

**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

January 25, 2002

CSS LETTER: 02-05

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

SUBJECT: ASSEMBLY BILL 1426

This letter is to inform you of the provisions of Assembly Bill (AB) 1426, Chapter 371, Statutes of 2001, which became effective January 1, 2002. AB 1426 amends Section 5241 of the Family Code and provides an additional tool for local child support agencies (LCSA) to secure compliance with wage assignments.

If an employer willfully fails to comply with a wage assignment order or has otherwise failed to comply with a particular wage assignment order on three separate occasions within the prior 12 months, AB 1426 permits the following actions:

- The LCSA may, by noticed motion, secure a court order requiring the employer to pay support owing under that wage assignment by electronic funds transfer (EFT) from the employer's bank account.
- In addition to any other penalty permitted by law, the court may also impose a civil penalty on the employer of up to 50% of the support amount not properly forwarded from the employer. Any penalty assessed by the court is payable directly to the obligee.

The provisions of AB 1426 also allow obligees in private cases not being enforced by the LCSA to secure a court order for an EFT from the employer's bank account under the same conditions.

AB 1426 does not require LCSAs to establish or collect the penalty imposed by the court on behalf of the obligee and expressly provides that the penalty may not be



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counted as income for the obligee when determining the eligibility for benefits payable pursuant to state supplemental income programs.

In addition, in order to facilitate employer awareness, AB 1426 requires LCSAs to make reasonable efforts to notify employers subject to a wage assignment order of the EFT provisions and the additional penalties.

In order to comply with the provisions of AB 1426 and eliminate the need for LCSAs to individually provide notice, the Department of Child Support Services intends to publish the following paragraph in the Employment Development Department employer newsletter:

“Effective January 1, 2002, new state law imposes additional penalties on employers who fail to comply with court ordered child support wage assignments. Assembly Bill 1426, Chapter 371, Statutes of 2001, authorizes local child support agencies and/or support obligees to obtain a court order requiring employers to make child support payments through electronic funds transfer, if the employer has willfully failed to comply with a wage assignment order or has failed to comply with a particular wage assignment order on three separate occasions within a 12 month period. Employers who are found in contempt by the court may also face a civil penalty of up to 50% of the support amount not forwarded to the child support obligee, including any interest incurred as a result of the employer’s failure to forward child support payments. “

AB 1426 does not change existing law with regards to seeking contempt charges against employers who fail to comply with wage assignment orders, however, LCSAs may now take appropriate actions to collect withheld sums from the employer. In addition, AB 1426 is intended to provide a useful enforcement tool to those LCSAs with current EFT capability. LCSAs without EFT capability are not required to use this enforcement tool, nor incur any costs associated with the development of an EFT system.

If you have any questions or concerns regarding this matter, please contact Josefina Angulo of the Policy Branch at (916) 464-5055 or by e-mail at [policy.branch@dcss.ca.gov](mailto:policy.branch@dcss.ca.gov) .

Sincerely,

SHAR SCHROEPFER, Chief  
Policy Branch