

## Assembly Bill No. 3032

### CHAPTER 927

An act to amend Sections 394 and 697.320 of the Code of Civil Procedure, to amend Sections 3766, 4054, 4506, 7575, 17306, 17400, 17422, 17430, 17432, 17526, 17600, 17602, 17704, and 17801 of, and to repeal Section 17700 of, the Family Code, to amend Section 11165.7 of the Penal Code, and to amend Section 11476.2 of the Welfare and Institutions Code, relating to child support.

[Approved by Governor September 25, 2002. Filed  
with Secretary of State September 26, 2002.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 3032, Committee on Judiciary. Child support enforcement.

Existing law requires each county to maintain a local child support agency for the purpose of establishing, modifying, and enforcing child support obligations. Existing law requires a local child support agency to obtain and send a completed state medical insurance form to the Department of Child Support Services in any action brought or proceeding instituted by the agency for the payment of child or spousal support. The local agency must also communicate with the Department of Child Support Services to determine whether there have been any lapses in health insurance coverage for public assistance applicants and recipients. Existing law also provides for state hearings for custodial or noncustodial parents who are dissatisfied with the local child support agency's resolution of a complaint, as specified.

Existing law also requires the Department of Child Support Services to collect information regarding child support enforcement and to report that information to the Legislature, as specified.

This bill would authorize an agency enforcing a support obligation to record a notice of support judgment. The bill would require a local child support agency to send the completed state medical insurance forms described above to, and, in order to determine whether there have been health insurance lapses, to communicate with, the State Department of Health Services, rather than the Department of Child Support Services. The bill would require a local child support agency to provide to a CalWORKs recipient or former recipient as to whom an assignment of his or her support rights is currently effective a notice of the amount of assigned support payments made on behalf of that recipient or former recipient or any other family member for whom public assistance is received. The bill would require a local child support agency to complete

an administrative review of alleged arrearages within a specified timeframe. The bill would revise provisions governing the procedures for the conduct of state hearings for parents who are dissatisfied with the local child support agency's resolution of a complaint. The bill would revise the reporting requirements imposed on the Department of Child Support Services, as specified. The bill would also make technical and clarifying changes. By imposing additional duties on local agencies, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. Section 394 of the Code of Civil Procedure is amended to read:

394. (a) An action or proceeding against a county, or city and county, a city, or local agency, may be tried in the county, or city and county, or the county in which the city or local agency is situated, unless the action or proceeding is brought by a county, or city and county, a city, or local agency, in which case it may be tried in any county, or city and county, not a party thereto and in which the city or local agency is not situated. Except for actions initiated by the local child support agency pursuant to Section 17400, 17402, 17404, or 17416 of the Family Code, any action or proceeding brought by a county, city and county, city, or local agency within a certain county, or city and county, against a resident of another county, city and county, or city, or a corporation doing business in the latter, shall be, on motion of either party, transferred for trial to a county, or city and county, other than the plaintiff, if the plaintiff is a county, or city and county, and other than that in which the plaintiff is situated, if the plaintiff is a city, or a local agency, and other than that in which the defendant resides, or is doing business, or is situated. Whenever an action or proceeding is brought against a county, city and county, city, or local agency, in any county, or city and county, other than the defendant, if the defendant is a county, or city and county, or, if the defendant is a city, or local agency, other than that in which the defendant



is situated, the action or proceeding must be, on motion of that defendant, transferred for trial to a county, or city and county, other than that in which the plaintiff, or any of the plaintiffs, resides, or is doing business, or is situated, and other than the plaintiff county, or city and county, or county in which that plaintiff city or local agency is situated, and other than the defendant county, or city and county, or county in which the defendant city or local agency is situated; provided, however, that any action or proceeding against the city, county, city and county, or local agency for injury occurring within the city, county, or city and county, or within the county in which the local agency is situated, to person or property or person and property caused by the negligence or alleged negligence of the city, county, city and county, local agency, or its agents or employees, shall be tried in that county, or city and county, or if a city is a defendant, in the city or in the county in which the city is situated, or if a local agency is a defendant, in the county in which the local agency is situated. In that action or proceeding, the parties thereto may, by stipulation in writing, or made in open court, and entered in the minutes, agree upon any county, or city and county, for the place of trial thereof. When the action or proceeding is one in which a jury is not of right, or in case a jury is waived, then in lieu of transferring the cause, the court in the original county may request the chairperson of the Judicial Council to assign a disinterested judge from a neutral county to hear that cause and all proceedings in connection therewith. When the action or proceeding is transferred to another county for trial, a witness required to respond to a subpoena for a hearing within the original county shall be compelled to attend hearings in the county to which the cause is transferred. If the demand for transfer is made by one party and the opposing party does not consent thereto, the additional costs of the nonconsenting party occasioned by the transfer of the cause, including living and traveling expenses of the nonconsenting party and material witnesses, found by the court to be material, and called by the nonconsenting party, not to exceed five dollars (\$5) per day each in excess of witness fees and mileage otherwise allowed by law, shall be assessed by the court hearing the cause against the party requesting the transfer. To the extent of that excess, those costs shall be awarded to the nonconsenting party regardless of the outcome of the trial. This section shall apply to actions or proceedings now pending or hereafter brought.

(b) For the purposes of this section, “local agency” shall mean any governmental district, board, or agency, or any other local governmental body or corporation, but shall not include the State of California or any of its agencies, departments, commissions, or boards.

SEC. 1.5. Section 697.320 of the Code of Civil Procedure is amended to read:



697.320. (a) A judgment lien on real property is created under this section by recording an abstract, a notice of support judgment, an interstate lien form promulgated by the federal Secretary of Health and Human Services pursuant to Section 652(a)(11) of Title 42 of the United States Code, or a certified copy of either of the following money judgments with the county recorder:

(1) A judgment for child, family, or spousal support payable in installments.

(2) A judgment entered pursuant to Section 667.7 (judgment against health care provider requiring periodic payments).

(b) Unless the money judgment is satisfied or the judgment lien is released, a judgment lien created under paragraph (1) of subdivision (a) or by recording an interstate lien form, as described in subdivision (a), continues during the period the judgment remains enforceable. Unless the money judgment is satisfied or the judgment lien is released, a judgment lien created under paragraph (2) of subdivision (a) continues for a period of 10 years from the date of its creation. The duration of a judgment lien created under paragraph (2) of subdivision (a) may be extended any number of times by recording, during the time the judgment lien is in existence, a certified copy of the judgment in the manner provided in this section for the initial recording; this rerecording has the effect of extending the duration of the judgment lien created under paragraph (2) of subdivision (a) until 10 years from the date of the rerecording.

SEC. 2. Section 3766 of the Family Code is amended to read:

3766. (a) The employer, or other person providing health insurance, shall take steps to commence coverage, consistent with the order for the health insurance coverage assignment, within 30 days after service of the assignment order upon the obligor under Section 3764 unless the employer or other person providing health insurance coverage receives an order issued pursuant to Section 3765 to quash the health insurance coverage assignment. The employer, or the person providing health insurance, shall commence coverage at the earliest possible time and, if applicable, consistent with the group plan enrollment rules.

(b) If the obligor has made a selection of health coverage prior to the issuance of the court order, the selection shall not be superseded unless the child to be enrolled in the plan will not be provided benefits or coverage where the child resides or the court order specifically directs other health coverage.

(c) If the obligor has not enrolled in an available health plan, there is a choice of coverage, and the court has not ordered coverage by a specific plan, the employer or other person providing health insurance shall enroll the child in the plan that will provide reasonable benefits or



coverage where the child resides. If that coverage is not available, the employer or other person providing health insurance shall, within 20 days, return the assignment order to the attorney or person initiating the assignment.

(d) If an assignment order is served on an employer or other person providing health insurance and no coverage is available for the supported child, the employer or other person shall, within 20 days, return the assignment to the attorney or person initiating the assignment.

SEC. 2.5. Section 4054 of the Family Code is amended to read:

4054. (a) The Judicial Council shall periodically review the statewide uniform guideline to recommend to the Legislature appropriate revisions.

(b) The review shall include economic data on the cost of raising children and analysis of case data, gathered through sampling or other methods, on the actual application of the guideline after the guideline's operative date. The review shall also include an analysis of guidelines and studies from other states, and other research and studies available to or undertaken by the Judicial Council.

(c) Any recommendations for revisions to the guideline shall be made to ensure that the guideline results in appropriate child support orders, to limit deviations from the guideline, or otherwise to help ensure that the guideline is in compliance with federal law.

(d) The Judicial Council may also review and report on other matters, including, but not limited to, the following:

(1) The treatment of the income of a subsequent spouse or nonmarital partner.

(2) The treatment of children from prior or subsequent relationships.

(3) The application of the guideline in a case where a payer parent has extraordinarily low or extraordinarily high income, or where each parent has primary physical custody of one or more of the children of the marriage.

(4) The benefits and limitations of a uniform statewide spousal support guideline and the interrelationship of that guideline with the state child support guideline.

(5) Whether the use of gross or net income in the guideline is preferable.

(6) Whether the guideline affects child custody litigation or the efficiency of the judicial process.

(7) Whether the various assumptions used in computer software used by some courts to calculate child support comport with state law and should be made available to parties and counsel.

(e) The initial review by the Judicial Council shall be submitted to the Legislature and to the Department of Child Support Services on or



before December 31, 1993, and subsequent reviews shall occur at least every four years thereafter unless federal law requires a different interval.

(f) In developing its recommendations, the Judicial Council shall consult with a broad cross-section of groups involved in child support issues, including, but not limited to, the following:

- (1) Custodial and noncustodial parents.
- (2) Representatives of established women's rights and fathers' rights groups.
- (3) Representatives of established organizations that advocate for the economic well-being of children.
- (4) Members of the judiciary, district attorney's offices, the Attorney General's office, and the Department of Child Support Services.
- (5) Certified family law specialists.
- (6) Academicians specializing in family law.
- (7) Persons representing low-income parents.
- (8) Persons representing recipients of assistance under the CalWORKs program seeking child support services.

(g) In developing its recommendations, the Judicial Council shall seek public comment and shall be guided by the legislative intent that children share in the standard of living of both of their parents.

SEC. 3. Section 4506 of the Family Code is amended to read:

4506. (a) An abstract of a judgment ordering a party to pay spousal, child, or family support to the other party shall be certified by the clerk of the court where the judgment was entered and shall contain all of the following:

- (1) The title of the court where the judgment is entered and the cause and number of the proceeding.
- (2) The date of entry of the judgment and of any renewal of the judgment.
- (3) Where the judgment and any renewals are entered in the records of the court.
- (4) The name and last known address of the party ordered to pay support.
- (5) The name and address of the party to whom support payments are ordered to be paid.
- (6) The social security number, birth date, and driver's license number of the party who is ordered to pay support. If any of those numbers are not known to the party to whom support payments are to be paid, that fact shall be indicated on the abstract of the court judgment.
- (7) Whether a stay of enforcement has been ordered by the court and, if so, the date the stay ends.
- (8) The date of issuance of the abstract.



(9) Any other information deemed reasonable and appropriate by the Judicial Council.

(b) The Judicial Council may develop a form for an abstract of a judgment ordering a party to pay child, family, or spousal support to another party which contains the information required by subdivision (a).

(c) Notwithstanding any other provision of law, when a support obligation is being enforced pursuant to Title IV-D of the Social Security Act, the agency enforcing the obligation may record a notice of support judgment. The notice of support judgment shall contain the same information as the form adopted by the Judicial Council pursuant to subdivision (b) and Section 4506.1. The notice of support judgment shall have the same force and effect as an abstract of judgment certified by the clerk of the court where the judgment was entered. The local child support agency or other Title IV-D agency shall not be subject to any civil liability as a consequence of causing a notice of support judgment to be recorded.

(d) As used in this section, “judgment” includes an order for child, family, or spousal support.

SEC. 3.3. Section 7575 of the Family Code is amended to read:

7575. (a) Either parent may rescind the voluntary declaration of paternity by filing a rescission form with the Department of Child Support Services within 60 days of the date of execution of the declaration by the attesting father or attesting mother, whichever signature is later, unless a court order for custody, visitation, or child support has been entered in an action in which the signatory seeking to rescind was a party. The Department of Child Support Services shall develop a form to be used by parents to rescind the declaration of paternity and instruction on how to complete and file the rescission with the Department of Child Support Services. The form shall include a declaration under penalty of perjury completed by the person filing the rescission form that certifies that a copy of the rescission form was sent by any form of mail requiring a return receipt to the other person who signed the voluntary declaration of paternity. A copy of the return receipt shall be attached to the rescission form when filed with the Department of Child Support Services. The form and instructions shall be written in simple, easy to understand language and shall be made available at the local family support office and the office of local registrar of births and deaths. The department shall, upon written request, provide to a court or commissioner a copy of any rescission form filed with the department that is relevant to proceedings before the court or commissioner.

(b) (1) Notwithstanding Section 7573, if the court finds that the conclusions of all of the experts based upon the results of the genetic tests



performed pursuant to Chapter 2 (commencing with Section 7550) are that the man who signed the voluntary declaration is not the father of the child, the court may set aside the voluntary declaration of paternity.

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

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

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

(c) (1) Nothing in this chapter shall be construed to prejudice or bar the rights of either parent to file an action or motion to set aside the voluntary declaration of paternity on any of the grounds described in, and within the time limits specified in, Section 473 of the Code of Civil Procedure. If the action or motion to set aside a judgment is required to be filed within a specified time period under Section 473 of the Code of Civil Procedure, the period within which the action or motion to set aside the voluntary declaration of paternity must be filed shall commence on the date that the court makes an initial order for custody, visitation, or child support based upon a voluntary declaration of paternity.

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

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

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

(5) If the voluntary declaration of paternity is set aside pursuant to paragraph (1), the court shall order that the mother, child, and alleged father submit to genetic tests pursuant to Chapter 2 (commencing with Section 7550). If the court finds that the conclusions of all the experts, as disclosed by the evidence based upon the genetic tests, are that the person who executed the voluntary declaration of paternity is not the father of the child, the question of paternity shall be resolved accordingly. If the person who executed the declaration as the father of



the child is not excluded as a possible father, the question of paternity shall be resolved as otherwise provided by law. If the person who executed the declaration of paternity is ultimately determined to be the father of the child, any child support that accrued under an order based upon the voluntary declaration of paternity shall remain due and owing.

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

SEC. 3.5. Section 17306 of the Family Code is amended to read:

17306. (a) The Legislature finds and declares all of the following:

(1) While the State Department of Social Services has had statutory authority over the child support system, the locally elected district attorneys have operated their county programs with a great deal of autonomy.

(2) District attorneys have operated the child support programs with different forms, procedures and priorities, making it difficult to adequately evaluate and modify performance statewide.

(3) Problems collecting child support reflect a fundamental lack of leadership and accountability in the collection program. These management problems have cost California taxpayers and families billions of dollars.

(b) The director shall develop uniform forms, policies and procedures to be employed statewide by all local child support agencies. Pursuant to this subdivision, the director shall:

(1) Adopt uniform procedures and forms.

(2) Establish standard caseworker to case staffing ratios, adjusted as appropriate to meet the varying needs of local programs.

(3) Establish standard attorney to caseworker ratios, adjusted as appropriate to meet the varying needs of local programs.

(4) Institute a consistent statewide policy on the appropriateness of closing cases to ensure that, without relying solely on federal minimum requirements, all cases are fully and pragmatically pursued for collections prior to closing.

(5) Evaluate the best practices for the establishment, enforcement, and collection of child support, for the purpose of determining which practices should be implemented statewide in an effort to improve performance by local child support agencies. In evaluating the best practices, the director shall review existing practices in better performing counties within California, as well as practices implemented by other state Title IV-D programs nationwide.

(6) Evaluate the best practices for the management of effective child support enforcement operations for the purpose of determining what management structure should be implemented statewide in an effort to improve the establishment, enforcement, and collection of child support



by local child support agencies, including an examination of the need for attorneys in management level positions. In evaluating the best practices, the director shall review existing practices in better performing counties within California, as well as practices implemented by other state Title IV-D programs nationwide.

(7) Set priorities for the use of specific enforcement mechanisms for use by both the local child support agency and the Franchise Tax Board. As part of establishing these priorities, the director shall set forth caseload processing priorities to target enforcement efforts and services in a way that will maximize collections and avoid welfare dependency.

(8) Develop uniform training protocols, require periodic training of all child support staff, and conduct training sessions as appropriate.

(9) Review and approve annual budgets submitted by the local child support agencies to ensure each local child support agency operates an effective and efficient program that complies with all federal and state laws, regulations, and directives, including the directive to hire sufficient staff.

(c) The director shall submit any forms intended for use in court proceedings to the Judicial Council for approval at least six months prior to the implementation of the use of the forms.

(d) In adopting the forms, policies, and procedures, the director shall consult with the California Family Support Council, the California State Association of Counties, labor organizations, custodial and noncustodial parent advocates, child support commissioners, family law facilitators, and the appropriate committees of the Legislature.

(e) (1) Notwithstanding the provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, through December 31, 2004, the department may implement the applicable provisions of this division through family support division letters or similar instructions from the director.

The department shall adopt regulations implementing the forms, policies, and procedures established pursuant to this section not later than July 1, 2002. The director may delay implementation of any of these regulations in any county for any time as the director deems necessary for the smooth transition and efficient operation of a local child support agency, but implementation shall not be delayed beyond the time at which the transition to the new county department of child support services is completed. The department may adopt regulations to implement this division in accordance with the Administrative Procedure Act. The adoption of any emergency regulation filed with the Office of Administrative Law on or before December 31, 2004, shall be deemed to be an emergency and necessary for the immediate



preservation of the public peace, health, and safety or general welfare. These emergency regulations shall remain in effect for no more than 180 days.

(2) It is the intent of the Legislature that the amendments to paragraph (1) of this subdivision made by Assembly Bill 3032 of the 2001–02 Regular Session shall be retroactive to June 30, 2002.

SEC. 3.7. Section 17400 of the Family Code is amended to read:

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

(b) Notwithstanding Sections 25203 and 26529 of the Government Code, attorneys employed within the local child support agency may direct, control, and prosecute civil actions and proceedings in the name of the county in support of child support activities of the Department of Child Support Services and the local child support agency.

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

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



(2) The simplified complaint form shall provide notice of the amount of child support that is sought pursuant to the guidelines set forth in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9 based upon the income or income history of the support obligor as known to the local child support agency. If the support obligor's income or income history is unknown to the local child support agency, the complaint shall inform the support obligor that income shall be presumed in an amount that results in a court order equal to the minimum basic standard of adequate care for Region I provided in Sections 11452 and 11452.018 of the Welfare and Institutions Code unless information concerning the support obligor's income is provided to the court. The complaint form shall be accompanied by a proposed judgment. The complaint form shall include a notice to the support obligor that the proposed judgment will become effective if he or she fails to file an answer with the court within 30 days of service. Except as provided in paragraph (2) of subdivision (a) of Section 17402, if the proposed judgment is entered by the court, the support order in the proposed judgment shall be effective as of the first day of the month following the filing of the complaint.

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

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

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

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

(B) The simplified answer form prepared pursuant to this subdivision shall be served on all defendants with the simplified complaint. Failure to serve the simplified answer form on all defendants shall not invalidate any judgment obtained. However, failure to serve the answer form may



be used as evidence in any proceeding under Section 17432 of this code or Section 473 of the Code of Civil Procedure.

(C) The Judicial Council shall add language to the governmental summons, for use by the local child support agency with the governmental complaint to establish parental relationship and child support, informing defendants that a blank answer form should have been received with the summons and additional copies may be obtained from either the local child support agency or the superior court clerk.

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

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

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

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

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

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

(3) If more than one child is the subject of the action, the limitation on reimbursement shall apply only as to those children whose parental



relationship and age would bar recovery were a separate action brought for support of that child or those children.

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

(5) Except as provided in Section 17304, nothing in this section prohibits the local child support agency from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the Department of Child Support Services.

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

(h) As used in this article, “enforcing obligations” includes, but is not limited to, (1) the use of all interception and notification systems operated by the department for the purposes of aiding in the enforcement of support obligations, (2) the obtaining by the local child support agency of an initial order for child support that may include medical support or that is for medical support only, by civil or criminal process, (3) the initiation of a motion or order to show cause to increase an existing child support order, and the response to a motion or order to show cause brought by an obligor parent to decrease an existing child support order, or the initiation of a motion or order to show cause to obtain an order for medical support, and the response to a motion or order to show cause brought by an obligor parent to decrease or terminate an existing medical support order, without regard to whether the child is receiving public assistance, (4) the response to a notice of motion or order to show cause brought by an obligor parent to decrease an existing spousal support order when the child or children are residing with the obligee parent and the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor, and (5) the transfer of child support delinquencies to the Franchise Tax Board under subdivision (c) of Section 17500 in support of the local child support agency.

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

(j) (1) The local child support agency is the public agency responsible for administering wage withholding for current support for



the purposes of Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

(2) Nothing in this section shall limit the authority of the local child support agency granted by other sections of this code or otherwise granted by law, except to the extent that the law is inconsistent with the transfer of delinquent child support to the Franchise Tax Board.

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

(l) The local child support agency shall comply with all regulations and directives established by the department that set time standards for responding to requests for assistance in locating noncustodial parents, establishing paternity, establishing child support awards, and collecting child support payments.

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

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

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

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

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

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

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

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



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

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

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

SEC. 4. Section 17422 of the Family Code is amended to read:

17422. (a) The state medical insurance form required in Article 1 (commencing with Section 3750) of Chapter 7 of Part 1 of Division 9 shall include, but shall not be limited to, all of the following:

(1) The parent or parents' names, addresses, and social security numbers.

(2) The name and address of each parent's place of employment.

(3) The name or names, addresses, policy number or numbers, and coverage type of the medical insurance policy or policies of the parents, if any.

(4) The name, CalWORKs case number, social security number, and Title IV-E foster care case number or Medi-Cal case numbers of the parents and children covered by the medical insurance policy or policies.

(b) (1) In any action brought or enforcement proceeding instituted by the local child support agency under this division for payment of child or spousal support, a completed state medical insurance form shall be obtained and sent by the local child support agency to the State Department of Health Services in the manner prescribed by the State Department of Health Services.

(2) Where it has been determined under Section 3751 that health insurance coverage is not available at no or reasonable cost, the local child support agency shall seek a provision in the support order that provides for health insurance coverage should it become available at no or reasonable cost.

(3) Health insurance coverage shall be considered reasonable in cost if it is employment-related group health insurance or other group health insurance, regardless of the service delivery mechanism. As used in this section, "health insurance coverage" also includes providing for the delivery of health care services by a fee for service, health maintenance organization, preferred provider organization, or any other type of health care delivery system under which medical services could be provided to the dependent child or children of an absent parent.



(c) (1) The local child support agency shall request employers and other groups offering health insurance coverage that is being enforced under this division to notify the local child support agency if there has been a lapse in insurance coverage. The local child support agency shall be responsible for forwarding information pertaining to the health insurance policy secured for the dependent children for whom the local child support agency is enforcing the court-ordered medical support to the custodial parent.

(2) The local child support agency shall periodically communicate with the State Department of Health Services to determine if there have been lapses in health insurance coverage for public assistance applicants and recipients. The State Department of Health Services shall notify the local child support agency when there has been a lapse in court-ordered insurance coverage.

(3) The local child support agency shall take appropriate action, civil or criminal, to enforce the obligation to obtain health insurance when there has been a lapse in insurance coverage or failure by the responsible parent to obtain insurance as ordered by the court.

(4) The local child support agency shall inform all individuals upon their application for child support enforcement services that medical support enforcement services are available.

SEC. 5. Section 17430 of the Family Code is amended to read:

17430. (a) Notwithstanding any other provision of law, in any action filed by the local child support agency pursuant to Section 17400, 17402, or 17404, a judgment shall be entered without hearing, without the presentation of any other evidence or further notice to the defendant, upon the filing of proof of service by the local child support agency evidencing that more than 30 days have passed since the simplified summons and complaint, proposed judgment, blank answer, blank income and expense declaration, and all notices required by this division were served on the defendant.

(b) If the defendant fails to file an answer with the court within 30 days of having been served as specified in subdivision (d) of Section 17400, or at any time before the default judgment is entered, the proposed judgment filed with the original summons and complaint shall be conformed by the court as the final judgment and a copy provided to the local child support agency, unless the local child support agency has filed a declaration and amended proposed judgment pursuant to subdivision (c).

(c) If the local child support agency receives additional financial information within 30 days of service of the complaint and proposed judgment on the defendant and the additional information would result in a support order that is different from the amount in the proposed



judgment, the local child support agency shall file a declaration setting forth the additional information and an amended proposed judgment. The declaration and amended proposed judgment shall be served on the defendant in compliance with Section 1013 of the Code of Civil Procedure or otherwise as provided by law. The defendant's time to answer or otherwise appear shall be extended to 30 days from the date of service of the declaration and amended proposed judgment.

(d) Upon entry of the judgment, the clerk of the court shall provide a conformed copy of the judgment to the local child support agency. The local child support agency shall mail by first-class mail, postage prepaid, a notice of entry of judgment by default and a copy of the judgment to the defendant to the address where he or she was served with the summons and complaint and last known address if different from that address.

SEC. 6. Section 17432 of the Family Code is amended to read:

17432. (a) In any action filed by the local child support agency pursuant to Section 17400, 17402, or 17404, the court may, on any terms that may be just, relieve the defendant from that part of the judgment or order concerning the amount of child support to be paid. This relief may be granted after the six-month time limit of Section 473 of the Code of Civil Procedure has elapsed, based on the grounds, and within the time limits, specified in this section.

(b) This section shall apply only to judgments or orders for support that were based upon presumed income as specified in subdivision (d) of Section 17400 and that were entered after the entry of the default of the defendant under Section 17430. This section shall apply only to the amount of support ordered and not that portion of the judgment or order concerning the determination of parentage.

(c) The court may set aside the child support order contained in a judgment described in subdivision (b) if the defendant's income was substantially different for the period of time during which judgment was effective compared with the income the defendant was presumed to have. A "substantial difference" means that amount of income that would result in an order for support that deviates from the order entered by default by 20 percent or more. If the difference between the defendant's actual income and the presumed income would result in an order for support that deviates from the order entered by default by less than 20 percent, the court may set aside the child support order only if the court states, in writing or on the record, that the defendant is experiencing an extreme financial hardship due to the circumstances enumerated in Section 4071 and that a set aside of the default judgment is necessary to accommodate those circumstances.



(d) Application for relief under this section shall be accompanied by a copy of the answer or other pleading proposed to be filed together with an income and expense declaration or simplified financial statement and tax returns for any relevant years. The Judicial Council may combine the application for relief under this section and the proposed answer into a single form.

(e) The burden of proving that the actual income of the defendant deviated substantially from the presumed income shall be on the defendant.

(f) A motion for relief under this section shall be filed within 90 days of the first collection of money by the local child support agency or the obligee. The 90-day time period shall run from the date that the local child support agency receives the first collection or from the date that the defendant is served with notice of the collection, whichever date occurs first. If service of the notice is by mail, the date of service shall be as specified in Section 1013 of the Code of Civil Procedure.

(g) In all proceedings under this section, before granting relief, the court shall consider the amount of time that has passed since the entry of the order, the circumstances surrounding the defendant's default, the relative hardship on the child or children to whom the duty of support is owed, the caretaker parent, and the defendant, and other equitable factors that the court deems appropriate.

(h) If the court grants the relief requested, the court shall issue a new child support order using the appropriate child support guidelines currently in effect. The new order shall have the same commencement date as the order set aside.

SEC. 6.5. Section 17526 of the Family Code is amended to read:

17526. (a) Upon request of an obligor or obligee, the local child support agency shall review the amount of arrearages alleged in a statement of arrearages that may be submitted to the local child support agency by an applicant for child support enforcement services. The local child support agency shall complete the review in the same manner and pursuant to the same timeframes as a complaint submitted pursuant to Section 17800. In the review, the local child support agency shall consider all evidence and defenses submitted by either parent on the issues of the amount of support paid or owed.

(b) The local child support agency may, in its discretion, suspend enforcement or distribution of arrearages if it believes there is a substantial probability that the result of the administrative review will result in a finding that there are no arrearages.

(c) Any party to an action involving child support enforcement services of the local child support agency may request a judicial determination of arrearages. The party may request an administrative



review of the alleged arrearages prior to requesting a judicial determination of arrearages. The local child support agency shall complete the review in the same manner and pursuant to the same timeframes specified in subdivision (a). Any motion to determine arrearages filed with the court shall include a monthly breakdown showing amounts ordered and amounts paid, in addition to any other relevant information.

(d) A county that submits a claim for reimbursement as a state-mandated local program of costs incurred with respect to the administrative review of alleged child support arrearages under this section shall be ineligible for state subventions or, to the extent permitted by federal law, state-administered federal subventions, for child support in the amount of any local costs under this section.

SEC. 7. Section 17600 of the Family Code is amended to read:

17600. (a) The Legislature finds and declares all of the following:

(1) The Legislative Analyst has found that county child support enforcement programs provide a net increase in revenues to the state.

(2) The state has a fiscal interest in ensuring that county child support enforcement programs perform efficiently.

(3) The state does not provide information to counties on child support enforcement programs, based on common denominators that would facilitate comparison of program performance.

(4) Providing this information would allow county officials to monitor program performance and to make appropriate modifications to improve program efficiency.

(5) This information is required for effective management of the child support program.

(b) (1) Except as provided in paragraph (2), commencing with the 1998–99 fiscal year, and for each fiscal year thereafter, each county that is participating in the state incentive program described in Section 17704 shall provide to the department, and the department shall compile from this county child support information, quarterly and annually, all of the following performance-based data, as established by the federal incentive funding system, provided that the department may revise the data required by this paragraph in order to conform to the final federal incentive system data definitions:

(A) One of the following data relating to paternity establishment, as required by the department, provided that the department shall require all counties to report on the same measurement:

(i) The total number of children in the caseload governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.), as of the end of the federal fiscal year, who were born to unmarried parents for whom paternity was established



or acknowledged, and the total number of children in that caseload, as of the end of the preceding federal fiscal year, who were born to unmarried parents.

(ii) The total number of minor children who were born in the state to unmarried parents for whom paternity was established or acknowledged during a federal fiscal year, and the total number of children in the state born to unmarried parents during the preceding federal fiscal year.

(B) The number of cases governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.) during the federal fiscal year and the total number of those cases with support orders.

(C) The total dollars collected during the federal fiscal year for current support in cases governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.) and the total number of dollars owing for current support during that federal fiscal year in cases governed by those provisions.

(D) The total number of cases for the federal fiscal year governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.) in which payment was being made toward child support arrearages and the total number of cases for that fiscal year governed by these federal provisions that had child support arrearages.

(E) The total number of dollars collected and expended during a federal fiscal year in cases governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.).

(F) The total amount of child support dollars collected during a federal fiscal year, and, if and when required by federal law, the amount of these collections broken down by collections distributed on behalf of current recipients of federal Temporary Assistance for Needy Families block grant funds or federal foster care funds, on behalf of former recipients of federal Temporary Assistance for Needy Families block grant funds or federal foster care funds, or on behalf of persons who have never been recipients of these federal funds.

(2) A county may apply for an exemption from any or all of the reporting requirements of paragraph (1) for the 1998–99 state fiscal year or any quarter of that fiscal year, as well as for the first quarter of the 1999–2000 fiscal year, by submitting an application for the exemption to the department at least three months prior to the commencement of the fiscal year or quarter for which the exemption is sought. A county shall provide a separate justification for each data element under paragraph (1) for which the county is seeking an exemption and the cost to the county of providing the data. The department may not grant an exemption for



more than one year. The department may grant a single exemption only if both of the following conditions are met:

(A) The county cannot compile the data being sought through its existing automated system or systems.

(B) The county cannot compile the data being sought through manual means or through an enhanced automated system or systems without significantly harming the child support collection efforts of the county.

(c) Except as provided in paragraph (6), before implementation of the statewide automated system, in addition to the information required by subdivision (b), the department shall collect, on a monthly basis, from each county that is participating in the state incentive program described in Section 17704, information on the local child support agency beginning with the 1998–99 fiscal year, and for each subsequent fiscal year, shall report semiannually on all of the following measurements:

(1) For each of the following support collection categories, the number of cases with support collected shall include only the number of cases actually receiving a collection, not the number of payments received. For purposes of determining the number of cases with an order of current support and the number of cases in which current support is being collected, cases with a medical support order that do not have an order for current support shall not be counted.

(A) The number of cases with an order for current support.

(B) The number of cases with collections of current support.

(C) The number of cases with an order for arrears.

(D) The number of cases with arrears collections.

(2) The number of alleged fathers or obligors who were served with a summons and complaint to establish paternity or a support order. In order to be counted under this paragraph, the alleged father or obligor shall be successfully served with process. An alleged father shall be counted under this paragraph only once if he is served with process simultaneously for both a paternity and a support order proceeding for the same child or children. For purposes of this paragraph, a support order shall include a medical support order.

(3) The number of children requiring paternity establishment and the number of children for whom paternity has been established during the period. Paternity may only be established once for each child. Any child for whom paternity is not at issue shall not be counted in the number of children for whom paternity has been established. For this purpose, paternity is not at issue if the parents were married and neither parent challenges paternity or a voluntary paternity declaration has been executed by the parents prior to the local child support agency obtaining the case and neither parent challenges paternity.



(4) The number of cases requiring that a support order be established and the number of cases that had a support order established during the period. A support order shall be counted as established only when the appropriate court has issued an order for child support, including an order for temporary child support, or an order for medical support.

(5) The total cost of administering the local child support agency, including the federal, state, and county share of the costs, and the federal and state incentives received by each county. The total cost of administering the program shall be broken down by the following:

(A) The direct costs of the program, broken down further by total employee salaries and benefits, a list of the number of employees broken down into at least the following categories: attorneys, administrators, caseworkers, investigators, and clerical support; contractor costs; space charges; and payments to other county agencies. Employee salaries and numbers need only be reported in the annual report.

(B) The indirect costs, showing all overhead charges.

(6) A county may apply for an exemption from any or all of the reporting requirements of this subdivision for a fiscal year by submitting an application for the exemption to the department at least three months prior to the commencement of the fiscal year or quarter for which the exemption is sought. A county shall provide a separate justification for each data element under this subdivision for which the county is seeking an exemption and the cost to the county of providing the data. The department may not grant an exemption for more than one year. The department may grant a single exemption only if both of the following conditions are met:

(A) The county cannot compile the data being sought through its existing automated system or systems.

(B) The county cannot compile the data being sought through manual means or through an enhanced automated system or systems without significantly harming the child support collection efforts of the county.

(d) After implementation of the statewide automated system, in addition to the information required by subdivision (b), the Department of Child Support Services shall collect, on a monthly basis, from each county that is participating in the state incentive program described in Section 17704, information on the county child support enforcement program beginning with the 1998–99 fiscal year or a later fiscal year, as appropriate, and for each subsequent fiscal year, and shall report semiannually on all of the following measurements:

(1) For each of the following support collection categories, the number of cases with support collected shall include only the number of cases actually receiving a collection, not the number of payments received.



- (A) (i) The number of cases with collections for current support.
  - (ii) The number of cases with arrears collections only.
  - (iii) The number of cases with both current support and arrears collections.
- (B) For cases with current support only due:
- (i) The number of cases in which the full amount of current support owed was collected.
  - (ii) The number of cases in which some amount of current support, but less than the full amount of support owed, was collected.
  - (iii) The number of cases in which no amount of support owed was collected.
- (C) For cases in which arrears only were owed:
- (i) The number of cases in which all arrears owed were collected.
  - (ii) The number of cases in which some amount of arrears, but less than the full amount of arrears owed, were collected.
  - (iii) The number of cases in which no amount of arrears owed were collected.
- (D) For cases in which both current support and arrears are owed:
- (i) The number of cases in which the full amount of current support and arrears owed were collected.
  - (ii) The number of cases in which some amount of current support and arrears, but less than the full amount of support owed, were collected.
  - (iii) The number of cases in which no amount of support owed was collected.
- (E) The total number of cases in which an amount was due for current support only.
- (F) The total number of cases in which an amount was due for both current support and arrears.
- (G) The total number of cases in which an amount was due for arrears only.
- (H) For cases with current support due, the number of cases without orders for medical support and the number of cases with an order for medical support.
- (2) The number of alleged fathers or obligors who were served with a summons and complaint to establish paternity or a support order, and the number of alleged fathers or obligors for whom it is required that paternity or a support order be established. In order to be counted under this paragraph, the alleged father or obligor shall be successfully served with process. An alleged father shall be counted under this paragraph only once if he is served with process simultaneously for both a paternity and a support order proceeding for the same child or children. For purposes of this paragraph, a support order shall include a medical support order.



(3) The number of new asset seizures or successful initial collections on a wage assignment for purposes of child support collection. For purposes of this paragraph, a collection made on a wage assignment shall be counted only once for each wage assignment issued.

(4) The number of children requiring paternity establishment and the number of children for whom paternity has been established during the period. Paternity may only be established once for each child. Any child for whom paternity is not at issue shall not be counted in the number of children for whom paternity has been established. For this purpose, paternity is not at issue if the parents were married and neither parent challenges paternity or a voluntary paternity declaration has been executed by the parents prior to the local child support agency obtaining the case and neither parent challenges paternity.

(5) The number of cases requiring that a support order be established and the number of cases that had a support order established during the period. A support order shall be counted as established only when the appropriate court has issued an order for child support, including an order for temporary child support, or an order for medical support.

(6) The total cost of administering the local child support agency, including the federal, state, and county share of the costs and the federal and state incentives received by each county. The total cost of administering the program shall be broken down by the following:

(A) The direct costs of the program, broken down further by total employee salaries and benefits, a list of the number of employees broken down into at least the following categories: attorneys, administrators, caseworkers, investigators, and clerical support; contractor costs; space charges; and payments to other county agencies. Employee salaries and numbers need only be reported in the annual report.

(B) The indirect costs, showing all overhead charges.

(7) The total child support collections due, broken down by current support, interest on arrears, and principal, and the total child support collections that have been collected, broken down by current support, interest on arrears, and principal.

(8) The actual case status for all cases in the county child support enforcement program. Each case shall be reported in one case status only. If a case falls within more than one status category, it shall be counted in the first status category of the list set forth below in which it qualifies. The following shall be the case status choices:

(A) No support order, location of obligor parent required.

(B) No support order, alleged obligor parent located and paternity required.

(C) No support order, location and paternity not at issue but support order must be established.



(D) Support order established with current support obligation and obligor is in compliance with support obligation.

(E) Support order established with current support obligation, obligor is in arrears and location of obligor is necessary.

(F) Support order established with current support obligation, obligor is in arrears, and location of obligor's assets is necessary.

(G) Support order established with current support obligation, obligor is in arrears and no location of obligor or obligor's assets is necessary.

(H) Support order established with current support obligation, obligor is in arrears, the obligor is located, but the local child support agency has established satisfactorily that the obligor has no income or assets and no ability to earn.

(I) Support order established with current support obligation and arrears, obligor is paying the current support and is paying some or all of the interest on the arrears, but is paying no principal.

(J) Support order established for arrears only and obligor is current in repayment obligation.

(K) Support order established for arrears only, obligor is not current in arrears repayment schedule and location of obligor is required.

(L) Support order established for arrears only, obligor is not current in arrears repayment schedule and location of obligor's assets is required.

(M) Support order established for arrears only, obligor is not current in arrears repayment schedule, and no location of obligor or obligor's assets is required.

(N) Support order established for arrears only, obligor is not current in arrears repayment, and the obligor is located, but the local child support agency has established satisfactorily that the obligor has no income or assets and no ability to earn.

(O) Support order established for arrears only and obligor is repaying some or all of the interest, but no principal.

(P) Other, if necessary, to be defined in the regulations promulgated under subdivision (e).

(e) Upon implementation of the statewide automated system, or at the time that the department determines that compliance with this subdivision is possible, whichever is earlier, each county that is participating in the state incentive program described in Section 17704 shall collect and report, and the department shall compile for each participating county, information on the county child support program in each fiscal year, all of the following data, in a manner that facilitates comparison of counties and the entire state, except that the department may eliminate or modify the requirement to report any data mandated to



be reported pursuant to this subdivision if the department determines that the local child support agencies are unable to accurately collect and report the information or that collecting and reporting of the data by the local child support agencies will be onerous:

(1) The number of alleged obligors or fathers who receive CalWORKs benefits, food stamp benefits, and Medi-Cal benefits.

(2) The number of obligors or alleged fathers who are in state prison or county jail.

(3) The number of obligors or alleged fathers who do not have a social security number.

(4) The number of obligors or alleged fathers whose address is unknown.

(5) The number of obligors or alleged fathers whose complete name, consisting of at least a first and last name, is not known by the local child support agency.

(6) The number of obligors or alleged fathers who filed a tax return with the Franchise Tax Board in the last year for which a data match is available.

(7) The number of obligors or alleged fathers who have no income reported to the Employment Development Department during the third quarter of the fiscal year.

(8) The number of obligors or alleged fathers who have income between one dollar (\$1) and five hundred dollars (\$500) reported to the Employment Development Department during the third quarter of the fiscal year.

(9) The number of obligors or alleged fathers who have income between five hundred one dollars (\$501) and one thousand five hundred dollars (\$1,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(10) The number of obligors or alleged fathers who have income between one thousand five hundred one dollars (\$1,501) and two thousand five hundred dollars (\$2,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(11) The number of obligors or alleged fathers who have income between two thousand five hundred one dollars (\$2,501) and three thousand five hundred dollars (\$3,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(12) The number of obligors or alleged fathers who have income between three thousand five hundred one dollars (\$3,501) and four thousand five hundred dollars (\$4,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(13) The number of obligors or alleged fathers who have income between four thousand five hundred one dollars (\$4,501) and five



thousand five hundred dollars (\$5,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(14) The number of obligors or alleged fathers who have income between five thousand five hundred one dollars (\$5,501) and six thousand five hundred dollars (\$6,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(15) The number of obligors or alleged fathers who have income between six thousand five hundred one dollars (\$6,501) and seven thousand five hundred dollars (\$7,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(16) The number of obligors or alleged fathers who have income between seven thousand five hundred one dollars (\$7,501) and nine thousand dollars (\$9,000) reported to the Employment Development Department during the third quarter of the fiscal year.

(17) The number of obligors or alleged fathers who have income exceeding nine thousand dollars (\$9,000) reported to the Employment Development Department during the third quarter of the fiscal year.

(18) The number of obligors or alleged fathers who have two or more employers reporting earned income to the Employment Development Department during the third quarter of the fiscal year.

(19) The number of obligors or alleged fathers who receive unemployment benefits during the third quarter of the fiscal year.

(20) The number of obligors or alleged fathers who receive state disability benefits during the third quarter of the fiscal year.

(21) The number of obligors or alleged fathers who receive workers' compensation benefits during the third quarter of the fiscal year.

(22) The number of obligors or alleged fathers who receive Social Security Disability Insurance benefits during the third quarter of the fiscal year.

(23) The number of obligors or alleged fathers who receive Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled benefits during the third quarter of the fiscal year.

(f) The department, in consultation with the Legislative Analyst's office, the Judicial Council, the California Family Support Council, and child support advocates, shall develop regulations to ensure that all local child support agencies report the data required by this section uniformly and consistently throughout California.

(g) The department shall provide the information for all participating counties for the 2000–01 fiscal year to each member of a county board of supervisors, county executive officer, local child support agency, and the appropriate policy committees and fiscal committees of the Legislature by December 31, 2001. The department shall provide the



information for each subsequent fiscal year no later than nine months following the end of the fiscal year. The department shall provide data semiannually no later than three months following the end of the reporting period and no later than nine months following the end of the fiscal year. The department shall present the information in a manner that facilitates comparison of county performance.

(h) For purposes of this section, “case” means a noncustodial parent, whether mother, father, or putative father, who is, or eventually may be, obligated under law for support of a child or children. For purposes of this definition, a noncustodial parent shall be counted once for each family that has a dependent child he or she may be obligated to support.

(i) This section shall be operative only for as long as Section 17704 requires participating counties to report data to the department.

SEC. 8. Section 17602 of the Family Code is amended to read:

17602. (a) Not later than January 1, 2001, the department shall adopt performance standards, in consultation with local child support agencies, that each local child support agency is required to comply with on a quarterly basis. The performance standards shall include, at a minimum, measurements for each of the following:

- (1) Percent of cases with a court order for current support.
- (2) Percent of cases with collections of current support.
- (3) Average amount collected per case for all cases with collections.
- (4) Percent of cases with an order for arrears.
- (5) Percent of cases with arrears collections.
- (6) Percent of alleged fathers or obligors who were served with a summons and complaint to establish paternity or a support order during the period.
- (7) Percent of children for whom paternity has been established during the period.
- (8) Percent of cases that had a support order established during the period.
- (9) Total child support dollars collected per one dollar (\$1) of total expenditure.
- (10) Any other measurements that the director determines to be an appropriate determination of a local child support agency’s performance.

(b) In determining the performance measures in subdivision (a), the department shall consider the total amount of uncollected child support arrearages that are realistically collectible. The director shall analyze, in consultation with local child support agencies and child support advocates, the current amount of uncollected child support arrearages statewide and in each county to determine the amount of child support that may realistically be collected. The director shall consider, in conducting the analysis, factors that may influence collections,



including demographic factors such as welfare caseload, levels of poverty and unemployment, rates of incarceration of obligors, and age of delinquencies. The director shall use this analysis to establish program priorities as provided in paragraph (7) of subdivision (b) of Section 17306.

(c) The department shall use the performance-based data, and the criteria for that data, as set forth in Section 17600 to determine a local child support agency's performance measures for the quarter.

(d) The director shall adopt a three phase process to be used statewide when a local child support agency is out of compliance with the performance standards adopted pursuant to subdivision (a), or the director determines that the local child support agency is failing in a substantial manner to comply with any provision of the state plan, the provisions of this code, the requirements of federal law, the regulations of the department, or the cooperative agreement. The director shall adopt policies as to the implementation of each phase, including requirements for measurement of progress and improvement which shall be met as part of the performance improvement plan specified in paragraphs (1) and (2), in order to avoid implementation of the next phase of compliance. The director shall not implement any of these phases until July 1, 2001, or until six months after a local child support agency has completed its transition from the office of the district attorney to the new county department of child support services, whichever is later. The phases shall include the following:

(1) Phase I: Development of a performance improvement plan that is prepared jointly by the local child support agency and the department, subject to the department's final approval. The plan shall provide performance expectations and goals for achieving compliance with the state plan and other state and federal laws and regulations that must be reviewed and assessed within specific timeframes in order to avoid execution of Phase II.

(2) Phase II: Onsite investigation, evaluation and oversight of the local child support agency by the department. The director shall appoint program monitoring teams to make site visits, conduct educational and training sessions, and help the local child support agency identify and attack problem areas. The program monitoring teams shall evaluate all aspects of the functions and performance of the local child support agency, including compliance with state and federal laws and regulations. Based on these investigations and evaluations, the program monitoring team shall develop a final performance improvement plan and shall oversee implementation of all recommendations made in the plan. The local child support agency shall adhere to all recommendations made by the program monitoring team. The plan shall provide



performance expectations and compliance goals that must be reviewed and assessed within specific timeframes in order to avoid execution of Phase III.

(3) Phase III: The director shall assume, either directly or through agreement with another entity, responsibility for the management of the child and spousal support enforcement program in the county until the local child support agency provides reasonable assurances to the director of its intention and ability to comply. During the period of state management responsibility, the director or his or her authorized representative shall have all of the powers and responsibilities of the local child support agency concerning the administration of the program. The local child support agency shall be responsible for providing any funds as may be necessary for the continued operation of the program. If the local child support agency fails or refuses to provide these funds, including a sufficient amount to reimburse any and all costs incurred by the department in managing the program, the Controller may deduct an amount certified by the director as necessary for the continued operation of the program by the department from any state or federal funds payable to the county for any purpose.

(e) The director shall report in writing to the Legislature semiannually, beginning July 1, 2001, on the status of the state child support enforcement program. The director shall submit data semiannually to the Legislature, the Governor, and the public, on the progress of all local child support agencies in each performance measure, including identification of the local child support agencies that are out of compliance, the performance measures that they have failed to satisfy, and the performance improvement plan that is being taken for each.

SEC. 9. Section 17700 of the Family Code is repealed.

SEC. 10. Section 17704 of the Family Code is amended to read:

17704. (a) For the 1998–99 fiscal year the department shall pay to each county a child support incentive payment. Every county shall receive the federal child support incentive. A county shall receive the state child support incentive if it elects to do both of the following:

(1) Comply with the reporting requirements of Section 17600 while federal financial participation is available for collecting and reporting data.

(2) Comply with federal and state child support laws and regulations, or has a corrective action plan certified by the department pursuant to Section 17702. The combined federal and state incentive payment shall be 13.6 percent of distributed collections. If the amount appropriated by the Legislature for the state incentives is less than the amount necessary



to satisfy each county's actual incentives pursuant to this section, each county shall receive its proportional share of incentives.

(b) (1) Beginning July 1, 1999, the department shall pay to each county a child support incentive for child support collections. Every county shall receive the federal child support incentive. The combined federal and state incentive payments shall be 13.6 percent of distributed collections. In addition to the federal child support incentive, each county may also receive a state child support incentive. Subject to subdivision (c), a county shall receive the state child support incentive if it elects to do both of the following:

(A) Comply with the reporting requirements of Section 17600 while federal financial participation is available for collecting and reporting data.

(B) Be in compliance with federal and state child support laws and regulations, or have a performance improvement plan certified by the department pursuant to Section 17702.

(2) (A) For purposes of paragraph (1), the federal incentive component shall be each county's share of the child support incentive payments that the state receives from the federal government, based on the county's collections.

(B) (i) Effective July 1, 1999, and annually thereafter, state funds appropriated for child support incentives shall first be used to fund the administrative costs incurred by local child support agencies in administering the child support program, excluding automation costs as set forth in Section 10085 of the Welfare and Institutions Code, after subtracting all federal financial participation for administrative costs and all federal child support incentives received by the state and passed on to the local child support agencies. The department shall allocate sufficient resources to each local child support agency to fully fund the remaining administrative costs of its budget as approved by the director pursuant to paragraph (9) of subdivision (b) of Section 17306, subject to the appropriation of funding in the annual Budget Act. No later than January 1, 2000, the department shall identify allowable administrative costs that may be claimed for reimbursement from the state, which shall be limited to reasonable amounts in relation to the scope of services and the total funds available. If the total amount of administrative costs claimed in any year exceeds the amount appropriated in the Budget Act, the amount provided to local child support agencies shall be reduced by the percentage necessary to ensure that projected General Fund expenditures do not exceed the amount authorized in the Budget Act.

(ii) Effective July 1, 2001, and annually thereafter, after allowable administrative costs are funded under clause (i), the department shall use any remaining unallocated incentive funds appropriated from the prior



fiscal year which are hereby reappropriated to implement an incentive program that rewards up to 10 local child support agencies in each year, based on their performance or increase in performance on one or more of the federal performance standards set forth in Section 458 of the federal Social Security Act (42 U.S.C. Sec. 658), or state performance standards set forth in subdivision (a) of Section 17602, as determined by the department. The department shall determine the number of local agencies that receive state incentive funds under this program, subject to a maximum of 10 agencies and shall determine the amount received by each local agency based on the availability of funds and each local child support agency's proportional share based on the performance standard or standards used.

(iii) Any funds received pursuant to this subdivision shall be used only for child support enforcement activities.

(c) (1) Beginning October 1, 1999, any county whose performance on one or more of the federal performance standards set forth in Section 458 of the federal Social Security Act (42 U.S.C. Sec. 658), or the state performance standards set forth in subdivision (a) of Section 17602, as determined by the department, is in the bottom quartile of all counties and whose rate of improvement over the prior year is less than the rate of improvement of the top quartile of counties in terms of their rates of improvement shall receive its state incentive only upon accepting technical assistance from the department, as set forth in paragraph (2).

(2) The department, in consultation with experts from other counties, as appropriate, shall conduct a program review of the county's child support program, which shall include a review of the county's management practices, and provide technical assistance. If the county chooses to receive its state incentives under this section, the county shall comply with the recommendations of this review.

(d) Each county shall continue to receive its federal child support incentive funding whether or not it elects to participate in the state child support incentive funding program.

(e) The department shall provide incentive funds pursuant to this section only during any fiscal year in which funding is provided for that purpose in the Budget Act.

SEC. 10.5. Section 17801 of the Family Code is amended to read:

17801. (a) A custodial or noncustodial parent who is dissatisfied with the local child support agency's resolution of a complaint shall be accorded an opportunity for a state hearing when any one or more of the following actions or failures to take action by the department or the local child support agency is claimed by the parent:

(1) An application for child support services has been denied or has not been acted upon within the required timeframe.



(2) The child support services case has been acted upon in violation of state or federal law or regulation or department letter ruling, or has not yet been acted upon within the required timeframe, including services for the establishment, modification, and enforcement of child support orders and child support accountings.

(3) Child support collections have not been distributed or have been distributed or disbursed incorrectly, or the amount of child support arrears, as calculated by the department or the local child support agency is inaccurate. The amount of the court order for support, including current support and arrears, is not subject to a state hearing under this section.

(4) The child support agency's decision to close a child support case.

(b) Prior to requesting a hearing pursuant to subdivision (a), the custodial or noncustodial parent shall exhaust the complaint resolution process required in Section 17800, unless the local child support agency has not, within the 30-day period required by that section, submitted a written resolution of the complaint. If the custodial or noncustodial parent does not receive that timely written resolution he or she may request a hearing pursuant to subdivision (a).

(c) A hearing shall be provided under subdivision (a) when the request for a hearing is made within 90 days after receiving the written notice of resolution required in Section 17800 or, if no written notice of resolution is provided within 30 days from the date the complaint was made, within 90 days after making the complaint.

(d) (1) A hearing under subdivision (a) shall be set to commence within 45 days after the request is received by the state hearing office, and at least 10 days prior to the hearing, all parties shall be given written notice of the time and place of the hearing. Unless the time period is waived by the complainant, the proposed hearing decision shall be rendered by the state hearing office within 75 days after the request for a state hearing is received by the state hearing office. The department shall have 15 days from the date the proposed decision is rendered to act upon the decision. When a hearing is postponed, continued, or reopened with the consent of the complainant, the time for issuance of the decision, and action on the decision by the department, shall be extended for a period of time consistent with the postponement, continuance, or reopening.

(2) For purposes of this subdivision, the "state hearing office" refers to the division of the office or agency designated by the department to carry out state hearings, that conducts those state hearings.

(e) To the extent not inconsistent with this section, hearings under subdivision (a) shall be provided in the same manner in which hearings are provided in Sections 10950 to 10967 of the Welfare and Institutions



Code and the State Department of Social Services' regulations implementing and interpreting those sections.

(f) Pendency of a state hearing shall not affect the obligation to comply with an existing child support order.

(g) Any child support determination that is subject to the jurisdiction of the superior court and that is required by law to be addressed by motion, order to show cause, or appeal under this code shall not be subject to a state hearing under this section. The director shall, by regulation, specify and exclude from the subject matter jurisdiction of state hearings provided under subdivision (a), grievances arising from a child support case in the superior court which must, by law, be addressed by motion, order to show cause, or appeal under this code.

(h) The local child support agency and the Franchise Tax Board shall comply with, and execute, every decision of the director rendered pursuant to this section.

(i) The director shall contract with the State Department of Social Services or the Office of Administrative Hearings for the provision of state hearings in accordance with this section.

(j) This section shall be implemented only to the extent that there is federal financial participation available at the child support funding rate set forth in Section 655(a)(2) of Title 42 of the United States Code.

SEC. 10.7. Section 11165.7 of the Penal Code is amended to read:

11165.7. (a) As used in this article, "mandated reporter" is defined as any of the following:

- (1) A teacher.
- (2) An instructional aide.
- (3) A teacher's aide or teacher's assistant employed by any public or private school.
- (4) A classified employee of any public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.
- (6) An administrator of a public or private day camp.
- (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
- (9) Any employee of a county office of education or the California Department of Education, whose duties bring the employee into contact with children on a regular basis.
- (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- (11) A headstart teacher.



(12) A licensing worker or licensing evaluator employed by a licensing agency as defined in Section 11165.11.

(13) A public assistance worker.

(14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.

(15) A social worker, probation officer, or parole officer.

(16) An employee of a school district police or security department.

(17) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

(18) A district attorney investigator, inspector, or local child support agency caseworker, unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.

(19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.

(20) A firefighter, except for volunteer firefighters.

(21) A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(22) Any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(24) A marriage, family and child therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.

(25) An unlicensed marriage, family, and child therapist intern registered under Section 4980.44 of the Business and Professions Code.

(26) A state or county public health employee who treats a minor for venereal disease or any other condition.

(27) A coroner.

(28) A medical examiner, or any other person who performs autopsies.

(29) A commercial film and photographic print processor, as specified in subdivision (e) of Section 11166. As used in this article, “commercial film and photographic print processor” means any person



who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of that person; it does not include a person who develops film or makes prints for a public agency.

(30) A child visitation monitor. As used in this article, “child visitation monitor” means any person who, for financial compensation, acts as monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law.

(31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:

(A) “Animal control officer” means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.

(B) “Humane society officer” means any person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(32) A clergy member, as specified in subdivision (c) of Section 11166. As used in this article, “clergy member” means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any employee of any police department, county sheriff’s department, county probation department, or county welfare department.

(34) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the Rules of Court.

(b) Volunteers of public or private organizations whose duties require direct contact and supervision of children are encouraged to obtain training in the identification and reporting of child abuse.

(c) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees’ confidentiality rights.

(d) School districts that do not train their employees specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(e) The absence of training shall not excuse a mandated reporter from the duties imposed by this article.

SEC. 11. Section 11476.2 of the Welfare and Institutions Code is amended to read:



11476.2. On a monthly basis, the local child support agency shall provide to any CalWORKs recipient or former recipient for whom an assignment pursuant to subdivision (a) of Section 11477 is currently effective, a notice of the amount of assigned support payments made on behalf of the recipient or former recipient or any other family member for whom public assistance is received.

SEC. 12. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

