

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

P.O. Box 419064, Rancho Cordova, CA 95741-9064



November 20, 2007

CSS LETTER: 07-17

ALL IV-D DIRECTORS
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL BOARDS OF SUPERVISORS

SUBJECT: ASSEMBLY BILL (AB) 252 PATERNITY SET ASIDE OR VACATE
FOLLOW-UP REPORT

Reason for this Transmittal

- State Law or Regulation Change
- Federal Law or Regulation Change
- Court Order or Settlement Change
- Clarification requested by One or More Counties
- Initiated by DCSS

Assembly Bill (AB) 252, effective January 1, 2005, provides additional opportunities for individuals to file a motion to set aside or vacate certain paternity judgments. In order for the Department of Child Support Services (DCSS) to measure the impact of this measure on child support collections, local child support agencies (LCSAs) were asked to submit statistical data on a quarterly basis for those cases directly affected by the provisions of AB 252.

CSS Letter 04-30 dated December 15, 2004, outlined the criteria and timeframes in which specific paternity judgments could be set aside or vacated. The two year statutory provision for setting aside the existing default paternity judgments under AB 252 expired on December 31, 2006. However, pursuant to section 7646, a previously established father continues to have the opportunity to file a motion to set aside or vacate a judgment within two years from when the previously established father knew or should have known either of a judgment that established him as the father of the child or of the existence of an action to adjudicate the issue of paternity, whichever is first.

The previous quarterly report was due on January 15, 2007. A follow-up report for AB 252 cases will be required in January 2008 (see sample enclosed). Please feel free to submit this report sooner if the previously reported cases have been closed out or there were no new actions to report. The purpose of this additional report is to capture the progress of the pending cases or cases not previously reported with a motion file date on or prior to December 31, 2006.

For the AB 252 Follow-Up Report, please only include those AB 252 cases with the following criteria:

- Cases that were PENDING as of December 31, 2006, in which an additional action/decision has been taken **OR**
- Cases that were filed in the Calendar Year (CY) 2006 but not included in the prior report for CY 2006 (i.e. cases that were filed right before the cut-off date of December 31, 2006, or inadvertently omitted).

Example 1 – If a case was filed in CY 2005 or 2006 but the Best Interest Hearing and a decision only recently occurred; results from the case may have not been available until CY 2007. In this instance, the complete case details **must** be listed in the follow-up report.

Example 2 – If a case was reported in the CY 2006 period and the monthly support order amount and/or arrears were unknown at that time, and now the information is available; the entire case information **must** be listed in the follow-up report.

Example 3 – If a case was reported in the CY 2006 report and was still pending and no action has occurred since CY 2006, then this case **should not** be listed.

Example 4 – If a case was reported in the CY 2006 and the decision was completed (i.e. a decision NOT to set aside or the decision to set aside the case and the corresponding monthly support orders and arrears were listed), then this case **should not** be listed in the follow-up report.

Example 5 – If 100 percent of the cases reported in CY 2006 had final decisions and/or there is no new action to report, please submit a report with “zero” or “0” or “None” notated in the report.

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Please use the same reporting format from the CY 2006 reporting period (see enclosed example). If you have any questions on the AB 252 reporting process or the enclosed report, please contact Amy Carson, via electronic mail to amy.carson@dcss.ca.gov or by phone at (916) 464-5808; or Vana Rowen, via electronic mail to vana.rowen@dcss.ca.gov or by phone at (916) 464-5826.

Sincerely,

/s/by Debra Sanchez for Wilfrid Otterbeck

WILFRID OTTERBECK
Acting Deputy Director
Child Support Services Division

Attachment

AB 252 PATERNITY SET ASIDE/VACATE QUARTERLY REPORT

County Name	Name of the local child support agency	
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CY-2006	Follow-up Report
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Add financial data only if the Support order and/or Arrears are being set aside

Case Number	Initiator MO, PEF, CH, LEG or LCSA	Motion File Date mm/dd/yyyy	Judgment Based on Default? Y/N	Genetic Test Ordered? Y/N	Excluded by DNA? Y/N	Best Interests Hearing (estimated hours). For example, 30min = 0.5	Judgment/ POP Dec Vacated After BI Hearing? Y-JUD, Y-POP, Both or N	FINANCIAL DATA- set aside only			NOTES- This section can be used to provide additional information if "other" was selected or to add additional info (for example, off calendar, arrears-only, Note regarding monthly support info). PLEASE only add notes to this section and not the core report.
								Estimated % of Support paid over the year Col 1.	Monthly Support Order Being Set Aside Col 2.	Arrears Relieved (In \$) Put "0" if no arrears was forgiven	
5555555	PEF	12/1/2005	Y	Y	Y	1.5	Y-JUD	25.0%	\$ 250.00	\$ 60,000	
2323232	LEG	12/22/2005	Y	Y	Y	2.00	Both	100.0%	\$ 325.00	\$ -	
5656565	PEF	7/5/2006	Y	Y	Y	0.50	Y-JUD	100.00%	\$ 340.00	\$ 5,000	
6565656	LCSA	11/12/2006	N	Y	N	0.10	N	50.00%	\$ -	\$ -	POP, not set aside, (Note: MSO is 300 and arrears is \$10,000)
121212121	MO	12/15/2006	Y	Y	Y	1.00	N	100.00%	\$ -	\$ -	BI hearing decision not to vacate
3232323	PEF	12/20/2006	Y	Y	Y	0.50	Y-POP	50.00%	\$ -	\$ 50,000	Arrears only
<i>Example</i>											
Totals									\$ 915.00	\$ 115,000.00	

AB 252 PATERNITY SET ASIDE/VACATE QUARTERLY REPORT

County Name	Enter the name of the local child support agency	QUARTER/YEAR	Enter the quarter (last month and year), of the report period (for example: Sept 2006 , Dec 2006 , March 2007 or June 2007)
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Case Number	Initiator	Motion File Date	Judgment Based on Default? Y/N	Genetic Test Ordered? Y/N
Enter the case number of each case in which AB 252 services are being requested (use the same case numbers as in the prior report).	<i>Identify, by code, the person who is requesting AB 252 services. The following is a list of codes to use:</i> Mother - MO Previously Established Father - PEF The Child - CH The Legal Representative - LEG The LCSA - LCSA	The date in which the motion was filed to set aside or vacate a paternity judgment. Please use only the following format of MM/DD/YYYY (for example: 12/15/2005)	Enter "Y" for Yes or "N" for No, to indicate whether the paternity was previously based on default.	Enter "Y" for Yes or "N" for No, to indicate whether genetic testing was ordered. (Genetic testing is usually ordered by the court, or administratively by the LCSA).

Excluded by DNA? Y/N	Best Interest Hearing (time est)	Judgment/ POP Dec Vacated After BI Hearing?	FINANCIAL DATA (if case is pending leave blank)		
			Col 1.	Col 2.	Arrears Relieved (In \$)
Enter "Y" for Yes or "N" for No, to indicate whether the previously established father was excluded as the biological father due to the DNA/genetic test results.	List the estimated time spent preparing for and participating in the best interest hearings (for example: 1.5 for 1 1/2 hours)	Enter either a "N" for not vacated, or "Y-JUD" for judgment vacated, or "Y-POP" for POP vacated or "Both".	Col 1. Enter the approx % of current support paid . For example, if the order is for \$300 per mo (\$3,600 per year) and the amount paid for the previous year was \$1,800, then $\$1,800 \div \$3,600 = 50\%$.	Col 2. Enter the monthly amount of child support (MSO) established in the original order.	Enter the total amount of arrears forgiven as a result of the paternity set aside or vacated.

Note: If any part of the field is pending or in progress, then please provide explanation under the "notes" as needed.