or any other
38 authorization issued by a board that allows a person to
39 engage in a business, occupation, or profession, or to
40 operate a commercial motor vehicle, *including a sales and*



1 *use tax permit, and appointment and commission by the*
2 *Secretary of State as a notary public. “License” also*
3 *includes any driver’s license or motor vehicle registration*
4 *issued by the Department of Motor Vehicles, any*
5 *undocumented vessel registration issued pursuant to*
6 *Chapter 2 (commencing with Section 9850) of Division*
7 *3.5 of the Vehicle Code, and any license or permit issued*
8 *by any agency or department of a city, county, or city and*
9 *county that is authorized by local ordinance to act under*
10 *this section.*

11 (6) “Licensee” means any person holding a license,
12 certificate, permit, registration, *sales and use tax permit,*
13 or other authorization issued by a board, to engage in a
14 business, occupation, or profession, or a commercial
15 driver’s license as defined in Section 15210 of the Vehicle
16 Code, *including an appointment and commission by the*
17 *Secretary of State as a notary public. “Licensee” also*
18 *means any person holding a driver’s license, motor*
19 *vehicle registration, or undocumented vessel registration*
20 *issued by the Department of Motor Vehicles, or any*
21 *license or permit issued by any agency or department of*
22 *a city, county, or city and county that is authorized by*
23 *local ordinance to act under this section.*

24 (b) The district attorney shall maintain a list of those
25 persons included in a case being enforced under Title
26 IV-D of the Social Security Act against whom a support
27 order or judgment has been rendered by, or registered in,
28 a court of this state, and who are not in compliance with
29 that order or judgment. The district attorney shall submit
30 a certified list with the names, social security numbers,
31 and last known addresses of these persons and the name,
32 address, and telephone number of the district attorney
33 who certified the list to the State Department of Social
34 Services. The district attorney shall verify, under penalty
35 of perjury, that the persons listed are subject to an order
36 or judgment for the payment of support and that these
37 persons are not in compliance with the order or
38 judgment. The district attorney shall submit to the State
39 Department of Social Services an updated certified list on
40 a monthly basis.



1 (c) The State Department of Social Services shall
2 consolidate the certified lists received from the district
3 attorneys and, within 30 calendar days of receipt, shall
4 provide a copy of the consolidated list to each board
5 which is responsible for the regulation of licenses, as
6 specified in this section.

7 (d) On or before November 1, 1992, or as soon
8 thereafter as economically feasible, as determined by the
9 State Department of Social Services, all boards subject to
10 this section shall implement procedures to accept and
11 process the list provided by the State Department of
12 Social Services, in accordance with this section.

13 (e) (1) Promptly after receiving the certified
14 consolidated list from the State Department of Social
15 Services, and prior to the issuance or renewal of a license,
16 each board shall determine whether the applicant is on
17 the most recent certified consolidated list provided by the
18 State Department of Social Services. The board shall have
19 the authority to withhold issuance or renewal of the
20 license of any applicant on the list.

21 (2) If an applicant is on the list, the board shall
22 immediately serve notice as specified in subdivision (f)
23 on the applicant of the board's intent to withhold issuance
24 or renewal of the license. The notice shall be made
25 personally or by mail to the applicant's last known mailing
26 address on file with the board. Service by mail shall be
27 complete in accordance with Section 1013 of the Code of
28 Civil Procedure.

29 (A) The board shall issue a temporary license valid for
30 a period of 150 days to any applicant whose name is on the
31 certified list if the applicant is otherwise eligible for a
32 license.

33 (B) The 150-day time period for a temporary license
34 shall not be extended. Only one temporary license shall
35 be issued during a regular license term and it shall
36 coincide with the first 150 days of that license term. As this
37 paragraph applies to commercial driver licenses, "license
38 term" shall be deemed to be 12 months from the date the
39 application fee is received by the Department of Motor
40 Vehicles. A license for the full or remainder of the license



1 term shall be issued or renewed only upon compliance
2 with this section.

3 (C) In the event that a license or application for a
4 license or the renewal of a license is denied pursuant to
5 this section, any funds paid by the applicant or licensee
6 shall not be refunded by the board.

7 (3) (A) The State Department of Social Services may,
8 when it is economically feasible for the department and
9 the boards to do so as determined by the department, in
10 cases where the department is aware that certain child
11 support obligors listed on the certified lists have been out
12 of compliance with a judgment or order for support for
13 more than four months, provide a supplemental list of
14 these obligors to each board with which the department
15 has an interagency agreement to implement this
16 paragraph. Upon request by the department, the licenses
17 of these obligors shall be subject to suspension, provided
18 that the licenses would not otherwise be eligible for
19 renewal within six months from the date of the request by
20 the department. The board shall have the authority to
21 suspend the license of any licensee on this supplemental
22 list.

23 (B) If a licensee is on a supplemental list, the board
24 shall immediately serve notice as specified in subdivision
25 (f) on the licensee that his or her license will be
26 automatically suspended 150 days after notice is served,
27 unless compliance with this section is achieved. The
28 notice shall be made personally or by mail to the licensee's
29 last known mailing address on file with the board. Service
30 by mail shall be complete in accordance with Section 1013
31 of the Code of Civil Procedure.

32 (C) The 150-day notice period shall not be extended.

33 (D) In the event that any license is suspended
34 pursuant to this section, any funds paid by the licensee
35 shall not be refunded by the board.

36 (E) This paragraph shall not apply to licenses subject
37 to annual renewal or annual fee.

38 (f) Notices shall be developed by each board in
39 accordance with guidelines provided by the State
40 Department of Social Services and subject to approval by



1 the State Department of Social Services. The notice shall
2 include the address and telephone number of the district
3 attorney who submitted the name on the certified list,
4 and shall emphasize the necessity of obtaining a release
5 from that district attorney's office as a condition for the
6 issuance, renewal, or continued valid status of a license or
7 licenses.

8 (1) In the case of applicants not subject to paragraph
9 (3) of subdivision (e), the notice shall inform the
10 applicant that the board shall issue a temporary license,
11 as provided in subparagraph (A) of paragraph (2) of
12 subdivision (e), for 150 calendar days if the applicant is
13 otherwise eligible and that upon expiration of that time
14 period the license will be denied unless the board has
15 received a release from the district attorney who
16 submitted the name on the certified list.

17 (2) In the case of licensees named on a supplemental
18 list, the notice shall inform the licensee that his or her
19 license will continue in its existing status for no more than
20 150 calendar days from the date of mailing or service of
21 the notice and thereafter will be suspended indefinitely
22 unless, during the 150-day notice period, the board has
23 received a release from the district attorney who
24 submitted the name on the certified list. Additionally, the
25 notice shall inform the licensee that any license
26 suspended under this section will remain so until the
27 expiration of the remaining license term, unless the board
28 receives a release along with applications and fees, if
29 applicable, to reinstate the license during the license
30 term.

31 (3) The notice shall also inform the applicant that if an
32 application is denied or a license is suspended pursuant
33 to this section, any funds paid by the applicant or licensee
34 shall not be refunded by the board. The State
35 Department of Social Services shall also develop a form
36 that the applicant shall use to request a review by the
37 district attorney. A copy of this form shall be included
38 with every notice sent pursuant to this subdivision.

39 (g) Each district attorney shall maintain review
40 procedures consistent with this section to allow an



1 applicant to have the underlying arrearage and any
2 relevant defenses investigated, to provide an applicant
3 information on the process of obtaining a modification of
4 a support order, or to provide an applicant assistance in
5 the establishment of a payment schedule on arrearages if
6 the circumstances so warrant.

7 (h) If the applicant wishes to challenge the submission
8 of his or her name on the certified list, the applicant shall
9 make a timely written request for review on the form
10 specified in subdivision (f) to the district attorney who
11 certified the applicant's name. The district attorney shall,
12 within 75 days of receipt of the written request, inform
13 the applicant in writing of his or her findings upon
14 completion of the review. The district attorney shall
15 immediately send a release to the appropriate board and
16 the applicant, if any of the following conditions are met:

17 (1) The applicant is found to be in compliance or
18 negotiates an agreement with the district attorney for a
19 payment schedule on arrearages or reimbursement.

20 (2) The applicant has submitted a request for review,
21 but the district attorney will be unable to complete the
22 review and send notice of his or her findings to the
23 applicant within 75 days. This paragraph applies only if
24 the delay in completing the review process is not the
25 result of the applicant's failure to act in a reasonable,
26 timely, and diligent manner upon receiving notice from
27 the board that his or her name is on the list.

28 (3) The applicant has filed and served a request for
29 judicial review pursuant to this section, but a resolution
30 of that review will not be made within 150 days of the date
31 of service of notice pursuant to subdivision (f). This
32 paragraph applies only if the delay in completing the
33 judicial review process is not the result of the applicant's
34 failure to act in a reasonable, timely, and diligent manner
35 upon receiving the district attorney's notice of his or her
36 findings.

37 (4) The applicant has obtained a judicial finding of
38 compliance as defined in this section.

39 (i) An applicant is required to act with diligence in
40 responding to notices from the board and the district



1 attorney with the recognition that the temporary license
2 will lapse or the license suspension will go into effect after
3 150 days and that the district attorney and, where
4 appropriate, the court must have time to act within that
5 period. An applicant's delay in acting, without good
6 cause, which directly results in the inability of the district
7 attorney to complete a review of the applicant's request
8 or the court to hear the request for judicial review within
9 the 150-day period shall not constitute the diligence
10 required under this section which would justify the
11 issuance of a release.

12 (j) Except as otherwise provided in this section, the
13 district attorney shall not issue a release if the applicant
14 is not in compliance with the judgment or order for
15 support. The district attorney shall notify the applicant in
16 writing that the applicant may, by filing an order to show
17 cause or notice of motion, request any or all of the
18 following:

19 (1) Judicial review of the district attorney's decision
20 not to issue a release.

21 (2) A judicial determination of compliance.

22 (3) A modification of the support judgment or order.

23 The notice shall also contain the name and address of
24 the court in which the applicant shall file the order to
25 show cause or notice of motion and inform the applicant
26 that his or her name shall remain on the certified list if the
27 applicant does not timely request judicial review. The
28 applicant shall comply with all statutes and rules of court
29 regarding orders to show cause and notices of motion.

30 Nothing in this section shall be deemed to limit an
31 applicant from filing an order to show cause or notice of
32 motion to modify a support judgment or order or to fix a
33 payment schedule on arrearages accruing under a
34 support judgment or order or to obtain a court finding of
35 compliance with a judgment or order for support.

36 (k) The request for judicial review of the district
37 attorney's decision shall state the grounds for which
38 review is requested and judicial review shall be limited to
39 those stated grounds. The court shall hold an evidentiary
40 hearing within 20 calendar days of the filing of the request



1 for review. Judicial review of the district attorney's
2 decision shall be limited to a determination of each of the
3 following issues:

4 (1) Whether there is a support judgment, order, or
5 payment schedule on arrearages or reimbursement.

6 (2) Whether the petitioner is the obligor covered by
7 the support judgment or order.

8 (3) Whether the support obligor is or is not in
9 compliance with judgment or order of support.

10 (4) The extent to which the needs of the obligor,
11 taking into account the obligor's payment history and the
12 current circumstances of both the obligor and the
13 obligee, warrant a conditional release as described in this
14 subdivision.

15 The request for judicial review shall be served by the
16 applicant upon the district attorney who submitted the
17 applicant's name on the certified list within seven
18 calendar days of the filing of the petition. The court has
19 the authority to uphold the action, unconditionally
20 release the license, or conditionally release the license.

21 If the judicial review results in a finding by the court
22 that the obligor is in compliance with the judgment or
23 order for support, the district attorney shall immediately
24 send a release in accordance with subdivision (h) to the
25 appropriate board and the applicant. If the judicial
26 review results in a finding by the court that the needs of
27 the obligor warrant a conditional release, the court shall
28 make findings of fact stating the basis for the release and
29 the payment necessary to satisfy the unrestricted
30 issuance or renewal of the license without prejudice to a
31 later judicial determination of the amount of support
32 arrearages, including interest, and shall specify payment
33 terms, compliance with which are necessary to allow the
34 release to remain in effect.

35 (l) The State Department of Social Services shall
36 prescribe release forms for use by district attorneys.
37 When the obligor is in compliance, the district attorney
38 shall mail to the applicant and the appropriate board a
39 release stating that the applicant is in compliance. The
40 receipt of a release shall serve to notify the applicant and



1 the board that, for the purposes of this section, the
2 applicant is in compliance with the judgment or order for
3 support.

4 If the district attorney determines subsequent to the
5 issuance of a release that the applicant is once again not
6 in compliance with a judgment or order for support, or
7 with the terms of repayment as described in this
8 subdivision, the district attorney may notify the board,
9 the obligor, and the State Department of Social Services
10 in a format prescribed by the State Department of Social
11 Services that the obligor is not in compliance.

12 The State Department of Social Services may, when it
13 is economically feasible for the department and the
14 boards to develop an automated process for complying
15 with this subdivision, notify the boards in a manner
16 prescribed by the department, that the obligor is once
17 again not in compliance. Upon receipt of this notice, the
18 board shall immediately notify the obligor on a form
19 prescribed by the department that the obligor's license
20 will be suspended on a specific date, and this date shall be
21 no longer than 30 days from the date the form is mailed.
22 The obligor shall be further notified that the license will
23 remain suspended until such time a new release is issued
24 in accordance with subdivision (h). Nothing in this
25 section shall be deemed to limit the obligor from seeking
26 judicial review of suspension pursuant to the procedures
27 described in ~~this~~ subdivision (k).

28 (m) The State Department of Social Services may
29 enter into interagency agreements with the state
30 agencies that have responsibility for the administration of
31 boards necessary to implement this section, to the extent
32 that it is cost-effective to implement this section. These
33 agreements shall provide for the receipt by the other
34 state agencies and boards of federal funds to cover that
35 portion of costs allowable in federal law and regulation
36 and incurred by the state agencies and boards in
37 implementing this section. Notwithstanding any other
38 provision of law, revenue generated by a board or state
39 agency shall be used to fund the nonfederal share of costs
40 incurred pursuant to this section. These agreements shall



1 provide that boards shall reimburse the State
2 Department of Social Services for the nonfederal share of
3 costs incurred by the department in implementing this
4 section. The boards shall reimburse the State
5 Department of Social Services for the nonfederal share of
6 costs incurred pursuant to this section from moneys
7 collected from applicants.

8 (n) Notwithstanding any other provision of law, in
9 order for the boards subject to this section to be
10 reimbursed for the costs incurred in administering its
11 provisions, the boards may, with the approval of the
12 appropriate department director, levy on all licensees
13 and applicants a surcharge on any fee or fees collected
14 pursuant to law, or, alternatively, with the approval of the
15 appropriate department director, levy on the applicants
16 or licensees named on a certified list or supplemental list,
17 a special fee.

18 (o) The process described in subdivision (h) shall
19 constitute the sole administrative remedy for contesting
20 the issuance of a temporary license or the denial or
21 suspension of a license under this section. The procedures
22 specified in the Administrative Procedure Act (Chapter
23 5 (commencing with Section 11500) of Part 1 of Division
24 3 of Title 2 of the Government Code) shall not apply to
25 the denial, suspension, or failure to issue or renew a
26 license or the issuance of a temporary license pursuant to
27 this section.

28 (p) In furtherance of the public policy of increasing
29 child support enforcement and collections, on or before
30 November 1, 1995, the State Department of Social
31 Services shall make a report to the Legislature and the
32 Governor based on data collected by the boards and the
33 district attorneys in a format prescribed by the State
34 Department of Social Services. The report shall contain
35 all of the following:

36 (1) The number of delinquent obligors certified by
37 district attorneys under this section.

38 (2) The number of support obligors who also were
39 applicants or licensees subject to this section.



1 (3) The number of new licenses and renewals that
2 were delayed, temporary licenses issued, and licenses
3 suspended subject to this section and the number of new
4 licenses and renewals granted and licenses reinstated
5 following board receipt of releases as provided by
6 subdivision (h) by May 1, 1995.

7 (4) The costs incurred in the implementation and
8 enforcement of this section.

9 (q) Any board receiving an inquiry as to the licensed
10 status of an applicant who has had a license denied or
11 suspended under this section or has been granted a
12 temporary license under this section shall respond only
13 that the license was denied or suspended or the
14 temporary license was issued pursuant to this section.
15 Information collected pursuant to this section *by any*
16 *state agency, board, or department* shall be subject to the
17 Information Practices Act (~~Section 1798.76~~ *of 1977*
18 *(Chapter 1 (commencing with Section 1798) of Title 1.8*
19 *of Part 4 of Division 3 of the Civil Code).*

20 (r) Any rules and regulations issued pursuant to this
21 section *by any state agency, board, or department* may be
22 adopted as emergency regulations in accordance with the
23 Administrative Procedure Act (Chapter 3.5
24 (commencing with Section 11340) of Part 1 of Division 3
25 of Title 2 of the Government Code). The adoption of
26 these regulations shall be deemed an emergency and
27 necessary for the immediate preservation of the public
28 peace, health, and safety, or general welfare. The
29 regulations shall become effective immediately upon
30 filing with the Secretary of State.

31 (s) The State Department of Social Services and
32 boards, as appropriate, shall adopt regulations necessary
33 to implement this section.

34 (t) The Judicial Council shall develop the forms
35 necessary to implement this section, except as provided
36 in subdivisions (f) and (l).

37 (u) The release or other use of information received
38 by a board pursuant to this section, except as authorized
39 by this section, is punishable as a misdemeanor.



1 (v) If any provision of this section or the application
2 thereof to any person or circumstance is held invalid, that
3 invalidity shall not affect other provisions or applications
4 of this section which can be given effect without the
5 invalid provision or application, and to this end the
6 provisions of this section are severable.

7 (w) All rights to administrative and judicial review
8 afforded by this section to an applicant shall also be
9 afforded to a licensee.

10 SEC. 10. It is the intent of the Legislature, in
11 amending Section 11350.6 of the Welfare and Institutions
12 Code in Section 9 of this act to expressly apply Section
13 11350.6 to sales and use tax permits and appointments and
14 commissions by the Secretary of State as a notary public,
15 to clarify existing law and not to expand its application
16 with regard to sales and use tax permits and appointments
17 and commissions by the Secretary of State as a notary
18 public.

19 SEC. 11. No reimbursement is required by this act
20 pursuant to Section 6 of Article XIII B of the California
21 Constitution for certain costs that may be incurred by a
22 local agency or school district because in that regard this
23 act creates a new crime or infraction, eliminates a crime
24 or infraction, or changes the penalty for a crime or
25 infraction, within the meaning of Section 17556 of the
26 Government Code, or changes the definition of a crime
27 within the meaning of Section 6 of Article XIII B of the
28 California Constitution.

29 However, notwithstanding Section 17610 of the
30 Government Code, if the Commission on State Mandates
31 determines that this act contains other costs mandated by
32 the state, reimbursement to local agencies and school
33 districts for those costs shall be made pursuant to Part 7
34 (commencing with Section 17500) of Division 4 of Title
35 2 of the Government Code. If the statewide cost of the
36 claim for reimbursement does not exceed one million
37 dollars (\$1,000,000), reimbursement shall be made from
38 the State Mandates Claims Fund.

39 Notwithstanding Section 17580 of the Government
40 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act
2 takes effect pursuant to the California Constitution.

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