

**Assembly Bill No. 413**

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Passed the Assembly    September 12, 1995

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*Chief Clerk of the Assembly*

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Passed the Senate    September 7, 1995

\_\_\_\_\_  
*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_ day  
of \_\_\_\_\_, 1995, at \_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_

An act to add Section 1567 to the Evidence Code, and to amend Sections 3664 and 3667 of the Family Code, relating to family law.

## LEGISLATIVE COUNSEL'S DIGEST

AB 413, Kuehl. Family law: support.

Existing law authorizes, at any time following a judgment of dissolution of marriage or legal separation, a party ordered to pay child, family, or spousal support or the party to whom support was ordered to be paid to serve, without leave of court, a request for the production of a completed current income and expense declaration in the form adopted by the Judicial Council, as specified. Existing law requires the Judicial Council to adopt forms or notices for purposes of these provisions.

This bill would authorize the requesting party to serve on the employer of the other party a request for information limited to the other party's income and benefits in the form adopted by the Judicial Council where there is no response within 35 days or if the responsive income and expense declaration is incomplete, as provided. The bill would require a copy of this request and a prescribed notice to be served on the employee, as specified. The bill would require the Judicial Council form adopted for these purposes to state that compliance by the employer with the request is voluntary, except as specified. This bill would authorize service of either request at any time after a determination of paternity as well as the times authorized by existing law. The bill would make a related and conforming change.

This bill would also authorize the admission of this information form completed by the employer in a proceeding for modification or termination of an order for child, family, or spousal support if specified requirements are met.



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

SECTION 1. Section 1567 is added to the Evidence Code, to read:

1567. A completed form described in Section 3664 of the Family Code for income and benefit information provided by the employer may be admissible in a proceeding for modification or termination of an order for child, family, or spousal support if both of the following requirements are met:

(a) The completed form complies with Sections 1561 and 1562.

(b) A copy of the completed form and notice was served on the employee named therein pursuant to Section 3664 of the Family Code.

SEC. 2. Section 3664 of the Family Code is amended to read:

3664. (a) At any time following a judgment of dissolution of marriage or legal separation of the parties, or a determination of paternity, that provides for payment of support, either the party ordered to pay support or the party to whom support was ordered to be paid or that party's assignee, without leave of court, may serve a request on the other party for the production of a completed current income and expense declaration in the form adopted by the Judicial Council.

(b) If there is no response within 35 days of service of the request or if the responsive income and expense declaration is incomplete as to any wage information, including the attachment of pay stubs and income tax returns, the requesting party may serve a request on the employer of the other party for information limited to the income and benefits provided to the party in the form adopted by the Judicial Council. The employer may require the requesting party to pay the reasonable costs of copying this information for the requesting party. The date specified in the request served on the employer for the production of income and benefit information shall not be less than 15 days from the date this request is issued.



(c) The requesting party shall serve or cause to be served on the employee described in this section or on his or her attorney a copy of the request served on the employer prior to the date specified in the request served on the employer for the production of income and benefit information. This copy shall be accompanied by a notice that, in a typeface that is intended to call attention to its terms, indicates all of the following:

(1) That information limited to the income and benefits provided to the employee by his or her employer is being sought from the employer named in the request for production.

(2) That the information may be protected by right of privacy.

(3) That, if the employee objects to the production of this information by the employer to the requesting party, the employee shall notify the court, in writing, of this objection prior to the date specified in the request served on the employer for the production of income and benefit information.

(4) That, if the requesting party does not agree, in writing, to cancel or narrow the scope of the request for the production of this information by the employer, the employee should consult an attorney regarding the employee's right to privacy and how to protect this right.

(d) The employee described in this section may, prior to the date specified in the request served on the employer for the production of income and benefit information, bring a motion pursuant to Section 1987.1 of the Code of Civil Procedure to quash or modify this request in the same manner as a subpoena duces tecum. Notice of this motion shall be given to the employer prior to the date specified in the request served on the employer for the production of income and benefit information. No employer shall be required to produce information limited to the income and benefits of the employee, except upon order of the court or upon agreement of the parties, employers, and employee affected.



(e) Service of a request for production of an income and expense declaration or for income and benefit information pursuant to this section or a copy thereof shall be by certified mail, postage prepaid, return receipt requested, to the last known address of the party to be served, or by personal service.

(f) The form adopted by the Judicial Council for purposes of the request on an employer described in subdivision (b) shall state that compliance with the request is voluntary, except upon order of the court or upon agreement of the parties, employers, and employee affected.

SEC. 3. Section 3667 of the Family Code is amended to read:

3667. Upon the subsequent filing of a motion for modification or termination of the support order by the requesting party, if the court finds that the income and expense declaration submitted by the responding party pursuant to this article was incomplete, inaccurate, or missing the prior year's federal and state personal income tax returns, or that the declaration was not submitted in good faith, the court may order sanctions against the responding party in the form of payment of all costs of the motion, including the filing fee and the costs of the depositions and subpoenas necessary to be utilized in order to obtain complete and accurate information. This section is applicable regardless of whether a party has utilized subdivision (b) of Section 3664.



Approved \_\_\_\_\_, 1995

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*Governor*

