

AMENDED IN SENATE JULY 17, 2001

AMENDED IN ASSEMBLY APRIL 23, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 891

Introduced by Assembly Member Goldberg

February 23, 2001

An act to amend Section 17501 of the Family Code, relating to child support.

LEGISLATIVE COUNSEL'S DIGEST

AB 891, as amended, Goldberg. Child support: disabled noncustodial parents.

Existing law provides that the Franchise Tax Board has the responsibility for accounts receivable management of child support delinquencies. The Franchise Tax Board is responsible for actions taken on any child support delinquency account transferred to that agency as necessary for recovering delinquent child support payments. Among other duties, the Franchise Tax Board is responsible for issuing and modifying earnings assignment orders on behalf of the local child support agency in order to take collection actions to recover delinquent child support payments.

Existing law establishes a state supplementary income program which provides a monthly income based on need, as specified, to aged, blind, or disabled persons.

This bill would provide that the Franchise Tax Board may not issue or modify an earnings assignment order, or otherwise attach the income of certain disabled obligors to the extent it would reduce their *net*

income below the amount they receive or would be eligible to receive under the state supplementary income program for aged, blind, and disabled persons, as specified.

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

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

1 SECTION 1. Section 17501 of the Family Code is amended
2 to read:

3 17501. (a) Notwithstanding any other provision of law, on
4 and after January 1, 2000, pursuant to a cooperative agreement
5 entered into between the department and the Franchise Tax Board,
6 the Franchise Tax Board shall have responsibility for accounts
7 receivable management of child support delinquencies in support
8 of the child support activities of the Department of Child Support
9 Services, local child support agencies, and subject to all federal
10 and state laws, regulations, and directives relating to child support
11 programs prescribed by Title IV-D of the federal Social Security
12 Act.

13 (b) For purposes of this section, “child support delinquency”
14 means an arrearage or otherwise past due amount that accrues
15 when an obligor fails to make any court-ordered support payment
16 when due, which is more than 60 days past due, and the aggregate
17 amount of which exceeds one hundred dollars (\$100).

18 (c) For purposes of this section, the responsibility of the
19 Franchise Tax Board for “accounts receivable management” shall
20 be in accordance with federal mandates under Title IV-D of the
21 Social Security Act, state mandates, and regulations adopted by
22 the department, and shall include the following:

23 (1) A management structure that implements policy and
24 procedures consistent with all applicable federal and state
25 mandates and regulations and control systems that result in
26 compliance with these policies and procedures.

27 (2) Information technology applications, including hardware
28 and software, necessary to:

29 (A) Route accounts, based on decision rules, through a
30 sequence of actions most likely to result in collection of the
31 account.



1 (B) Gather asset information from third-party sources
2 including employers, financial institutions, credit bureaus, and
3 parent locator services and take mandated actions or other actions
4 that can be taken by a computer system in the most appropriate
5 sequence for recovering child support delinquency payments.

6 (3) Personnel systems necessary to hire and train staff as well
7 as to organize and direct their work for effective and efficient
8 recovery of child support delinquency payments.

9 (4) Customer service systems including telephone, written, and
10 other communication mechanisms giving delinquent obligors
11 methods to contact the Franchise Tax Board to resolve questions
12 and other issues arising solely from the Franchise Tax Board's
13 actions on their delinquent account.

14 (5) Actions on any child support delinquency account
15 transferred to the Franchise Tax Board taken by computer or by
16 staff as necessary for recovering delinquent child support
17 payments as follows:

18 (A) Issuing and modifying earnings assignment orders in the
19 name and on behalf of the local child support agency, pursuant to
20 Section 5246, as necessary in order for the Franchise Tax Board to
21 take collection actions to recover delinquent child support
22 payments.

23 (i) In no event shall any modification to a notice of assignment
24 reduce the current support amount to be withheld below the
25 amount ordered by the court.

26 (ii) In no event shall the Franchise Tax Board issue or modify
27 an earnings assignment order, or otherwise attach the income of an
28 obligor, to the extent that it would reduce the obligor's *net* income
29 below the amount the obligor receives, or, but for excess income
30 as described in Section 416.1100 et seq. of Part 416 of Title 20 of
31 the Code of Federal Regulations, would be eligible to receive as
32 Supplemental Security Income/State Supplementary Payments
33 (SSI/SSP), pursuant to Section 12200 of the Welfare and
34 Institutions Code. This subparagraph shall only apply to obligors
35 who are disabled, meet the SSI resource test, and supply the local
36 child support agency with a copy of an eligibility letter proving
37 their qualification for, and *when applicable*, receipt of, any of the
38 following benefits: SSI/SSP, Social Security Disability Insurance,
39 In-Home Supportive Services, or Medi-Cal/Medically Needy
40 program benefits.



- 1 (B) Working with obligors and negotiating a payment schedule
- 2 to the extent allowed by state and federal law and in accordance
- 3 with regulations established by the department.
- 4 (C) Consulting information sources and third parties to locate
- 5 obligors and their assets.
- 6 (D) Coordinating with the counties and the department for
- 7 withholding issuance, renewal, or suspension of licenses or
- 8 passports as the process relates to delinquent child support
- 9 obligors.
- 10 (E) Filing bankruptcy or estate claims, and filing liens in civil
- 11 actions.
- 12 (F) Issuing levies.
- 13 (G) Issuing warrants to direct a levying officer to seize and sell
- 14 property of the obligor or other actions that may be taken by a
- 15 levying officer.
- 16 (H) Monitoring paying accounts and keeping local child
- 17 support agencies informed as to any payments received by the
- 18 Franchise Tax Board and status thereof.
- 19 (I) Coordinating with the counties to refer obligors to the
- 20 county when a court action may be an appropriate course of action
- 21 as so deemed by the county.
- 22 (J) Taking any other mandated actions directed by the
- 23 department necessary for the effective and efficient recovery of
- 24 delinquent child support payments.
- 25 (d) (1) The local child support agency shall transfer child
- 26 support delinquencies to the Franchise Tax Board in the form and
- 27 manner and at the time prescribed by the Franchise Tax Board
- 28 pursuant to paragraph (2) of subdivision (a) of Section 19271 of
- 29 the Revenue and Taxation Code.
- 30 (2) The department shall adopt regulations to establish a
- 31 process pursuant to which a local child support agency may request
- 32 and shall be allowed to rescind or otherwise recall the transfer of
- 33 an account from the Franchise Tax Board under limited
- 34 circumstances specified by the department.
- 35 (e) If a child support delinquency exists at the time a case is
- 36 opened by the local child support agency, the responsibility for the
- 37 enforcement and collection of the delinquency shall be transferred
- 38 to the Franchise Tax Board no later than 30 days after receipt of the
- 39 case by the local child support agency. Any reference to the local
- 40 child support agency in connection with accounts receivable



1 management of child support delinquencies shall be deemed a
2 reference to the Franchise Tax Board.

3 (f) After a local child support agency transfers a delinquent
4 child support obligation to the Franchise Tax Board pursuant to
5 this section, the local child support agency shall continue to
6 facilitate resolution of the child support obligation in coordination
7 with the Franchise Tax Board. This transfer of responsibility for
8 accounts receivable management is in support of the local child
9 support agency solely for the administration of the enforcement
10 and collection of child support delinquencies and shall not in any
11 manner transfer any responsibilities the local child support agency
12 may have and any responsibilities the Department of Child
13 Support Services may have as the Title IV-D agency. A child
14 support delinquency, as specified in this section, shall be enforced
15 and collected by the Franchise Tax Board in accordance with
16 subdivision (c) and pursuant to Section 19271 of the Revenue and
17 Taxation Code. The local child support agency shall be responsible
18 for case management as described in subdivision (g).

19 (g) After a local child support agency transfers a case to the
20 Franchise Tax Board for accounts receivable management, the
21 local child support agency shall be responsible for providing case
22 management services, which, only for purposes of cases
23 transferred to the Franchise Tax Board includes, but is not limited
24 to:

25 (1) Responding to communications from both custodial
26 parents and noncustodial parents about case status, payment status,
27 and other questions, and facilitating communication between the
28 custodial or noncustodial parent and the Franchise Tax Board, as
29 appropriate.

30 (2) Establishing, maintaining, and updating as appropriate case
31 information relating to case status, account information, payment
32 history, and other relevant case specific information.

33 (3) Responding to requests from custodial and noncustodial
34 parents for modification of a support obligation pursuant to state
35 and federal regulations, notifying the Franchise Tax Board of
36 actions taken to modify a support obligation and, where
37 appropriate, requesting the case be transferred back to the local
38 child support agency from the Franchise Tax Board in accordance
39 with subdivision (d).



- 1 (4) Pursuing appropriate enforcement mechanisms, within the
- 2 timeframes and regulations prescribed by the department, which
- 3 may include:
- 4 (A) Submittal of the delinquent case to the Internal Revenue
- 5 Service Tax Refund Intercept Program.
- 6 (B) Submittal of the delinquent case to the Franchise Tax Board
- 7 for the tax refund intercept program.
- 8 (C) Submittal of the delinquent case to the State License Match
- 9 Program for suspension or revocation of licenses.
- 10 (D) Filing liens against a civil settlement in cases in which the
- 11 noncustodial parent is a party.
- 12 (E) Referral of the delinquent case to the district attorney for
- 13 criminal prosecution.
- 14 (F) Filing orders to show cause for civil contempt.
- 15 (G) Filing motions for an order of examination.
- 16 (H) Referral of delinquent cases to the United States Attorney
- 17 for criminal prosecution in interstate matters.
- 18 (5) Any other activities prescribed by the department.

