

AMENDED IN SENATE MAY 2, 2001

**SENATE BILL**

**No. 943**

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**Introduced by Committee on Judiciary (Senators Escutia  
(Chair), Kuehl, O'Connell, Peace, and Sher)**

February 23, 2001

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An act to amend ~~Section 3751.5~~ of Sections 3751.5, 3767, 17404, and 17714 of, and to add Section 17702.5 to, the Family Code, and to amend Section 903.7 of the Welfare and Institutions Code, relating to ~~health insurance coverage~~ child support, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 943, as amended, Committee on Judiciary. Child support: health insurance coverage.

Existing law requires, in a case where a parent is enrolled in health insurance coverage but fails to apply to obtain coverage of a child as required by a court or administrative order, that the employer or insurer enroll the child under the health coverage upon presentation of the court order or request by the district attorney, the other parent or person having custody of the child, or the Medi-Cal program. Existing law also requires, in any case in which health insurance is provided to a child pursuant to a court order or administrative order, for the insurer to provide certain information, as specified, to the district attorney. *In addition, an employer or other person providing health insurance must provide evidence of coverage and any information necessary for a child to obtain benefits through the coverage to the district attorney when requested by the district attorney.*

This bill would change all references from the district attorney to the local child support agency *and make other technical changes.*

*The bill would create the Child Support Collections Recovery Fund, a continuously appropriated fund, in the State Treasury. The moneys in the fund would be appropriated for the purpose of making payments of advances to local child support agencies of the federal share of administrative payments for specified costs.*

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

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

1 SECTION 1. Section 3751.5 of the Family Code is amended  
2 to read:

3 3751.5. (a) Notwithstanding any other provision of law, an  
4 employer or insurer shall not deny enrollment of a child under the  
5 health insurance coverage of a child’s parent on any of the  
6 following grounds:

- 7 (1) The child was born out of wedlock.
- 8 (2) The child is not claimed as a dependent on the parent’s  
9 federal income tax return.
- 10 (3) The child does not reside with the parent or within the  
11 insurer’s service area.

12 (b) Notwithstanding any other provision of law, in any case in  
13 which a parent is required by a court or administrative order to  
14 provide health insurance coverage for a child and the parent is  
15 eligible for family health coverage through an employer or an  
16 insurer, the employer or insurer shall do all of the following, as  
17 applicable:

- 18 (1) Permit the parent to enroll under health insurance coverage  
19 any child who is otherwise eligible to enroll for that coverage,  
20 without regard to any enrollment period restrictions.
- 21 (2) If the parent is enrolled in health insurance coverage but  
22 fails to apply to obtain coverage of the child, enroll that child under  
23 the health coverage upon presentation of the court order or request  
24 by the local child support agency, the other parent or person having  
25 custody of the child, or the Medi-Cal program.
- 26 (3) The employer or insurer shall not disenroll or eliminate  
27 coverage of a child unless either of the following applies:
- 28 (A) The employer has eliminated family health insurance  
29 coverage for all of the employer’s employees.



1 (B) The employer or insurer is provided with satisfactory  
2 written evidence that either of the following apply:

3 (i) The court order or administrative order is no longer in effect  
4 or is terminated pursuant to Section 3770.

5 (ii) The child is or will be enrolled in comparable health  
6 insurance coverage through another insurer that will take effect not  
7 later than the effective date of the child’s disenrollment.

8 (c) In any case in which health insurance coverage is provided  
9 for a child pursuant to a court or administrative order, the insurer  
10 shall do all of the following:

11 (1) Provide any information, including, but not limited to, the  
12 health insurance membership or identification card regarding the  
13 child, the evidence of coverage and disclosure form, and any other  
14 information provided to the covered parent about the child’s health  
15 care coverage to the noncovered parent having custody of the child  
16 or any other person having custody of the child and to the local  
17 child support agency when requested by the local child support  
18 agency.

19 (2) Permit the noncovered parent or person having custody of  
20 the child, or a provider with the approval of the noncovered parent  
21 or person having custody, to submit claims for covered services  
22 without the approval of the covered parent.

23 (3) Make payment on claims submitted in accordance with  
24 subparagraph (2) directly to the noncovered parent or person  
25 having custody, the provider, or to the Medi-Cal program.  
26 Payment on claims for services provided to the child shall be made  
27 to the covered parent for claims submitted or paid by the covered  
28 parent.

29 (d) For purposes of this section, “insurer” includes every  
30 health care service plan, self-insured welfare benefit plan,  
31 including those regulated pursuant to the Employee Retirement  
32 Income Security Act of 1974 (29 U.S.C. Sec. 1001, et seq.),  
33 self-funded employer plan, disability insurer, nonprofit hospital  
34 service plan, labor union trust fund, employer, and any other  
35 similar plan, insurer, or entity offering a health coverage plan.

36 (e) For purposes of this section, “person having custody of the  
37 child” is defined as a legal guardian, a caregiver who is authorized  
38 to enroll the child in school or to authorize medical care for the  
39 child pursuant to Section 6550, or a person with whom the child  
40 resides.



1 (f) For purposes of this section, “employer” has the meaning  
2 provided in Section 5210.

3 (g) For purposes of this section, the insurer shall notify the  
4 covered parent and noncovered parent having custody of the child  
5 or any other person having custody of the child in writing at any  
6 time that health insurance for the child is terminated.

7 (h) The requirements of subdivision (g) shall not apply unless  
8 the court, employer, or person having custody of the child provides  
9 the insurer with one of the following:

10 (1) A qualified medical child support order that meets the  
11 requirements of subdivision (a) of Section 1169 of Title 29 of the  
12 United States Code.

13 (2) A health insurance coverage assignment or assignment  
14 order made pursuant to Section 3761.

15 (3) A national medical support notice made pursuant to Section  
16 3773.

17 (i) The noncovered parent or person having custody of the child  
18 may contact the insurer, by telephone or in writing, and request  
19 information about the health insurance coverage for the child.  
20 Upon request of the noncovered parent or person having custody  
21 of the child, the insurer shall provide the requested information  
22 that is specific to the health insurance coverage for the child.

23 *SEC. 2. Section 3767 of the Family Code is amended to read:*  
24 3767. The employer or other person providing health  
25 insurance shall do all of the following:

26 (a) Notify the applicant for the assignment order or notice of  
27 assignment of the commencement date of the coverage of the  
28 child.

29 (b) Provide evidence of coverage and any information  
30 necessary for the child to obtain benefits through the coverage to  
31 both parents or the person having custody of the child and to the  
32 ~~district attorney~~ local child support agency when requested by the  
33 ~~district attorney~~ local child support agency.

34 (c) Upon request by the parents or person having custody of the  
35 child, provide all forms and other documentation necessary for the  
36 purpose of submitting claims to the insurance carrier which the  
37 employer or other person providing health insurance usually  
38 provides to insureds.

39 *SEC. 3. Section 17404 of the Family Code is amended to read:*



1 17404. (a) Notwithstanding any other statute, in any action  
2 brought by the local child support agency for the support of a  
3 minor child or children, the action may be prosecuted in the name  
4 of the county on behalf of the child, children, or a parent of the  
5 child or children. The parent who has requested or is receiving  
6 support enforcement services of the local child support agency  
7 shall not be a necessary party to the action but may be subpoenaed  
8 as a witness. Except as provided in subdivision (e), in an action  
9 under this section there shall be no joinder of actions, or  
10 coordination of actions, or cross-complaints, and the issues shall  
11 be limited strictly to the question of parentage, if applicable, and  
12 child support, including an order for medical support. A final  
13 determination of parentage may be made in any action under this  
14 section as an incident to obtaining an order for support. An action  
15 for support or parentage pursuant to this section shall not be  
16 delayed or stayed because of the pendency of any other action  
17 between the parties.

18 (b) Judgment in an action brought pursuant to this section, and  
19 in an action brought pursuant to Section 17402, if at issue, may be  
20 rendered pursuant to a noticed motion, that shall inform the  
21 defendant that in order to exercise his or her right to trial, he or she  
22 must appear at the hearing on the motion.

23 If the defendant appears at the hearing on the motion, the court  
24 shall inquire of the defendant if he or she desires to subpoena  
25 evidence and witnesses, if parentage is at issue and genetic tests  
26 have not already been conducted whether he or she desires genetic  
27 tests, and if he or she desires a trial. If the defendant's answer is in  
28 the affirmative, a continuance shall be granted to allow the  
29 defendant to exercise those rights. A continuance shall not  
30 postpone the hearing to more than 90 days from the date of service  
31 of the motion. If a continuance is granted, the court may make an  
32 order for temporary support without prejudice to the right of the  
33 court to make an order for temporary support as otherwise allowed  
34 by law.

35 (c) In any action to enforce a spousal support order the action  
36 may be pled in the name of the county in the same manner as an  
37 action to establish a child support obligation. The same restrictions  
38 on joinder of actions, coordination of actions, cross-complaints,  
39 and delay because of the pendency of any other action as relates



1 to actions to establish a child support obligation shall also apply  
2 to actions to enforce a spousal support order.

3 (d) Nothing contained in this section shall be construed to  
4 prevent the parties from bringing an independent action under  
5 other provisions of this code and litigating the issues of support,  
6 custody, visitation, or protective orders. In that event, any support,  
7 custody, visitation, or protective order issued by the court in an  
8 action pursuant to this section shall be filed in the action  
9 commenced under the other provisions of this code and shall  
10 continue in effect until modified by a subsequent order of the  
11 court. To the extent that the orders conflict, the court order last  
12 issued shall supersede all other orders and be binding upon all  
13 parties in that action.

14 (e) (1) After a support order, including a temporary support  
15 order and an order for medical support only, has been entered in  
16 an action brought pursuant to this section, the parent who has  
17 requested or is receiving support enforcement services of the local  
18 child support agency shall become a party to the action brought  
19 pursuant to this section, only in the manner and to the extent  
20 provided by this section, and only for the purposes allowed by this  
21 section.

22 (2) Notice of the parent's status as a party shall be given to the  
23 parent by the local child support agency in conjunction with the  
24 notice required by subdivision (e) of Section 17406. The  
25 complaint shall contain this notice. Service of the complaint on the  
26 parent in compliance with Section 1013 of the Code of Civil  
27 Procedure, or as otherwise provided by law, shall constitute  
28 compliance with this section. In all actions commenced under the  
29 procedures and forms in effect on or before December 31, 1996,  
30 the parent who has requested or is receiving support enforcement  
31 services of the local child support agency shall not become a party  
32 to the action until he or she is joined as a party pursuant to an ex  
33 parte application or noticed motion for joinder filed by the local  
34 child support agency or a noticed motion filed by either parent.  
35 The local child support agency shall serve a copy of any order for  
36 joinder of a parent obtained by the local child support agency's  
37 application on both parents in compliance with Section 1013 of the  
38 Code of Civil Procedure.

39 (3) Once both parents are parties to an action brought pursuant  
40 to this section in cases where Title IV-D services are currently



1 being provided, the local child support agency shall be required,  
2 within five days of receipt, to mail the nonmoving party in the  
3 action all pleadings relating solely to the support issue in the action  
4 that have been served on the local child support agency by the  
5 moving party in the action, as provided in subdivision (f) of  
6 Section 17406. There shall be a rebuttable presumption that  
7 service on the local child support agency consistent with the  
8 provisions of this paragraph constitutes valid service on the  
9 ~~moving~~ *nonmoving* party. Where this procedure is used to  
10 effectuate service on the nonmoving party, the pleadings shall be  
11 served on the local child support agency not less than 30 days prior  
12 to the hearing.

13 (4) The parent who has requested or is receiving support  
14 enforcement services of the local child support agency is a party  
15 to an action brought under this section for issues relating to the  
16 support, custody, and visitation of a child, and for restraining  
17 orders, and for no other purpose. The local child support agency  
18 shall not be required to serve or receive service of papers,  
19 pleadings, or documents, or participate in, or attend any hearing  
20 or proceeding relating to issues of custody or visitation, except as  
21 otherwise required by law. Orders concerning custody and  
22 visitation may be made in an action pursuant to this subdivision  
23 only if orders concerning custody and visitation have not been  
24 previously made by a court of competent jurisdiction in this state  
25 or another state and the court has jurisdiction and is the proper  
26 venue for custody and visitation determinations. All issues  
27 regarding custody and visitation shall be heard and resolved in the  
28 manner provided by this code. Except as otherwise provided by  
29 law, the local child support agency shall control support and  
30 parentage litigation brought pursuant to this section, and the  
31 manner, method, and procedures used in establishing parentage  
32 and in establishing and enforcing support obligations unless and  
33 until the parent who requested or is receiving support enforcement  
34 services has requested in writing that the local child support  
35 agency close his or her case and the case has been closed in  
36 accordance with state and federal regulation or policy.

37 (f) (1) A parent who has requested or is receiving support  
38 enforcement services of the local child support agency may take  
39 independent action to modify a support order made pursuant to this  
40 section while support enforcement services are being provided by



1 the local child support agency. The parent shall serve the local  
2 child support agency with notice of any action filed to modify the  
3 support order and provide the local child support agency with a  
4 copy of the modified order within 15 calendar days after the date  
5 the order is issued.

6 (2) A parent who has requested or is receiving support  
7 enforcement services of the local child support agency may take  
8 independent action to enforce a support order made pursuant to  
9 this section while support enforcement services are being provided  
10 by the local child support agency with the written consent of the  
11 local child support agency. At least 30 days prior to filing an  
12 independent enforcement action, the parent shall provide the local  
13 child support agency with written notice of the parent's intent to  
14 file an enforcement action that includes a description of the type  
15 of enforcement action the parent intends to file. Within 30 days of  
16 receiving the notice, the local child support agency shall either  
17 provide written consent for the parent to proceed with the  
18 independent enforcement action or notify the parent that the local  
19 child support agency objects to the parent filing the proposed  
20 independent enforcement action. The local child support agency  
21 may object only if the local child support agency is currently using  
22 an administrative or judicial method to enforce the support  
23 obligation or if the proposed independent enforcement action  
24 would interfere with an investigation being conducted by the local  
25 child support agency. If the local child support agency does not  
26 respond to the parent's written notice within 30 days, the local  
27 child support agency shall be deemed to have given consent.

28 (3) The court shall order that all payments of support shall be  
29 made to the local child support agency in any action filed under this  
30 section by the parent who has requested, or is receiving, support  
31 enforcement services of the local child support agency unless  
32 support enforcement services have been terminated by the local  
33 child support agency by case closure as provided by state and  
34 federal law. Any order obtained by a parent prior to support  
35 enforcement services being terminated in which the local child  
36 support agency did not receive proper notice pursuant to this  
37 section shall be voidable upon the motion of the local child support  
38 agency.

39 (g) Any notice from the local child support agency requesting  
40 a meeting with the support obligor for any purpose authorized



1 under this section shall contain a statement advising the support  
2 obligor of his or her right to have an attorney present at the  
3 meeting.

4 (h) For the purpose of this section, “a parent who is receiving  
5 support enforcement services” includes a parent who has assigned  
6 his or her rights to support pursuant to Section 11477 of the  
7 Welfare and Institutions Code.

8 (i) The Judicial Council shall develop forms to implement this  
9 section.

10 *SEC. 4. Section 17702.5 is added to the Family Code, to read:*  
11 *17702.5. (a) The Child Support Collections Recovery Fund*  
12 *is hereby created in the State Treasury.*

13 *(b) Notwithstanding Section 13340 of the Government Code,*  
14 *the fund shall be continuously appropriated to the Department of*  
15 *Child Support Services for the purposes specified in this section.*

16 *(c) Except as otherwise limited by this section, the fund shall*  
17 *consist of all of the following:*

18 *(1) All public moneys transferred by public agencies to the*  
19 *department for deposit into the fund, as permitted under Section*  
20 *304.30 of Title 45 of the Code of Federal Regulations or any other*  
21 *applicable federal laws.*

22 *(2) Any interest that accrues on amounts in the fund.*

23 *(d) All moneys in the fund are appropriated for the purpose of*  
24 *making payments of advances to local child support agencies of*  
25 *the federal share of administrative payments for costs incurred*  
26 *pursuant to Article 4 (commencing with Section 17700) of Division*  
27 *17.*

28 *SEC. 5. Section 17714 of the Family Code is amended to read:*

29 *17714. (a) (1) Any funds paid to a county pursuant to this*  
30 *chapter prior to June 30, 1999, which exceed the county’s cost of*  
31 *administering the child support program of the local child support*  
32 *agency pursuant to Section 17400 to that date, hereafter referred*  
33 *to as “excess funds,” shall be expended by the county only upon*  
34 *that program. All these excess funds shall be deposited by the*  
35 *county into a special fund established by the county for this*  
36 *purpose.*

37 *(2) Performance incentive funds shall include, but not be*  
38 *limited to, incentive funds paid pursuant to Section 17704, and*  
39 *performance incentive funds paid pursuant to Section ~~14142.93~~*  
40 *~~14124.93~~ of the Welfare and Institutions Code and all interest*



1 earned on deposits in the special fund. Performance incentive  
2 funds shall not include funds paid pursuant to Section 17706.  
3 Performance incentive funds shall be expended by the county only  
4 upon that program. All performance incentive funds shall be  
5 deposited by the county into a special fund established by the  
6 county for this purpose.

7 (b) All excess funds and performance incentive funds shall be  
8 expended by the county on the support enforcement program of the  
9 local child support agency within two fiscal years following the  
10 fiscal year of receipt of the funds by the county. Except as provided  
11 in subdivision (c), any excess funds or performance incentive  
12 funds paid pursuant to this chapter since July 1, 1992, that the  
13 department determines have not been spent within the required  
14 two-year period shall revert to the state General Fund, and shall be  
15 distributed by the department only to counties that have complied  
16 with this section. The formula for distribution shall be based on the  
17 number of CalWORKs cases within each county.

18 (c) A county that submits to the department a written plan  
19 approved by that county's local child support agency for the  
20 expenditure of excess funds or performance incentive funds shall  
21 be exempted from the requirements of subdivision (b), if the  
22 department determines that the expenditure will be cost-effective,  
23 will maximize federal funds, and the expenditure plan will require  
24 more than the time provided for in subdivision (b) to expend the  
25 funds. Once the department approves a plan pursuant to this  
26 subdivision, funds received by a county and designated for an  
27 expenditure in the plan shall not be expended by the county for any  
28 other purpose.

29 (d) Nothing in this section shall be construed to nullify the  
30 recovery and reversion to the General Fund of unspent incentive  
31 funds as provided in Section 6 of Chapter 479 of the Statutes of  
32 1999.

33 *SEC. 6. Section 903.7 of the Welfare and Institutions Code is*  
34 *amended to read:*

35 903.7. (a) There is in the State Treasury the Foster Children  
36 and Parent Training Fund, the moneys contained in which shall be  
37 used exclusively for the purposes set forth in this section.

38 (b) For each fiscal year beginning with fiscal year 1981–82,  
39 except as provided in Sections 15200.1, 15200.2, 15200.3,  
40 15200.8, and 15200.81, and Section 17704 of the Family Code, the



1 Department of Child Support Services shall determine the amount  
2 equivalent to the state share of collections attributable to the  
3 enforcement of parental fiscal liability pursuant to Sections 903,  
4 903.4, and 903.5. On July 1, 1982, and every three months  
5 thereafter, the department shall notify the Chancellor of the  
6 Community Colleges, the Department of Finance, and the  
7 Superintendent of Public Instruction of the above-specified  
8 amount. The ~~State Department of Social~~ *Child Support Services*  
9 shall authorize the quarterly transfer of any portion of this amount  
10 for any particular fiscal year exceeding three million seven  
11 hundred fifty thousand dollars (\$3,750,000) to the Treasurer for  
12 deposit in the Foster Children and Parent Training Fund.

13 (c) If sufficient moneys are available in the Foster Children and  
14 Parent Training Fund, up to three million dollars (\$3,000,000)  
15 shall be allocated for the support of foster parent training programs  
16 conducted in community colleges. The maximum amount  
17 authorized to be allocated pursuant to this subdivision shall be  
18 adjusted annually by a cost-of-living increase each year based on  
19 the percentage given to discretionary education programs. Funds  
20 for the training program shall be provided in a separate budget item  
21 in that portion of the Budget Act pertaining to the Chancellor of  
22 the California Community Colleges, to be deposited in a separate  
23 bank account by the Chancellor of the California Community  
24 Colleges.

25 The chancellor shall use these funds exclusively for foster  
26 parent training, as specified by the chancellor in consultation with  
27 the California State Foster Parents Association and the State  
28 Department of Social Services.

29 The plans for each foster parent training program shall include  
30 the provision of training to facilitate the development of foster  
31 family homes and small family homes to care for no more than six  
32 children who have special mental, emotional, developmental, or  
33 physical needs.

34 The State Department of Social Services shall facilitate the  
35 participation of county welfare departments in the foster parent  
36 training program. The State Foster Parents Association, or the  
37 local chapters thereof, and the State Department of Social Services  
38 shall identify training participants and shall advise the chancellor  
39 on the form, content, and methodology of the training program.  
40 Funds shall be paid monthly to the foster parent training program



1 until the maximum amount of funds authorized to be expended for  
2 that program is expended. No more than 10 percent or seventy-five  
3 thousand dollars (\$75,000) of these moneys, whichever is greater,  
4 shall be used for administrative purposes; of the 10 percent or  
5 seventy-five thousand dollars (\$75,000), no more than ten  
6 thousand dollars (\$10,000) shall be expended to reimburse the  
7 State Department of Social Services for its services pursuant to this  
8 paragraph.

9 (d) Beginning with fiscal year 1983–84, and each fiscal year  
10 thereafter, after all allocations for foster parent training in  
11 community colleges have been made, any moneys remaining in  
12 the Foster Children and Parent Training Fund may be allocated for  
13 foster children services programs pursuant to Chapter 11.3  
14 (commencing with Section 42920) of Part 24 of the Education  
15 Code.

16 (e) The Controller shall transfer moneys from the Foster  
17 Children and Parent Training Fund to the Chancellor of the  
18 Community Colleges and the Superintendent of Public Instruction  
19 as necessary to fulfill the requirements of subdivisions (c) and (d).

20 After the maximum amount authorized in any fiscal year has  
21 been transferred to the Chancellor of the Community Colleges and  
22 the Superintendent of Public Instruction, the Controller shall  
23 transfer any remaining funds to the General Fund for expenditure  
24 for any public purpose.

