

Senate Bill No. 1483

Passed the Senate August 31, 2006

Secretary of the Senate

Passed the Assembly August 28, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Section 17441 of the Family Code, relating to child support.

LEGISLATIVE COUNSEL'S DIGEST

SB 1483, Alquist. Child support.

Existing law sets forth provisions by which a child support order may be revised by the court and specifies that a support order may not be modified or terminated as to an amount that accrued before the filing of a motion or an order to show cause to modify, except as specified.

This bill, until January 1, 2010, would establish, if approved by a resolution of a county board of supervisors, a child support pilot project for the Counties of Alameda, Fresno, Orange, San Mateo, and Santa Clara. The bill would authorize the court in those counties to modify a child support order when a local child support agency submits an application for modification of support that complies with specified provisions. The bill would specifically authorize a local child support agency to seek modification of an existing child support order if it has received income information for one or both parents that indicates that an existing order is not in substantial conformity with state child support guidelines, as specified.

The bill would require the Department of Child Support Services to develop and annually review necessary and appropriate forms for implementation of the expedited order modification process and would require the Department of Child Support Services and the Judicial Council to conduct an evaluation of the effectiveness of this pilot project and report the results to the Governor and the Legislature by July 1, 2009.

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

SECTION 1. Section 17441 is added to the Family Code, to read:

17441. (a) If a local child support agency is providing child support services pursuant to Title IV-D of the Social Security Act

and pursuant to Section 17400, 17402, or 17404, the court may modify a child support order when a local child support agency submits an application for modification of support in compliance with this section. An order issued pursuant to this section shall be known as an expedited modification order.

(b) The local child support agency may seek modification of an existing child support order under this section if it has received income information for one or both of the parents that indicates that an existing order is not in substantial conformity with state child support guidelines and the case meets criteria established by the Department of Child Support Services. In developing the criteria for cases to be eligible for expedited modification under this section, the Department of Child Support Services shall consult with the Child Support Directors Association, the Judicial Council, child support advocacy organizations, representatives of custodial and noncustodial parents, and representatives of the local child support agencies, child support commissioners, and family law facilitators from the counties that are designated as the pilot counties in subdivision (i). The criteria shall be developed within six months of the enactment of this act and shall be annually reviewed by the Department of Child Support Services in consultation with the stakeholders identified in this section.

(c) To establish an expedited modification order, the local child support agency shall serve an application to modify child support, child support guideline worksheet, proposed order of support, a blank copy of both an objection to modification and request for hearing, and instructions on how to complete the objection to modification and request for hearing on both parents. The child support guideline worksheet shall include a simple to read statement of the financial and visitation factors used to determine the guideline level of child support and a description of the sources of information used to determine the financial and visitation factors. Service of the application and supporting documents may be made as specified in the Code of Civil Procedure. Service by mail shall be to a verified active address on file with the local child support agency.

(d) A party may object to the proposed order and request a hearing by serving the local child support agency, within 30 days

of receipt of the application to modify child support, with a completed objection to modification and request for hearing.

(e) Upon receipt of an objection, the local child support agency shall file the objection together with the application to modify support, the proposed order, and the child support guideline worksheet with the court. The court shall set the matter for hearing. The local child support agency shall give each party 30 days written notice of the hearing date. At the hearing on the objection to the proposed order, the court may enter a child support order that is in accordance with the state child support guideline.

(f) If the local child support agency does not receive an objection to modification and request for a hearing within 40 days of service of the application, it may file the proposed order, the application to modify child support, and the child support guideline worksheet with the court, together with a proof of service for the parties and a statement verifying that the local child support agency has not received an objection to the proposed order. The court may issue a final order of modification upon receipt of these documents without further hearing or evidence. However, no final order shall be issued unless the local child support agency certifies that service was made to an address verified as current and active, within the last 90 days, through a reliable government database. The local child support agency shall serve the final order upon the parties by mail along with forms and information necessary to set aside the order.

(g) (1) Any order modified pursuant to subdivision (e) may be made retroactive to the date of filing of the objection, application to modify support, proposed order, and child support guideline worksheet.

(2) Except for good cause shown, any order modified pursuant to subdivision (f) shall be effective on the first day of the month following the date of service of the application and supporting documents as provided in the Code of Civil Procedure.

(h) Notwithstanding any other law, the local child support agency or either parent may file a motion to set aside an expedited modification of support established under subdivision (f) within one year of the first collection of support that occurs after modification of the order. The one-year time period from the first collection shall run from the date that the local child

support agency receives the collection. If the expedited modification order was for zero support, the one-year period shall run from the date that the party filing the motion to set aside the support order received notice of the modified order. Upon the request of either parent made within the timeframes set forth in this subdivision, the local child support agency shall file a motion to set aside the order. The court retains the jurisdiction to set support at the appropriate amount back to the commencement date of the vacated order in the event a set aside is granted.

(i) This section shall apply only to the Counties of Alameda, Fresno, Orange, San Mateo, and Santa Clara as a pilot project. The Department of Child Support Services and the Judicial Council shall conduct an evaluation of the effectiveness of this pilot project and shall report the results of the pilot project to the Governor and the Legislature on or before July 1, 2009.

(j) The Department of Child Support Services shall develop forms to implement this section in consultation with the Judicial Council, representatives of the Child Support Directors Association, child support advocacy organizations, representatives of custodial and noncustodial parents, and the local child support agencies, child support commissioners, and family law facilitators from the counties that are designated as the pilot counties in subdivision (i). The forms shall be developed within six months of the enactment of this act and shall be annually reviewed by the Department of Child Support Services in consultation with the stakeholders identified in this section.

(k) This section shall not be operative in a county described in subdivision (i) until the county board of supervisors adopts a resolution that makes this section applicable in that county.

(l) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

Approved _____, 2006

Governor