

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

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

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

November 6, 2001

CSSIN LETTER: 01-31

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

SUBJECT: CHILD SUPPORT LEGISLATION 2001-2002

The Governor recently signed legislation related to child support services. The purpose of this letter is to provide you with general information on those bills. Any required regulations or policy instructions will be provided under a separate letter.

AB 891 (Goldberg) Chapter 651 Effective January 1, 2002

Makes changes to current obligor requirements to ensure that disabled non-custodial parents can meet child support obligations while meeting basic board and care costs and/or pay for medical expenses associated with their disability. AB 891 makes the following changes:

- Includes benefits paid by the Department of Veterans Affairs to an obligee due to a non-custodial parent's disability to be credited towards court ordered child support, unless the payments made by the federal government were taken into consideration by the court in determining the amount of child support.
- Requires the non-custodial parent receiving Social Security Disability Insurance (SSDI), Railroad Retirement or Veterans Affairs benefits, to notify the custodial party or local child support agency enforcing the case of receipt of benefits.
- Requires the custodial party to contact the appropriate federal agency within 30 days of receiving notification that the non-custodial parent is receiving those payments, to verify if the child is eligible to receive payments from the appropriate federal agency based on the disability of the non-custodial parent.



- If the custodial party refuses to apply for benefits or fails to cooperate with the appropriate federal agency in completing the application, the non-custodial parent shall receive a credit toward the amount ordered by the court for that month if the non-custodial parent provides evidence to the local child support agency (LCSA) indicating the amount the child or children would have received.
- If a disabled obligor meets the Supplemental Security Income (SSI) resource test and provides proof of his or her eligibility for Supplemental Security Income/State Supplementary Payments (SSI/SSP) benefits or receives SSDI payments, the LCSA may not issue an order/notice to withhold income for the liquidation of arrearages that exceed five percent of the obligor's total monthly SSDI payments under Title II of the Social Security Act.
- Requires the LCSA to file a motion for a court order modification within 30 days of when the obligor provides proof of eligibility for SSI/SSP benefits and receipt of SSI/SSP or SSDI benefits.
- LCSAs are not to refer a delinquent child support case to the Franchise Tax Board (FTB), and if referred, shall withdraw, rescind or recall the case, if the obligor provides proof of eligibility or receipt of SSI/SSP benefits, or receipt of SSDI.

AB 1426 (Wright) Chapter 371 Effective January 1, 2002

Allows a child support obligee or a LCSA to request a court to order payment of child support by electronic funds transfer (EFT) from an employer's bank account, when an employer fails to comply with an earnings assignment order as detailed below.

AB 1426 makes the following changes:

- Authorizes the obligee or LCSA, to apply for the court order requiring EFT to secure child support payments from an employer's bank account when the employer is found to have willfully failed to comply with the earnings assignment order or has failed to comply with the earnings assignment order on at least three separate occasions within a 12 month period.
- Provides the court authority to impose a civil penalty against non-compliant employers not to exceed 50 percent of the unpaid support payment amounts not received by the obligee.

AB 1449 (Keeley) Chapter 463 Effective January 1, 2002

Allows the compromise of child support debt owed to the State resulting from public assistance paid on behalf of a child who was placed in an out-of-home placement when the child has returned to the home of the obligor and the reduction of the payments is necessary to help the parent support the child. AB 1449 makes the following changes:

- Requires the Department of Child Support Services (DCSS) in consultation with the California Department of Social Services (CDSS) to establish regulations by October 1, 2002, which would require the LCSAs to consider a compromise of the public assistance debt owed by an obligor parent when the child has been returned to the custody of the obligor.
- Specifies that the LCSA may consider a compromise of the public assistance debt owed by an obligor parent when: 1) The child has been adjudged a dependent of the juvenile court and has since been reunified with the obligor parent pursuant to a court order, or 2) The child had been placed with a guardian or relative caregiver who received public assistance for the child and the child has since been returned to the home of the obligor. Compromise of the debt is only available if the parent earns less than 250% of the federal poverty level and the compromise is necessary for the support of the child. Prior to compromising the debt, the LCSA is required to consult with the county welfare department.
- Requires CDSS in consultation with DCSS to promulgate regulations by October 1, 2002, defining cases in which it would be contrary to the best interest of the child for the county welfare department to refer a case to the LCSA for the establishment of a support order for the reimbursement of public assistance.
- States that the provisions of the bill are to be implemented only to the extent that federal financial participation is not reduced for the AFDC-Foster Care program and the CalWORKs program.

SB 943 (Senate Judiciary Committee) Chapter 755 Effective October 12, 2001

Makes technical and clarifying changes to the child support reform provisions enacted in 1999. SB 943 makes the following changes:

- Provides the Department of Health Services access to the declarations of paternity to ensure compliance with other existing State law that allows fathers who have signed the declaration to have their names placed on the child's birth certificate.
- Clarifies and provides consistency with other provisions of existing law that the term civil service employees refers to the merit system standards as provided in Government Code.
- Requires that all LCSAs adopt the complaint resolution process upon the effective date of the bill. This will ensure that the same administrative remedies are available to customers in all counties even if the county has not transitioned.
- Under extenuating circumstances where the LCSA will not be able to resolve a complaint within 30 days, the bill provides the director of the local child support

agency the authority to extend the time period for up to an additional 30 days in accordance with regulations adopted by DCSS.

- Clarifies that all administrative reviews provided for in statute to be performed by the LCSAs are to be conducted using the same procedures and timeframes as specified by the complaint resolution process.
- Aligns the due date for a county to submit the Annual Automation Cooperation Agreement (AACCA) with the due date for submitting the Plan of Cooperation, by incorporating the AACCA into the Plan of Cooperation.
- Requires DCSS to establish procedures and regulations, in consultation with pertinent stakeholders, that will require that welfare funds be transmitted to DCSS for distribution.
- Aligns State law with current reporting practice, which requires counties to report specific data within 15 instead of 30 calendar days after the end of the quarter. This will enable the State to meet the federal reporting requirement which is 30 days after the end of the reporting period.
- Makes several technical amendments to correct cross-references to obsolete code sections or inappropriate sections, changes "district attorney" to "local child support agency" and changes references to the "State Department of Social Services" to the "Department of Child Support Services." Corrects a reference to require service of certain documents on the "nonmoving party" rather than the "moving party."

Information on legislative bills and bill text is available from the California Legislative Home Page on the Internet. The address is: www.leginfo.ca.gov.

If you have any questions pertaining to the information contained in this letter, please contact me at (916) 464-5502.

Sincerely,

SUSAN R. TUREK
Legislative Director