

AMENDED IN SENATE SEPTEMBER 7, 1999

AMENDED IN SENATE AUGUST 24, 1999

AMENDED IN SENATE AUGUST 17, 1999

AMENDED IN SENATE JULY 2, 1999

AMENDED IN ASSEMBLY APRIL 27, 1999

AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 380

Introduced by Assembly Member Wright

February 11, 1999

An act to amend Sections 3652, 3653, 3654, 4009, 7575, ~~and 7642~~ 7642, 17212, and 17402 of, to amend the heading of Chapter 6 (commencing with Section 3650) of Part 1 of Division 9 of, to add Sections 17400.5, 17401, 17433, 17521, and 17530 to, ~~and~~ to add Article 4 (commencing with Section 3690) to Chapter 6 of Part 1 of Division 9 of, and to repeal Section 4071.5 of, ~~and to repeal and add Sections 17212, 17400, and 17402 of,~~ the Family Code, to add Section 166.5 to the Penal Code, and to amend Sections 11350, ~~11475.1,~~ and 11478.1 of, and to add Sections 11350.61, ~~11356.5~~ 11356.2, 11358, ~~and 11475.12~~ 11475.12, and 11475.14 to, the Welfare and Institutions Code, relating to support orders.

LEGISLATIVE COUNSEL'S DIGEST

AB 380, as amended, R. Wright. Support orders: modification: set aside: enforcement.

(1) Existing law establishes procedures and time limits for granting a party relief from a default, judgment, dismissal, or other order on specified grounds in any civil action and for granting a party relief from a judgment, or any part thereof, on specified grounds in proceedings for dissolution or nullity of marriage or legal separation of the parties. Existing law also provides procedures for the modification or termination of child, family, and spousal support orders.

This bill would authorize the court to set aside a support order, or any part thereof, on the grounds of fraud, perjury, or lack of notice, as specified and would establish procedures and time limits therefor.

(2) Existing law provides that an order for child support may be made retroactive to the date of the filing of the notice of motion or order to show cause, subject to specified provisions of federal law.

This bill would instead provide that those orders may be made retroactive to the date of the filing of the petition or other first pleading, except as specified.

(3) *Existing law provides that, if an order decreasing or terminating support is entered retroactively, the support obligee shall not be obligated to repay any amounts paid pursuant to the prior order that are in excess of the amounts due pursuant to the retroactive order.*

This bill would instead provide that, in those circumstances, the support obligee may be obligated to repay those excess amounts, on terms ordered by the court after consideration of specified factors.

(4) Existing law provides that, for purposes of computing the minimum level of child support, no deduction from income shall be granted if specified aid payments are being made to the child or children of the parent seeking the deduction, even if the payments are being received by the other parent.

This bill would repeal that provision.

(4)



(5) In proceedings against an individual for failure to sufficiently provide for the support of his or her children or spouse, existing law authorizes the court to suspend the proceedings or sentence, at specified times in the proceedings, if the defendant enters into an undertaking conditioned upon the defendant paying support, as specified.

This bill would authorize the court, at those specified times in the proceedings and upon similar conditions, to suspend the proceedings or sentence in a contempt action against an individual for failure to comply with a court order for payment of child, family, or spousal support.

~~(5)~~

(6) Existing law declares that, if a family is granted aid under the CalWORKs program as a result of the absence of a parent from the family home, the noncustodial parent shall reimburse the county for the amounts of unpaid support specified in the support order or, in the absence of an order, the amount that would have been specified in the order for the period of separation or desertion.

This bill would, in the absence of a support order, limit that recovery by the county to the amount that would have been specified in an order for support, for a period not to exceed one year prior to the date of the filing of the complaint or petition.

~~(6)~~

(7) Existing law requires the district attorney, in specified child support cases, to provide to the Department of Social Services a list of persons who are not in compliance with a support order or judgment; which list is then provided by the department to all state boards that issue licenses, as defined, for the purpose of withholding issuance or renewal of any license to any person named on the list, until a release is issued by the district attorney. If a license applicant believes his or her name should be deleted from the list, existing law specifies procedures for judicial review of that issue in the superior court.

This bill would authorize the judicial review to be conducted by the municipal court, in counties in which there is a municipal court, if specified criminal proceedings are



pending against the applicant in that court at the time review is sought.

(7)

(8) Existing law provides that an action may be brought by the district attorney to obtain or enforce a child support obligation on behalf of a parent who has requested or is receiving support enforcement services of the district attorney. In those actions, a default judgment may be entered against a defendant who fails to answer or otherwise appear within a specified time. Existing law also provides that when a parent makes an application for child support services, the applicant shall provide the district attorney with a statement of arrearages, if any are owed. Existing law provides procedures for the district attorney to review the amount of arrearages alleged in that statement.

This bill would establish, as of a specified date, procedures and remedies if a person claims that a default judgment has been entered, or enforcement actions have been taken, against him or her in error due to mistaken identity, as specified. Filing a false claim of mistaken identity would be punishable as a misdemeanor. If the district attorney rejects a person's claim of mistaken identity, or fails to provide the remedies specified, the bill would provide that the person would be entitled to file a court action to obtain that relief. The bill would also impose additional requirements on district attorneys regarding service of process on defendants in support establishment and enforcement actions.

(8)

(9) The bill would declare that the act shall be referred to as the Child Support Enforcement Fairness Act of 2000 and would make related findings and declarations.

(9)

(10) The bill would provide that certain of its provisions would be operative in the Family Code if ~~either AB 196 or SB 542 are~~ *is* enacted and ~~became~~ *becomes* operative, otherwise those provisions would become operative in the Welfare and Institutions Code.

(10)



(11) Because this bill would create a new crime and would impose new duties on local personnel, it would create a state-mandated local program.

(11)

(12) 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. (a) This act shall be referred to as the
2 Child Support Enforcement Fairness Act of 2000.

3 (b) The Legislature finds and declares as follows:

4 (1) The efficient and fair enforcement of child support
5 orders is essential to ensuring compliance with those
6 orders and respect for the administration of justice.

7 (2) A large number of child support orders are
8 obtained by a default judgment. In one study by the
9 Judicial Council, more than 70 percent of all child support
10 orders studied were obtained by default judgment. Very
11 often, by the time a support obligor receives actual notice
12 of the support order, the accumulated amount of
13 arrearages totals tens of thousands of dollars. These
14 arrearages amounts, particularly for a low wage earner,
15 are a significant obstacle to good faith compliance.



1 Ensuring prompt, actual notice of a child support
2 obligation will prevent the accumulation of large
3 amounts of arrearages and encourage greater timely
4 compliance.

5 (3) Thousands of individuals each year are mistakenly
6 identified as being liable for child support actions. As a
7 result of that action, the ability to earn a living is severely
8 impaired, assets are seized, and family relationships are
9 often destroyed. It is the moral, legal, and ethical
10 obligation of all enforcement agencies to take prompt
11 action to recognize those cases where a person is
12 mistakenly identified as a support obligor in order to
13 minimize the harm and correct any injustice to that
14 person.

15 SEC. 2. The heading of Chapter 6 (commencing with
16 Section 3650) of Part 1 of Division 9 of the Family Code
17 is amended to read:

18

19 CHAPTER 6. MODIFICATION, TERMINATION, OR SET ASIDE
20 OF SUPPORT ORDERS

21

22 SEC. 3. Section 3652 of the Family Code is amended
23 to read:

24 3652. Except as against a governmental agency, an
25 order modifying, terminating, or setting aside a support
26 order may include an award of attorney’s fees and court
27 costs to the prevailing party.

28 SEC. 4. *Section 3653 of the Family Code is amended*
29 *to read:*

30 3653. (a) An order modifying or terminating a
31 support order may be made retroactive to the date of the
32 filing of the notice of motion or order to show cause to
33 modify or terminate, or to any subsequent date, except as
34 provided in subdivision (b) or by federal law (42 U.S.C.
35 Sec. 666(a)(9)).

36 (b) If an order modifying or terminating a support
37 order is entered due to the unemployment of either the
38 support obligor or the support obligee, the order shall be
39 made retroactive to the later of the date of the service on
40 the opposing party of the notice of motion or order to



1 show cause to modify or terminate or the date of
2 unemployment, subject to the notice requirements of
3 federal law (42 U.S.C. Sec. 666(a)(9)), unless the court
4 finds good cause not to make the order retroactive and
5 states its reasons on the record.

6 (c) If an order decreasing or terminating a support
7 order is entered retroactively pursuant to this section, the
8 support obligor ~~shall nevertheless not~~ may be entitled to,
9 and the support obligee ~~shall have no obligation~~ may be
10 ordered to repay, *according to the terms specified in the*
11 *order*; any amounts previously paid by the support
12 obligor pursuant to the prior order that are in excess of
13 the amounts due pursuant to the retroactive order. *The*
14 *court may order that the repayment by the support*
15 *obligee shall be made over any period of time and in any*
16 *manner, including, but not limited to, by an offset against*
17 *future support payments or wage assignment, as the court*
18 *deems just and reasonable. In determining whether to*
19 *order a repayment, and in establishing the terms of*
20 *repayment, the court shall consider all of the following*
21 *factors:*

- 22 (1) *The amount to be repaid.*
- 23 (2) *The duration of the support order prior to*
24 *modification or termination.*
- 25 (3) *The financial impact on the support obligee of any*
26 *particular method of repayment such as an offset against*
27 *future support payments or wage assignment.*
- 28 (4) *Any other facts or circumstances that the court*
29 *deems relevant.*

30 SEC. 5. Section 3654 of the Family Code is amended
31 to read:

32 3654. At the request of either party, an order
33 modifying, terminating, or setting aside a support order
34 shall include a statement of decision.

35 ~~SEC. 5.~~

36 SEC. 6. Article 4 (commencing with Section 3690) is
37 added to Chapter 6 of Part 1 of Division 9 of the Family
38 Code, to read:

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Article 4. Relief From Orders

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3690. (a) The court may, on any terms that may be just, relieve a party from a support order, or any part or parts thereof, after the six-month time limit of Section 473 of the Code of Civil Procedure has run, based on the grounds, and within the time limits, provided in this article.

(b) In all proceedings under this division, before granting relief, the court shall find that the facts alleged as the grounds for relief materially affected the original order and that the moving party would materially benefit from the granting of the relief.

(c) Nothing in this article shall limit or modify the provisions of Section 11356 or ~~11356.5~~ 11356.2 of the Welfare and Institutions Code.

(d) This section shall not be operative if ~~either Senate Bill 542 or~~ Assembly Bill 196, of the 1999–2000 Regular Session, is enacted and becomes operative.

3690. (a) The court may, on any terms that may be just, relieve a party from a support order, or any part or parts thereof, after the six-month time limit of Section 473 of the Code of Civil Procedure has run, based on the grounds, and within the time limits, provided in this article.

(b) In all proceedings under this division, before granting relief, the court shall find that the facts alleged as the grounds for relief materially affected the original order and that the moving party would materially benefit from the granting of the relief.

(c) Nothing in this article shall limit or modify the provisions of Section 17432 or 17433.

(d) This section shall only be operative if ~~either Senate Bill 542 or~~ Assembly Bill 196, of the 1999–2000 Regular Session, is enacted and becomes operative.

3691. The grounds and time limits for an action or motion to set aside a support order, or any part or parts thereof, are governed by this section and shall be one of the following:



1 (a) Actual fraud. Where the defrauded party was kept
2 in ignorance or in some other manner, other than his or
3 her own lack of care or attention, was fraudulently
4 prevented from fully participating in the proceeding. An
5 action or motion based on fraud shall be brought within
6 six months after the date on which the complaining party
7 discovered or reasonably should have discovered the
8 fraud.

9 (b) Perjury. An action or motion based on perjury shall
10 be brought within six months after the date on which the
11 complaining party discovered or reasonably should have
12 discovered the perjury.

13 (c) Lack of Notice.

14 (1) When service of a summons has not resulted in
15 notice to a party in time to defend the action for support
16 and a default or default judgment has been entered
17 against him or her in the action, he or she may serve and
18 file a notice of motion to set aside the default and for leave
19 to defend the action. The notice of motion shall be served
20 and filed within a reasonable time, but in no event later
21 than six months after the party obtains or reasonably
22 should have obtained notice (A) of the support order, or
23 (B) that the party's income and assets are subject to
24 attachment pursuant to the order.

25 (2) A notice of motion to set aside a support order
26 pursuant to this subdivision shall be accompanied by an
27 affidavit showing, under oath, that the party's lack of
28 notice in time to defend the action was not caused by his
29 or her avoidance of service or inexcusable neglect. The
30 party shall serve and file with the notice a copy of the
31 answer, motion, or other pleading proposed to be filed in
32 the action.

33 (3) The court may not set aside or otherwise relieve a
34 party from a support order pursuant to this subdivision if
35 service of the summons was accomplished in accordance
36 with existing requirements of law regarding service of
37 process.

38 3692. Notwithstanding any other provision of this
39 article, or any other law, a support order may not be set
40 aside simply because the court finds that it was



1 inequitable when made, nor simply because subsequent
2 circumstances caused the support ordered to become
3 excessive or inadequate.

4 3693. When ruling on an action or motion to set aside
5 a support order, the court shall set aside only those
6 provisions materially affected by the circumstances
7 leading to the court’s decision to grant relief. However,
8 the court has discretion to set aside the entire order, if
9 necessary, for equitable considerations.

10 ~~SEC. 6.~~

11 *SEC. 7.* Section 4009 of the Family Code is amended
12 to read:

13 4009. Except as provided in subdivision (c) of Section
14 11475.1 of the Welfare and Institutions Code, an original
15 order for child support may be made retroactive to the
16 date of filing the petition, complaint, or other initial
17 pleading. If the parent ordered to pay support was not
18 served with the petition, complaint, or other initial
19 pleading within 90 days after filing and the court finds
20 that the parent was not intentionally evading service, the
21 child support order shall be effective no earlier than the
22 date of service.

23 ~~SEC. 7.~~

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

26 4009. Except as provided in subdivision (c) of Section
27 17400, an original order for child support may be made
28 retroactive to the date of filing the petition, complaint, or
29 other initial pleading. If the parent ordered to pay
30 support was not served with the petition, complaint, or
31 other initial pleading within 90 days after filing and the
32 court finds that the parent was not intentionally evading
33 service, the child support order shall be effective no
34 earlier than the date of service.

35 ~~SEC. 8.~~

36 *SEC. 9.* Section 4071.5 of the Family Code is repealed.

37 ~~SEC. 9.~~

38 *SEC. 10.* Section 7575 of the Family Code is amended
39 to read:



1 7575. (a) Either parent may rescind the voluntary
2 declaration of paternity by filing a rescission form with
3 the State Department of Social Services within 60 days of
4 the date of execution of the declaration by the attesting
5 father or attesting mother, whichever signature is later,
6 unless a court order for custody, visitation, or child
7 support has been entered in an action in which the
8 signatory seeking to rescind was a party. The State
9 Department of Social Services shall develop a form to be
10 used by parents to rescind the declaration of paternity
11 and instruction on how to complete and file the rescission
12 with the State Department of Social Services. The form
13 shall include a declaration under penalty of perjury
14 completed by the person filing the rescission form that
15 certifies that a copy of the rescission form was sent by any
16 form of mail requiring a return receipt to the other
17 person who signed the voluntary declaration of paternity.
18 A copy of the return receipt shall be attached to the
19 rescission form when filed with the State Department of
20 Social Services. The form and instructions shall be written
21 in simple, easy to understand language and shall be made
22 available at the local family support office and the office
23 of local registrar of births and deaths. The department
24 shall, upon written request, provide to a court or
25 commissioner a copy of any rescission form filed with the
26 department that is relevant to proceedings before the
27 court or commissioner.

28 (b) (1) Notwithstanding Section 7573, if the court
29 finds that the conclusions of all of the experts based upon
30 the results of the genetic tests performed pursuant to
31 Chapter 2 (commencing with Section 7550) are that the
32 man who signed the voluntary declaration is not the
33 father of the child, the court may set aside the voluntary
34 declaration of paternity.

35 (2) The notice of motion for genetic tests under this
36 section may be filed not later than two years from the date
37 of the child's birth by either the mother, the man who
38 signed the voluntary declaration as the child's father, or
39 in an action to determine the existence or nonexistence
40 of the father and child relationship pursuant to Section



1 7630 or in any action to establish an order for child
2 custody, visitation, or child support based upon the
3 voluntary declaration of paternity.

4 (3) The notice of motion for genetic tests pursuant to
5 this section shall be supported by a declaration under oath
6 submitted by the moving party stating the factual basis
7 for putting the issue of paternity before the court.

8 (c) (1) Nothing in this chapter shall be construed to
9 prejudice or bar the rights of either parent to file an
10 action or motion to set aside the voluntary declaration of
11 paternity on any of the grounds described in, and within
12 the time limits specified in, Section 473 of the Code of
13 Civil Procedure. If the action or motion to set aside the
14 voluntary declaration of paternity is for fraud or perjury,
15 the act must have induced the defrauded parent to sign
16 the voluntary declaration of paternity. If the action or
17 motion to set aside a judgment is required to be filed
18 within a specified time period under Section 473 of the
19 Code of Civil Procedure, the period within which the
20 action or motion to set aside the voluntary declaration of
21 paternity must be filed shall commence on the date that
22 the court makes a finding of paternity based upon the
23 voluntary declaration of paternity in an action for
24 custody, visitation, or child support.

25 (2) The parent seeking to set aside the voluntary
26 declaration of paternity shall have the burden of proof.

27 (3) Any order for custody, visitation, or child support
28 shall remain in effect until the court determines that the
29 voluntary declaration of paternity should be set aside,
30 subject to the court's power to modify the orders as
31 otherwise provided by law.

32 (4) Nothing in this section is intended to restrict a
33 court from acting as a court of equity.

34 (5) If the voluntary declaration of paternity is set aside
35 pursuant to paragraph (1), the court shall order that the
36 mother, child, and alleged father submit to genetic tests
37 pursuant to Chapter 2 (commencing with Section 7550).
38 If the court finds that the conclusions of all the experts, as
39 disclosed by the evidence based upon the genetic tests,
40 are that the person who executed the voluntary



1 declaration of paternity is not the father of the child, the
2 question of paternity shall be resolved accordingly. If the
3 person who executed the declaration as the father of the
4 child is not excluded as a possible father, the question of
5 paternity shall be resolved as otherwise provided by law.
6 If the person who executed the declaration of paternity
7 is ultimately determined to be the father of the child, any
8 child support that accrued under an order based upon the
9 voluntary declaration of paternity shall remain due and
10 owing.

11 (6) The Judicial Council shall develop the forms and
12 procedures necessary to effectuate this subdivision.

13 ~~SEC. 10.~~

14 *SEC. 10.5. Section 7575 of the Family Code is*
15 *amended to read:*

16 7575. (a) Either parent may rescind the voluntary
17 declaration of paternity by filing a rescission form with
18 the State Department of Social Services within 60 days of
19 the date of execution of the declaration by the attesting
20 father or attesting mother, whichever signature is later,
21 unless a court order for custody, visitation, or child
22 support has been entered in an action in which the
23 signatory seeking to rescind was a party. The State
24 Department of Social Services shall develop a form to be
25 used by parents to rescind the declaration of paternity
26 and instruction on how to complete and file the rescission
27 with the State Department of Social Services. The form
28 shall include a declaration under penalty of perjury
29 completed by the person filing the rescission form that
30 certifies that a copy of the rescission form was sent by any
31 form of mail requiring a return receipt to the other
32 person who signed the voluntary declaration of paternity.
33 A copy of the return receipt shall be attached to the
34 rescission form when filed with the State Department of
35 Social Services. The form and instructions shall be written
36 in simple, easy to understand language and shall be made
37 available at the local family support office and the office
38 of local registrar of births and deaths. *The department*
39 *shall, upon written request, provide to a court or*
40 *commissioner a copy of any rescission form filed with the*



1 *department that is relevant to proceedings before the*
2 *court or commissioner.*

3 (b) (1) Notwithstanding Section 7573, if the court
4 finds that the conclusions of all of the experts based upon
5 the results of the genetic tests performed pursuant to
6 Chapter 2 (commencing with Section 7550) are that the
7 man who signed the voluntary declaration is not the
8 father of the child, the court may set aside the voluntary
9 declaration of paternity.

10 (2) (A) The notice of motion for genetic tests under
11 this section may be filed not later than two years from the
12 date of the child's birth by ~~either~~ *a local child support*
13 *agency*, the mother~~—or~~, the man who signed the voluntary
14 declaration as the child's father, *or* in an action to
15 determine the existence or nonexistence of the father and
16 child relationship pursuant to Section 7630 or in any
17 action to establish an order for child custody, visitation, or
18 child support based upon the voluntary declaration of
19 paternity.

20 (B) *The local child support agency's authority under*
21 *this subdivision is limited to those circumstances where*
22 *there is a conflict between a voluntary acknowledgement*
23 *of paternity and a judgment of paternity or a conflict*
24 *between two or more voluntary acknowledgments of*
25 *paternity.*

26 (3) The notice of motion for genetic tests pursuant to
27 this section shall be supported by a declaration under oath
28 submitted by the moving party stating the factual basis
29 for putting the issue of paternity before the court.

30 (c) (1) Nothing in this chapter shall be construed to
31 prejudice or bar the rights of either parent to file an
32 action or motion to set aside the voluntary declaration of
33 paternity on any of the grounds described in, and within
34 the time limits specified in, Section 473 of the Code of
35 Civil Procedure ~~and Chapter 10 (commencing with~~
36 ~~Section 2120) of Part 1 of Division 6.~~ If the action or
37 motion to set aside the voluntary declaration of paternity
38 is for fraud or perjury, the act must have induced the
39 defrauded parent to sign the voluntary declaration of
40 paternity. If the action or motion to set aside a judgment



1 is required to be filed within a specified time period
2 under Section 473 of the Code of Civil Procedure—~~or~~
3 ~~Section 2122~~, the period within which the action or
4 motion to set aside the voluntary declaration of paternity
5 must be filed shall commence on the date that the court
6 makes a finding of paternity based upon the voluntary
7 declaration of paternity in an action for custody,
8 visitation, or child support.

9 (2) The parent or *local child support agency* seeking
10 to set aside the voluntary declaration of paternity shall
11 have the burden of proof.

12 (3) Any order for custody, visitation, or child support
13 shall remain in effect until the court determines that the
14 voluntary declaration of paternity should be set aside,
15 subject to the court's power to modify the orders as
16 otherwise provided by law.

17 (4) Nothing in this section is intended to restrict a
18 court from acting as a court of equity.

19 (5) If the voluntary declaration of paternity is set aside
20 pursuant to paragraph (1), the court shall order that the
21 mother, child, and alleged father submit to genetic tests
22 pursuant to Chapter 2 (commencing with Section 7550).
23 If the court finds that the conclusions of all the experts, as
24 disclosed by the evidence based upon the genetic tests,
25 are that the person who executed the voluntary
26 declaration of paternity is not the father of the child, the
27 question of paternity shall be resolved accordingly. If the
28 person who executed the declaration as the father of the
29 child is not excluded as a possible father, the question of
30 paternity shall be resolved as otherwise provided by law.
31 If the person who executed the declaration of paternity
32 is ultimately determined to be the father of the child, any
33 child support that accrued under an order based upon the
34 voluntary declaration of paternity shall remain due and
35 owing.

36 (6) The Judicial Council shall develop the forms and
37 procedures necessary to effectuate this subdivision.

38 *SEC. 11.* Section 7642 of the Family Code is amended
39 to read:



1 7642. The court has continuing jurisdiction to modify
2 or set aside a judgment or order made under this part. A
3 judgment or order relating to an adoption may only be
4 modified or set aside in the same manner and under the
5 same conditions as an order of adoption may be modified
6 or set aside under Section 9100 or 9102.

7 ~~SEC. 11. Section 17212 of the Family Code, as~~
8 ~~proposed to be added by Senate Bill 542 of the 1999-2000~~
9 ~~Regular Session, is repealed.~~

10 ~~SEC. 12. Section 17212 of the Family Code, as~~
11 ~~proposed to be added by Assembly Bill 196 of the~~
12 ~~1999-2000 Regular Session, is repealed.~~

13 ~~SEC. 13. Section 17212 is added to the Family Code,~~
14 ~~to read:~~

15 ~~17212. (a) It is the intent of the Legislature to protect~~
16 ~~individual rights of privacy, and to facilitate and enhance~~
17 ~~the effectiveness of the child and spousal support~~
18 ~~enforcement program, by ensuring the confidentiality of~~
19 ~~support enforcement and child abduction records, and to~~
20 ~~thereby encourage the full and frank disclosure of~~
21 ~~information relevant to all of the following:~~

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

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

26 ~~(3) The enforcement of spousal support liability of the~~
27 ~~spouse or former spouse to the extent required by the~~
28 ~~state plan under Section 17604 and Chapter 6~~
29 ~~(commencing with Section 4900) of Part 5 of Division 9.~~

30 ~~(4) The location of absent parents.~~

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

33 ~~(b) (1) Except as provided in subdivision (c), all files,~~
34 ~~applications, papers, documents, and records established~~
35 ~~or maintained by any public entity pursuant to the~~
36 ~~administration and implementation of the child and~~
37 ~~spousal support enforcement program established~~
38 ~~pursuant to Part D (commencing with Section 651) of~~
39 ~~Subchapter IV of Chapter 7 of Title 42 of the United States~~
40 ~~Code and this division, shall be confidential, and shall not~~



1 ~~be open to examination or released for disclosure for any~~
2 ~~purpose not directly connected with the administration~~
3 ~~of the child and spousal support enforcement program.~~
4 ~~No public entity shall disclose any file, application, paper,~~
5 ~~document, or record, or the information contained~~
6 ~~therein, except as expressly authorized by this section.~~

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

18 ~~(3) Notwithstanding any other provision of law, a~~
19 ~~proof of service filed by the district attorney shall not~~
20 ~~disclose the address where service of process was~~
21 ~~accomplished. Instead, the district attorney shall keep the~~
22 ~~address in his or her own records. The proof of service~~
23 ~~shall specify that the address is on record at the district~~
24 ~~attorney's office and that the address may be released~~
25 ~~only upon an order from the court pursuant to paragraph~~
26 ~~(6) of subdivision (c). The district attorney shall, upon~~
27 ~~request by a party served, release to that person the~~
28 ~~address where service was effected.~~

29 ~~(e) Disclosure of the information described in~~
30 ~~subdivision (b) is authorized as follows:~~

31 ~~(1) All files, applications, papers, documents, and~~
32 ~~records as described in subdivision (b) shall be available~~
33 ~~and may be used by a public entity for all administrative,~~
34 ~~civil, or criminal investigations, actions, proceedings, or~~
35 ~~prosecutions conducted in connection with the~~
36 ~~administration of the child and spousal support~~
37 ~~enforcement program approved under Part D~~
38 ~~(commencing with Section 651) of Subchapter IV of~~
39 ~~Chapter 7 of Title 42 of the United States Code, and any~~
40 ~~other plan or program described in Section 303.21 of Title~~



1 ~~45 of the Code of Federal Regulations and to the county~~
2 ~~welfare department responsible for administering a~~
3 ~~program operated under a state plan pursuant to Subpart~~
4 ~~1 or 2 or Part B or Part E of Subchapter IV of Chapter 7~~
5 ~~of Title 42 of the United States Code.~~

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

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

14 ~~(4) Income and expense information of either parent~~
15 ~~may be released to the other parent for the purpose of~~
16 ~~establishing or modifying a support order.~~

17 ~~(5) Public records subject to disclosure under the~~
18 ~~Public Records Act (Chapter 3.5 (commencing with~~
19 ~~Section 6250) of Division 7 of the Government Code) may~~
20 ~~be released.~~

21 ~~(6) After a noticed motion and a finding by the court,~~
22 ~~in a case in which establishment or enforcement actions~~
23 ~~are being taken, that release or disclosure to the obligor~~
24 ~~or obligee is required by due process of law, the court may~~
25 ~~order a public entity that possesses an application, paper,~~
26 ~~document, or record as described in subdivision (b) to~~
27 ~~make that item available to the obligor or obligee for~~
28 ~~examination or copying, or to disclose to the obligor or~~
29 ~~obligee the contents of that item. Article 9 (commencing~~
30 ~~with Section 1040) of Chapter 4 of Division 3 of the~~
31 ~~Evidence Code shall not be applicable to proceedings~~
32 ~~under this part. At any hearing of a motion filed pursuant~~
33 ~~to this section, the court shall inquire of the local child~~
34 ~~support agency and the parties appearing at the hearing~~
35 ~~if there is reason to believe that release of the requested~~
36 ~~information may result in physical or emotional harm to~~
37 ~~a party. If the court determines that harm may occur, the~~
38 ~~court shall issue any protective orders or injunctive~~
39 ~~orders restricting the use and disclosure of the~~
40 ~~information as are necessary to protect the individuals.~~



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

11 ~~(8) The social security number, most recent address,~~
12 ~~and the place of employment of the absent parent may be~~
13 ~~released to an authorized person as defined in Section~~
14 ~~653(e) of Title 42 of the United States Code, only if the~~
15 ~~authorized person has filed a request for the information,~~
16 ~~and only if the information has been provided to the~~
17 ~~California Parent Locator Service by the federal Parent~~
18 ~~Locator Service pursuant to Section 653 of Title 42 of the~~
19 ~~United States Code.~~

20 ~~(d) (1) “Administration and implementation of the~~
21 ~~child and spousal support enforcement program,” as used~~
22 ~~in this section, means the carrying out of the state and~~
23 ~~local plans for establishing, modifying, and enforcing~~
24 ~~child support obligations, enforcing spousal support~~
25 ~~orders, and determining paternity pursuant to Part D~~
26 ~~(commencing with Section 651) of Subchapter IV of~~
27 ~~Chapter 7 of Title 42 of the United States Code and this~~
28 ~~article.~~

29 ~~(2) For purposes of this section, “obligor” means any~~
30 ~~person owing a duty of support.~~

31 ~~(3) As used in this chapter, “putative parent” shall~~
32 ~~refer to any person reasonably believed to be the parent~~
33 ~~of a child for whom the local child support agency is~~
34 ~~attempting to establish paternity or establish, modify, or~~
35 ~~enforce support pursuant to Section 17400.~~

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

39 ~~(f) Nothing in this section shall be construed to compel~~
40 ~~the disclosure of information relating to a deserting~~



1 ~~parent who is a recipient of aid under a public assistance~~
2 ~~program for which federal aid is paid to this state, if that~~
3 ~~information is required to be kept confidential by the~~
4 ~~federal law or regulations relating to the program.~~

5 ~~SEC. 14. Section 17400 of the Family Code, as~~
6 ~~proposed to be added by Senate Bill 542 of the 1999-2000~~
7 ~~Regular Session, is repealed.~~

8 ~~SEC. 15. Section 17400 of the Family Code, as~~
9 ~~proposed to be added by Assembly Bill 196 of the~~
10 ~~1999-2000 Regular Session, is repealed.~~

11 ~~SEC. 16. Section 17400 is added to the Family Code,~~
12 ~~to read:~~

13 ~~17400. (a) (1) Each county shall maintain a local~~
14 ~~child support agency, as specified in Section 17304, that~~
15 ~~shall have the responsibility for promptly and effectively~~
16 ~~establishing, modifying, and enforcing child support~~
17 ~~obligations, including medical support, enforcing spousal~~
18 ~~support orders established by a court of competent~~
19 ~~jurisdiction, and determining paternity in the case of a~~
20 ~~child born out of wedlock. The local child support agency~~
21 ~~shall take appropriate action, including criminal action in~~
22 ~~cooperation with the district attorneys, to establish,~~
23 ~~modify, and enforce child support and, when~~
24 ~~appropriate, enforce spousal support orders when the~~
25 ~~child is receiving public assistance, including Medi-Cal,~~
26 ~~and, when requested, shall take the same actions on~~
27 ~~behalf of a child who is not receiving public assistance,~~
28 ~~including Medi-Cal.~~

29 ~~(2) Notwithstanding any other provision of law, on~~
30 ~~and after January 1, 2000, the Franchise Tax Board shall~~
31 ~~have responsibility and authority for the enforcement~~
32 ~~and collection of child support delinquencies in support~~
33 ~~of the child support activities of the Department of Child~~
34 ~~Support Services, local child support agencies, and~~
35 ~~subject to all federal and state laws, regulations, and~~
36 ~~directives relating to Title IV-D child support programs.~~

37 ~~(3) (A) For purposes of paragraph (2), child support~~
38 ~~delinquency means either of the following:~~

39 ~~(i) An arrearage or otherwise past due amount that~~
40 ~~exists when an obligor fails to make any court-ordered~~



1 ~~support payment when due, the unpaid amount is more~~
2 ~~than 60 days past due, and the aggregate of the amounts~~
3 ~~described in this clause exceeds one hundred dollars~~
4 ~~(\$100).~~

5 ~~(ii) An arrearage or otherwise past due amount as~~
6 ~~defined by guidelines prescribed by the Department of~~
7 ~~Child Support Services in consultation with the Franchise~~
8 ~~Tax Board, which may include, or be limited to, interest,~~
9 ~~fees, penalties, spousal support, or medical support.~~

10 ~~(B) The local child support agency shall transfer child~~
11 ~~support delinquencies to the Franchise Tax Board in the~~
12 ~~form and manner and at the time prescribed by the~~
13 ~~Franchise Tax Board pursuant to paragraph (2) of~~
14 ~~subdivision (a) of Section 19271 of the Revenue and~~
15 ~~Taxation Code.~~

16 ~~(C) After a local child support agency transfers a~~
17 ~~delinquent child support obligation to the Franchise Tax~~
18 ~~Board pursuant to this section, the local child support~~
19 ~~agency shall continue to facilitate resolution of the child~~
20 ~~support obligation in coordination with the Franchise Tax~~
21 ~~Board.~~

22 ~~(b) If a child support delinquency exists at the time a~~
23 ~~case is opened by the local child support agency, the~~
24 ~~responsibility for the enforcement and collection of the~~
25 ~~delinquency shall be transferred to the Franchise Tax~~
26 ~~Board no later than 30 days after receipt of the case by the~~
27 ~~local child support agency. Any reference to the local~~
28 ~~child support agency in connection with the enforcement~~
29 ~~and collection of child support delinquencies shall be~~
30 ~~deemed a reference to the Franchise Tax Board. This~~
31 ~~transfer of responsibility and authority is in support of the~~
32 ~~local child support agency solely for the administration of~~
33 ~~the enforcement and collection of child support~~
34 ~~delinquencies and shall not in any manner transfer any~~
35 ~~responsibilities the local child support agency may have~~
36 ~~and any responsibilities the Department of Child Support~~
37 ~~Services may have as the Title IV-D agency. A child~~
38 ~~support delinquency, as specified in this section, shall be~~
39 ~~enforced and collected by the Franchise Tax Board~~



1 pursuant to Section 19271 of the Revenue and Taxation
2 Code.

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

16 (d) (1) The Judicial Council, in consultation with the
17 department and representatives of the California Family
18 Support Council, the Senate Committee on Judiciary, the
19 Assembly Committee on Judiciary, and a legal services
20 organization providing representation on child support
21 matters, shall develop simplified summons, complaint,
22 and answer forms for any action for support brought
23 pursuant to this section or Section 17404. The Judicial
24 Council may combine the summons and complaint in a
25 single form.

26 (2) The simplified complaint form shall provide the
27 defendant with notice of the amount of child support that
28 is sought pursuant to the guidelines set forth in Article 2
29 (commencing with Section 4050) of Chapter 2 of Part 2
30 of Division 9 based upon the income or income history of
31 the defendant as known to the local child support agency.
32 If the defendant's income or income history is unknown
33 to the local child support agency, the complaint shall
34 inform the defendant that income shall be presumed in
35 an amount that results in a court order equal to the
36 minimum basic standard of adequate care provided in
37 Section 11452 of the Welfare and Institutions Code unless
38 information concerning the defendant's income is
39 provided to the court. The complaint form shall be
40 accompanied by a proposed judgment. The complaint



1 ~~form shall include a notice to the defendant that the~~
2 ~~proposed judgment will become effective if he or she fails~~
3 ~~to file an answer with the court within 30 days of service.~~
4 ~~If the proposed judgment is entered by the court, the~~
5 ~~support order in the proposed judgment shall be effective~~
6 ~~as of the first day of the month following the filing of the~~
7 ~~complaint.~~

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

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

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

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

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

38 ~~(C) The Judicial Council shall add language to the~~
39 ~~governmental summons, for use by the local child support~~
40 ~~agency with the governmental complaint to establish~~



1 parental relationship and child support, informing
2 defendants that a blank answer form should have been
3 received with the summons and additional copies may be
4 obtained from either the local child support agency or the
5 superior court clerk.

6 (e) In any action brought or enforcement proceedings
7 instituted by the local child support agency pursuant to
8 this section for payment of child or spousal support, an
9 action to recover an arrearage in support payments may
10 be maintained by the local child support agency at any
11 time within the period otherwise specified for the
12 enforcement of a support judgment, notwithstanding the
13 fact that the child has attained the age of majority.

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

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

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

38 (A) If the defendant is the mother, a presumed father
39 under Section 7611, or any father where the child is at
40 least six months old when the defendant files his answer,



1 ~~the time limit is 90 days after the defendant files an~~
2 ~~answer.~~

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

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

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

20 ~~(5) Nothing in this section prohibits the local child~~
21 ~~support agency from entering into cooperative~~
22 ~~arrangements with other county departments as~~
23 ~~necessary to carry out the responsibilities imposed by this~~
24 ~~section pursuant to plans of cooperation with the~~
25 ~~departments approved by the Department of Child~~
26 ~~Support Services.~~

27 ~~(6) Nothing in this section shall otherwise limit the~~
28 ~~ability of the local child support agency from securing and~~
29 ~~enforcing orders for support of a spouse or former spouse~~
30 ~~as authorized under any other provision of law.~~

31 ~~(h) As used in this article, “enforcing obligations”~~
32 ~~includes, but is not limited to, (1) the use of all~~
33 ~~interception and notification systems operated by the~~
34 ~~department for the purposes of aiding in the enforcement~~
35 ~~of support obligations, (2) the obtaining by the local child~~
36 ~~support agency of an initial order for child support that~~
37 ~~may include medical support or that is for medical~~
38 ~~support only, by civil or criminal process, (3) the~~
39 ~~initiation of a motion or order to show cause to increase~~
40 ~~an existing child support order, and the response to a~~



1 ~~motion or order to show cause brought by an obligor~~
2 ~~parent to decrease an existing child support order, or the~~
3 ~~initiation of a motion or order to show cause to obtain an~~
4 ~~order for medical support, and the response to a motion~~
5 ~~or order to show cause brought by an obligor parent to~~
6 ~~decrease or terminate an existing medical support order,~~
7 ~~without regard to whether the child is receiving public~~
8 ~~assistance, (4) the response to a notice of motion or order~~
9 ~~to show cause brought by an obligor parent to decrease~~
10 ~~an existing spousal support order when the child or~~
11 ~~children are residing with the obligee parent and the~~
12 ~~local child support agency is also enforcing a related child~~
13 ~~support obligation owed to the obligee parent by the~~
14 ~~same obligor, and (5) the transfer of the enforcement and~~
15 ~~collection of child support delinquencies to the Franchise~~
16 ~~Tax Board to enforce the collection of child support~~
17 ~~delinquencies under Section 19271 of the Revenue and~~
18 ~~Taxation Code in support of the local child support~~
19 ~~agency.~~

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

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

27 ~~Nothing in this section shall limit the authority of the~~
28 ~~local child support agency granted by other sections of~~
29 ~~this code or otherwise granted by law, except to the~~
30 ~~extent that the law is inconsistent with the transfer of the~~
31 ~~responsibility and authority for enforcement and~~
32 ~~collection of delinquent child support to the Franchise~~
33 ~~Tax Board.~~

34 (k) ~~In the exercise of the authority granted under this~~
35 ~~article, the local child support agency may intervene,~~
36 ~~pursuant to subdivision (b) of Section 387 of the Code of~~
37 ~~Civil Procedure, by ex parte application, in any action~~
38 ~~under this code, or other proceeding in which child~~
39 ~~support is an issue or a reduction in spousal support is~~
40 ~~sought. By notice of motion, order to show cause, or~~



1 responsive pleading served upon all parties to the action,
2 the local child support agency may request any relief that
3 is appropriate that the local child support agency is
4 authorized to seek.

5 (t) The local child support agency shall comply with
6 any guidelines established by the department that set
7 time standards for responding to requests for assistance
8 in locating noncustodial parents, establishing paternity,
9 establishing child support awards, and collecting child
10 support payments.

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

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

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

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

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

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

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

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

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



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

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

9 ~~SEC. 17. Section 17400 is added to the Family Code,~~
10 ~~to read:~~

11 ~~17400. (a) (1) Each county shall maintain a local child~~
12 ~~support agency, as specified in Section 17304, that shall~~
13 ~~have the responsibility for promptly and effectively~~
14 ~~establishing, modifying, and enforcing child support~~
15 ~~obligations, including medical support, enforcing spousal~~
16 ~~support orders established by a court of competent~~
17 ~~jurisdiction, and determining paternity in the case of a~~
18 ~~child born out of wedlock. The local child support agency~~
19 ~~shall take appropriate action, including criminal action in~~
20 ~~cooperation with the district attorneys, to establish,~~
21 ~~modify, and enforce child support and, when~~
22 ~~appropriate, enforce spousal support orders when the~~
23 ~~child is receiving public assistance, including Medi-Cal,~~
24 ~~and, when requested, shall take the same actions on~~
25 ~~behalf of a child who is not receiving public assistance,~~
26 ~~including Medi-Cal.~~

27 ~~(2) Notwithstanding any other provision of law, on~~
28 ~~and after January 1, 2000, the Franchise Tax Board shall~~
29 ~~have responsibility and authority for the enforcement~~
30 ~~and collection of child support delinquencies in support~~
31 ~~of the child support activities of the Department of Child~~
32 ~~Support Services, local child support agencies, and~~
33 ~~subject to all federal and state laws, regulations, and~~
34 ~~directives relating to Title IV-D child support programs.~~

35 ~~(3) (A) For purposes of paragraph (2), “child support~~
36 ~~delinquency” means any of the following:~~

37 ~~(i) (I) An arrearage or otherwise past due amount~~
38 ~~that exists when an obligor fails to make any~~
39 ~~court-ordered support payment when due.~~

40 ~~(II) The unpaid amount is more than 60 days past due.~~



1 ~~(III) The aggregate of all amounts described in~~
2 ~~subclauses (I) and (II) exceeds one hundred dollars~~
3 ~~(\$100).~~

4 ~~(ii) As otherwise defined by guidelines prescribed by~~
5 ~~the Department of Child Support Services in consultation~~
6 ~~with the Franchise Tax Board and may include or be~~
7 ~~limited to interest, fees, penalties, spousal support, or~~
8 ~~medical support.~~

9 ~~(B) The local child support agency shall transfer child~~
10 ~~support delinquencies to the Franchise Tax Board in the~~
11 ~~form and manner and at the time prescribed by the~~
12 ~~Franchise Tax Board pursuant to paragraph (2) of~~
13 ~~subdivision (a) of Section 19271 of the Revenue and~~
14 ~~Taxation Code.~~

15 ~~(C) After a local child support agency transfers a~~
16 ~~delinquent child support obligation to the Franchise Tax~~
17 ~~Board pursuant to this section, the local child support~~
18 ~~agency shall continue to facilitate resolution of the child~~
19 ~~support obligation in coordination with the Franchise Tax~~
20 ~~Board.~~

21 ~~(b) If a child support delinquency exists at the time a~~
22 ~~case is opened by the local child support agency, the~~
23 ~~responsibility for the enforcement and collection of the~~
24 ~~delinquency shall be transferred to the Franchise Tax~~
25 ~~Board no later than 30 days after receipt of the case by the~~
26 ~~local child support agency. Any reference to the local~~
27 ~~child support agency in connection with the enforcement~~
28 ~~and collection of child support delinquencies shall be~~
29 ~~deemed a reference to the Franchise Tax Board. This~~
30 ~~transfer of responsibility and authority is in support of the~~
31 ~~local child support agency solely for the administration of~~
32 ~~the enforcement and collection of child support~~
33 ~~delinquencies and shall not in any manner transfer any~~
34 ~~responsibilities the local child support agency may have~~
35 ~~and any responsibilities the Department of Child Support~~
36 ~~Services may have as the Title IV-D agency. A child~~
37 ~~support delinquency, as specified in this section, shall be~~
38 ~~enforced and collected by the Franchise Tax Board~~
39 ~~pursuant to Section 19271 of the Revenue and Taxation~~
40 ~~Code.~~



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

14 ~~(d) (1) The Judicial Council, in consultation with the~~
15 ~~department and representatives of the California Family~~
16 ~~Support Council, the Senate Committee on Judiciary, the~~
17 ~~Assembly Committee on Judiciary, and a legal services~~
18 ~~organization providing representation on child support~~
19 ~~matters, shall develop simplified summons, complaint,~~
20 ~~and answer forms for any action for support brought~~
21 ~~pursuant to this section or Section 17404. The Judicial~~
22 ~~Council may combine the summons and complaint in a~~
23 ~~single form.~~

24 ~~(2) The simplified complaint form shall provide the~~
25 ~~defendant with notice of the amount of child support that~~
26 ~~is sought pursuant to the guidelines set forth in Article 2~~
27 ~~(commencing with Section 4050) of Chapter 2 of Part 2~~
28 ~~of Division 9 based upon the income or income history of~~
29 ~~the defendant as known to the local child support agency.~~
30 ~~If the defendant's income or income history is unknown~~
31 ~~to the local child support agency, the complaint shall~~
32 ~~inform the defendant that income shall be presumed in~~
33 ~~an amount that results in a court order equal to the~~
34 ~~minimum basic standard of adequate care provided in~~
35 ~~Section 11452 of the Welfare and Institutions Code unless~~
36 ~~information concerning the defendant's income is~~
37 ~~provided to the court. The complaint form shall be~~
38 ~~accompanied by a proposed judgment. The complaint~~
39 ~~form shall include a notice to the defendant that the~~
40 ~~proposed judgment will become effective if he or she fails~~



1 to file an answer with the court within 30 days of service.
2 If the proposed judgment is entered by the court, the
3 support order in the proposed judgment shall be effective
4 as of the first day of the month following the filing of the
5 complaint.

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

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

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

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

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

36 (C) The Judicial Council shall add language to the
37 governmental summons, for use by the local child support
38 agency with the governmental complaint to establish
39 parental relationship and child support, informing
40 defendants that a blank answer form should have been



1 received with the summons and additional copies may be
2 obtained from either the local child support agency or the
3 superior court clerk.

4 (e) In any action brought or enforcement proceedings
5 instituted by the local child support agency pursuant to
6 this section for payment of child or spousal support, an
7 action to recover an arrearage in support payments may
8 be maintained by the local child support agency at any
9 time within the period otherwise specified for the
10 enforcement of a support judgment, notwithstanding the
11 fact that the child has attained the age of majority.

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

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

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

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



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

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

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

18 ~~(5) Nothing in this section prohibits the local child~~
19 ~~support agency from entering into cooperative~~
20 ~~arrangements with other county departments as~~
21 ~~necessary to carry out the responsibilities imposed by this~~
22 ~~section pursuant to plans of cooperation with the~~
23 ~~departments approved by the Department of Child~~
24 ~~Support Services.~~

25 ~~(6) Nothing in this section shall otherwise limit the~~
26 ~~ability of the local child support agency from securing and~~
27 ~~enforcing orders for support of a spouse or former spouse~~
28 ~~as authorized under any other provision of law.~~

29 ~~(h) As used in this article, “enforcing obligations”~~
30 ~~includes, but is not limited to, (1) the use of all~~
31 ~~intereception and notification systems operated by the~~
32 ~~department for the purposes of aiding in the enforcement~~
33 ~~of support obligations, (2) the obtaining by the local child~~
34 ~~support agency of an initial order for child support that~~
35 ~~may include medical support or that is for medical~~
36 ~~support only, by civil or criminal process, (3) the~~
37 ~~initiation of a motion or order to show cause to increase~~
38 ~~an existing child support order, and the response to a~~
39 ~~motion or order to show cause brought by an obligor~~
40 ~~parent to decrease an existing child support order, or the~~



1 initiation of a motion or order to show cause to obtain an
2 order for medical support, and the response to a motion
3 or order to show cause brought by an obligor parent to
4 decrease or terminate an existing medical support order,
5 without regard to whether the child is receiving public
6 assistance, (4) the response to a notice of motion or order
7 to show cause brought by an obligor parent to decrease
8 an existing spousal support order when the child or
9 children are residing with the obligee parent and the
10 local child support agency is also enforcing a related child
11 support obligation owed to the obligee parent by the
12 same obligor, and (5) the transfer of the enforcement and
13 collection of child support delinquencies to the Franchise
14 Tax Board under Section 19271 of the Revenue and
15 Taxation Code in support of the local child support
16 agency.

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

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

24 (2) Nothing in this section shall limit the authority of
25 the local child support agency granted by other sections
26 of this code or otherwise granted by law, except to the
27 extent that the law is inconsistent with the transfer of the
28 responsibility and authority for enforcement and
29 collection of delinquent child support to the Franchise
30 Tax Board.

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



1 is appropriate that the local child support agency is
2 authorized to seek.

3 (f) The local child support agency shall comply with
4 any guidelines established by the department that set
5 time standards for responding to requests for assistance
6 in locating noncustodial parents, establishing paternity,
7 establishing child support awards, and collecting child
8 support payments.

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

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

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

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

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

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

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

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

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

38 (2) Notwithstanding paragraph (1), if the child
39 becomes a resident of another county after an action
40 under this part has been filed, venue may remain in the



1 ~~county where the action was filed until the action is~~
2 ~~completed.~~

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

6 ~~SEC. 18.~~

7 *SEC. 12. Section 17212 of the Family Code, as added*
8 *by Assembly Bill 196 of the 1999–2000 Regular Session, is*
9 *amended to read:*

10 17212. (a) It is the intent of the Legislature to protect
11 individual rights of privacy, and to facilitate and enhance
12 the effectiveness of the child and spousal support
13 enforcement program, by ensuring the confidentiality of
14 support enforcement and child abduction records, and to
15 thereby encourage the full and frank disclosure of
16 information relevant to all of the following:

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

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

21 (3) The enforcement of spousal support liability of the
22 spouse or former spouse to the extent required by the
23 state plan under Section 17604 and Chapter 6
24 (commencing with Section 4900) of Part 5 of Division 9.

25 (4) The location of absent parents.

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

28 (b) (1) Except as provided in subdivision (c), all files,
29 applications, papers, documents, and records established
30 or maintained by any public entity pursuant to the
31 administration and implementation of the child and
32 spousal support enforcement program established
33 pursuant to Part D (commencing with Section 651) of
34 Subchapter IV of Chapter 7 of Title 42 of the United States
35 Code and this division, shall be confidential, and shall not
36 be open to examination or released for disclosure for any
37 purpose not directly connected with the administration
38 of the child and spousal support enforcement program.
39 No public entity shall disclose any file, application, paper,



1 document, or record, or the information contained
2 therein, except as expressly authorized by this section.

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

14 (3) Notwithstanding any other provision of law, a
15 proof of service filed by the district attorney shall not
16 disclose the address where service of process was
17 accomplished. Instead, the district attorney shall keep the
18 address in his or her own records. The proof of service
19 shall specify that the address is on record at the district
20 attorney's office and that the address may be released
21 only upon an order from the court pursuant to paragraph
22 (6) of subdivision (c). *The district attorney shall, upon*
23 *request by a party served, release to that person the*
24 *address where service was effected.*

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

27 (1) All files, applications, papers, documents, and
28 records as described in subdivision (b) shall be available
29 and may be used by a public entity for all administrative,
30 civil, or criminal investigations, actions, proceedings, or
31 prosecutions conducted in connection with the
32 administration of the child and spousal support
33 enforcement program approved under Part D
34 (commencing with Section 651) of Subchapter IV of
35 Chapter 7 of Title 42 of the United States Code, and any
36 other plan or program described in Section 303.21 of Title
37 45 of the Code of Federal Regulations and to the county
38 welfare department responsible for administering a
39 program operated under a state plan pursuant to Subpart



1 1 or 2 or Part B or Part E of Subchapter IV of Chapter 7
2 of Title 42 of the United States Code.

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

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

11 (4) Income and expense information of either parent
12 may be released to the other parent for the purpose of
13 establishing or modifying a support order.

14 (5) Public records subject to disclosure under the
15 Public Records Act (Chapter 3.5 (commencing with
16 Section 6250) of Division 7 of the Government Code) may
17 be released.

18 (6) After a noticed motion and a finding by the court,
19 in a case in which establishment or enforcement actions
20 are being taken, that release or disclosure to the obligor
21 or obligee is required by due process of law, the court may
22 order a public entity that possesses an application, paper,
23 document, or record as described in subdivision (b) to
24 make that item available to the obligor or obligee for
25 examination or copying, or to disclose to the obligor or
26 obligee the contents of that item. Article 9 (commencing
27 with Section 1040) of Chapter 4 of Division 3 of the
28 Evidence Code shall not be applicable to proceedings
29 under this part. At any hearing of a motion filed pursuant
30 to this section, the court shall inquire of the local child
31 support agency and the parties appearing at the hearing
32 if there is reason to believe that release of the requested
33 information may result in physical or emotional harm to
34 a party. If the court determines that harm may occur, the
35 court shall issue any protective orders or injunctive
36 orders restricting the use and disclosure of the
37 information as are necessary to protect the individuals.

38 (7) To the extent not prohibited by federal law or
39 regulation, information indicating the existence or
40 imminent threat of a crime against a child, or location of



1 a concealed, detained, or abducted child or the location
2 of the concealing, detaining, or abducting person, may be
3 disclosed to any district attorney, any appropriate law
4 enforcement agency, or to any state or county child
5 protective agency, or may be used in any judicial
6 proceedings to prosecute that crime or to protect the
7 child.

8 (8) The social security number, most recent address,
9 and the place of employment of the absent parent may be
10 released to an authorized person as defined in Section
11 653(c) of Title 42 of the United States Code, only if the
12 authorized person has filed a request for the information,
13 and only if the information has been provided to the
14 California Parent Locator Service by the federal Parent
15 Locator Service pursuant to Section 653 of Title 42 of the
16 United States Code.

17 (d) (1) “Administration and implementation of the
18 child and spousal support enforcement program,” as used
19 in this section, means the carrying out of the state and
20 local plans for establishing, modifying, and enforcing
21 child support obligations, enforcing spousal support
22 orders, and determining paternity pursuant to Part D
23 (commencing with Section 651) of Subchapter IV of
24 Chapter 7 of Title 42 of the United States Code and this
25 article.

26 (2) For purposes of this section, “obligor” means any
27 person owing a duty of support.

28 (3) As used in this chapter, “putative parent” shall
29 refer to any person reasonably believed to be the parent
30 of a child for whom the local child support agency is
31 attempting to establish paternity or establish, modify, or
32 enforce support pursuant to Section 17400.

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

36 (f) Nothing in this section shall be construed to compel
37 the disclosure of information relating to a deserting
38 parent who is a recipient of aid under a public assistance
39 program for which federal aid is paid to this state, if that



1 information is required to be kept confidential by the
2 federal law or regulations relating to the program.

3 *SEC. 13. Section 17400.5 is added to the Family Code,*
4 *to read:*

5 *17400.5. Except as provided in paragraph (2) of*
6 *subdivision (a) of Section 17402, if the proposed*
7 *judgment described in paragraph (2) of subdivision (d)*
8 *of Section 17400 is entered by the court, the support order*
9 *in the proposed judgment shall be effective as of the first*
10 *day of the month following the filing of the complaint.*

11 *SEC. 14. Section 17401 is added to the Family Code,*
12 *to read:*

13 17401. If the parent who is receiving support
14 enforcement services provides to the local child support
15 agency substantial, credible, information regarding the
16 residence or work address of the support obligor, the
17 agency shall initiate an establishment or enforcement
18 action and serve the defendant, if service is required,
19 within 60 days and inform the parent in writing when
20 those actions have been taken. If the address or any other
21 information provided by the support obligee is
22 determined by the local child support agency to be
23 inaccurate and if, after reasonable diligence, the agency
24 is unable to locate and serve the support obligor within
25 that 60-day period, the local child support agency shall
26 inform the support obligee in writing of those facts. The
27 requirements of this section shall be in addition to the
28 time standards established by the State Department of
29 Social Services pursuant to subdivision (k) of Section
30 17400.

31 ~~SEC. 19. Section 17402 of the Family Code, as~~
32 ~~proposed to be added by Senate Bill 542 of the 1999-2000~~
33 ~~Regular Session, is repealed.~~

34 ~~SEC. 20. Section 17402 of the Family Code, as~~
35 ~~proposed to be added by Assembly Bill 196 of the~~
36 ~~1999-2000 Regular Session, is repealed.~~

37 ~~SEC. 21. Section 17402 is added to the Family Code,~~
38 ~~to read:~~

39 ~~17402. (a) In any case of separation or desertion of a~~
40 ~~parent or parents from a child or children that results in~~



1 aid under Chapter 2 (commencing with Section 11200) of
2 Part 3 of Division 9 of the Welfare and Institutions Code
3 being granted to that family, the noncustodial parent or
4 parents shall be obligated to the county for an amount
5 equal to the following:

6 (1) The amount specified in an order for the support
7 and maintenance of the family issued by a court of
8 competent jurisdiction; or in the absence of a court order,
9 the amount specified in paragraph (2).

10 (2) The amount of support that would have been
11 specified in an order for the support and maintenance of
12 the family during the period of separation or desertion,
13 but not to exceed one year prior to the date of the filing
14 of the petition or complaint, provided that any amount in
15 excess of the aid paid to the family shall not be retained
16 by the county, but disbursed to the family.

17 (3) The obligation shall be reduced by any amount
18 actually paid by the parent directly to the custodian of the
19 child or to the local child support agency of the county in
20 which the child is receiving aid during the period of
21 separation or desertion for the support and maintenance
22 of the family.

23 (b) The local child support agency shall take
24 appropriate action pursuant to this section as provided in
25 subdivision (1) of Section 17400. The local child support
26 agency may establish liability for child support as
27 provided in subdivision (a) when public assistance was
28 provided by another county or by other counties.

29 (c) The amount of the obligation established under
30 paragraph (2) of subdivision (a) shall be determined by
31 using the appropriate child support guidelines currently
32 in effect. If one parent remains as a custodial parent, the
33 guideline support shall be computed in the normal
34 manner. If neither parent remains as a custodial parent,
35 the support shall be computed by combining the
36 noncustodial parents' incomes and placing the figure
37 obtained in the column for noncustodial parent. A zero
38 shall be placed in the column for the custodial parent and
39 the amount of guideline support resulting shall be
40 proportionately shared between the parents as directed



1 ~~by the court. The parents shall pay the amount of support~~
2 ~~specified in the support order to the local child support~~
3 ~~agency.~~

4 ~~SEC. 22.~~

5 *SEC. 15. Section 17402 of the Family Code, as added*
6 *by Assembly Bill 196 of the 1999–2000 Regular Session, is*
7 *amended to read:*

8 17402. (a) In any case of separation or desertion of a
9 parent or parents from a child or children ~~which that~~
10 results in aid under Chapter 2 (commencing with Section
11 11200) of Part 3 of Division 9 of the Welfare and
12 Institutions Code being granted to that family, the
13 noncustodial parent or parents shall be obligated to the
14 county for an amount equal to the following:

15 (1) The amount specified in an order for the support
16 and maintenance of the family issued by a court of
17 competent jurisdiction; or in the absence of ~~the a~~ court
18 order, the amount specified in paragraph (2).

19 (2) The amount of support that would have been
20 specified in an order for the support and maintenance of
21 the family during the period of separation or desertion,
22 *but not to exceed one year prior to the date of the filing*
23 *of the petition or complaint.* However, the amount in
24 excess of the aid paid to the family shall not be retained
25 by the county, but disbursed to the family.

26 (3) The obligation shall be reduced by any amount
27 actually paid by the parent directly to the custodian of the
28 child or to the local child support agency of the county in
29 which the child is receiving aid during the period of
30 separation or desertion for the support and maintenance
31 of the family.

32 (b) The local child support agency shall take
33 appropriate action pursuant to this section as provided in
34 subdivision (1) of Section 17400. The local child support
35 agency may establish liability for child support as
36 provided in subdivision (a) when public assistance was
37 provided by another county or by other counties.

38 (c) The amount of the obligation established under
39 paragraph (2) of subdivision (a) shall be determined by
40 using the appropriate child support guidelines currently



1 in effect. If one parent remains as a custodial parent, the
2 guideline support shall be computed in the normal
3 manner. If neither parent remains as a custodial parent,
4 the support shall be computed by combining the
5 noncustodial parents' incomes and placing the figure
6 obtained in the column for noncustodial parent. A zero
7 shall be placed in the column for the custodial parent and
8 the amount of guideline support resulting shall be
9 proportionately shared between the parents as directed
10 by the court. The parents shall pay the amount of support
11 specified in the support order to the local child support
12 agency.

13 *SEC. 16.* Section 17433 is added to the Family Code,
14 to read:

15 17433. In any action in which a judgment or order for
16 support was entered after the entry of the default of the
17 defendant under Section 17430, the court shall relieve the
18 defendant from that judgment or order if the defendant
19 establishes that he or she was mistakenly identified in the
20 order or in any subsequent documents or proceedings as
21 the person having an obligation to provide support. The
22 defendant shall also be entitled to the remedies specified
23 in subdivisions (d) and (e) of Section 17530 with respect
24 to any actions taken to enforce that judgment or order.

25 ~~SEC. 23.~~

26 *SEC. 17.* Section 17521 is added to the Family Code,
27 to read:

28 17521. The order to show cause or notice of motion
29 described in subdivision (j) of Section 17520 shall be filed
30 and heard in the superior court. If, however, criminal
31 proceedings pursuant to paragraph (4) of subdivision (a)
32 of Section 166 of the Penal Code, relating to a support
33 order, or pursuant to Section 270 of the Penal Code are
34 pending against the applicant in the municipal court, in
35 a county in which there is a municipal court, an order to
36 show cause or notice of motion for judicial review of the
37 district attorney's decision not to issue a release may be
38 filed and heard in that court.

39 ~~SEC. 24.~~



1 *SEC. 18.* Section 17530 is added to the Family Code,
2 to read:

3 17530. (a) Notwithstanding any other provision of
4 law, this section shall apply to any actions taken to enforce
5 a judgment or order for support entered as a result of
6 action filed by the local child support agency pursuant to
7 Section 17400, 17402, or 17404, where it is alleged that the
8 enforcement actions have been taken in error against a
9 person who is not the support obligor named in the
10 judgment or order.

11 (b) Any person claiming that any support
12 enforcement actions have been taken against that person,
13 or his or her wages or assets, in error, shall file a claim of
14 mistaken identity with the local child support agency.
15 The claim shall include verifiable information or
16 documentation to establish that the person against whom
17 the enforcement actions have been taken is not the
18 person named in the support order or judgment. The
19 claim shall be filed on a form established by the Judicial
20 Council that shall specify, immediately above the
21 signature line, that the filing of a false claim shall be
22 punishable as a misdemeanor. A copy of the claim form
23 shall be date stamped by the office of the local child
24 support agency and shall be returned to the claimant.

25 (c) The local child support agency shall immediately
26 investigate any claim of mistaken identity and shall
27 resolve the claim within 30 days unless exceptional
28 circumstances prevent a resolution within that time. The
29 local child support agency shall provide the claimant with
30 a written statement of the agency's conclusions, or a
31 statement explaining the exceptional circumstances that
32 have delayed the agency's conclusions and an estimated
33 date when conclusions will be reached, within that 30-day
34 period.

35 (d) If the local child support agency determines that
36 a claim filed pursuant to this section is meritorious, or if
37 the court enters an order pursuant to Section 17433, the
38 agency shall immediately take the steps necessary to
39 terminate all enforcement activities with respect to the
40 claimant, to return to the claimant any assets seized, to



1 terminate any levying activities or attachment or
2 assignment orders, to release any license renewal or
3 application being withheld pursuant to Section 17520, to
4 return any sums paid by the claimant pursuant to the
5 judgment or order, including sums paid to any federal,
6 state, or local government, but excluding sums paid
7 directly to the support obligee, and to ensure that all
8 other enforcement agencies and entities cease further
9 actions against the claimant. With respect to a claim filed
10 under this section, the local child support agency shall
11 also provide the claimant with a statement certifying that
12 the claimant is not the support obligor named in the
13 support order or judgment, which statement shall be
14 prima facie evidence of the claimant's identity in any
15 subsequent enforcement proceedings or actions with
16 respect to that support order or judgment.

17 (e) If the local child support agency rejects a claim
18 pursuant to this section, or if the agency, after finding a
19 claim to be meritorious, fails to take any of the remedial
20 steps provided in subdivision (d), the claimant may file
21 an action with the superior court to establish his or her
22 mistaken identity or to obtain the remedies described in
23 subdivision (d), or both.

24 (f) Filing a false claim pursuant to this section shall be
25 a misdemeanor.

26 (g) The Judicial Council shall develop forms for use
27 pursuant to this section.

28 (h) This section shall become operative on April 1,
29 2000.

30 ~~SEC. 25.~~

31 *SEC. 19.* Section 166.5 is added to the Penal Code, to
32 read:

33 166.5. (a) After arrest and before plea or trial or after
34 conviction or plea of guilty and before sentence under
35 paragraph (4) of subdivision (a) of Section 166, for willful
36 disobedience of any order for child, spousal, or family
37 support issued pursuant to Division 9 (commencing with
38 Section 3500) of the Family Code or Section 11475.1 of the
39 Welfare and Institutions Code, the court may suspend
40 proceedings or sentence therein if:



1 (1) The defendant appears before the court and
2 affirms his or her obligation to pay to the person having
3 custody of the child, or the spouse, that sum per month
4 as shall have been previously fixed by the court in order
5 to provide for the minor child or the spouse.

6 (2) The defendant provides a bond or other
7 undertaking with sufficient sureties to the people of the
8 State of California in a sum as the court may fix to secure
9 the defendant's performance of his or her support
10 obligations and that bond or undertaking is valid and
11 binding for two years, or any lesser time that the court
12 shall fix.

13 (b) Upon the failure of the defendant to comply with
14 the conditions imposed by the court in subdivision (a),
15 the defendant may be ordered to appear before the court
16 and show cause why further proceedings should not be
17 had in the action or why sentence should not be imposed,
18 whereupon the court may proceed with the action, or
19 pass sentence, or for good cause shown may modify the
20 order and take a new bond or undertaking and further
21 suspend proceedings or sentence for a like period.

22 ~~SEC. 26.~~

23 *SEC. 20.* Section 166.5 is added to the Penal Code, to
24 read:

25 166.5. (a) After arrest and before plea or trial or after
26 conviction or plea of guilty and before sentence under
27 paragraph (4) of subdivision (a) of Section 166, for willful
28 disobedience of any order for child, spousal, or family
29 support issued pursuant to Division 9 (commencing with
30 Section 3500) of the Family Code or Section 17400 of the
31 Family Code, the court may suspend proceedings or
32 sentence therein if:

33 (1) The defendant appears before the court and
34 affirms his or her obligation to pay to the person having
35 custody of the child, or the spouse, that sum per month
36 as shall have been previously fixed by the court in order
37 to provide for the minor child or the spouse.

38 (2) The defendant provides a bond or other
39 undertaking with sufficient sureties to the people of the
40 State of California in a sum as the court may fix to secure



1 the defendant's performance of his or her support
2 obligations and that bond or undertaking is valid and
3 binding for two years, or any lesser time that the court
4 shall fix.

5 (b) Upon the failure of the defendant to comply with
6 the conditions imposed by the court in subdivision (a),
7 the defendant may be ordered to appear before the court
8 and show cause why further proceedings should not be
9 had in the action or why sentence should not be imposed,
10 whereupon the court may proceed with the action, or
11 pass sentence, or for good cause shown may modify the
12 order and take a new bond or undertaking and further
13 suspend proceedings or sentence for a like period.

14 ~~SEC. 27.~~

15 *SEC. 21.* Section 11350 of the Welfare and Institutions
16 Code is amended to read:

17 11350. (a) In any case of separation or desertion of a
18 parent or parents from a child or children that results in
19 aid under this chapter being granted to that family, the
20 noncustodial parent or parents shall be obligated to the
21 county for an amount equal to the following:

22 (1) The amount specified in an order for the support
23 and maintenance of the family issued by a court of
24 competent jurisdiction; or in the absence of a court order,
25 the amount specified in paragraph (2).

26 (2) The amount of support that would have been
27 specified in an order for the support and maintenance of
28 the family during the period of separation or desertion,
29 but not to exceed one year prior to the date of the filing
30 of the petition or complaint, provided that any amount in
31 excess of the aid paid to the family shall not be retained
32 by the county, but disbursed to the family.

33 (3) The obligation shall be reduced by any amount
34 actually paid by the parent directly to the custodian of the
35 child or to the district attorney of the county in which the
36 child is receiving aid during the period of separation or
37 desertion for the support and maintenance of the family.

38 (b) The district attorney shall take appropriate action
39 pursuant to this section as provided in subdivision (1) of
40 Section 11475.1. The district attorney may establish



1 liability for child support as provided in subdivision (a)
2 when public assistance was provided by another county
3 or by other counties.

4 (c) The amount of the obligation established under
5 paragraph (2) of subdivision (a) shall be determined by
6 using the appropriate child support guidelines currently
7 in effect. If one parent remains as a custodial parent, the
8 guideline support shall be computed in the normal
9 manner. If neither parent remains as a custodial parent,
10 the support shall be computed by combining the
11 noncustodial parents' incomes and placing the figure
12 obtained in the column for noncustodial parent. A zero
13 shall be placed in the column for the custodial parent and
14 the amount of guideline support resulting shall be
15 proportionately shared between the parents as directed
16 by the court. The parents shall pay the amount of support
17 specified in the support order to the district attorney.

18 ~~SEC. 28.~~

19 *SEC. 22.* Section 11350.61 is added to the Welfare and
20 Institutions Code, to read:

21 11350.61. The order to show cause or notice of motion
22 described in subdivision (j) of Section 11350.6 shall be
23 filed and heard in the superior court. If, however,
24 criminal proceedings pursuant to paragraph (4) of
25 subdivision (a) of Section 166 of the Penal Code, relating
26 to a support order, or pursuant to Section 270 of the Penal
27 Code are pending against the applicant in the municipal
28 court, in a county in which there is a municipal court, an
29 order to show cause or notice of motion for judicial review
30 of the district attorney's decision not to issue a release
31 may be filed and heard in that court.

32 ~~SEC. 29.—Section 11356.5~~

33 *SEC. 23.* Section 11356.2 is added to the Welfare and
34 Institutions Code, to read:

35 ~~11356.5.~~

36 11356.2. In any action in which a judgment or order
37 for support was entered after the entry of the default of
38 the defendant under Section 11355, the court shall relieve
39 the defendant from that judgment or order if the
40 defendant establishes that he or she was mistakenly



1 identified in the order or in any subsequent documents
2 or proceedings as the person having an obligation to
3 provide support. The defendant shall also be entitled to
4 the remedies specified in subdivisions (d) and (e) of
5 Section 11358 with respect to any actions taken to enforce
6 that judgment or order.

7 ~~SEC. 30.~~

8 *SEC. 24.* Section 11358 is added to the Welfare and
9 Institutions Code, to read:

10 11358. (a) Notwithstanding any other provision of
11 law, this section shall apply to any actions taken to enforce
12 a judgment or order for support entered as a result of
13 action filed by the district attorney pursuant to Section
14 11350, 11350.1, or 11475.1, where it is alleged that the
15 enforcement actions have been taken in error against a
16 person who is not the support obligor named in the
17 judgment or order.

18 (b) Any person claiming that any support
19 enforcement actions have been taken against that person,
20 or his or her wages or assets, in error, shall file a claim of
21 mistaken identity with the district attorney. The claim
22 shall include verifiable information or documentation to
23 establish that the person against whom the enforcement
24 actions have been taken is not the person named in the
25 support order or judgment. The claim shall be filed on a
26 form established by the Judicial Council that shall specify,
27 immediately above the signature line, that the filing of a
28 false claim shall be punishable as a misdemeanor. A copy
29 of the claim form shall be date stamped by the office of
30 the district attorney and shall be returned to the claimant.

31 (c) The district attorney shall immediately investigate
32 any claim of mistaken identity and shall resolve the claim
33 within 30 days unless exceptional circumstances prevent
34 a resolution within that time. The district attorney shall
35 provide the claimant with a written statement of the
36 district attorney's conclusions, or a statement explaining
37 the exceptional circumstances that have delayed the
38 district attorney's conclusions and an estimated date
39 when conclusions will be reached, within that 30-day
40 period.



1 (d) If the district attorney determines that a claim
 2 filed pursuant to this section is meritorious, or if the court
 3 enters an order pursuant to Section ~~11356.5~~ 11356.2, the
 4 district attorney shall immediately take the steps
 5 necessary to terminate all enforcement activities with
 6 respect to the claimant, to return to the claimant any
 7 assets seized, to terminate any levying activities or
 8 attachment or assignment orders, to release any license
 9 renewal or application being withheld pursuant to
 10 Section 11350.6, to return any sums paid by the claimant
 11 pursuant to the judgment or order, including sums paid
 12 to any federal, state, or local government, but excluding
 13 sums paid directly to the support obligee, and to ensure
 14 that all other enforcement agencies and entities cease
 15 further actions against the claimant. With respect to a
 16 claim filed under this section, the district attorney shall
 17 also provide the claimant with a statement certifying that
 18 the claimant is not the support obligor named in the
 19 support order or judgment, which statement shall be
 20 prima facie evidence of the claimant's identity in any
 21 subsequent enforcement proceedings or actions with
 22 respect to that support order or judgment.

23 (e) If the district attorney rejects a claim pursuant to
 24 this section, or if the district attorney, after finding a claim
 25 to be meritorious, fails to take any of the remedial steps
 26 provided in subdivision (d), the claimant may file an
 27 action with the superior court to establish his or her
 28 mistaken identity or to obtain the remedies described in
 29 subdivision (d), or both.

30 (f) Filing a false claim pursuant to this section shall be
 31 a misdemeanor.

32 (g) The Judicial Council shall develop forms for use
 33 pursuant to this section.

34 (h) This section shall become operative on April 1,
 35 2000.

36 ~~SEC. 31. Section 11475.1 of the Welfare and~~
 37 ~~Institutions Code is amended to read:~~

38 ~~11475.1. (a) Each county shall maintain a single~~
 39 ~~organizational unit located in the office of the district~~
 40 ~~attorney that shall have the responsibility for promptly~~



1 and effectively establishing, modifying, and enforcing
2 child support obligations, including medical support,
3 enforcing spousal support orders established by a court of
4 competent jurisdiction, and determining paternity in the
5 case of a child born out of wedlock. The district attorney
6 shall take appropriate action, both civil and criminal, to
7 establish, modify, and enforce child support and, when
8 appropriate, enforce spousal support orders when the
9 child is receiving public assistance, including Medi-Cal,
10 and, when appropriate, may take the same actions on
11 behalf of a child who is not receiving public assistance,
12 including Medi-Cal. The district attorney shall refer all
13 child support delinquencies to the Franchise Tax Board
14 pursuant to Section 19271 of the Revenue and Taxation
15 Code.

16 (b) Actions brought by the district attorney to
17 establish paternity or child support or to enforce child
18 support obligations shall be completed within the time
19 limits set forth by federal law. The district attorney's
20 responsibility applies to spousal support only where the
21 spousal support obligation has been reduced to an order
22 of a court of competent jurisdiction. In any action brought
23 for modification or revocation of an order that is being
24 enforced under Title IV-D of the Social Security Act (42
25 U.S.C. Sec. 651 et seq.), the effective date of the
26 modification or revocation shall be as prescribed by
27 federal law (42 U.S.C. Sec. 666(a)(9)), or any subsequent
28 date.

29 (c) (1) The Judicial Council, in consultation with the
30 department and representatives of the California Family
31 Support Council, the Senate Committee on Judiciary, the
32 Assembly Committee on Judiciary, and a legal services
33 organization providing representation on child support
34 matters, shall develop simplified summons, complaint,
35 and answer forms for any action for support brought
36 pursuant to this section or Section 11350.1. The Judicial
37 Council may combine the summons and complaint in a
38 single form.

39 (2) The simplified complaint form shall provide the
40 defendant with notice of the amount of child support that



1 is sought pursuant to the guidelines set forth in Article 2
2 (commencing with Section 4050) of Chapter 2 of Part 2
3 of the Family Code based upon the income or income
4 history of the defendant as known to the district attorney.
5 If the defendant's income or income history is unknown
6 to the district attorney, the complaint shall inform the
7 defendant that income shall be presumed in an amount
8 that results in a court order equal to the minimum basic
9 standard of adequate care provided in Section 11452
10 unless information concerning the defendant's income is
11 provided to the court. The complaint form shall be
12 accompanied by a proposed judgment. The complaint
13 form shall include a notice to the defendant that the
14 proposed judgment will become effective if he or she fails
15 to file an answer with the court within 30 days of service.
16 If the proposed judgment is entered by the court, the
17 support order in the proposed judgment shall be effective
18 as of the first day of the month following the filing of the
19 complaint.

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

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

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

38 (4) (A) The simplified complaint form prepared
39 pursuant to this subdivision shall be used by the district



1 ~~attorney or the Attorney General in all cases brought~~
2 ~~under this section or Section 11350.1.~~

3 ~~(B) The simplified answer form prepared pursuant to~~
4 ~~this subdivision shall be served on all defendants with the~~
5 ~~simplified complaint. Failure to serve the simplified~~
6 ~~answer form on all defendants shall not invalidate any~~
7 ~~judgment obtained. However, failure to serve the answer~~
8 ~~form may be used as evidence in any proceeding under~~
9 ~~Section 11356 of this code or Section 473 of the Code of~~
10 ~~Civil Procedure.~~

11 ~~(C) The Judicial Council shall add language to the~~
12 ~~governmental summons, for use by the district attorney~~
13 ~~with the governmental complaint to establish parental~~
14 ~~relationship and child support, informing defendants that~~
15 ~~a blank answer form should have been received with the~~
16 ~~summons and additional copies may be obtained from~~
17 ~~either the district attorney's office or the superior court~~
18 ~~clerk.~~

19 ~~(d) In any action brought or enforcement proceedings~~
20 ~~instituted by the district attorney pursuant to this section~~
21 ~~for payment of child or spousal support, an action to~~
22 ~~recover an arrearage in support payments may be~~
23 ~~maintained by the district attorney at any time within the~~
24 ~~period otherwise specified for the enforcement of a~~
25 ~~support judgment, notwithstanding the fact that the child~~
26 ~~has attained the age of majority.~~

27 ~~(e) The county shall undertake an outreach program~~
28 ~~to inform the public that the services described in~~
29 ~~subdivisions (a) to (e), inclusive, are available to persons~~
30 ~~not receiving public assistance. There shall be~~
31 ~~prominently displayed in every public area of every office~~
32 ~~of the units established by this section a notice, in clear~~
33 ~~and simple language prescribed by the Director of Social~~
34 ~~Services, that the services provided in subdivisions (a) to~~
35 ~~(e), inclusive, are provided to all individuals whether or~~
36 ~~not they are recipients of public social services.~~

37 ~~(f) In any action to establish a child support order~~
38 ~~brought by the district attorney in the performance of~~
39 ~~duties under this section, the district attorney may make~~
40 ~~a motion for an order effective during the pendency of~~



1 that action, for the support, maintenance, and education
2 of the child or children that are the subject of the action.
3 This order shall be referred to as an order for temporary
4 support. This order shall have the same force and effect
5 as a like or similar order under the Family Code.

6 The district attorney shall file a motion for an order for
7 temporary support within the following time limits:

8 (1) If the defendant is the mother, a presumed father
9 under Section 7611 of the Family Code, or any father
10 where the child is at least six months old when the
11 defendant files his answer, the time limit is 90 days after
12 the defendant files an answer.

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

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

22 If the district attorney fails to file a motion for an order
23 for temporary support within time limits specified in this
24 section, the district attorney shall be barred from
25 obtaining a judgment of reimbursement for any support
26 provided for that child during the period between the
27 date the time limit expired and the motion was filed, or,
28 if no motion is filed, when a final judgment is entered.

29 Nothing in this section prohibits the district attorney
30 from entering into cooperative arrangements with other
31 county departments as necessary to carry out the
32 responsibilities imposed by this section pursuant to plans
33 of cooperation with the departments approved by the
34 State Department of Social Services.

35 Nothing in this section shall otherwise limit the ability
36 of the district attorney from securing and enforcing
37 orders for support of a spouse or former spouse as
38 authorized under any other provision of law.

39 (g) As used in this article, “enforcing obligations”
40 includes, but is not limited to, (1) the use of all



1 ~~interception and notification systems operated by the~~
2 ~~State Department of Social Services for the purposes of~~
3 ~~aiding in the enforcement of support obligations, (2) the~~
4 ~~obtaining by the district attorney of an initial order for~~
5 ~~child support, that may include medical support or that~~
6 ~~is for medical support only, by civil or criminal process,~~
7 ~~(3) the initiation of a motion or order to show cause to~~
8 ~~increase an existing child support order, and the response~~
9 ~~to a motion or order to show cause brought by an obligor~~
10 ~~parent to decrease an existing child support order, or the~~
11 ~~initiation of a motion or order to show cause to obtain an~~
12 ~~order for medical support, and the response to a motion~~
13 ~~or order to show cause brought by an obligor parent to~~
14 ~~decrease or terminate an existing medical support order,~~
15 ~~without regard to whether the child is receiving public~~
16 ~~assistance, (4) the response to a notice of motion or order~~
17 ~~to show cause brought by an obligor parent to decrease~~
18 ~~an existing spousal support order when the child or~~
19 ~~children are residing with the obligee parent and the~~
20 ~~district attorney is also enforcing a related child support~~
21 ~~obligation owed to the obligee parent by the same~~
22 ~~obligor, and (5) the use of the collection services of the~~
23 ~~Franchise Tax Board to enforce the collection of child~~
24 ~~support delinquencies under Section 19271 of the~~
25 ~~Revenue and Taxation Code.~~

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

29 ~~(i) The district attorney is the public agency~~
30 ~~responsible for administering wage withholding for the~~
31 ~~purposes of Title IV-D of the Social Security Act (42~~
32 ~~U.S.C. Sec. 651 et seq.). Notwithstanding any other law,~~
33 ~~the district attorney shall utilize the collection services of~~
34 ~~the Franchise Tax Board under Section 19271 of the~~
35 ~~Revenue and Taxation Code.~~

36 ~~Nothing in this section shall limit the authority of the~~
37 ~~district attorney granted by other sections of this code or~~
38 ~~otherwise granted by law, except to the extent that the~~
39 ~~law is inconsistent with the requirement to refer child~~
40 ~~support delinquencies to the Franchise Tax Board for~~



1 collection pursuant to Section 19271 of the Revenue and
2 Taxation Code.

3 (j) In the exercise of the authority granted under this
4 article, the district attorney may intervene, pursuant to
5 subdivision (b) of Section 387 of the Code of Civil
6 Procedure, by ex parte application, in any action under
7 the Family Code, or other proceeding wherein child
8 support is an issue or a reduction in spousal support is
9 sought. By notice of motion, order to show cause, or
10 responsive pleading served upon all parties to the action,
11 the district attorney may request any relief that is
12 appropriate that the district attorney is authorized to
13 seek.

14 (k) The district attorney shall comply with any
15 guidelines established by the State Department of Social
16 Services that set time standards for responding to
17 requests for assistance in locating absent parents,
18 establishing paternity, establishing child support awards,
19 and collecting child support payments.

20 (l) As used in this article, medical support activities
21 that the district attorney is authorized to perform are
22 limited to the following:

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

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

27 (m) (1) Notwithstanding any other provision of law,
28 venue for an action or proceeding under this part shall be
29 determined as follows:

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

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

36 (C) If current support is no longer payable through, or
37 enforceable by, the district attorney, venue shall be in the
38 superior court in the county that last provided public
39 assistance for actions to enforce arrearages assigned
40 pursuant to Section 11477.



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

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

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

13 ~~(n) The district attorney of one county may appear on~~
14 ~~behalf of the district attorney of any other county in an~~
15 ~~action or proceeding under this part.~~

16 ~~SEC. 32.~~

17 *SEC. 25.* Section 11475.12 is added to the Welfare and
18 Institutions Code, to read:

19 11475.12. If the parent who is receiving support
20 enforcement services provides to the district attorney
21 substantial, credible, information regarding the
22 residence or work address of the support obligor, the
23 district attorney shall initiate an establishment or
24 enforcement action and serve the defendant, if service is
25 required, within 60 days and inform the parent in writing
26 when those actions have been taken. If the address or any
27 other information provided by the support obligee is
28 determined by the district attorney to be inaccurate and
29 if, after reasonable diligence, the district attorney is
30 unable to locate and serve the support obligor within that
31 60-day period, the district attorney shall inform the
32 support obligee in writing of those facts. The
33 requirements of this section shall be in addition to the
34 time standards established by the State Department of
35 Social Services pursuant to subdivision (k) of Section
36 11475.1.

37 ~~SEC. 33.~~

38 *SEC. 26.* Section 11475.14 is added to the Welfare and
39 Institutions Code, to read:



1 11475.14. *Except as provided in paragraph (2) of*
2 *subdivision (a) of Section 11350, if the proposed*
3 *judgment described in paragraph (2) of subdivision (c)*
4 *of Section 11475.1 is entered by the court, the support*
5 *order in the proposed judgment shall be effective as of the*
6 *first day of the month following the filing of the*
7 *complaint.*

8 SEC. 27. Section 11478.1 of the Welfare and
9 Institutions Code is amended to read:

10 11478.1. (a) It is the intent of the Legislature to
11 protect individual rights of privacy, and to facilitate and
12 enhance the effectiveness of the child and spousal
13 support enforcement program, by ensuring the
14 confidentiality of support enforcement and child
15 abduction records, and to thereby encourage the full and
16 frank disclosure of information relevant to all of the
17 following:

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

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

22 (3) The enforcement of spousal support liability of the
23 spouse or former spouse to the extent required by the
24 state plan under Section 11475.2 of this code and Chapter
25 6 (commencing with Section 4900) of Part 5 of Division
26 9 of the Family Code.

27 (4) The location of absent parents.

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

30 (b) (1) Except as provided in subdivision (c), all files,
31 applications, papers, documents, and records established
32 or maintained by any public entity pursuant to the
33 administration and implementation of the child and
34 spousal support enforcement program established
35 pursuant to Part D (commencing with Section 651) of
36 Subchapter IV of Chapter 7 of Title 42 of the United States
37 Code and this article, shall be confidential, and shall not
38 be open to examination or released for disclosure for any
39 purpose not directly connected with the administration
40 of the child and spousal support enforcement program.



1 No public entity shall disclose any file, application, paper,
2 document, or record, or the information contained
3 therein, except as expressly authorized by this section.

4 (2) In no case shall information be released or the
5 whereabouts of one party or the child disclosed to another
6 party, or to the attorney of any other party, if a protective
7 order has been issued by a court or administrative agency
8 with respect to the former party, a good cause claim
9 under Section 11477.04 has been approved or is pending,
10 or the public agency responsible for establishing
11 paternity or enforcing support has reason to believe that
12 the release of the information may result in physical or
13 emotional harm to the former party or the child.

14 (3) Notwithstanding any other provision of law, a
15 proof of service filed by the district attorney shall not
16 disclose the address where service of process was
17 accomplished. Instead, the district attorney shall keep the
18 address in his or her own records. The proof of service
19 shall specify that the address is on record at the district
20 attorney's office and that the address may be released
21 only upon an order from the court pursuant to paragraph
22 (6) of subdivision (c). The district attorney shall, upon
23 request by a party served, release to that person the
24 address where service was effected.

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

27 (1) All files, applications, papers, documents and
28 records as described in subdivision (b) shall be available
29 and may be used by a public entity for all administrative,
30 civil, or criminal investigations, actions, proceedings, or
31 prosecutions conducted in connection with the
32 administration of the child and spousal support
33 enforcement program approved under Part D
34 (commencing with Section 651) of Subchapter IV of
35 Chapter 7 of Title 42 of the United States Code, and any
36 other plan or program described in Section 303.21 of Title
37 45 of the Code of Federal Regulations and to the county
38 welfare department responsible for administering a
39 program operated under a state plan pursuant to Subpart



1 1 or 2 or Part B or Part E of Subchapter IV of Chapter 7
2 of Title 42 of the United States Code.

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

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

11 (4) Income and expense information of either parent
12 may be released to the other parent for the purpose of
13 establishing or modifying a support order.

14 (5) Public records subject to disclosure under the
15 Public Records Act (Chapter 3.5 (commencing with
16 Section 6250) of Division 7 of the Government Code) may
17 be released.

18 (6) After a noticed motion and a finding by the court,
19 in a case in which establishment or enforcement actions
20 are being taken, that release or disclosure to the obligor
21 or obligee is required by due process of law, the court may
22 order a public entity that possesses an application, paper,
23 document, or record as described in subdivision (b) to
24 make that item available to the obligor or obligee for
25 examination or copying, or to disclose to the obligor or
26 obligee the contents of that item. Article 9 (commencing
27 with Section 1040) of Chapter 4 of Division 3 of the
28 Evidence Code shall not be applicable to proceedings
29 under this part. At any hearing of a motion filed pursuant
30 to this section, the court shall inquire of the district
31 attorney and the parties appearing at the hearing if there
32 is reason to believe that release of the requested
33 information may result in physical or emotional harm to
34 a party. If the court determines that harm may occur, the
35 court shall issue any protective orders or injunctive
36 orders restricting the use and disclosure of the
37 information as are necessary to protect the individuals.

38 (7) To the extent not prohibited by federal law or
39 regulation, information indicating the existence or
40 imminent threat of a crime against a child, or location of



1 a concealed, detained, or abducted child or the location
2 of the concealing, detaining, or abducting person, may be
3 disclosed to any district attorney, any appropriate law
4 enforcement agency, or to any state or county child
5 protective agency, or may be used in any judicial
6 proceedings to prosecute that crime or to protect the
7 child.

8 (8) The social security number, most recent address,
9 and the place of employment of the absent parent may be
10 released to an authorized person as defined in Section
11 653(c) of Title 42 of the United States Code, only if the
12 authorized person has filed a request for the information,
13 and only if the information has been provided to the
14 California Parent Locator Service by the federal Parent
15 Locator Service pursuant to Section 653 of Title 42 of the
16 United States Code.

17 (d) (1) “Administration and implementation of the
18 child and spousal support enforcement program,” as used
19 in this section, means the carrying out of the state and
20 local plans for establishing, modifying, and enforcing
21 child support obligations, enforcing spousal support
22 orders, and determining paternity pursuant to Part D
23 (commencing with Section 651) of Subchapter IV of
24 Chapter 7 of Title 42 of the United States Code and this
25 article.

26 (2) For purposes of this section, “obligor” means any
27 person owing a duty of support.

28 (3) As used in this chapter, “putative parent” shall
29 refer to any person reasonably believed to be the parent
30 of a child for whom the district attorney is attempting to
31 establish paternity or establish, modify, or enforce
32 support pursuant to Section 11475.1.

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

36 (f) Nothing in this section shall be construed to compel
37 the disclosure of information relating to a deserting
38 parent who is a recipient of aid under a public assistance
39 program for which federal aid is paid to this state, if that



1 information is required to be kept confidential by the
2 federal law or regulations relating to the program.

3 ~~SEC. 34. Sections 7, 18, 22, 23, 24, and 26 of this bill shall
4 become operative only if either SB 542 or AB 196, or both
5 of them, are enacted and become operative on or before
6 January 1, 2000, and this bill is enacted after SB 542 and
7 AB 196, in which case, Sections 6, 25, 28, 29, 30, and 32 of
8 this bill shall not become operative.~~

9 ~~SEC. 35. (a) Section 11 of this bill shall become
10 operative only if (1) SB 542 is enacted and becomes
11 operative on or before January 1, 2000, (2) that bill adds
12 Section 17212 to the Family Code, and (3) this bill is
13 enacted after SB 542.~~

14 ~~(b) Section 12 of this bill shall become operative only
15 if (1) AB 196 is enacted and becomes operative on or
16 before January 1, 2000, (2) that bill adds Section 17212 to
17 the Family Code, and (3) this bill is enacted after AB 196.~~

18 ~~(c) Section 13 of this bill shall become operative only
19 if (1) either SB 542 or AB 196, or both of them, are enacted
20 and become operative on or before January 1, 2000, (2)
21 either or both of those bills adds Section 17212 to the
22 Family Code, and (3) this bill is enacted after SB 542 and
23 AB 196, in which case Section 33 of this bill shall not
24 become operative.~~

25 ~~(d) Section 33 of this bill shall become operative only
26 if neither SB 542 nor AB 196 are enacted and become
27 operative or as enacted do not add Section 17212 to the
28 Family Code.~~

29 ~~SEC. 36. (a) Section 14 of this bill shall become
30 operative only if (1) SB 542 is enacted and becomes
31 operative on or before January 1, 2000, (2) that bill adds
32 Section 17400 to the Family Code, and (3) this bill is
33 enacted after SB 542.~~

34 ~~(b) Section 15 of this bill shall become operative only
35 if (1) AB 196 is enacted and becomes operative on or
36 before January 1, 2000, (2) that bill adds Section 17400 to
37 the Family Code, and (3) this bill is enacted after AB 196.~~

38 ~~(c) Section 16 of this bill shall become operative only
39 if (1) SB 542 is enacted and becomes operative on or
40 before January 1, 2000, (2) SB 542 adds Section 17400 to~~



1 ~~the Family Code, (3) AB 196 is not enacted or as enacted~~
2 ~~does not add that section to the Family Code, or SB 542~~
3 ~~is enacted after AB 196, and (4) this bill is enacted last, in~~
4 ~~which case Sections 17 and 31 of this bill shall not become~~
5 ~~operative.~~

6 ~~(d) Section 17 of this bill shall become operative only~~
7 ~~if (1) AB 196 is enacted and becomes operative on or~~
8 ~~before January 1, 2000, (2) AB 196 adds Section 17400 to~~
9 ~~the Family Code, (3) SB 542 is not enacted or as enacted~~
10 ~~does not add that section to the Family Code, or AB 196~~
11 ~~is enacted after SB 542, and (4) this bill is enacted last, in~~
12 ~~which case Sections 16 and 31 of this bill shall not become~~
13 ~~operative.~~

14 ~~(e) Section 31 of this bill shall become operative only~~
15 ~~if neither SB 542 nor AB 196 are enacted or as enacted do~~
16 ~~not add Section 17400 to the Family Code.~~

17 ~~SEC. 37. (a) Section 19 of this bill shall become~~
18 ~~operative only if (1) SB 542 is enacted and becomes~~
19 ~~operative on or before January 1, 2000, (2) that bill adds~~
20 ~~Section 17402 to the Family Code, and (3) this bill is~~
21 ~~enacted after SB 542.~~

22 ~~(b) Section 20 of this bill shall become operative only~~
23 ~~if (1) AB 196 is enacted and becomes operative on or~~
24 ~~before January 1, 2000, (2) that bill adds Section 17402 to~~
25 ~~the Family Code, and (3) this bill is enacted after AB 196.~~

26 ~~(c) Section 21 of this bill shall become operative only~~
27 ~~if (1) either SB 542 or AB 196, or both of them, are enacted~~
28 ~~and become operative on or before January 1, 2000, (2)~~
29 ~~either or both of those bills adds Section 17402 to the~~
30 ~~Family Code, and (3) this bill is enacted after SB 542 and~~
31 ~~AB 196, in which case Section 27 of this bill shall not~~
32 ~~become operative.~~

33 ~~(d) Section 27 of this bill shall become operative only~~
34 ~~if neither SB 542 nor AB 196 are enacted or as enacted do~~
35 ~~not add Section 17402 to the Family Code.~~

36 ~~SEC. 38.~~

37 *SEC. 28. Section 10.5 of this bill incorporates*
38 *amendments to Section 7575 of the Family Code*
39 *proposed by both this bill and SB 240. It shall only become*
40 *operative if (1) both bills are enacted and become*



1 *effective on or before January 1, 2000, (2) each bill*
2 *amends Section 7575 of the Family Code, and (3) this bill*
3 *is enacted after SB 240, in which case, Section 10 of this*
4 *bill shall not become operative.*

5 *SEC. 29. Sections 8, 13, 14, 16, 17, 18, and 20 of this bill*
6 *shall become operative only if AB 196 is enacted and*
7 *becomes operative on or before January 1, 2000, and this*
8 *bill is enacted after AB 196, in which case Sections 7, 19,*
9 *22, 23, 24, 25, and 26 of this bill shall not become operative.*

10 *SEC. 30. Section 12 of this bill shall become operative*
11 *only if (1) AB 196 is enacted and becomes operative on*
12 *or before January 1, 2000, (2) that bill adds Section 17212*
13 *to the Family Code, and (3) this bill is enacted after AB*
14 *196, in which case Section 27 of this bill shall not become*
15 *operative.*

16 *SEC. 31. Section 15 of this bill shall become operative*
17 *only if (1) AB 196 is enacted and becomes operative on*
18 *or before January 1, 2000, (2) that bill adds Section 17402*
19 *to the Family Code, and (3) this bill is enacted after AB*
20 *196, in which case Section 21 of this bill shall not become*
21 *operative.*

22 *SEC. 32. No reimbursement is required by this act*
23 *pursuant to Section 6 of Article XIII B of the California*
24 *Constitution for certain costs that may be incurred by a*
25 *local agency or school district because in that regard this*
26 *act creates a new crime or infraction, eliminates a crime*
27 *or infraction, or changes the penalty for a crime or*
28 *infraction, within the meaning of Section 17556 of the*
29 *Government Code, or changes the definition of a crime*
30 *within the meaning of Section 6 of Article XIII B of the*
31 *California Constitution.*

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