

## Memorandum 92-66

Subject: Study F-1170 - Inclusion of 1992 Legislation in Family Code

Attached to this memorandum are a number of exhibits containing draft legislation necessary to add 1992 legislation concerning family law to the Family Code. (For ease of reference, the exhibits numbers and exhibit page numbers continue from the exhibits attached to Memorandum 92-33 and the First Supplement to Memorandum 92-33, which were considered at the September meeting.)

Both the Family Code bill (AB 2650) and the conforming revision bill (AB 2641) contained subordination provisions so that any 1992 legislation concerning sections affected by these bills would not be chaptered out. The understanding is that we would prepare legislation to repeal these 1992 amendments and additions to statutes concerning family law and include them in the Family Code before it becomes operative. This is simply a continuation of the process in which the Commission is already involved -- reorganizing and consolidating the family law statutes without making substantive changes.

The following exhibits are attached to this memorandum:

<u>Ex.</u>	<u>Bill #</u>	<u>Ch. #</u>	<u>Author</u>
20.	SB 1972	Ch. 705	[no author]
21.	AB 973	Ch. 1192	Cannella, Wyman, Chacon, Cortese, Eastin, Eaves, Epple, Farr, Lempert, Speier, & Woodruff
22.	AB 568	Ch. 718	Speier & Hunter
23.	AB 2628	Ch. 863	Lee
24.	AB 3456	Ch. 667	Conroy
25.	SB 1885	Ch. 1166	Cecil Green
26.	SB 2016	Ch. 821	Leslie
27.	SB 1680	Ch. 1157	Calderon
28.	AB 3589	Ch. 1223	Speier
29.	SB 1530	Ch. 851	Watson

The following additional bills remain to be integrated into the new code and will be considered in a future memorandum:

<u>Ex.</u>	<u>Bill #</u>	<u>Ch. #</u>	<u>Author</u>
30.	SB 1148	Ch. 1353	Bergeson
31.	SB 1959	Ch. 849	Hart
32.	SB 1423	Ch. 850	Morgan
33.	SB 1614	Ch. 848	Hart
34.	AB 3399	Ch. 356	Speier

When the Legislature finishes its work in this session, and potential veto overrides are disposed of, the staff will make a final check for 1992 legislation that needs to be adjusted or included in the Family Code. The staff would like to be able to draft this corrective legislation and submit it to the Legislative Counsel for preparation in bill form, even if the Commission has not had an opportunity to review the material beforehand. This may become necessary if the Commission is forced to cancel some meetings for budgetary reasons. We have used this procedure in the past. The Commission would still have the opportunity to make any changes before the bill is introduced or even later by amendment.

A chart showing all 1992 enactments that overlap the Family Code and conforming revisions, of which we are aware, is attached to this memorandum as an appendix.

The staff plans to send a copy of the relevant material to each legislator who authored 1992 legislation that needs revision or that will be repealed and included in the Family Code. If we receive any comments, we will bring them to the Commission at a future meeting.

Respectfully submitted,

Stan Ulrich  
Assistant Executive Secretary

# Appendix

## 1992 LEGISLATION RELEVANT TO AB 2650 & AB 2641

<i>Bill</i>	<i>Ch.</i>	<i>Section Affected</i>	<i>Disposition</i>	<i>Notes</i>
<b>AB 92</b>	<i>vetoed</i>			
<b>AB 568</b>	718	CC § 196.5 (am)	Ex 22, M.92-66	
	718	CC § 4384.5 (rep/add)	Ex 22, M.92-66	
	718	CCP § 683.130 (am)	Ex 22, M.92-66	
<b>AB 973</b>	1192	W&I § 11478 (am)	Ex 21, M.92-66	
	1192	W&I § 11478.1 (am)	Ex 21, M.92-66	
	1192	W&I § 11478.5 (am)	Ex 21, M.92-66	
<b>AB 1101</b>	318	CC § 4100 (am)	Ex 4, M.92-33	
	318	CC § 4200 (am)	Ex 4, M.92-33	
	318	CC § 4202 (am)	Ex 4, M.92-33	
	318	CC § 4203 (am)	Ex 4, M.92-33	
	318	CC § 4204 (am)	Ex 4, M.92-33	
	318	CC § 4206 (am)	Ex 4, M.92-33	
	318	CC § 4208 (am)	Ex 4, M.92-33	
	318	CC § 4210 (am)	Ex 4, M.92-33	
	318	CC § 4213 (am)	Ex 4, M.92-33	
	318	CC § 4216 (am)	Ex 4, M.92-33	
	318	Penal C § 360 (am)	Ex 4, M.92-33	
<b>AB 1296</b>	559	CC § 7004 (am)	Ex 19, M.92-33/1s	Chaptered-out by SB 1959
<b>AB 1394</b>	50	CC § 4700.11 (am)	Ex 12, M.92-33	
	50	W&I § 903 (am)	Ex 12, M.92-33	Ref to CC § 4720 et seq.
<b>AB 1396</b>	36	CC § 4800.11 (add) C/O	—————>	Chaptered-out by AB 3399
<b>AB 1437</b>	37	CC § 4800.10 (add) C/O	—————>	Chaptered-out by AB 3399
<b>AB 1719</b>	51	CC § 5110.740 (am)	Ex 3, M.92-33	

<i>Bill</i>	<i>Ch.</i>	<i>Section Affected</i>	<i>Disposition</i>	<i>Notes</i>
<b>AB 2628</b>	863	Penal C § 977 (am)	Ex 23, M.92-66	
<b>AB 2634</b>	149	CCP § 548 (am)	Ex 8, M.92-33	
<b>AB 2762</b>	1209			<i>Contingent on SB 25 (vetoed)</i>
<b>AB 2887</b>	472	CC § 220.20 (am)	Ex 18, M.92-33	<i>Chaptered-out by SB 1148</i>
	472	CC § 223 (am)	Ex 18, M.92-33	
	472	CC § 227.20 (am)	Ex 18, M.92-33	
	472	CC § 227.30 (am)	Ex 18, M.92-33	
	472	CC § 227.40 (am)	Ex 18, M.92-33	
	472	CC § 227.46 (am)	Ex 18, M.92-33	
	472	CC § 227.50 (am)	Ex 18, M.92-33	
<b>AB 3353</b>	252	CC § 25.9 (am)	Ex 14, M.92-33	
<b>AB 3399</b>	356	CC § 4370.5 (am)	Ex 34	
	356	CC § 4372 (add)	Ex 34	
	356	CC § 4373 (add)	Ex 34	
	356	CC § 4800.10 (am)	Ex 34	Chapters out AB 1437
	356	CC § 4800.11 (am)	Ex 34	Chapters out AB 1396
	356	CC § 5127 (am)	Ex 34	
<b>AB 3456</b>	667	CC § 222.10 (am)	Ex 24, M.92-66	
<b>AB 3491</b>	316	Penal C § 11167 (am)	Ex 11, M.92-33	
<b>AB 3544</b>	475	Penal C § 1377 (am)	Ex 15, M.92-33	Reference to CCP § 542
<b>AB 3589</b>	1223	R&T § 19001 (add)	Ex 28, M.92-66	
<b>AB 3630</b>	159	CC § 4800.6 (am)	Ex 9, M.92-33	
<b>AB 3696</b>	934			<i>Contingent on SB 25 (vetoed)</i>
<b>SB 370</b>	46	CC § 246 (rep)	Ex 1, M.92-33	
	46	CC § 4720 (rep/add)	Ex 1, M.92-33	<i>Chaptered-out by SB 1614</i>
	46	CC § 4720.1 (rep)	Ex 1, M.92-33	
	46	CC § 4720.2 (rep)	Ex 1, M.92-33	
	46	CC § 4721 (rep/add)	Ex 1, M.92-33	<i>Chaptered-out by SB 1614</i>
	46	CC § 4722 (rep/add)	Ex 1, M.92-33	<i>Chaptered-out by SB 1614</i>
	46	CC § 4723 (rep)	Ex 1, M.92-33	

<i>Bill</i>	<i>Ch.</i>	<i>Section Affected</i>	<i>Disposition</i>	<i>Notes</i>
	46	CC § 4724 (rep)	Ex 1, M.92-33	
	46	CC § 4725 (rep)	Ex 1, M.92-33	
	46	CC § 4727 (rep)	Ex 1, M.92-33	
	46	CC § 4728 (rep)	Ex 1, M.92-33	
	46	CC § 4728.5 (rep)	Ex 1, M.92-33	
	46	CC § 4729 (rep)	Ex 1, M.92-33	
	46	CC § 4730 (rep)	Ex 1, M.92-33	
<b>SB 794</b>	<i>vetoed</i>			
<b>SB 804</b>	392	CC § 5152 (am)	Ex 10, M.92-33	
	392	CC § 5157 (am)	Ex 10, M.92-33	
	392	CC § 5158 (am)	Ex 10, M.92-33	
<b>SB 937</b>	<i>vetoed</i>			
<b>SB 1129</b>	176	CC § 4800.8 (am) C/O	—————>	Chaptered-out by SB 2018
	176	GC § 75050 (am)	Ex 5, M.92-33	
<b>SB 1148</b>	1353	B&P § 4996.21 (add)	Ex 30	
	1353	CC § 220.15 (add)	Ex 30	
	1353	CC § 220.20 (am)	Ex 30	Chapters out AB 2887
	1353	CC § 221.05 (add)	Ex 30	
	1353	CC § 221.07 (add)	Ex 30	
	1353	CC § 224.21 (add)	Ex 30	
	1353	CC § 224.24 (add)	Ex 30	
	1353	CC § 224.26 (add)	Ex 30	
	1353	CC § 224.30 (am)	Ex 30	
	1353	CC § 224.36 (am)	Ex 30	
	1353	CC § 224.44 (add)	Ex 30	
	1353	CC § 224.62 (add)	Ex 30	
	1353	CC § 224.63 (add)	Ex 30	
	1353	CC § 224.64 (add)	Ex 30	
<b>SB 1343</b>	934			Contingent on SB 25 (vetoed)
<b>SB 1372</b>	355	CCP § 699.560 (am)	Ex 2, M.92-33	

<i>Bill</i>	<i>Ch.</i>	<i>Section Affected</i>	<i>Disposition</i>	<i>Notes</i>
<b>SB 1420</b>	360	H&S § 10605 (am)	Ex 7, M.92-33	
<b>SB 1423</b>	850	W&I § 11478.51 (add)	Ex 32	
<b>SB 1530</b>	851	CCP § 704.114 (am)	Ex 29, M.92-66	
	851	Evid C § 895.5 (am)	Ex 29, M.92-66	
<b>SB 1541</b>	1136	CC § 4359 (am)	See M.92-67	
	1136	CC § 4612 (add)	See M.92-60	
	1136	CC § 7009 (add)	See M.92-60	
	1136	CC § 7020 (am)	See M.92-67	
	1136	CCP § 545.5 (am)	See M.92-67	
	1136	CCP § 547.7 (add)	See M.92-67	
	1136	Penal C § 12028.5 (am)	See M.92-67	
<b>SB 1545</b>	183	Penal C § 273.5 (am)	Ex 6, M.92-33	
<b>SB 1564</b>	455	CC § 222.71 (add)	Ex 17, M.92-33	
	455	W&I § 361.5 (am)	Ex 17, M.92-33	
<b>SB 1614</b>	848	CC § 4357.5 (am)	Ex 33	
	848	CC § 4390 (am)	Ex 33	
	848	CC § 4390.3 (am)	Ex 33	
	848	CC § 4702 (am)	Ex 33	
	848	CC § 4720 (am)	Ex 33	Chapters out SB 370
	848	CC § 4721 (am)	Ex 33	Chapters out SB 370
	848	CC § 4722 (am)	Ex 33	Chapters out SB 370
	848	CCP § 704.160 (am)	Ex 33	Ref to CC § 4390 <i>et seq.</i>
	848	CCP § 1699 (am)	Ex 33	Ref to CC § 4390 <i>et seq.</i>
	848	GC § 6159 (am)	Ex 33	"Child or spousal support"
	848	W&I § 11478.8 (am)	Ex 33	Relevant to DA enforcement.
<b>SB 1680</b>	1157	CC § 4395 (add)	Ex 27, M.92-66	
<b>SB 1817</b>	411	CC § 4760 (rep/add)	Ex 13, M.92-33	
	411	CC § 4761 (rep/add)	Ex 13, M.92-33	
	411	CC § 4762 (rep/add)	Ex 13, M.92-33	
	411	CC § 4763 (rep/add)	Ex 13, M.92-33	

<i>Bill</i>	<i>Ch.</i>	<i>Section Affected</i>	<i>Disposition</i>	<i>Notes</i>
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	411	CC § 4764 (rep/add)	Ex 13, M.92-33	
	411	CC § 4765 (rep/add)	Ex 13, M.92-33	
	411	CC § 4766 (rep/add)	Ex 13, M.92-33	
	411	CC § 4767 (rep/add)	Ex 13, M.92-33	
	411	CC § 4768 (rep/add)	Ex 13, M.92-33	
	411	CC § 4769 (rep/add)	Ex 13, M.92-33	
	411	CC § 4770 (rep/add)	Ex 13, M.92-33	
	411	CC § 4771 (rep/add)	Ex 13, M.92-33	
	411	CC § 4772 (rep/add)	Ex 13, M.92-33	
	411	CC § 4773 (add)	Ex 13, M.92-33	
	411	CC § 4774 (add)	Ex 13, M.92-33	
	411	CC § 4775 (add)	Ex 13, M.92-33	
	411	CC § 4776 (add)	Ex 13, M.92-33	
	411	CC § 4777 (add)	Ex 13, M.92-33	
	411	CC § 4778 (add)	Ex 13, M.92-33	
	411	CC § 4778.5 (add)	Ex 13, M.92-33	
	411	CC § 4779 (add)	Ex 13, M.92-33	
	411	CC § 4780 (add)	Ex 13, M.92-33	
	411	CC § 4781 (add)	Ex 13, M.92-33	
	411	CC § 4782 (add)	Ex 13, M.92-33	
	411	CC § 4783 (add)	Ex 13, M.92-33	
	411	CC § 4784 (add)	Ex 13, M.92-33	
	411	CC § 4785 (add)	Ex 13, M.92-33	
	411	CC § 4786 (add)	Ex 13, M.92-33	
	411	CC § 4787 (add)	Ex 13, M.92-33	
	411	CC § 4788 (add)	Ex 13, M.92-33	
	411	CC § 4789 (add)	Ex 13, M.92-33	
	411	CC § 4790 (add)	Ex 13, M.92-33	
	411	CC § 4791 (add)	Ex 13, M.92-33	
	411	CC § 4792 (add)	Ex 13, M.92-33	

<i>Bill</i>	<i>Ch.</i>	<i>Section Affected</i>	<i>Disposition</i>	<i>Notes</i>
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	411	CC § 4793 (add)	Ex 13, M.92-33	
<b>SB 1885</b>	1166	Educ C. § 22253 (add)	Ex 25, M.92-66	
	1166	Educ C. § 22253.5 (add)	Ex 25, M.92-66	
	1166	Educ C. § 22401.6 (add)	Ex 25, M.92-66	
	1166	Educ C. § 22401.7 (add)	Ex 25, M.92-66	
<b>SB 1959</b>	849	CC § 7004 (am)	Ex 31, M.92-66	Chapters out AB 1296
	849	Evid C § 621.1 (add)	Ex 31, M.92-66	
<b>SB 1972</b>	705	CC § 224.47 (am)	Ex 20, M.92-66	
	705	W&I § 16120 (am)	Ex 20, M.92-66	
<b>SB 2016</b>	821	CC § 64 (am)	Ex 26, M.92-66	
	821	CC § 65 (am)	Ex 26, M.92-66	
<b>SB 2018</b>	431	CC § 4800.8 (am)	Ex 16, M.92-33	Chapters out SB 1129



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## EXHIBIT 20

### SB 1972 (Independent Adoptions)

*Staff Note.* The draft legislation in this exhibit would repeal a section that was repealed by AB 2650 (1992 Cal. Stat. ch. 162, § 2), but chaptered-out in part by SB 1972 (1992 Cal. Stat. ch. 705, § 1), would make conforming changes in the Family Code, and would restore a conforming change in AB 2641 (1992 Cal. Stat. ch. 163, § 158), which was chaptered-out by SB 1972 (1992 Cal. Stat. ch. 705, § 24).

#### Civ. Code § 224.47 (repealed). Independent adoption fees

SEC. \_\_\_\_ Section 224.47 of the Civil Code is repealed.

~~224.47. (a) Except as otherwise provided in this section, whenever a petition is filed in an independent adoption for the adoption of a child, the petitioner or petitioners shall pay a fee of one thousand dollars (\$1,000) to the department or delegated county adoption agency prior to the filing of a favorable report in the superior court by the department or delegated county adoption agency. The department or delegated county adoption agency may defer, waive, or reduce the fee when in its judgment the payment would cause economic hardship to the prospective adoptive parents and would be detrimental to the welfare of the adopted child.~~

~~(b) Revenues produced by fees collected pursuant to subdivision (a) by the department shall be used, when appropriated by the Legislature, to fund only the state program for independent adoptions. Revenues produced by fees collected pursuant to the subdivision (a) by the delegated county adoption agency shall be used by the county to fund the county program for independent adoptions.~~

~~(c) The department shall determine the impact of the fee required under this section on the independent adoption of children, including staffing, the time required to complete investigations and court reports, and the number of fee waivers or reduction requests made and granted or denied. The department shall report its findings to the Legislature on or before January 1, 1992.~~

~~(d) This section applies only to independent adoption petitions filed on or after September 1, 1992. For independent adoption petitions filed after September 1, 1989, and before September 1, 1992, the fee pursuant to subdivision (a) shall be five hundred dollars (\$500).~~

Comment. Former Section 224.47 [as amended by 1992 Cal. Stat. ch. 705, § 1] is continued without substantive change in Family Code Section 8810. See also Fam. Code § 200 (jurisdiction in superior court).

#### Fam. Code § 8810 (technical amendment). Fee

SEC. \_\_\_\_ Section 8810 of the Family Code is amended to read:

8810. (a) Except as otherwise provided in this section, if a petition is filed under this chapter for the adoption of a child, the petitioner shall pay a fee of five hundred one thousand dollars (\$500) (\$1,000) to the department or delegated county adoption agency before the filing of a favorable report in the court by the department or agency. The department or agency may defer, waive, or reduce the fee when in its judgment the payment would cause economic hardship to the prospective adoptive parents and would be detrimental to the welfare of the adopted child.

(b) Revenues produced by fees collected by the department pursuant to subdivision (a) shall be used, when appropriated by the Legislature, to fund only the state program for independent adoptions. Revenues produced by fees collected by the delegated county adoption agency pursuant to subdivision (a) shall be used by the county to fund the county program for independent adoptions. ~~Revenues produced by fees collected by the department or counties pursuant to subdivision (a) may not be used to supplant current funding for the adoption program.~~

(c) The department shall determine the impact of the fee required under this section on the independent adoption of children, including staffing, the time required to complete investigations and court reports, and the number of fee waivers or reduction requests made and granted or denied. The department shall report its findings to the Legislature on or before January 1, 1992.

(d) This section applies only to independent adoption petitions filed on or after September 1, ~~1989~~ 1992. For independent adoption petitions filed after September 1, 1989, and before September 1, 1992, the fee pursuant to subdivision (a) is five hundred dollars (\$500).

~~(e) This section remains in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.~~

Comment. Section 8810 continues former Civil Code Section 224.47 [as amended by 1992 Cal. Stat. ch. 705, § 1] without substantive change. The reference to the "superior" court has been omitted as surplus. See Section 200 (jurisdiction in superior court). See also Sections 8515 ("delegated county adoption agency" defined), 8518 ("department" defined), 8524 ("independent adoption" defined).

For related provisions, see Sections 8716 (fee for report in agency adoption), 9002 (fee for report in stepparent adoption).

**Welf. & Inst. Code § 16120 (technical amendment). Payment of benefits**

SEC. \_\_\_\_\_. Section 16120 of the Welfare and Institutions Code is amended to read:

16120. Adoption Assistance Program benefits shall be provided only on behalf of special needs children for whom all of the following conditions are met:

(a) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid and the prospective adoptive parent have signed an adoption assistance agreement

which stipulates the need for and the amount of Adoption Assistance Program benefits. The adoption assistance agreement shall, at a minimum, specify the duration of assistance, the responsibility of the adopting family for reporting changes in circumstances, and the periodic recertification required for reevaluating the continuing needs of the family.

(b) The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap which warrants the continuation of assistance.

(c) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and have signed an adoption assistance agreement.

(d) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(e) The child has been either relinquished for adoption to a California agency or freed for adoption through termination of parental rights by a California court, or committed to the department pursuant to Section ~~224.37~~ or ~~226.66~~ of the Civil ~~8805~~ or ~~8918~~ of the Family Code.

**Comment.** Subdivision (e) of Section 16120 [as amended by 1992 Cal. Stat. ch. 705, § 24] is amended to substitute references to the Family Code provisions that replaced the former Civil Code provisions.



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## EXHIBIT 21

### AB 973 (Parent Locator Service; Child Support)

*Staff Note.* The draft legislation in this exhibit would restore conforming changes in AB 2641 (1992 Cal. Stat. ch. 163, §§ 146-47), which were chaptered-out by AB 973 (1992 Cal. Stat. ch. 1192, §§ 1-2), and would make a new conforming change.

#### **Welf. & Inst. Code § 11478 (technical amendment). Cooperation of agencies**

SEC. \_\_\_\_\_. Section 11478 of the Welfare and Institutions Code is amended to read:

11478. All state, county, and local agencies shall cooperate with the district attorney in carrying out ~~Sections 4604 and 4605 of the Civil Chapter 8 (commencing with Section 3130) of Part 2 of Division 8 of the Family Code and Section 270 of the Penal Code concerning the location, seizure, and recovery of abducted, concealed, or detained minor children, and in the enforcement of any child support obligation or to the extent required under the state plan under Section 11475.2 of this code and Section 1650 of the Code of Civil Procedure Chapter 6 (commencing with Section 4800) of Part 5 of Division 9 of the Family Code,~~ spousal support orders and in the location of parents or putative parents, irrespective of whether the children are or are not receiving aid to families with dependent children, and shall, on request, supply the district attorney of any county in this state or the California Parent Locator Service with all information on hand relative to the location, income, or property of any parents, putative parents, spouses, or former spouses, notwithstanding any other provision of law making the information confidential, and with all information on hand relative to the location and prosecution of any person who has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid for a child under this chapter.

**Comment.** Section 11478 [as amended by 1992 Cal. Stat. ch. 1192, § 1] to substitute a reference to the Family Code provisions that replaced former Civil Code Sections 4604 and 4605 and former Code of Civil Procedure Section 1650. A reference to the Uniform Reciprocal Enforcement of Support Act, now in the Family Code, has been substituted for the reference to former Code of Civil Procedure Section 1650, which merely provided the short title for the uniform act. The substituted reference in Section 11478 includes the entire uniform act.

#### **Welf. & Inst. Code § 11478.1 (technical amendment). Confidentiality of records**

SEC. \_\_\_\_\_. Section 11478.1 of the Welfare and Institutions Code is amended to read:

11478.1. (a) It is the intent of the Legislature to protect individual rights of privacy, and to facilitate and enhance the effectiveness of the child and spousal support enforcement and child abduction and recovery programs, by ensuring the confidentiality of support enforcement and child abduction records, and to thereby encourage the full and frank disclosure of information relevant to all of the following:

(1) The establishment or maintenance of parent and child relationships and support obligations.

(2) The enforcement of the child support liability of absent parents.

(3) The enforcement of spousal support liability of the spouse or former spouse to the extent required by the state plan under Section 11475.2 of this code and Section 1650 of the Code of Civil Procedure Chapter 6 (commencing with Section 4800) of Part 5 of Division 9 of the Family Code.

(4) The location of absent parents.

(5) The location of parents and children abducted by them.

(b) Except as provided in subdivision (c), all files, applications, papers, documents, and records established or maintained by any public entity pursuant to the administration and implementation of the child and spousal support enforcement program established pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United State Code and this article, shall be confidential, and shall not be open to examination or released for disclosure for any purpose not directly connected with the administration of the child and spousal support enforcement program. No public entity shall disclose any file, application, paper, document, or record, or the information contained therein, except as expressly authorized by this section.

(c) Disclosure of the information described in subdivision (b) is authorized as follows:

(1) All files, applications, papers, documents and records as described in subdivision (b) shall be available and may be used by a public entity for all administrative, civil, or criminal investigations, actions, proceedings, or prosecutions conducted in connection with the administration of the child and spousal support enforcement program approved under Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United State Code, and any other plan or program described in Section 303.21 of Title 45 of the Code of Federal Regulations.

(2) A document requested by a person who wrote, prepared, or furnished the document may be examined by or disclosed to that person or his or her designee.

(3) The payment history of an obligor pursuant to a support order may be examined by or released to the court, the obligor, or the person on whose behalf enforcement actions are being taken or that person's designee.

(4) Public records subject to disclosure under the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of the Government Code) may be released.

(5) After a noticed motion and a finding by the court, in a case in which enforcement actions are being taken, that release or discharge to the obligor is required by due process of law, the court may order a public entity, which possesses an application, paper, document, or record as described in subdivision (b) to make that item available to the obligor for examination or copying, or to disclose to the obligor the contents of that item. Article 9 (commencing with Section 1040) of Chapter 4 of Division 3 of the Evidence Code shall not be applicable to proceedings under this part.

(6) To the extent not prohibited by federal law or regulation, information indicating the existence or imminent threat of a crime against a minor child, or location of a concealed, detained, or abducted child or the location of the concealing, detaining, or abducting person, may be disclosed to any appropriate law enforcement agency, or to any state or county child protective agency, or may be used in any judicial proceedings to prosecute that crime or to protect the child.

(7) The social security number, most recent address, and the place of employment of the absent parent may be released to an authorized person as defined in Section 653(c) of Title 42 of the United States Code, only if the authorized person has filed a request for the information, and only if the information has been provided to the California Parent Locator Service by the federal Parent Locator Service pursuant to Section 653 of Title 42 of the United States Code.

(d)(1) “Administration and implementation of the child and spousal support enforcement program,” as used in this section, means the carrying out of the state and local plans for establishing, modifying, and enforcing child support obligations, enforcing spousal support orders, and determining paternity pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article.

(2) For purposes of this section, “obligor” means any person owing a duty of support.

(3) As used in this chapter, “putative parent” shall refer to any person reasonably believed to be the parent of a child for whom the district attorney is attempting to establish paternity or establish, modify, or enforce support pursuant to Section 11475.1.

(e) Any person who willfully, knowingly, and intentionally violates this section is guilty of a misdemeanor.

(f) Nothing in this section shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if that information is required to be kept confidential by the federal law or regulations relating to the program.

(g) Except as provided in this subdivision, all files, applications, papers, documents, and records, established or maintained by any public entity for the

purpose of locating an abducted child, locating a person who has abducted a child, or prosecution of a person who has abducted a child shall be confidential, and shall not be open to examination or released for disclosure for any purpose not directly connected with locating the abducted child or abducting person or prosecution of the abducting person. No public entity shall disclose any file, application, paper, document, or record described in this section, or the information contained therein, except as follows:

(1) All files, applications papers, documents, and records as described in subdivision (b) shall be available and may be used by a public entity for all administrative, civil, or criminal investigations, actions, proceedings, or prosecution conducted in connection with the child abduction or prosecution of the abducting person.

(2) A document requested by a person who wrote, prepared, or furnished the document may be examined by or disclosed to that person or his or her designee.

(3) Public records subject to disclosure under the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) may be released.

(4) After a noticed motion and a finding by the court, in a case in which enforcement actions are being taken, that release or disclosure is required by due process of law, the court may order a public entity that possesses an application, paper, document, or record described in this subdivision to make that item available to the obligor for examination or copying, or to disclose to an appropriate person the contents of that item. Article 9 (commencing with Section 1040) of Chapter 4 of Division 8 of the Evidence Code shall not be applicable to proceedings under this part.

(5) To the extent not prohibited by federal law or regulation, information indicating the existence or imminent threat of a crime against a minor child, or location of a concealed or abducted child or the location of the concealing or abducting person, may be disclosed to any appropriate law enforcement agency, or to any state or county child protective agency, or may be used in any judicial proceedings to prosecute that crime or to protect the child.

**Comment.** Subdivision (a) of Section 11478.1 [as amended by 1992 Cal. Stat. ch. 1192, § 2] is amended to substitute references to the provisions of the Family Code that replaced former Section 1650 of the Code of Civil Procedure. A reference to the Uniform Reciprocal Enforcement of Support Act, now in the Family Code, has been substituted for the reference to former Code of Civil Procedure Section 1650, which merely provided the short title for the uniform act. The substituted reference in Section 11478.1 includes the entire uniform act.

**Welf. & Inst. Code § 11478.5 (technical amendment). Parent Locator Service**

SEC. \_\_\_\_\_. Section 11478.5 of the Welfare and Institutions Code is amended to read:

11478.5. (a) There is in the Department of Justice the California Parent Locator Service and Central Registry which shall collect and disseminate all of the following, with respect to any parent, putative parent, spouse, or former spouse:



- (1) The full and true name of the parent together with any known aliases.
- (2) Date and place of birth.
- (3) Physical description.
- (4) Social security number.
- (5) Employment history and earnings.
- (6) Military status and Veterans Administration or military service serial number.
- (7) Last known address, telephone number, and date thereof.
- (8) Driver's license number, driving record, and vehicle registration information.
- (9) Criminal, licensing, and applicant records and information.
- (10) (A) Any additional location, asset, and income information, including income tax return information obtained pursuant to Section 19285.1 of the Revenue and Taxation Code, and the address, telephone number, and social security information obtained from a public utility that may be of assistance in locating the parent, putative parent, abducting, concealing, or detaining parent, spouse, or former spouse, in establishing a parent and child relationship, in enforcing the child support liability of the absent parent, or enforcing the spousal support liability of the spouse or former spouse to the extent required by the state plan pursuant to Section 11475.2.

(B) For purposes of this subdivision "income tax return information" means all of the following regarding the taxpayer:

- (i) Assets.
- (ii) Credits.
- (iii) Deductions.
- (iv) Exemptions.
- (v) Identity.
- (vi) Liabilities.
- (vii) Nature, source, and amount of income.
- (viii) Net worth.
- (ix) Payments.
- (x) Receipts.
- (xi) Address.
- (xii) Social security number.

(b) To effectuate the purposes of this section, the California Parent Locator Service and Central Registry shall, to the extent necessary, utilize the federal Parent Locator Service, and may request and shall receive, from all departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, and those entities shall provide, that assistance and data which will enable the Department of Justice and public agencies to carry out their powers and duties to locate the parents, spouses, and former spouses, and to identify their assets, to establish a parent and child relationship, and to enforce their liability for child or spousal support, and for any other obligations incurred on behalf of their children, and to any district attorney in fulfilling the duties prescribed in Sections 4604 and 4605 of the Civil Chapter 8 (commencing with Section 3130) of Part 2 of

Division 8 of the Family Code and Section 270 of the Penal Code, relating to abducted, concealed, or detained children.

(c)(1) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry may request and shall receive from public utilities, as defined in Section 216 of the Public Utilities Code, customer service information, including the full name, address, telephone number, date of birth, and social security number of customers of the public utility, to the extent that this information is stored within the computer data base of the public utility.

(2) In order to protect the privacy of utility customers, a request to a public utility for customer service information pursuant to this section shall meet the following requirements:

(A) Be submitted to the public utility in writing, on a transmittal document prepared by the California Parent Locator Service and Central Registry and approved by all of the public utilities.

(B) Have the signature of a representative authorized by the California Parent Locator Service and Central Registry.

(C) Contain at least three of the following data elements regarding the person sought:

(i) First and last name, and middle initial, if known.

(ii) Social security number.

(iii) Driver's license number.

(iv) Birth date.

(v) Last known address.

(vi) Spouse's name.

(D) The California Parent Locator Service and Central Registry shall ensure that each public utility has at all times a current list of the names of persons authorized to request customer service information.

(E) The California Parent Locator Service and Central Registry shall ensure that customer service information supplied by a public utility is applicable to the person who is being sought before releasing the information pursuant to subdivision (d).

(3) The public utility may charge a fee to the California Parent Locator Service and Central Registry for each search performed pursuant to this subdivision to cover the actual costs to the public utility for providing this information.

(4) No public utility, or official or employee thereof, shall be subject to criminal or civil liability for the release of customer service information as authorized by this subdivision.

(d) Notwithstanding Section 14202 of the Penal Code, any records established pursuant to this section shall be disseminated only to the Department of Justice, the Central Registry of this state and other states as defined by federal law and regulations, a district attorney of any county in this state, locator services of other

states as defined by federal law and regulations, and the federal Parent Locator Service and official child support enforcement agencies.

(e)(1) At no time shall any information received by the California Parent Locator Service and Central Registry be disclosed to any person, agency, or other entity, other than those persons, agencies, and entities specified pursuant to Section 11478, this section, or any other provision of law.

(2) This subdivision shall not otherwise affect discovery between parties in any action to establish, modify, or enforce child, family, or spousal support, that relates to custody or visitation.

(f)(1) The Department of Justice, in consultation with the State Department of Social Services, shall promulgate rules and regulations to facilitate maximum and efficient use of the California Parent Locator Service and Central Registry.

(2) The Department of Justice, in consultation with the State Department of Social Services and the Public Utilities Commission, shall develop procedures for obtaining the information described in subdivision (c) from public utilities, and for compensating the public utilities for providing that information.

(g) The State Department of Social Services and the Department of Justice shall implement the provisions of this section regarding public utilities, as defined by Section 216 of the Public Utilities Code, only where there is a reasonable likelihood that the cost of obtaining customer service information from public utilities pursuant to this section would be less than the additional collections obtained through use of that information.

(h) The California Parent Locator Service and Central Registry may charge a fee not to exceed eighteen dollars (\$18) for any service it provides pursuant to this section that is not performed or funded pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

(i) This section shall be construed in a manner consistent with the other provisions of this article.

**Comment.** Subdivision (b) of Section 11478.5 [as amended by 1992 Cal. Stat. ch. 1192, § 3] to substitute a reference to the Family Code provisions that replaced former Civil Code Sections 4604 and 4605.



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## EXHIBIT 22

### AB 568 (Support)

*Staff Note.* The draft legislation in this exhibit would restore a conforming change in AB 2641 (1992 Cal. Stat. ch. 163, § 30), which was chaptered-out by AB 568 (1992 Cal. Stat. ch. 718, § 4), would repeal a section that was repealed by AB 2650 (1992 Cal. Stat. ch. 162, § 2), but chaptered-out in part by AB 568 (1992 Cal. Stat. ch. 718, § 1), and would make conforming changes in the Family Code.

#### **Civ. Code § 196.5 (repealed). Duration of duty of child support**

SEC. \_\_\_\_\_. Section 196.5 of the Civil Code is repealed:

~~196.5. The duty imposed by Section 196 shall continue to exist as to any unmarried child who has attained the age of 18 years, is a full-time high school student, and who is not self-supporting, until such time as he or she completes the 12th grade or attains the age of 19 years, whichever first occurs. This obligation may be enforced in the manner described in Section 196a.~~

~~This section does not apply to support agreements made or judgments entered before March 4, 1972. Nothing in this section shall be interpreted so as to limit a parent's ability to agree to provide additional support or to limit the court's power to inquire whether such an agreement has been made.~~

**Comment.** Former Section 196.5 [as amended by 1992 Cal. Stat. ch. 718, § 2] is continued without substantive change in Family Code Sections 3901 and 4000. See Fam. Code §§ 3901, 4000, & Comments.

#### **Civ. Code § 4384.5 (repealed). Exception from renewal requirement**

SEC. \_\_\_\_\_. Section 4384.5 of the Civil Code is repealed.

~~4384.5. Notwithstanding any other provision of law, a judgment for child or spousal support, including a judgment for reimbursement or other arrearages, is exempt from any requirement that judgments be renewed. A judgment for child or spousal support, including all lawful interest and penalties computed thereon, is enforceable until paid in full.~~

**Comment.** Former Section 4384.5 [as added by 1992 Cal. Stat. ch. 718, § 3] is continued in Family Code Section 4502 without substantive change.

#### **Code Civ. Proc. § 683.130 (technical amendment). Application for renewal of judgment**

SEC. \_\_\_\_\_. Section 683.130 of the Code of Civil Procedure is amended to read:

683.130. (a) In the case of a lump-sum money judgment or a judgment for possession or sale of property, the application for renewal of the judgment may be filed at any time before the expiration of the 10-year period of enforceability provided by Section 683.020 or, if the judgment is a renewed judgment, at any

time before the expiration of the 10-year period of enforceability of the renewed judgment provided by Section 683.120.

(b) Except as otherwise specified provided in subdivisions subdivision (c) and ~~(d)~~, in the case of a money judgment payable in installments, the application for renewal of the judgment may be filed:

(1) If the judgment has not previously been renewed, at any time as to past due amounts that at the time of filing are not barred by the expiration of the 10-year period of enforceability provided by Sections 683.020 and 683.030.

(2) If the judgment has previously been renewed, within the time specified by subdivision (a) as to the amount of the judgment as previously renewed and, as to any past due amounts that became due and payable after the previous renewal, at any time before the expiration of the 10-year period of enforceability provided by Sections 683.020 and 683.030.

(c) ~~Notwithstanding any other provision of law, Notwithstanding subdivisions (a) and (b),~~ a judgment for child, family, or spousal support, including a judgment for reimbursement that includes, but is not limited to, reimbursement arising under Section 11350 of the Welfare and Institutions Code or other arrearages, is ~~exempt from any requirement that judgments be renewed. A judgment for child or spousal support, including all lawful interest and penalties computed thereon, is enforceable until paid in full~~ enforceable as provided in Section 4502 of the Family Code.

**Comment.** Subdivision (c) of Section 683.130 [as amended by 1992 Cal. Stat. ch. 718, § 4] is amended to substitute a cross-reference to the substantive rule in Family Code Section 4502. This is not a substantive change. Subdivision (c) is also amended to make clear that it applies to family support judgments. See Fam. Code § 4501 (enforcement of family support).

**Staff Note.** *Rather than duplicating this rule, we have taken the approach of incorporating the rule in Family Code Section 4502. This is preferable because if the rule is stated in two places, one version may be amended in the future without a consistent amendment in the other version. The staff reluctantly has continued the reference to Welfare and Institutions Code Section 11350 in this section even though it appears to be included in the general language in Family Code Section 4502. We do this out of an abundance of caution because the reference was inserted into the general rule in Code of Civil Procedure Section 683.130 by way of a bill amendment on August 13, 1992. The specific reference was not inserted into the general rule in Civil Code Section 4384.5. We propose to revisit this question later, particularly if the Commission undertakes a revision of the district attorney support enforcement statutes, of which Section 11350 is a part.*

**Fam. Code § 3901 (technical amendment). Duration of child support duty**

SEC. \_\_\_\_\_. Section 3901 of the Family Code is amended to read:

3901. (a) The duty of support imposed by Section 3900 continues as to an unmarried child who has attained the age of 18 years, is a full-time high school student, and ~~resides with a parent who is not self-supporting~~, until the time the child completes the 12th grade or attains the age of 19 years, whichever occurs first.

(b) Nothing in this section limits a parent’s ability to agree to provide additional support or the court’s power to inquire whether an agreement to provide additional support has been made.

**Comment.** Section 3901 continues the first and last sentences of former Civil Code Section 196.5 [as amended by 1992 Cal. Stat. ch. 718, § 2] and the first and last sentences of former Civil Code Section 4704.5 without substantive change. The transitional provisions found in the former sections — that the section does not apply to support agreements made or judgments entered before March 4, 1972 — have been omitted as obsolete.

This duty may be enforced in the manner described in Section 4000 (civil action against parent to enforce duty of support). For provisions relating to enforcement of support orders, see Part 5 (commencing with Section 4500). See also Sections 3580-3587 (child support agreements), 3600-3604 (child support during pendency of proceeding), 3620-3634 (expedited child support order).

**Fam. Code § 4502 (repealed). Renewal of judgment for support**

SEC. \_\_\_\_\_. Section 4502 of the Family Code is repealed.

~~4502. A party may renew a judgment for child, family, or spousal support as provided in Article 2 (commencing with Section 683.110) of Chapter 3 of Title 9 of Part 2 of the Code of Civil Procedure.~~

**Interim Comment.** This section is superseded by a new Section 4502.

**Fam. Code § 4502 (added). Exception from renewal requirement**

SEC. \_\_\_\_\_. Section 4502 is added to the Family Code, to read:

4502. Notwithstanding any other provision of law, a judgment for child, family, or spousal support, including a judgment for reimbursement or other arrearages, is exempt from any requirement that judgments be renewed. A judgment for child, family, or spousal support, including all lawful interest and penalties computed thereon, is enforceable until paid in full.

**Comment.** Section 4502 continues former Civil Code Section 4384.5 [as added by 1992 Cal. Stat. ch. 718, § 3] without substantive change. The reference to “family” support is new and is consistent with Section 4501. As to lack of diligence in seeking enforcement of a support order, see Section 291. See also Code Civ. Proc. § 683.310 (except as provided in Family Code Section 4502, Code of Civil Procedure sections on enforcement and renewal of judgments inapplicable to judgment made or entered under Family Code).





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## EXHIBIT 23

### AB 2628 (Domestic Violence)

***Staff Note.** The draft legislation in this exhibit would make a conforming change in Penal Code Section 977 as amended by AB 2628 (1992 Cal. Stat. ch. 863, § 1.5), which refers to a section repealed by AB 2650 (1992 Cal. Stat. ch. 162, § 5), and would make conforming changes in the Family Code.*

#### **Penal Code § 977 (technical amendment). Appearance in misdemeanors**

SEC. \_\_\_\_\_. Section 977 of the Penal Code is amended to read:

977. (a) (1) In all cases in which the accused is charged with a misdemeanor only, he or she may appear by counsel only, except as provided in paragraph (2). If the accused agrees, the arraignment and plea may be by video, as provided by subdivision (c).

(2) When the accused is charged with a misdemeanor offense involving domestic violence, as defined in Section 542 [6211] of the Family Code of ~~Civil Procedure~~, or a misdemeanor violation of Section 273.6, upon a satisfactory showing of necessity, the court may order through counsel that the accused be personally present in court for the purpose of the service of an order under Section 136.2, unless the court determines that the defendant will make another court appearance within a reasonable period of time and the defendant could be served with a restraining order at that time.

(b) (1) In all cases in which a felony is charged, the accused shall be present at the arraignment, at the time of plea, during the preliminary hearing, during those portions of the trial when evidence is taken before the trier of fact, and at the time of the imposition of sentence. The accused shall be personally present at all other proceedings unless he or she shall, with leave of court, execute in open court, a written waiver of his or her right to be personally present, as provided by paragraph (2). If the accused agrees, the arraignment and plea may be by video, as provided by subdivision (c).

(2) The accused may execute a written waiver of his or her right to be personally present, approved by his or her counsel, and the waiver shall be filed with the court. However, the court may specifically direct the defendant to be personally present at any particular proceeding or portion thereof. The waiver shall be substantially in the following form:

“WAIVER OF DEFENDANT’S PERSONAL PRESENCE”

“The undersigned defendant, having been advised of his or her right to be present at all stages of the proceedings, including, but not limited to, presentation of and arguments on questions of fact and law, and to be confronted by and cross-examine all witnesses, hereby waives the right to be present at the hearing of any motion or other proceeding in this cause. The undersigned defendant hereby requests the court to proceed during every absence of the defendant that the court may permit pursuant to this waiver, and hereby agrees that his or her interest is represented at all times by the presence of his or her attorney the same as if the defendant were personally present in court, and further agrees that notice to his or her attorney that his or her presence in court on a particular day at a particular time is required is notice to the defendant of the requirement of his or her appearance at that time and place.

(c) The court may permit the initial arraignment in municipal or superior court of defendants held in any state, county, or local facility within the county on felony or misdemeanor charges, except for those defendants who were indicted by a grand jury, to be conducted by two-way electronic audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. If the defendant is represented by counsel, the attorney shall be present with the defendant, and may enter a plea, during the arraignment. The defendant shall have the right to make his or her plea while physically present in the courtroom if he or she so requests. If the defendant decides not to exercise the right to be physically present in the courtroom, he or she shall execute a written waiver of that right. A judge may order a defendant’s personal appearance in court for arraignment. In a misdemeanor case, a judge may, pursuant to this subdivision, accept a plea of guilty or no contest from a defendant who is not physically in the courtroom. In a felony case, a judge may, pursuant to this subdivision, accept a plea of guilty or no contest from a defendant who is not physically in the courtroom if the parties stipulate thereto.

**Comment.** Section 977 [as amended by 1992 Cal. Stat. ch. 863, § 1.500] is amended to substitute a reference to the Family Code provision that replaced the relevant part of former Code of Civil Procedure Section 542.

**Staff Note.** *The cross-reference is to the section number as proposed in the tentative recommendation Family Code: Reorganization of Domestic Violence Provisions (September 1992).*

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## EXHIBIT 24

### AB 3456 (Adoption)

*Staff Note.* The draft legislation in this exhibit would repeal a section that was repealed by AB 2650 (1992 Cal. Stat. ch. 162, § 2), but chaptered-out in part by AB 3456 (1992 Cal. Stat. ch. 667, § 1), and would make conforming changes in the Family Code.

#### **Civ. Code § 222.10 (repealed). Relinquishment of child for adoption**

SEC. \_\_\_\_\_. Section 222.10 of the Civil Code is repealed.

~~222.10. The birth father or mother may relinquish a child to the department or a licensed adoption agency for adoption by a written statement signed before two subscribing witnesses and acknowledged before an authorized official of the department or the licensed adoption agency. The relinquishment, when reciting that the person making it is entitled to the sole custody of the child, shall, when duly acknowledged before the officer, be prima facie evidence of the right of the person making it to the sole custody of the right of the person making it to the sole custody of the child and the person's sole right to relinquish.~~

~~(b) A birth parent who is a minor shall have the right to relinquish his or her child for adoption to the department or a licensed adoption agency, and the relinquishment shall not be subject to revocation by reason of the birth parent's minority.~~

~~(c) If a birth father or mother of a child resides outside the State of California and the child is being cared for and is placed for adoption by the department or a licensed adoption agency, the birth father or mother may relinquish the child to the department or licensed adoption agency by a written statement signed by the birth father or mother before a notary on a form prescribed by the department, and previously signed by an authorized official of the department or licensed adoption agency, which signifies the willingness of the department or licensed adoption agency to accept the relinquishment.~~

~~(d) The relinquishment authorized by this section shall be of no effect until a certified copy is filed with the department. Upon filing with the department, the relinquishment is final and may be rescinded only by the mutual consent of the department or licensed adoption agency to which the child was relinquished and the birth parent or parents relinquishing the child.~~

~~(e) The birth parent may name in the relinquishment the person or persons with whom the birth parent intends that placement of the child for adoption be made by the department or licensed adoption agency.~~

~~(f) Notwithstanding subdivision (d), if the relinquishment names the person or persons with whom placement by the department or licensed adoption agency is~~

~~intended and the child is not placed in the home of the named person or persons or the child is removed from the home prior to the granting of the adoption, the department or licensed adoption agency shall mail a notice by certified mail, return receipt requested, to the birth parent signing the relinquishment within 72 hours of the decision not to place the child for adoption or the decision to remove the child from the home.~~

~~(g) The birth parent shall have 30 days from the date on which the notice described in subdivision (f) was mailed to rescind the relinquishment.~~

~~(1) If the birth parent requests rescission during the 30-day period, the department or licensed adoption agency shall rescind the relinquishment.~~

~~(2) If the birth parent does not request rescission during the 30-day period, the department or licensed adoption agency shall select adoptive parents for the child.~~

~~(3) If the birth parent and the department or adoption agency wish to identify a different person or persons during the 30-day period with whom the child is intended to be placed, the initial relinquishment shall be rescinded and a new relinquishment identifying the person or persons completed.~~

~~(h) The filing of the relinquishment with the department shall terminate all parental rights and responsibilities with regard to the child, except as provided in subdivisions (f) and (g).~~

**Comment.** Former Section 222.10 [as amended by 1992 Cal. Stat. ch. 667, § 1] is continued in Family Code Section 8700 without substantive change.

**Fam. Code § 8700 (technical amendment). Relinquishment of child to department or licensed adoption agency**

SEC. \_\_\_\_\_. Section 8700 of the Family Code is amended to read:

8700. (a) Either birth parent may relinquish a child to the department or a licensed adoption agency for adoption by a written statement signed before two subscribing witnesses and acknowledged before an authorized official of the department or licensed adoption agency. The relinquishment, when reciting that the person making it is entitled to the sole custody of the child and acknowledged before the officer, is prima facie evidence of the right of the person making it to the sole custody of the child and the person's sole right to relinquish.

(b) A birth parent who is a minor has the right to relinquish the birth parent's child for adoption to the department or a licensed adoption agency, and the relinquishment is not subject to revocation by reason of the minority.

(c) If a birth parent resides outside this state and the child is being cared for and is placed for adoption by the department or a licensed adoption agency, the birth parent may relinquish the child to the department or agency by a written statement signed by the birth parent before a notary on a form prescribed by the agency department, and previously signed by an authorized official of the department or agency, which signifies the willingness of the department or agency to accept the relinquishment.

(d) The relinquishment authorized by this section has no effect until a certified copy is filed with the department. Upon filing with the department, the relinquishment is final and may be rescinded only by the mutual consent of the department or licensed adoption agency to which the child was relinquished and the birth parent or parents relinquishing the child.

(e) The birth parent may name in the relinquishment the person or persons with whom the birth parent intends that placement of the child for adoption be made by the department or licensed adoption agency.

(f) Notwithstanding subdivision (d), if the relinquishment names the person or persons with whom placement by the department or licensed adoption agency is intended and the child is not placed in the home of the named person or persons or the child is removed from the home prior to the granting of the adoption, the department or agency shall mail a notice by certified mail, return receipt requested, to the birth parent signing the relinquishment within 72 hours of the decision not to place the child for adoption or the decision to remove the child from the home.

(g) The birth parent has 30 days from the date on which the notice described in subdivision (f) was mailed to rescind the relinquishment.

(1) If the birth parent requests rescission during the 30-day period, the department or licensed adoption agency shall rescind the relinquishment.

(2) If the birth parent does not request rescission during the 30-day period, the department or licensed adoption agency shall select adoptive parents for the child.

(3) If the birth parent and the department or licensed adoption agency wish to identify a different person or persons during the 30-day period with whom the child is intended to be placed, the initial relinquishment shall be rescinded and a new relinquishment identifying the person or persons completed.

(h) The filing of the relinquishment with the department terminates all parental rights and responsibilities with regard to the child, except as provided in subdivisions (f) and (g).

**Comment.** Section 8700 continues former Civil Code Section 222.10 [as amended by 1992 Cal. Stat. ch. 667, § 1] without substantive change. Throughout this section, “birth parent” has been substituted for “birth father or mother.” See Section 8512 (“birth parent” defined). The word “duly,” formerly preceding “acknowledged,” has been omitted as surplus. See also Sections 8518 (“department” defined), 8530 (“licensed adoption agency” defined).

For related provisions, see Sections 8809, 8814 (consent to independent adoption), 9003 (consent to stepparent adoption).

**Interim Comment.** The section is amended to include the new language added to Civil Code Section 222.10 by 1992 Cal. Stat. ch. 667. The phrase “department or licensed adoption agency” is used only once per subdivision or paragraph; after the first usage, the phrase “department or agency” is used, for consistency with the style of the adoption division. Note that the subdivision breakdown of the new statute was anticipated in the drafting of Section 8700.



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## EXHIBIT 25

### SB 1885 (STRS)

***Staff Note.** The draft legislation in this exhibit would correct cross-references to sections repealed by AB 2650 (1992 Cal. Stat. ch. 162, § 3) in sections added by SB 1885 (1992 Cal. Stat. ch. 1166, §§ 7, 8.4, 8.5).*

*The text of the sections in this exhibit is based on the August 6 version of the bill and must be double-checked against August 22 version.*

#### **Educ. Code § 22253 (technical amendment). Election of disability and death benefit coverage under STRS**

SEC. \_\_\_\_\_. Section 22253 of the Education Code is amended to read:

22253. A member's election of disability or death benefit coverage shall meet all of the following requirements:

(a) The member is eligible to participate in the election pursuant to Section 22252.

(b) The election is filed on a form provided by the system.

(c) Except as provided in Section 22253.5, the election document contains the signature of the spouse of the member, unless the member declares, in writing, under penalty of perjury, that one of the following conditions exists:

(1) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse.

(2) The spouse is incapable of executing the acknowledgment because of an incapacitating mental or physical condition.

(3) The member and spouse have executed a marriage settlement agreement pursuant to ~~Chapter 6 (commencing with Section 5133) of Title 8 of Part 5 of Division 4 of the Civil~~ Family Code which makes the community property law inapplicable to the marriage.

(4) The member is not married.

(5) The current spouse has no identifiable community property interest in the future benefits.

(d) The election document is signed and dated during the 180-day election period specified in Section 22251.

(e) The signatures of the member and the member's spouse on the election document are witnessed by a third party who is at least 18 years of age.

(f) The election document is received in the system's office in Sacramento within 30 days after the date of signature but no later than May 1, 1993.

**Comment.** Subdivision (c)(3) of Section 22253 [as added by 1992 Cal. Stat. ch. 1166, § 7] is amended to substitute a reference to the Family Code provisions that replaced the former Civil Code provisions. The provisions referred to in Section 22253 (Civ. Code § 5133 *et seq.*)

were repealed in 1985 and replaced by former Civil Code Section 5200 *et seq.* See 1985 Cal. Stat. ch. 1315, §§ 2-3.

**Educ. Code § 22253.5 (technical amendment). Action to enforce signature or waiver**

SEC. \_\_\_\_\_. Section 22253.5 of the Education Code is amended to read:

22253.5. If a spouse refuses to sign the election document, the member may bring an action in court to enforce the spousal signature requirement or to waive the spousal signature requirement. Either party may bring an action pursuant to ~~5125.1 of the Civil~~ 1101 of the Family Code to determine the rights of the party.

**Comment.** Section 22253.5 [as added by 1992 Cal. Stat. ch. 1166, § 7] is amended to substitute a reference to the Family Code section that replaced former Civil Code Section 5125.1.

**Educ. Code § 22401.6 (technical amendment). Election of disability and death benefit coverage under STRS**

SEC. \_\_\_\_\_. Section 22401.6 of the Education Code is amended to read:

22401.6. (a) Except as provided in Section 22401.7, the signature of the spouse of a member or retirant shall be required on any application for, or cancellation of, an unmodified allowance, the election or cancellation of an option, request for a refund of the member's accumulated retirement contributions or accumulated annuity deposit contributions, or other requests related to the selection of benefits by a member or retirant in which a spousal interest may be present, unless the member or retirant declares, in writing under penalty of perjury, that one of the following conditions exists:

(1) The member or retirant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse.

(2) The spouse is incapable of executing the acknowledgment because of an incapacitating mental or physical condition.

(3) The member or retirant and spouse have executed a marriage settlement agreement pursuant to ~~Chapter 6 (commencing with Section 5133) of Title 8 of Part 5 of Division 4 of the Civil~~ Family Code which makes the community property law inapplicable to the marriage.

(4) The member is not married.

(5) The current spouse has no identifiable community property interest in the benefit.

(b) This section is not applicable to an application for a disability allowance.

(c) The sole purpose of this section is to provide for spousal protection in the selection of specified benefits made by a member or retirant.

**Comment.** Subdivision (a)(3) of Section 22401.6 [as added by 1992 Cal. Stat. ch. 1166, § 8.4] is amended to substitute a reference to the Family Code provisions that replaced the former Civil Code provisions. The provisions referred to in Section 22253 (Civ. Code § 5133 *et seq.*) were repealed in 1985 and replaced by former Civil Code Section 5200 *et seq.* See 1985 Cal. Stat. ch. 1315, §§ 2-3.



**Educ. Code § 22401.7 (technical amendment). Action to enforce signature or waiver**

SEC. \_\_\_\_\_. Section 22401.7 of the Education Code is amended to read:

22401.7. If a spouse refuses to sign an application, as set forth in Section 22401.6, the member or retirant may bring an action in court to enforce the spousal signature requirement or to waive the spousal signature requirement. Either party may bring an action pursuant to Section ~~5125.1 of the Civil~~ 1101 of the Family Code to determine the rights of the party.

**Comment.** Section 22401.7 [as added by 1992 Cal. Stat. ch. 1166, § 8.5] is amended to substitute a reference to the Family Code section that replaced former Civil Code Section 5125.1.



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## EXHIBIT 26

### SB 2016 (Emancipation of Minors)

*Staff Note.* The draft legislation in this exhibit would repeal sections that were repealed by AB 2650 (1992 Cal. Stat. ch. 162, § 1), but chaptered-out in part by SB 2016 (1992 Cal. Stat. ch. 821), and would make conforming changes in the Family Code.

#### **Civ. Code § 64 (repealed). Declaration of emancipation**

SEC. \_\_\_\_\_. Section 64 of the Civil Code is repealed.

64. (a) A minor may petition the superior court of the county in which he or she resides or is temporarily domiciled, for a declaration of emancipation. The petition shall be verified and shall set forth with specificity all of the following facts:

(1) That he or she is at least 14 years of age.

(2) That he or she willingly lives separate and apart from his or her parents or legal guardian with the consent or acquiescence of his or her parents or legal guardian.

(3) That he or she is managing his or her own financial affairs; and as evidence of this, the minor shall complete and attach a declaration of income and expenses as provided in Section 1285.50 of the California Rules of Court.

(4) That the source of his or her income is not derived from any activity declared to be a crime by the laws of the State of California or the laws of the United States.

(b) (1) Before the petition is heard, such notice as the court deems reasonable shall be given to the minor's parents, guardian, or other person entitled to the custody of the minor, or proof made to the court that their addresses are unknown, or that for other reasons the notice cannot be given. The clerk of the court shall also notify the district attorney of the county where the matter is to be heard of the proceeding. The court shall sustain the petition if it finds that the minor is a person described by subdivision (a) and that emancipation would not be contrary to his or her best interests. The notice shall include a form whereby the minor's parents, guardian, or other person entitled to the custody of the minor may give their written consent to the petitioner's emancipation and shall include a warning that a court may rescind the emancipation declaration and the parents may become liable for support and medical support pursuant to Sections 11350, 11350.1, 11475.1, and 11490 of the Welfare and Institutions Code and Section 4700 of the Civil Code.

(2) When a minor is a ward or dependent child of the court, notice shall be given to the probation department.

~~(c) If the petition is sustained, the court shall forthwith issue a declaration of emancipation, which shall be filed by the county clerk. Upon application of the emancipated minor, the Department of Motor Vehicles shall enter identifying information in its law enforcement computer network, and the fact of emancipation shall be stated on the department's identification cards issued to emancipated minors.~~

~~(d) If the petition is denied, the minor shall have a right to file a petition for a writ of mandate.~~

~~(e) If the petition is sustained, the parents or guardian shall have a right to file a petition for a writ of mandate, provided they have appeared in the proceeding and opposed the granting of the petition.~~

~~(f) A declaration shall be conclusive evidence that the minor is emancipated.~~

**Comment.** Former Section 64 [as amended by 1992 Cal. Stat. ch. 821, § 1] is continued without substantive change in Family Code Sections 7120-7123. See Comments to these sections.

**Civ. Code § 65 (repealed). Rescission of declaration of emancipation**

SEC. \_\_\_\_\_. Section 65 of the Civil Code is repealed.

~~65. (a) A minor declared emancipated under Section 64 or his or her conservator or the district attorney of the county in which the minor resides may petition the superior court of the county in which the minor resides, to rescind the declaration under Section 64.~~

~~(b) (1) Before the petition is heard, such notice as the court deems reasonable must be given to the minor's parents or guardian or proof made to the court that their addresses are unknown, or that for other reasons such notice cannot be given, however, no liability shall accrue to any parent or guardian not given actual notice, as a result of rescission of the declaration of emancipation, until such parent or guardian is given actual notice.~~

~~(2) The notice to parents shall state that if the declaration of emancipation is rescinded, the parents may be liable to provide support and medical insurance coverage for the child pursuant to Sections 11350, 11350.1, 11475.1, and 11490 of the Welfare and Institutions Code and Section 4700 of the Civil Code.~~

~~(c) The court shall sustain the petition and rescind the declaration of emancipation if it finds that the minor is indigent and has no means of support. The minor may be considered indigent if his or her only source of income is from public assistance benefits. The court shall consider the impact of the rescission of the order of emancipation on the minor and shall find the rescission of the order of emancipation will not be contrary to the best interests of the minor before granting the order to rescind.~~

~~(d) If the petition is sustained, the court shall forthwith issue a court order rescinding the declaration of emancipation granted under Section 64, which shall be filed by the county clerk. Notice shall be sent immediately to the Department of Motor Vehicles which shall remove the information relating to emancipation in~~

~~its law enforcement computer network entered pursuant to subdivision (d) of Section 64. Any identification card issued stating emancipation shall be invalidated.~~

~~(e) Rescission of the declaration of emancipation shall not alter any contractual obligations or rights or any property rights or interests which arose during the period that the declaration was in effect.~~

**Comment.** Former Section 65 [as amended by 1992 Cal. Stat. ch. 821, § 2] is continued without substantive change in Family Code Sections 7130-7132, 7134-7135, and 7143. See Comments to these sections.

**Fam. Code § 7120 (technical amendment). Petition for declaration of emancipation**

SEC. \_\_\_\_\_. Section 7120 of the Family Code is amended to read:

7120. (a) A minor may petition the superior court of the county in which the minor resides or is temporarily domiciled for a declaration of emancipation.

(b) The petition shall set forth with specificity all of the following facts:

(1) The minor is at least 14 years of age.

(2) The minor willingly lives separate and apart from the minor's parents or guardian with the consent or acquiescence of the minor's parents or guardian.

(3) The minor is managing his or her own financial affairs. As evidence of this, the minor shall complete and attach a declaration of income and expenses as provided in Section 1285.50 of the California Rules of Court.

(4) The source of the minor's income is not derived from any activity declared to be a crime by the laws of this state or the laws of the United States.

**Comment.** Section 7120 continues former Civil Code Section 64(a) [as amended by 1992 Cal. Stat. ch. 821, § 1] without substantive change. References to the "legal" guardian have been omitted as surplus. This conforms with terminology in the Probate Code. See Prob. Code §§ 2350(b), 2400(b) ("guardian" defined). The requirement that the petition be verified has been omitted as surplus. See Section 212 (pleadings to be verified).

**Fam. Code § 7121 (technical amendment). Notice of petition for declaration of emancipation**

SEC. \_\_\_\_\_. Section 7121 of the Family Code is amended to read:

7121. (a) Before the petition for a declaration of emancipation is heard, such notice as the court determines is reasonable shall be given to the minor's parents, guardian, or other person entitled to the custody of the minor, or proof shall be made to the court that their addresses are unknown or that for other reasons the notice cannot be given.

(b) The clerk of the court shall also notify the district attorney of the county where the matter is to be heard of the proceeding. If the minor is a ward or dependent child of the court, notice shall be given to the probation department.

(c) The notice shall include a form whereby the minor's parents, guardian, or other person entitled to the custody of the minor may give their written consent to the petitioner's emancipation. The notice shall include a warning that a court may void or rescind the declaration of emancipation and the parents may become

liable for support and medical insurance coverage pursuant to Chapter 2 (commencing with Section 4000) of Part 2 of Division 9 and Sections 11350, 11350.1, 11475.1, and 11490 of the Welfare and Institutions Code.

**Comment.** Section 7121 continues without substantive change the first, second, and fourth sentences of subdivision (b)(1) and subdivision (b)(2) of former Civil Code Section 64 [as amended by 1992 Cal. Stat. ch. 821, § 1].

**Interim Comment.** The language in subdivision (c) concerning the notice has been revised for nearer consistency with the language in Section 7133. As a result, the reference to “medical support” has been changed to “medical insurance coverage.” The amendments to Civil Code Sections 64 and 65 were inconsistent.

**Staff Note.** *Should the reference to voiding the declaration be included in subdivision (c)? The staff would treat voiding and rescission the same for purposes of giving notice. See the Staff Note following Section 7133, infra.*

**Fam. Code § 7132 (technical amendment). Petition to rescind declaration**

SEC. \_\_\_\_\_. Section 7132 of the Family Code is amended to read:

7132. (a) A petition to rescind a declaration of emancipation on the ground that the minor is indigent and has no means of support may be filed by the minor declared emancipated ~~or~~, by the minor’s conservator, or by the district attorney of the county in which the minor resides. The petition shall be filed in the county in which the minor or the conservator resides.

(b) The minor may be considered indigent if the minor’s only source of income is from public assistance benefits. The court shall consider the impact of the rescission of the declaration of emancipation on the minor and shall find the rescission of the declaration of emancipation will not be contrary to the best interest of the minor before granting the order to rescind.

**Comment.** Subdivision (a) of Section 7132 restates former Civil Code Section 65(a) [as amended by 1992 Cal. Stat. ch. 821, § 2] without substantive change, and adds the provision specifying the ground on which the petition is based, drawn from former Civil Code Section 65(c). The reference to the “superior” court has been omitted as surplus. See Section 200 (jurisdiction in superior court). The second sentence of Section 7132 also makes clear that a petition filed by the conservator may be filed either in the county where the minor resides or in the county where the conservator resides.

Subdivision (b) continues the second and third sentences of former Civil Code Section 65(c) [as amended by 1992 Cal. Stat. ch. 821, § 2] without substantive change. The references to an “order of emancipation” have been changed to “declaration of emancipation” for consistency with other sections. See, e.g., Section 7120 (petition for declaration of emancipation).

**Fam. Code § 7133 (technical amendment). Notice**

SEC. \_\_\_\_\_. Section 7133 of the Family Code is amended to read:

7133. (a) Before ~~the~~ a petition under this article is heard, such notice as the court determines is reasonable shall be given to the minor’s parents or guardian, or proof shall be made to the court that their addresses are unknown or that for other reasons the notice cannot be given.

(b) The notice to parents shall state that if the declaration of emancipation is voided or rescinded, the parents may be liable to provide support and medical

insurance coverage for the child pursuant to Chapter 2 (commencing with Section 4000) of Part 2 of Division 9 and Sections 11350, 11350.1, 11475.1, and 11490 of the Welfare and Institutions Code.

(c) No liability accrues to a parent or guardian not given actual notice, as a result of voiding or rescinding the declaration of emancipation, until that parent or guardian is given actual notice.

**Comment.** Section 7133 continues without substantive change former Civil Code Section 65(b) [as amended by 1992 Cal. Stat. ch. 821, § 2] and part of the last sentence of the last paragraph of former Civil Code Section 69. The reference to voiding of the declaration of emancipation in subdivision (b) has been added for consistency with subdivision (c) and with Section 7130 (grounds for voiding or rescinding).

**Interim Comment.** The language in subdivision (b) concerning the notice has been revised for nearer consistency with the language in Section 7121.

**Staff Note.** Should “voiding” be included in subdivision (b)? It seems to make sense, since the parents are potentially liable in either case. However, it may be thought that the parents should only have an interest in the matter if the original declaration was not fraudulent, if the purpose of the notice is so that the parents may somehow oppose the petition for rescission. The staff favors consistency throughout these provisions, and so would treat voiding and rescission the same for purposes of giving notice.





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## EXHIBIT 27

### SB 1680 (Support Computation)

***Staff Note.** The draft legislation in this exhibit would repeal a section that was added to the Family Law Act by SB 1680 (1992 Cal. Stat. ch. 1157, § 1), and make conforming changes in the Family Code.*

#### **Civ. Code § 4395 (repealed). Software used to determine support**

SEC. \_\_\_\_ Chapter 6 (commencing with Section 4395) of Title 1.5 of Part 5 of Division 4 of the Civil Code is repealed.

**Comment.** Chapter 6 (commencing with Section 4395) [as added by 1992 Cal. Stat. ch. 1157, § 1] is continued in Family Code Section 3830 without substantive change.

#### **Fam. Code § 3830 (added). Software used to determine support**

SEC. \_\_\_\_ Chapter 9 (commencing with Section 3830) is added to Part 1 of Division 9 of the Family Code, to read:

#### CHAPTER 9. SOFTWARE USED TO DETERMINE SUPPORT

3830. (a) On and after January 1, 1994, no court shall use any computer software to assist in determining the appropriate amount of child support or spousal support obligations, unless the software conforms to rules of court adopted by the Judicial Council prescribing standards for the software, which shall ensure that it performs in a manner consistent with the applicable statutes and rules of court for determination of child support or spousal support.

(b) The Judicial Council may contract with an outside agency or organization to analyze software to ensure that it conforms to the standards established by the Judicial Council. The cost of this analysis shall be paid by the applicant software producers and fees therefor shall be established by the Judicial Council in an amount that in the aggregate will defray its costs of administering this section.

**Comment.** Section 3830 continues former Civil Code Section 4395 [as added by 1992 Cal. Stat. ch. 1157, § 1] without substantive change.



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## EXHIBIT 28

### AB 3589 (Child Support)

*Staff Note.* The draft legislation in this exhibit would adjust cross-references to sections that were repealed by AB 2650 (1992 Cal. Stat. ch. 162, § 3).

#### **Rev. & Tax. Code § 19001 (technical amendment). Child support delinquency**

SEC. \_\_\_\_\_. Section 19001 of the Revenue and Taxation Code is amended to read:

19001. (a) When a child support delinquency is reported to the State Department of Social Services pursuant to Title 5.5 (~~commencing with Section 4750~~) of Part 5 of Division 4 of the Civil Chapter 4 (~~commencing with Section 4700~~) of Part 5 of Division 9 of the Family Code, the county district attorney reporting that delinquency may refer, pursuant to the guidelines prescribed by the State Department of Social Services and the Franchise Tax Board for purposes of implementing this article, the delinquency to the Franchise Tax Board for collection. For the period from January 1, 1993, to December 31, 1995, inclusive, for purposes of the manageable implementation and evaluation of the program authorized by this article, requests for referral shall only be made from district attorneys representing six counties, selected upon application, which may include two rural counties, two suburban counties, and two urban counties. These counties shall be selected by the State Department of Social Services and the Franchise Tax Board in consultation with county representatives.

(b) (1) When a delinquency is referred to the Franchise Tax Board pursuant to subdivision (a), the amount of the child support delinquency, and any interest accruing under subdivision (c), shall be collected from obligated parents by the Franchise Tax Board in any manner authorized under this part for the collection of a delinquent personal income tax liability.

(2) Any compensation, fee, commission, expense, or any other fee for service incurred by the Franchise Tax Board in the collection of a child support delinquency authorized under this article shall not be an obligation of, or collected from, the obligated parent. A referred child support delinquency shall be final and due and payable to the State of California upon written notice to the obligated parent by the Franchise Tax Board.

(3) For purposes of administering this article:

(A) This chapter and Chapter 21 (commencing with Section 19251) shall apply, except as otherwise provided by this article.

(B) Any services, information, or enforcement remedies available to a district attorney or the Title IV-D agency in collecting support delinquencies or locating absent or noncustodial parents shall be available to the Franchise Tax Board for purposes of collecting child support delinquencies under this article.

(C) A request by the Franchise Tax Board for information from a financial institution shall be treated in the same manner and to the same extent as a request for information from a district attorney referring to a support order pursuant to Section 11475.1 of the Welfare and Institutions Code for purposes of Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code (relating to governmental access to financial records), notwithstanding any other provision of law which is inconsistent or contrary to this paragraph.

(D) “Earnings” may include the items described in ~~subdivision (e) of Section 4390~~ 5206 of the Civil Family Code.

(c) Interest on the delinquency shall be computed pursuant to Section 685.010 of the Code of Civil Procedure and shall be computed from the day the Franchise Tax Board Receives the delinquency from the county. When notice of the amount due, including interest, is mailed by the Franchise Tax Board, and that amount is paid within 10 days after the date of the notice from the Franchise Tax Board, interest shall not be imposed for the period after the date of the notice.

(d) In the event the collection action would cause undue financial hardship to the obligated parent, would threaten the health or welfare of the obligated parent or his or her family, or would cause undue irreparable loss to the obligated parent, the obligated parent may notify the Franchise Tax Board, which shall upon being notified refer the obligated parent to the referring county district attorney, unless the Franchise Tax Board is directed otherwise by the county district attorney for purposes of more effectively administering this article.

(e) (1) In no event shall a collection under this article be construed to be a payment of income taxes imposed under this part.

(2) In the event an obligated parent overpays a liability imposed under this part, the overpayment shall not be credited against any delinquency collected pursuant to this article. In the event an overpayment of a liability imposed under this part is offset and distributed to a referring county district attorney pursuant to Sections 12419.3 and 12419.5 of the Government Code or Section 708.740 of the Code of Civil Procedure, and thereby reduces the amount of the referred delinquency, the referring county district attorney shall immediately notify the Franchise Tax Board of that reduction, unless otherwise directed for purposes of more effectively administering this article.

(f) Except as otherwise provided in this article, any child support delinquency referred to the Franchise Tax Board pursuant to this article shall be treated as a child support delinquency for all other purposes, and any collection action by the county district attorney or the Franchise Tax Board with respect to any delinquency referred pursuant to this article shall have the same priority against

attachment, execution, assignment, or other collection action as is provided by any other provision of state law.

(g) For purposes of this article, “child support” means support of a child, spouse, or family as provided in ~~subdivision (h) of Section 4390~~ 150 of the ~~Civil~~ Family Code.

(h) Nothing in this article shall be construed to modify the tax intercept provisions of Article 8 (commencing with Section 708.710) of Chapter 6 of Division 2 of Part 2 of the Code of Civil Procedure.

(i) The child support collection activities authorized by this article shall not interfere with the primary mission of the Franchise Tax Board to fairly and efficiently administer the Revenue and Taxation Code for which it is responsible.

**Comment.** Subdivisions (a), (b)(3)(D), and (g) of Section 19001 [as added by 1992 Cal. Stat. ch. 1223, § 2] are amended to substitute references to the Family Code provisions that replaced the former Civil Code provisions.



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## EXHIBIT 29

### SB 1530 (Family Support Obligations)

***Staff Note.** The draft legislation in this exhibit would restore a conforming change in AB 2641 (1992 Cal. Stat. ch. 163, § 41), which was chaptered-out by SB 1530 (1992 Cal. Stat. ch. 851, § 2), would repeal a section that was repealed by AB 2650 (1992 Cal. Stat. ch. 162, § 9), but chaptered-out in part by SB 1530 (1992 Cal. Stat. ch. 851, § 3), and would make conforming changes in the Family Code.*

#### **Code Civ. Proc. § 704.114 (technical amendment). Service of assignment on public entity**

SEC. \_\_\_\_\_. Section 704.114 of the Code of Civil Procedure is amended to read:

704.114. (a) Notwithstanding any other provision of law, ~~when an order assigning service of an earnings is served~~ assignment order for support on any public entity described in Section 704.110, other than the United States government, ~~that service shall constitute~~ creates a lien on all employee contributions in the amount necessary to satisfy a support judgment as ~~delineated in determined under~~ Section 695.210 to the extent that the judgment remains enforceable.

(b) The public entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the ~~order of earnings~~ assignment order.

(c) Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of the fact to the parties, and to the district attorney enforcing any order pursuant to Section 11475.1 of the Welfare and Institutions Code.

(d) ~~These moneys shall be~~ Moneys received pursuant to this section are subject to any procedure available to enforce an order for support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the ~~defaulting obligor~~ employee.

(e) A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for support upon the issuance making of such a request for the return of employee contributions by such an employee.

**Comment.** Section 704.114 [as amended by 1992 Cal. Stat. ch. 851, § 2] is amended to conform to the terminology of the Family Code. See Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code (earnings assignment order for support).

The section has also been divided into subdivisions and revised for clarity. See Section 706.011 (“earnings assignment order for support” defined).

**Evid. Code § 895.5 (repealed). Paternity index**

SEC. \_\_\_\_\_. Section 895.5 of the Evidence Code is repealed.

~~895.5. (a) There is a rebuttable presumption, affecting the burden of proof, of paternity, if the court finds that the paternity index, as calculated by the experts qualified as examiners of genetic markers, is 100 or greater. This presumption may be rebutted by a preponderance of the evidence.~~

~~(b) As used in this section:~~

~~(1) “Genetic markers” mean separate genes or complexes of genes identified as a result of blood tests.~~

~~(2) “Paternity index” means the commonly accepted indicator used for denoting the existence of paternity. It expresses the relative strength of the test results for and against paternity. The paternity index, computed using results of various paternity tests following accepted statistical principles, shall be in accordance with the method of expression accepted at the International Conference on Parentage Testing at Airlie House, Virginia, May 1982, sponsored by the American Association of Blood Banks.~~

**Comment.** Former Section 895.5 [as amended by 1992 Cal. Stat. ch. 851, § 3] is continued without change in Family Code Section 7555.

**Fam. Code § 7555 (technical amendment). Rebuttable presumption of paternity**

SEC. \_\_\_\_\_. Section 7555 of the Family Code is amended to read:

7555. (a) There is a rebuttable presumption, affecting the burden of proof, of paternity, if the court finds that the paternity index, as calculated by the experts qualified as examiners of genetic markers, is 100 or greater. This presumption may ~~only~~ be rebutted by a preponderance of the evidence.

(b) As used in this section:

(1) “Genetic markers” mean separate identifiable genes or complexes of genes generally isolated as a result of blood typing, ~~at least seven of which are normally tested in a paternity determination identified as a result of blood tests.~~

(2) “Paternity index” means the commonly accepted indicator used for denoting the existence of paternity. ~~It represents the mathematically computed probability that the putative father is the true father of the child, as opposed to any other man of similar ethnic background. It expresses the relative strength of the test results for and against paternity.~~ The paternity index, computed using results of various paternity tests following accepted statistical principles ~~for the computation of probability,~~ shall be in accordance with the method of expression accepted at the International Conference on Parentage Testing at Airlie House, Virginia, May 1982, sponsored by the American Association of Blood Banks.

**Comment.** Section 7555 continues former Evidence Code Section 895.5 [as amended by 1992 Cal. Stat. ch. 851, § 3] without change.