

AMENDED IN SENATE SEPTEMBER 3, 1997

AMENDED IN SENATE JULY 23, 1997

AMENDED IN SENATE JULY 11, 1997

AMENDED IN ASSEMBLY MAY 15, 1997

AMENDED IN ASSEMBLY MARCH 31, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 702**

**Introduced by Assembly Member Villaraigosa**

February 26, 1997

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An act to add Section 19721.6 to the Revenue and Taxation Code, relating to child support.

LEGISLATIVE COUNSEL'S DIGEST

AB 702, as amended, Villaraigosa. Child support: dependents: collection.

Existing law provides that when a child support delinquency is reported to the State Department of Social Services, as specified, the county district attorney reporting that delinquency may, under specified guidelines, refer the delinquency to the Franchise Tax Board for collection.

This bill would require the Franchise Tax Board, through a cooperative agreement with the State Department of Social Services, and in cooperation with financial institutions, as defined, doing business in this state, to operate a Financial Institution Match System, as specified, to provide certain information for each noncustodial parent who maintains an

account at the institution. The bill would provide that the California Right to Financial Privacy Act shall not apply to the Financial Institution Match System, but would provide that unauthorized disclosure is a misdemeanor, thereby imposing a state-mandated local program by the creation of a new crime. The bill would relieve financial institutions of liability for any disclosure of information or any action taken in good faith under the provisions of this bill. The bill would enact related provisions and would require the board to report to the Legislature on the implementation of the Financial Institution Match Program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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 19721.6 is added to the Revenue  
 2 and Taxation Code, to read:  
 3 19721.6. (a) The Franchise Tax Board, through a  
 4 cooperative agreement with the State Department of  
 5 Social Services, and in coordination with financial  
 6 institutions doing business in this state, shall operate a  
 7 Financial Institution Match System utilizing automated  
 8 data exchanges to the maximum extent feasible. The  
 9 Financial Institution Match System shall be implemented  
 10 pursuant to guidelines prescribed by the State  
 11 Department of Social Services and the Franchise Tax  
 12 Board. These guidelines shall include a structure by  
 13 which financial institutions, or their designated data  
 14 processing agents, shall receive from the Franchise Tax  
 15 Board the entire list of past-due support obligors, which  
 16 the institution shall match with its own list of  
 17 accountholders to identify past-due support obligor  
 18 accountholders at the institution. To the extent allowed



1 by the federal Personal Responsibility and Work  
2 Opportunity Reconciliation Act of 1996, the guidelines  
3 shall include an option by which financial institutions  
4 without the technical ability to process the data  
5 exchange, or without the ability to employ a third-party  
6 data processor to process the data exchange, may forward  
7 to the Franchise Tax Board a list of all accountholders and  
8 their social security numbers, so that the Franchise Tax  
9 Board shall match that list with the entire list of past-due  
10 support obligors.

11 (b) The Financial Institution Match System shall not  
12 be subject to any limitation set forth in Chapter 20  
13 (commencing with Section 7460) of Division 7 of Title 1  
14 of the Government Code. However, any use of the  
15 information provided pursuant to this section for any  
16 purpose other than the enforcement and collection of a  
17 child support delinquency, as set forth in Section 19271,  
18 shall be a violation of Section 19542.

19 (c) Each county shall compile a file of support obligors  
20 with judgments and orders that are being enforced by  
21 district attorneys pursuant to Section 11475.1 of the  
22 Welfare and Institutions Code, and who are delinquent in  
23 the payment of their support obligations. The file shall be  
24 compiled, updated, and forwarded to the Franchise Tax  
25 Board, in accordance with the guidelines prescribed by  
26 the State Department of Social Services and the  
27 Franchise Tax Board.

28 (d) To effectuate the Financial Institution Match  
29 System, financial institutions subject to this section shall  
30 do all of the following:

31 (1) Provide to the Franchise Tax Board on a quarterly  
32 basis the name, record address and other addresses, social  
33 security number or other taxpayer identification  
34 number, and other identifying information for each  
35 noncustodial parent who maintains an account at the  
36 institution and who owes past-due support, as identified  
37 by the Franchise Tax Board by name and social security  
38 number or other taxpayer identification number.

39 (2) In response to a notice or order to withhold issued  
40 by the Franchise Tax Board, withhold from any accounts



1 of the obligor the amount of any past-due support stated  
2 on the notice or order and transmit the amount to the  
3 Franchise Tax Board in accordance with Section 18670 or  
4 18670.5.

5 (e) Unless otherwise required by applicable law, a  
6 financial institution furnishing a report or providing  
7 information to the Franchise Tax Board pursuant to this  
8 section shall not disclose to a depositor or an  
9 accountholder, or a codepositor or coaccountholder, that  
10 the name, address, social security number, or other  
11 taxpayer identification number *or other identifying*  
12 *information* of that person has been received from or  
13 furnished to the Franchise Tax Board.

14 (f) A financial institution shall incur no obligation or  
15 liability to any person arising from any of the following:

16 (1) Furnishing information to the Franchise Tax  
17 Board as required by this section.

18 (2) Failing to disclose to a depositor or accountholder  
19 that the name, address, social security number, or other  
20 taxpayer identification number *or other identifying*  
21 *information* of that person was included in the data  
22 exchange with the Franchise Tax Board required by this  
23 section.

24 (3) Withholding or transmitting any assets in response  
25 to a notice or order to withhold issued by the Franchise  
26 Tax Board as a result of the data exchange. This paragraph  
27 shall not preclude any liability that may result if the  
28 financial institution does not comply with subdivision (b)  
29 of Section 18674.

30 (4) Any other action taken in good faith to comply  
31 with the requirements of this section.

32 (g) Information required to be submitted to the  
33 Franchise Tax Board pursuant to this section shall only be  
34 used by the Franchise Tax Board to collect past-due  
35 support pursuant to Section 19271. If the Franchise Tax  
36 Board has issued an earnings withholding order and the  
37 condition described in ~~paragraph (3)~~ *subparagraph (C)*  
38 *of paragraph (1)* of subdivision (i) exists with respect to  
39 the obligor, the Franchise Tax Board ~~may~~ *shall* not use the



1 information it receives under this section to collect the  
2 past-due support from that obligor.

3 (h) For those noncustodial parents owing past-due  
4 support for which there is a match under paragraph (1)  
5 of subdivision (d), the past-due support at the time of the  
6 match shall be a delinquency under this article for the  
7 purposes of the Franchise Tax Board taking any collection  
8 action pursuant to Section 18670 or 18670.5.

9 ~~(i) Each county shall notify the Franchise Tax Board~~  
10 ~~when any of the following applies to an obligor of the~~  
11 ~~past-due support. The Franchise Tax Board, upon that~~  
12 ~~notification, may not use the information it receives~~  
13 ~~under this section to collect any past due support,~~  
14 ~~including support described under subdivision (h), if any,~~  
15 ~~if one of the following paragraphs is applicable:~~

16 ~~(1)~~

17 *(i) (1) Each county shall notify the Franchise Tax*  
18 *Board upon the occurrence of the circumstances*  
19 *described in the following subparagraphs with respect to*  
20 *an obligor of past-due support:*

21 (A) All of the following apply:

22 ~~(A)~~

23 (i) A court has ordered an obligor to make scheduled  
24 payments on a child support arrearages obligation.

25 ~~(B)~~

26 (ii) The obligor is in compliance with that order.

27 ~~(C) The order does not provide the district attorney~~  
28 ~~with the authority to engage in continued or additional~~  
29 ~~collection activities.~~

30 ~~(2)~~

31 (B) An earnings assignment order or a notice of  
32 assignment that includes an amount for past-due support  
33 has been served on the ~~obligor~~ *obligated* parent's  
34 employer and earnings are being withheld pursuant to  
35 the earnings assignment order or a notice of assignment.

36 ~~(3)~~

37 (C) At least 50 percent of the obligated parent's  
38 earnings are being withheld for support.



1 (D) A child support delinquency need not be referred  
 2 to the Franchise Tax Board for collection if a jurisdiction  
 3 outside this state is enforcing the support order.

4 (2) Upon notification, the Franchise Tax Board shall  
 5 not use the information it receives under this section to  
 6 collect any past-due support from that obligor.

7 (j) For purposes of this section:

8 (1) "Account" means any demand deposit account,  
 9 share or share draft account, checking or negotiable  
 10 withdrawal order account, savings account, time deposit  
 11 account, or a money market mutual fund account,  
 12 whether or not the account bears interest.

13 (2) "Financial institution" has the same meaning as  
 14 defined in Section 669A(d)(1) of Title 42 of the United  
 15 States Code.

16 (3) "Past-due support" means any child support  
 17 obligation that is at least ~~30~~ 90 days past the due date for  
 18 payment, and that equals or exceeds one month's current  
 19 support obligation as reported by a district attorney to the  
 20 Franchise Tax Board.

21 (k) Out of any money received from the federal  
 22 government ~~resulting from the implementation of this~~  
 23 ~~section, the state shall reimburse financial institutions for~~  
 24 ~~for the purpose of reimbursing financial institutions for~~  
 25 their actual and reasonable costs incurred in complying  
 26 with this section, *the state shall reimburse those*  
 27 *institutions.* To the extent that money is not ~~available~~  
 28 ~~from provided by the federal government, the state is not~~  
 29 ~~responsible for reimbursing for that purpose, the state~~  
 30 *shall not reimburse* financial institutions for their costs in  
 31 complying with this section.

32 SEC. 2. ~~The~~ *Notwithstanding Section 7550.5 of the*  
 33 *Government Code, the Franchise Tax Board shall report*  
 34 to the Legislature on or before March 31, 1998, and on or  
 35 before March 31, 1999, on implementation of the  
 36 provisions of this measure. At a minimum, the report shall  
 37 include the following:

38 (1) A timeline for implementation of the matching  
 39 program.



1 (2) A description of any difficulties in compiling data  
2 submitted by counties, providing data to financial  
3 institutions, and receiving match data from financial  
4 institutions.

5 (3) Recommendations for legislation to improve  
6 administration and cost efficiency of the matching  
7 system.

8 (4) *A quantitative analysis, prepared and submitted by*  
9 *representatives of financial institutions, of the reasonable*  
10 *costs incurred, or which are likely to be incurred, by*  
11 *financial institutions in complying with this measure. If*  
12 *no quantitative analysis is submitted to the Franchise Tax*  
13 *Board, the report shall be considered complete without*  
14 *this analysis.*

15 (5) *A quantitative analysis of the benefits that accrue,*  
16 *or are reasonably likely to accrue, to the state, the*  
17 *counties, and custodial parents owed past-due support as*  
18 *a result of the enactment of the Financial Institution*  
19 *Match System.*

20 SEC. 3. No reimbursement is required by this act  
21 pursuant to Section 6 of Article XIII B of the California  
22 Constitution because the only costs that may be incurred  
23 by a local agency or school district will be incurred  
24 because this act creates a new crime or infraction,  
25 eliminates a crime or infraction, or changes the penalty  
26 for a crime or infraction, within the meaning of Section  
27 17556 of the Government Code, or changes the definition  
28 of a crime within the meaning of Section 6 of Article  
29 XIII B of the California Constitution.

30 Notwithstanding Section 17580 of the Government  
31 Code, unless otherwise specified, the provisions of this act  
32 shall become operative on the same date that the act  
33 takes effect pursuant to the California Constitution.

