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CALIFORNIA CODES

FAMILY . CODE

SECTION 17400-17434

17400. (a) Each county shall maintain a local child support agency, as specified in Section 17304, that shall have the responsibility for promptly and effectively establishing, modifying, and enforcing child support obligations, including medical support, enforcing spousal support orders established by a court of competent jurisdiction, and determining paternity in the case of a child born out of wedlock. The local child support agency shall take appropriate action, including criminal action in cooperation with the district attorneys, to establish, modify, and enforce child support and, when appropriate, enforce spousal support orders when the child is receiving public assistance, including Medi-Cal, and, when requested, shall take the same actions on behalf of a child who is not receiving public assistance, including Medi-Cal.

(b) Notwithstanding Sections 25203 and 26529 of the Government Code, attorneys employed within the local child support agency may direct, control, and prosecute civil actions and proceedings in the name of the county in support of child support activities of the Department of Child Support Services and the local child support agency.

(c) Actions brought by the local child support agency to establish paternity or child support or to enforce child support obligations shall be completed within the time limits set forth by federal law. The local child support agency's responsibility applies to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction. In any action brought for modification or revocation of an order that is being enforced under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), the effective date of the modification or revocation shall be as prescribed by federal law (42 U.S.C. Sec. 666(a)(9)), or any subsequent date.

(d) (1) The Judicial Council, in consultation with the department and representatives of the California Family Support Council, the Senate Committee on Judiciary, the Assembly Committee on Judiciary, and a legal services organization providing representation on child support matters, shall develop simplified summons, complaint, and answer forms for any action for support brought pursuant to this section or Section 17404. The Judicial Council may combine the summons and complaint in a single form.

(2) The simplified complaint form shall provide notice of the amount of child support that is sought pursuant to the guidelines set forth in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9 based upon the income or income history of the support obligor as known to the local child support agency. If the support obligor's income or income history is unknown to the local child support agency, the complaint shall inform the support obligor that income shall be presumed to be the amount of the minimum wage, at 40 hours per week, established by the Industrial Welfare Commission pursuant to Section 1181.11 of the Labor Code unless information concerning the support obligor's income is provided to the court. The complaint form shall be accompanied by a proposed judgment. The complaint form shall include a notice to the support obligor that the proposed judgment will become effective if he or she fails to file an answer with the court within 30 days of service.

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Except as provided in paragraph (2) of subdivision (a) of Section 17402, if the proposed judgment is entered by the court, the support order in the proposed judgment shall be effective as of the first day of the month following the filing of the complaint.

(3) (A) The simplified answer form shall be written in simple English and shall permit a defendant to answer and raise defenses by checking applicable boxes. The answer form shall include instructions for completion of the form and instructions for proper filing of the answer.

(B) The answer form shall be accompanied by a blank income and expense declaration or simplified financial statement and instructions on how to complete the financial forms. The answer form shall direct the defendant to file the completed income and expense declaration or simplified financial statement with the answer, but shall state that the answer will be accepted by a court without the income and expense declaration or simplified financial statement.

(C) The clerk of the court shall accept and file answers, income and expense declarations, and simplified financial statements that are completed by hand provided they are legible.

(4) (A) The simplified complaint form prepared pursuant to this subdivision shall be used by the local child support agency or the Attorney General in all cases brought under this section or Section 17404.

(B) The simplified answer form prepared pursuant to this subdivision shall be served on all defendants with the simplified complaint. Failure to serve the simplified answer form on all defendants shall not invalidate any judgment obtained. However, failure to serve the answer form may be used as evidence in any proceeding under Section 17432 of this **code** or Section 473 of the **Code** of Civil Procedure.

(C) The Judicial Council shall add language to the governmental summons, for use by the local child support agency with the governmental complaint to establish parental relationship and child support, informing defendants that a blank answer form should have been received with the summons and additional copies may be obtained from either the local child support agency or the superior court clerk.

(e) In any action brought or enforcement proceedings instituted by the local child support agency pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the local child support agency at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority.

(f) The county shall undertake an outreach program to inform the public that the services described in subdivisions (a) to (c), inclusive, are available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the agencies established by this section a notice, in clear and simple language prescribed by the Director of Child Support Services, that the services provided in subdivisions (a) to (c), inclusive, are provided to all individuals, whether or not they are recipients of public assistance.

(g) (1) In any action to establish a child support order brought by the local child support agency in the performance of duties under this section, the local child support agency may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order has the same force and effect as a

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like or similar order under this **code**.

(2) The local child support agency shall file a motion for an order for temporary support within the following time limits:

(A) If the defendant is the mother, a presumed father under Section 7611, or any father where the child is at least six months old when the defendant files his or her answer, the time limit is 90 days after the defendant files an answer.

(B) In any other case where the defendant has filed an answer prior to the birth of the child or not more than six months after the birth of the child, then the time limit is nine months after the birth of the child.

(3) If more than one child is the subject of the action, the limitation on reimbursement shall apply only as to those children whose parental relationship and age would bar recovery were a separate action brought for support of that child or those children.

(4) If the local child support agency fails to file a motion for an order for temporary support within time limits specified in this section, the local child support agency shall be barred from obtaining a judgment of reimbursement for any support provided for that child during the period between the date the time limit expired and the motion was filed, or, if no motion is filed, when a final judgment is entered.

(5) Except as provided in Section 17304, nothing in this section prohibits the local child support agency from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the Department of Child Support Services.

(6) Nothing in this section otherwise limits the ability of the local child support agency from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

(h) As used in this article, "enforcing obligations" includes, but is not limited to, any of the following:

(1) The use of all interception and notification systems operated by the department for the purposes of aiding in the enforcement of support obligations.

(2) The obtaining by the local child support agency of an initial order for child support that may include medical support or that is for medical support only, by civil or criminal process.

(3) The initiation of a motion or order to show cause to increase an existing child support order, and the response to a motion or order to show cause brought by an obligor parent to decrease an existing child support order, or the initiation of a motion or order to show cause to obtain an order for medical support, and the response to a motion or order to show cause brought by an obligor parent to decrease or terminate an existing medical support order, without regard to whether the child is receiving public assistance.

(4) The response to a notice of motion or order to show cause brought by an obligor parent to decrease an existing spousal support order when the child or children are residing with the obligee parent and the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor.

(5) The transfer of child support delinquencies to the Franchise Tax Board under subdivision (c) of Section 17500 in support of the local child support agency.

(i) As used in this section, "out of wedlock" means that the biological parents of the child were not married to each other at the time of the child's conception.

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(j) (1) The local child support agency is the public agency responsible for administering wage withholding for current support for the purposes of Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

(2) Nothing in this section limits the authority of the local child support agency granted by other sections of this **code** or otherwise granted by law, except to the extent that the law is inconsistent with the transfer of delinquent child support to the Franchise Tax Board.

(k) In the exercise of the authority granted under this article, the local child support agency may intervene, pursuant to subdivision (b) of Section 387 of the **Code** of Civil Procedure, by ex parte application, in any action under this **code**, or other proceeding in which child support is an issue or a reduction in spousal support is sought. By notice of motion, order to show cause, or responsive pleading served upon all parties to the action, the local child support agency may request any relief that is appropriate that the local child support agency is authorized to seek.

(l) The local child support agency shall comply with all regulations and directives established by the department that set time standards for responding to requests for assistance in locating noncustodial parents, establishing paternity, establishing child support awards, and collecting child support payments.

(m) As used in this article, medical support activities that the local child support agency is authorized to perform are limited to the following:

(1) The obtaining and enforcing of court orders for health insurance coverage.

(2) Any other medical support activity mandated by federal law or regulation.

(n) (1) Notwithstanding any other law, venue for an action or proceeding under this division shall be determined as follows:

(A) Venue shall be in the superior court in the county that is currently expending public assistance.

(B) If public assistance is not currently being expended, venue shall be in the superior court in the county where the child who is entitled to current support resides or is domiciled.

(C) If current support is no longer payable through, or enforceable by, the local child support agency, venue shall be in the superior court in the county that last provided public assistance for actions to enforce arrearages assigned pursuant to Section 11477 of the Welfare and **Institutions Code**.

(D) If subparagraphs (A), (B), and (C) do not apply, venue shall be in the superior court in the county of residence of the support obligee.

(E) If the support obligee does not reside in California, and subparagraphs (A), (B), (C), and (D) do not apply, venue shall be in the superior court of the county of residence of the obligor.

(2) Notwithstanding paragraph (1), if the child becomes a resident of another county after an action under this part has been filed, venue may remain in the county where the action was filed until the action is completed.

(o) The local child support agency of one county may appear on behalf of the local child support agency of any other county in an action or proceeding under this part.

17400.5. If an obligor has an ongoing child support order being enforced by a local child support agency pursuant to Title IV-D of

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the Social Security Act and the obligor is disabled, meets the SSI resource test, and is receiving Supplemental Security Income/State Supplemental Payments (SSI/SSP) or, but for excess income as described in Section 416.1100 et seq. of Part 416 of Title 20 of the **Code** of Federal Regulations, would be eligible to receive as SSI/SSP, pursuant to Section 12200 of the Welfare and **Institutions Code**, and the obligor has supplied the local child support agency with proof of his or her eligibility for, and, if applicable, receipt of, SSI/SSP or Social Security Disability Insurance benefits, then the local child support agency shall prepare and file a motion to modify the support obligation within 30 days of receipt of verification from the noncustodial parent or any other source of the receipt of SSI/SSP or Social Security Disability Insurance benefits. The local child support agency shall serve the motion on both the noncustodial parent and custodial person and any modification of the support order entered pursuant to the motion shall be effective as provided in Section 3653 of the **Family Code**.

17401. If the parent who is receiving support enforcement services provides to the local child support agency substantial, credible, information regarding the residence or work address of the support obligor, the agency shall initiate an establishment or enforcement action and serve the defendant, if service is required, within 60 days and inform the parent in writing when those actions have been taken. If the address or any other information provided by the support obligee is determined by the local child support agency to be inaccurate and if, after reasonable diligence, the agency is unable to locate and serve the support obligor within that 60-day period, the local child support agency shall inform the support obligee in writing of those facts. The requirements of this section shall be in addition to the time standards established by the Department of Child Support Services pursuant to subdivision (l) of Section **17400**.

17401.5. (a) All of the following shall include notice of, and information about, the child support service hearings available pursuant to Section 17801, provided that there is federal financial participation available as set forth in subdivision (j) of Section 17801:

(1) The booklet required by subdivision (a) of Section 17434.

(2) Any notice required by subdivision (c) or (h) of Section 17406.

(b) To the extent not otherwise required by law, the local child support agency shall provide notice of, and information about, the child support services hearings available pursuant to Section 17801 in any regularly issued notices to custodial and noncustodial parents subject to Section **17400**, provided that there is federal financial participation available as set forth in subdivision (e) of Section 17801.

Notice of and information about the child support service hearings and the child support complaint resolution process required under Section 17800 shall be easily accessible and shall be provided in a single section of the booklet.

17402. (a) In any case of separation or desertion of a parent or

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parents from a child or children that results in aid under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and **Institutions Code** being granted to that **family**, the noncustodial parent or parents shall be obligated to the county for an amount equal to the following:

(1) The amount specified in an order for the support and maintenance of the **family** issued by a court of competent jurisdiction; or in the absence of a court order, the amount specified in paragraph (2).

(2) For all cases filed on or after January 1, 2000, the amount of support that would have been specified in an order for the support and maintenance of the **family** during the period of separation or desertion, but not to exceed one year prior to the date of the filing of the petition or complaint. However, the amount in excess of the aid paid to the **family** shall not be retained by the county, but disbursed to the **family**.

(3) The obligation shall be reduced by any amount actually paid by the parent directly to the custodian of the child or to the local child support agency of the county in which the child is receiving aid during the period of separation or desertion for the support and maintenance of the **family**.

(b) The local child support agency shall take appropriate action pursuant to this section as provided in subdivision (1) of Section **17400**. The local child support agency may establish liability for child support as provided in subdivision (a) when public assistance was provided by another county or by other counties.

(c) The amount of the obligation established under paragraph (2) of subdivision (a) shall be determined by using the appropriate child support guidelines currently in effect. If one parent remains as a custodial parent, the guideline support shall be computed in the normal manner. If neither parent remains as a custodial parent, the support shall be computed by combining the noncustodial parents' incomes and placing the figure obtained in the column for noncustodial parent. A zero shall be placed in the column for the custodial parent and the amount of guideline support resulting shall be proportionately shared between the parents as directed by the court. The parents shall pay the amount of support specified in the support order to the local child support agency.

17402.1. (a) Each local child support agency shall, on a monthly basis, remit to the department both the federal and state public assistance child support payments received pursuant to Section 17402.

(b) The department shall promulgate regulations to implement this section.

17404. (a) Notwithstanding any other statute, in any action brought by the local child support agency for the support of a minor child or children, the action may be prosecuted in the name of the county on behalf of the child, children, or a parent of the child or children. The parent who has requested or is receiving support enforcement services of the local child support agency shall not be a necessary party to the action but may be subpoenaed as a witness. Except as provided in subdivision (e), in an action under this section there shall be no joinder of actions, or coordination of actions, or cross-complaints, and the issues shall be limited strictly to the question of parentage, if applicable, and child

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support, including an order for medical support. A final determination of parentage may be made in any action under this section as an incident to obtaining an order for support. An action for support or parentage pursuant to this section shall not be delayed or stayed because of the pendency of any other action between the parties.

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

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

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

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

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

(2) Notice of the parent's status as a party shall be given to the parent by the local child support agency in conjunction with the notice required by subdivision (e) of Section 17406. The complaint shall contain this notice. Service of the complaint on the parent in compliance with Section 1013 of the **Code** of Civil Procedure, or as otherwise provided by law, shall constitute compliance with this section. In all actions commenced under the procedures and forms in effect on or before December 31, 1996, the parent who has requested or is receiving support enforcement services of the local child support agency shall not become a party to the action until he or she is joined as a party pursuant to an ex parte application or noticed motion for joinder filed by the local child support agency or a noticed motion filed by either parent. The local child support

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agency shall serve a copy of any order for joinder of a parent obtained by the local child support agency's application on both parents in compliance with Section 1013 of the **Code** of Civil Procedure.

(3) Once both parents are parties to an action brought pursuant to this section in cases where Title IV-D services are currently being provided, the local child support agency shall be required, within five days of receipt, to mail the nonmoving party in the action all pleadings relating solely to the support issue in the action that have been served on the local child support agency by the moving party in the action, as provided in subdivision (f) of Section 17406.

There shall be a rebuttable presumption that service on the local child support agency consistent with the provisions of this paragraph constitutes valid service on the nonmoving party. Where this procedure is used to effectuate service on the nonmoving party, the pleadings shall be served on the local child support agency not less than 30 days prior to the hearing.

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

(f) (1) A parent who has requested or is receiving support enforcement services of the local child support agency may take independent action to modify a support order made pursuant to this section while support enforcement services are being provided by the local child support agency. The parent shall serve the local child support agency with notice of any action filed to modify the support order and provide the local child support agency with a copy of the modified order within 15 calendar days after the date the order is issued.

(2) A parent who has requested or is receiving support enforcement services of the local child support agency may take independent action to enforce a support order made pursuant to this section while support enforcement services are being provided by the local child support agency with the written consent of the local child support agency. At least 30 days prior to filing an independent enforcement action, the parent shall provide the local child support agency with written notice of the parent's intent to file an enforcement action that includes a description of the type of enforcement action the parent intends to file. Within 30 days of receiving the notice, the local child support agency shall either provide written consent for

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the parent to proceed with the independent enforcement action or notify the parent that the local child support agency objects to the parent filing the proposed independent enforcement action. The local child support agency may object only if the local child support agency is currently using an administrative or judicial method to enforce the support obligation or if the proposed independent enforcement action would interfere with an investigation being conducted by the local child support agency. If the local child support agency does not respond to the parent's written notice within 30 days, the local child support agency shall be deemed to have given consent.

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

(g) Any notice from the local child support agency requesting a meeting with the support obligor for any purpose authorized under this section shall contain a statement advising the support obligor of his or her right to have an attorney present at the meeting.

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

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

17405. In carrying out duties under this article, the local child support agency shall interview the custodial parent within 10 business days of opening a child support case. This interview shall solicit financial and all other information about the noncustodial parent. This information shall be acted upon immediately. The local child support agency shall reinterview the custodial parent as needed.

17406. (a) In all actions involving paternity or support, including, but not limited to, other proceedings under this **code**, and under Division 9 (commencing with Section 10000) of the Welfare and **Institutions Code**, the local child support agency and the Attorney General represent the public interest in establishing, modifying, and enforcing support obligations. No attorney-client relationship shall be deemed to have been created between the local child support agency or Attorney General and any person by virtue of the action of the local child support agency or the Attorney General in carrying out these statutory duties.

(b) Subdivision (a) is declaratory of existing law.

(c) In all requests for services of the local child support agency or Attorney General pursuant to Section **17400** relating to actions involving paternity or support, not later than the same day an individual makes a request for these services in person, and not later than five working days after either (1) a case is referred for

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services from the county welfare department, (2) receipt of a request by mail for an application for services, or (3) an individual makes a request for services by telephone, the local child support agency or Attorney General shall give notice to the individual requesting services or on whose behalf services have been requested that the local child support agency or Attorney General does not represent the individual or the children who are the subject of the case, that no attorney-client relationship exists between the local child support agency or Attorney General and those persons, and that no such representation or relationship shall arise if the local child support agency or Attorney General provides the services requested. Notice shall be in bold print and in plain English and shall be translated into the language understandable by the recipient when reasonable. The notice shall include the advice that the absence of an attorney-client relationship means that communications from the recipient are not privileged and that the local child support agency or Attorney General may provide support enforcement services to the other parent in the future.

(d) The local child support agency or Attorney General shall give the notice required pursuant to subdivision (c) to all recipients of services under Section **17400** who have not otherwise been provided that notice, not later than the date of the next annual notice required under Section 11476.2 of the Welfare and **Institutions Code**. This notice shall include notification to the recipient of services under Section **17400** that the recipient may inspect the clerk's file at the office of the clerk of the court, and that, upon request, the local child support agency, or, if appropriate, the Attorney General, will furnish a copy of the most recent order entered in the case.

(e) The local child support agency or, if appropriate, the Attorney General shall serve a copy of the complaint for paternity or support, or both, on recipients of support services under Section **17400**, as specified in paragraph (2) of subdivision (e) of Section 17404. A notice shall accompany the complaint that informs the recipient that the local child support agency or Attorney General may enter into a stipulated order resolving the complaint, and that the recipient shall assist the prosecuting attorney, by sending all information on the noncustodial parent's earnings and assets to the prosecuting attorney.

(f) (1) (A) The local child support agency or Attorney General shall provide written notice to recipients of services under Section **17400** of the initial date and time, and purpose of every hearing in a civil action for paternity or support.

(B) Once the parent who has requested or is receiving support enforcement services becomes a party to the action pursuant to subdivision (e) of Section 17404, in lieu of the above, the local child support agency or Attorney General shall serve on a parent all pleadings relating to support that have been served on the local child support agency by the other parent. The pleading shall be accompanied by a notice.

(C) The notice provided subject to subparagraphs (A) and (B) shall include the following language:

IMPORTANT NOTICE

It may be important that you attend the hearing. The local child support agency does not represent you or your children. You may have information about the other parent, such as information about his or her income or assets that will not be presented to the court unless you attend the hearing. You have the right to attend the hearing and to be heard in court and tell the court what you think the court should do with the child support order. This hearing could change your rights or your children's rights to support.

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(2) The notice shall state the purpose of the hearing or be attached to the motion or other pleading which caused the hearing to be scheduled.

(3) The notice shall be provided separate from all other material and shall be in at least 14-point type. The failure of the local child support agency or Attorney General to provide the notice required pursuant to subparagraph (A) of paragraph (1) shall not affect the validity of any order.

(4) (A) The notice required pursuant to subparagraph (A) of paragraph (1) shall be provided not later than seven calendar days prior to the hearing, or, if the local child support agency or Attorney General receives notice of the hearing less than seven days prior to the hearing, within two days of the receipt by the local child support agency or Attorney General of the notice of the hearing.

(B) Service of the notice and the pleadings required pursuant to subparagraph (B) of paragraph (1) shall be completed not later than five days after receipt of the pleadings served on the local child support agency by the parent.

(5) The local child support agency or Attorney General shall, in order to implement this subdivision, make reasonable efforts to ensure that the local child support agency or Attorney General has current addresses for all parties to the child support action.

(g) The local child support agency or Attorney General shall give notice to recipients of services under Section 17400 of every order obtained by the local child support agency or Attorney General that establishes or modifies the support obligation for the recipient or the children who are the subject of the order, by sending a copy of the order to the recipient. The notice shall be made within the time specified by federal law after the order has been filed. The local child support agency or Attorney General shall also give notice to these recipients of every order obtained in any other jurisdiction that establishes or modifies the support obligation for the recipient or the children who are the subject of the order, and which is received by the local child support agency or Attorney General, by sending a copy of the order to the recipient within the timeframe specified by federal law after the local child support agency or Attorney General has received a copy of the order. In any action enforced under Chapter 6 (commencing with Section 4900) of Part 5 of Division 9, the notice shall be made in compliance with the requirements of that chapter. The failure of the local child support agency or Attorney General to comply with this subdivision shall not affect the validity of any order.

(h) The local child support agency or Attorney General shall give notice to the noncustodial parent against whom a civil action is filed that the local child support agency or Attorney General is not the attorney representing any individual, including, but not limited to, the custodial parent, the child, or the noncustodial parent.

(i) Nothing in this section shall be construed to preclude any person who is receiving services under Section 17400 from filing and prosecuting an independent action to establish, modify, and enforce an order for current support on behalf of himself or herself or a child if that person is not receiving public assistance.

(j) A person who is receiving services under Section 17400 but who is not currently receiving public assistance on his or her own behalf or on behalf of a child shall be asked to execute, or consent to, any stipulation establishing or modifying a support order in any action in which that person is named as a party, before the stipulation is filed. The local child support agency or Attorney General shall not submit to the court for approval a stipulation to

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establish or modify a support order in the action without first obtaining the signatures of all parties to the action, their attorneys of record, or persons authorized to act on their behalf. Any stipulation approved by the court in violation of this subdivision shall be void.

(k) The local child support agency or Attorney General shall not enter into a stipulation that reduces the amount of past due support, including interest and penalties accrued pursuant to an order of current support, on behalf of a person who is receiving support enforcement services under Section 17400 and who is owed support arrearages that exceed unreimbursed public assistance paid to the recipient of the support enforcement services, without first obtaining the consent of the person who is receiving services under Section 17400 on his or her own behalf or on behalf of the child.

(l) The notices required in this section shall be provided in the following manner:

(1) In all cases in which the person receiving services under Section 17400 resides in California, notice shall be provided by mailing the item by first-class mail to the last known address of, or personally delivering the item to, that person.

(2) In all actions enforced under Chapter 6 (commencing with Section 4900) of Part 5 of Division 9, unless otherwise specified, notice shall be provided by mailing the item by first-class mail to the initiating court.

(m) Notwithstanding any other provision of this section, the notices provided for pursuant to subdivisions (c) to (g), inclusive, shall not be required in foster care cases.

17407. (a) If the Attorney General is of the opinion that a support order or support-related order is erroneous and presents a question of law warranting an appeal, or that an order is sound and should be defended on appeal, in the public interest the Attorney General may:

(1) Perfect or oppose an appeal to the proper appellate court if the order was issued by a court of this state.

(2) If the order was issued in another state, cause an appeal to be taken or opposed in the other state.

(b) In either case, expenses of the appeal may be paid on order of the Attorney General from funds appropriated for the Office of the Attorney General.

17408. (a) Notwithstanding Section 17404, upon noticed motion of the local child support agency, the superior court may consolidate or combine support or reimbursement arrearages owed by one obligor to one obligee in two or more court files into a single court file, or combine or consolidate two or more orders for current child support into a single court file. A motion to consolidate may be made by a local child support agency only if it is seeking to enforce the orders being consolidated. The motion shall be filed only in the court file the local child support agency is seeking to have designated as the primary file.

(b) Orders may be consolidated regardless of the nature of the underlying action, whether initiated under the Welfare and **Institutions Code**, this **code**, or another law. Orders for support shall not be consolidated unless the children involved have the same mother and father and venue is proper pursuant to Section 17400.

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(c) Upon consolidation of orders, the court shall designate which court file the support orders are being consolidated into the primary file, and which court files are subordinate. Upon consolidation, the court shall order the local child support agency to file a notice in the subordinate court actions indicating the support orders in those actions were consolidated into the primary file. The notice shall state the date of the consolidation, the name of the court, and the primary file number.

(d) Upon consolidation of orders, the superior court shall not issue further orders pertaining to support in a subordinate court file; and all enforcement and modification of support orders shall occur in the primary court action.

(e) After consolidation of court orders, a single wage assignment for current support and arrearages may be issued when possible.

17410. In any action filed by the local child support agency pursuant to Section 17402 or 17404, the local child support agency shall provide the mother and the alleged father the opportunity to voluntarily acknowledge paternity by signing a paternity declaration as described in Section 7574 prior to a hearing or trial where the paternity of a minor child is at issue. The opportunity to voluntarily acknowledge paternity may be provided either before or after an action pursuant to Section 17402 or 17404 is filed and served upon the alleged father. For the purpose of meeting the requirements of this section, the local child support agency may afford the defendant an opportunity to enter into a stipulation for judgment of paternity after an action for paternity has been filed in lieu of the voluntary declaration of paternity.

17412. (a) Notwithstanding any other law, an action for child support may be brought by the local child support agency on behalf of a minor child or caretaker parent based upon a voluntary declaration of paternity as provided in Chapter 3 (commencing with Section 7570) of Part 2 of Division 12.

(b) Except as provided in Sections 7576 and 7577, the voluntary declaration of paternity shall be given the same force and effect as a judgment for paternity entered by a court of competent jurisdiction. The court shall make appropriate orders for support of the minor child based upon the voluntary declaration of paternity unless evidence is presented that the voluntary declaration of paternity has been rescinded by the parties or set aside by a court as provided in Section 7575.

(c) The Judicial Council shall develop the forms and procedures necessary to implement this section.

17414. In any action or proceeding brought by the local child support agency to establish parentage pursuant to Section **17400**, the court shall enter a judgment establishing parentage upon the filing of a written stipulation between the parties provided that the stipulation is accompanied by a written advisement and waiver of rights which is signed by the defendant. The written advisement and waiver of rights shall be developed by the Judicial Council.

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17415. (a) It shall be the duty of the county welfare department to refer all cases in which a parent is absent from the home, or in which the parents are unmarried and parentage has not been established by the completion and filing of a voluntary declaration of paternity pursuant to Section 7573 or a court of competent jurisdiction, to the local child support agency immediately at the time the application for public assistance, including Medi-Cal benefits, or certificate of eligibility, is signed by the applicant or recipient, except as provided in Section 17552 of this **code** and Section 11477.04 of the Welfare and **Institutions Code**. If an applicant is found to be ineligible, the applicant shall be notified in writing that the referral of the case to the local child support agency may be terminated at the applicant's request. The county welfare department shall cooperate with the local child support agency and shall make available all pertinent information as provided in Section 17505.

(b) Upon referral from the county welfare department, the local child support agency shall investigate the question of nonsupport or paternity and shall take all steps necessary to obtain child support for the needy child, enforce spousal support as part of the state plan under Section 17604, and determine paternity in the case of a child born out of wedlock. Upon the advice of the county welfare department that a child is being considered for adoption, the local child support agency shall delay the investigation and other actions with respect to the case until advised that the adoption is no longer under consideration. The granting of public assistance or Medi-Cal benefits to an applicant shall not be delayed or contingent upon investigation by the local child support agency.

(c) In cases where Medi-Cal benefits are the only assistance provided, the local child support agency shall provide child and spousal support services unless the recipient of the services notifies the local child support agency that only services related to securing health insurance benefits are requested.

(d) Where a court order has been obtained, any contractual agreement for support between the local child support agency or the county welfare department and the noncustodial parent shall be deemed null and void to the extent that it is not consistent with the court order.

(e) Whenever a **family** which has been receiving public assistance, including Medi-Cal, ceases to receive assistance, including Medi-Cal, the local child support agency shall, to the extent required by federal regulations, continue to enforce support payments from the noncustodial parent until the individual on whose behalf the enforcement efforts are made sends written notice to the local child support agency requesting that enforcement services be discontinued.

(f) The local child support agency shall, where appropriate, utilize reciprocal arrangements adopted with other states in securing support from an absent parent. In individual cases where utilization of reciprocal arrangements has proven ineffective, the local child support agency may forward to the Attorney General a request to utilize federal courts in order to obtain or enforce orders for child or spousal support. If reasonable efforts to collect amounts assigned pursuant to Section 11477 of the Welfare and **Institutions Code** have failed, the local child support agency may request that the case be forwarded to the Treasury Department for collection in accordance with federal regulations. The Attorney General, where appropriate, shall forward these requests to the Secretary of Health and Human Services, or a designated

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representative.

17416. (a) In any case where the local child support agency has undertaken enforcement of support, the local child support agency may enter into an agreement with the noncustodial parent, on behalf of a minor child or children, a spouse, or former spouse for the entry of a judgment without action determining paternity, if applicable, and for periodic child and spousal support payments based on the noncustodial parent's reasonable ability to pay or, if for spousal support, an amount previously ordered by a court of competent jurisdiction. An agreement for entry of a judgment under this section may be executed prior to the birth of the child and may include a provision that the judgment is not to be entered until after the birth of the child.

(b) A judgment based on the agreement shall be entered only if one of the following requirements is satisfied:

(1) The noncustodial parent is represented by legal counsel and the attorney signs a certificate stating: "I have examined the proposed judgment and have advised my client concerning his or her rights in connection with this matter and the consequences of signing or not signing the agreement for the entry of the judgment and my client, after being so advised, has agreed to the entry of the judgment."

(2) A judge of the court in which the judgment is to be entered, after advising the noncustodial parent concerning his or her rights in connection with the matter and the consequences of agreeing or not agreeing to the entry of the judgment, makes a finding that the noncustodial parent has appeared before the judge and the judge has determined that under the circumstances of the particular case the noncustodial parent has willingly, knowingly, and intelligently waived his or her due process rights in agreeing to the entry of the judgment.

(c) The clerk shall file the agreement, together with any certificate of the attorney or finding of the court, without the payment of any fees or charges. If the requirements of this section are satisfied, the court shall enter judgment thereon without action.

The provisions of Article 4 (commencing with Section 4200) of Chapter 2 of Part 2 of Division 9 or Chapter 4 (commencing with Section 4350) of Part 3 of Division 9 shall apply to the judgment. A judgment for support so entered may be enforced by any means by which any other judgment for support may be enforced.

(d) Upon request of the local child support agency in any case under this section, the clerk shall set the matter for hearing by the court. The hearing shall be held within 10 days after the clerk receives the request. The local child support agency may require the person who signed the agreement for the entry of judgment to attend the hearing by process of subpoena in the same manner as the attendance of a witness in a civil action may be required. The presence of the person who signed the agreement for entry of judgment at the hearing shall constitute the presence of the person in court at the time the order is pronounced for the purposes of Section 1209.5 of the **Code** of Civil Procedure if the court makes the findings required by paragraph (2) of subdivision (b).

(e) The local child support agency shall cause the following to be served, in the manner specified in Section 415.10, 415.20, 415.30, or 415.40 of the **Code** of Civil Procedure, upon the person who signed the agreement for entry of the judgment and shall file proof of service thereof with the court:

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(1) A copy of the judgment as entered.

(2) If the judgment includes an order for child or spousal support payments, a notice stating the substance of the following: "The court has continuing authority to make an order increasing or decreasing the amount of the child or spousal support payments. You have the right to request that the court order the child and spousal support payments be decreased or eliminated entirely."

(f) An order for child and spousal support included in a judgment entered under this section may be modified or revoked as provided in Article 1 (commencing with Section 3650) of Chapter 6 of Part 1 of Division 9 and in (1) Article 1 (commencing with Section 4000) of Chapter 2 of Part 2 of Division 9 or (2) Chapter 2 (commencing with Section 4320) and Chapter 3 (commencing with Section 4330) of Part 3 of Division 9. The court may modify the order to make the support payments payable to a different person.

(g) For the purposes of this section, in making a determination of the noncustodial parent's reasonable ability to pay, any relevant circumstances set out in Section 4005 shall be considered.

(h) After arrest and before plea or trial, or after conviction or plea of guilty, under Section 270 of the Penal **Code**, if the defendant appears before the court in which the criminal action is pending and the requirements of paragraph (1) or (2) of subdivision (b) have been satisfied, the court may suspend proceedings or sentence in the criminal action, but this does not limit the later institution of a civil or criminal action or limit the use of any other procedures available to enforce the judgment entered pursuant to this section.

(i) Nothing in this section applies to a case where a civil action has been commenced.

17418. In enforcing the provisions of this division, the local child support agency shall inquire of both the custodial and noncustodial parent as to the number of minor children each is legally obligated to support. The local child support agency shall consider the needs of all of these children in computing the level of support requested to be ordered by the court.

17420. After judgment in any court action brought to enforce the support obligation of a noncustodial parent pursuant to the provisions of this division, the court shall issue an earnings assignment order for support pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9.

17422. (a) The state medical insurance form required in Article 1 (commencing with Section 3750) of Chapter 7 of Part 1 of Division 9 shall include, but shall not be limited to, all of the following:

(1) The parent or parents' names, addresses, and social security numbers.

(2) The name and address of each parent's place of employment.

(3) The name or names, addresses, policy number or numbers, and coverage type of the medical insurance policy or policies of the parents, if any.

(4) The name, CalWORKs case number, social security number, and Title IV-E foster care case number or Medi-Cal case numbers of the parents and children covered by the medical insurance policy or

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policies.

(b) (1) In any action brought or enforcement proceeding instituted by the local child support agency under this division for payment of child or spousal support, a completed state medical insurance form shall be obtained and sent by the local child support agency to the State Department of Health Services in the manner prescribed by the State Department of Health Services.

(2) Where it has been determined under Section 3751 that health insurance coverage is not available at no or reasonable cost, the local child support agency shall seek a provision in the support order that provides for health insurance coverage should it become available at no or reasonable cost.

(3) Health insurance coverage shall be considered reasonable in cost if it is employment-related group health insurance or other group health insurance, regardless of the service delivery mechanism.

As used in this section, "health insurance coverage" also includes providing for the delivery of health care services by a fee for service, health maintenance organization, preferred provider organization, or any other type of health care delivery system under which medical services could be provided to the dependent child or children of an absent parent.

(c) (1) The local child support agency shall request employers and other groups offering health insurance coverage that is being enforced under this division to notify the local child support agency if there has been a lapse in insurance coverage. The local child support agency shall be responsible for forwarding information pertaining to the health insurance policy secured for the dependent children for whom the local child support agency is enforcing the court-ordered medical support to the custodial parent.

(2) The local child support agency shall periodically communicate with the State Department of Health Services to determine if there have been lapses in health insurance coverage for public assistance applicants and recipients. The State Department of Health Services shall notify the local child support agency when there has been a lapse in court-ordered insurance coverage.

(3) The local child support agency shall take appropriate action, civil or criminal, to enforce the obligation to obtain health insurance when there has been a lapse in insurance coverage or failure by the responsible parent to obtain insurance as ordered by the court.

(4) The local child support agency shall inform all individuals upon their application for child support enforcement services that medical support enforcement services are available.

17424. (a) A parent who has been served with a medical insurance form shall complete and return the form to the local child support agency's office within 20 calendar days of the date the form was served.

(b) The local child support agency shall send the completed medical insurance form to the department in the manner prescribed by the department.

17428. In any action or judgment brought or obtained pursuant to Section 17400, 17402, 17404, or 17416, a supplemental complaint may be filed, pursuant to Section 464 of the Code of Civil Procedure and Section 2330.1, either before or after a final judgment, seeking a

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judgment or order of paternity or support for a child of the mother and father of the child whose paternity and support are already in issue before the court. A supplemental judgment entered in the proceedings shall include, when appropriate and requested in the supplemental complaint, an order establishing or modifying support for all children named in the original or supplemental actions in conformity with the statewide uniform guideline for child support. A supplemental complaint for paternity or support of children may be filed without leave of court either before or after final judgment in the underlying action. Service of the supplemental summons and complaint shall be made in the manner provided for the initial service of a summons by the **Code** of Civil Procedure.

17430. (a) Notwithstanding any other provision of law, in any action filed by the local child support agency pursuant to Section **17400**, 17402, or 17404, a judgment shall be entered without hearing, without the presentation of any other evidence or further notice to the defendant, upon the filing of proof of service by the local child support agency evidencing that more than 30 days have passed since the simplified summons and complaint, proposed judgment, blank answer, blank income and expense declaration, and all notices required by this division were served on the defendant.

(b) If the defendant fails to file an answer with the court within 30 days of having been served as specified in subdivision (d) of Section **17400**, or at any time before the default judgment is entered, the proposed judgment filed with the original summons and complaint shall be conformed by the court as the final judgment and a copy provided to the local child support agency, unless the local child support agency has filed a declaration and amended proposed judgment pursuant to subdivision (c).

(c) If the local child support agency receives additional financial information within 30 days of service of the complaint and proposed judgment on the defendant and the additional information would result in a support order that is different from the amount in the proposed judgment, the local child support agency shall file a declaration setting forth the additional information and an amended proposed judgment. The declaration and amended proposed judgment shall be served on the defendant in compliance with Section 1013 of the **Code** of Civil Procedure or otherwise as provided by law. The defendant's time to answer or otherwise appear shall be extended to 30 days from the date of service of the declaration and amended proposed judgment.

(d) Upon entry of the judgment, the clerk of the court shall provide a conformed copy of the judgment to the local child support agency. The local child support agency shall mail by first-class mail, postage prepaid, a notice of entry of judgment by default and a copy of the judgment to the defendant to the address where he or she was served with the summons and complaint and last known address if different from that address.

17432. (a) In any action filed by the local child support agency pursuant to Section **17400**, 17402, or 17404, the court may, on any terms that may be just, relieve the defendant from that part of the judgment or order concerning the amount of child support to be paid. This relief may be granted after the six-month time limit of Section

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473 of the **Code** of Civil Procedure has elapsed, based on the grounds, and within the time limits, specified in this section.

(b) This section shall apply only to judgments or orders for support that were based upon presumed income as specified in subdivision (d) of Section 17400 and that were entered after the entry of the default of the defendant under Section 17430. This section shall apply only to the amount of support ordered and not that portion of the judgment or order concerning the determination of parentage.

(c) The court may set aside the child support order contained in a judgment described in subdivision (b) if the defendant's income was substantially different for the period of time during which judgment was effective compared with the income the defendant was presumed to have. A "substantial difference" means that amount of income that would result in an order for support that deviates from the order entered by default by 10 percent or more.

(d) Application for relief under this section shall be filed together with an income and expense declaration or simplified financial statement or other information concerning income for any relevant years. The Judicial Council may combine the application for relief under this section and the proposed answer into a single form.

(e) The burden of proving that the actual income of the defendant deviated substantially from the presumed income shall be on the party seeking to set aside the order.

(f) A motion for relief under this section shall be filed within one year of the first collection of money by the local child support agency or the obligee. The one-year time period shall run from the date that the local child support agency receives the first collection.

(g) Within three months from the date the local child support agency receives the first collection for any order established using presumed income, the local child support agency shall check all appropriate sources for income information, and if income information exists, the local child support agency shall make a determination whether the order qualifies for set aside under this section. If the order qualifies for set aside, the local child support agency shall bring a motion for relief under this section.

(h) In all proceedings under this section, before granting relief, the court shall consider the amount of time that has passed since the entry of the order, the circumstances surrounding the defendant's default, the relative hardship on the child or children to whom the duty of support is owed, the caretaker parent, and the defendant, and other equitable factors that the court deems appropriate.

(i) If the court grants the relief requested, the court shall issue a new child support order using the appropriate child support guidelines currently in effect. The new order shall have the same commencement date as the order set aside.

(j) The Judicial Council shall review and modify any relevant forms for purposes of this section. Any modifications to the forms shall be effective July 1, 2004. Prior to the implementation of any modified Judicial Council forms, the local child support agency or custodial parent may file any request to set aside a default judgment under this section using Judicial Council Form FL-680 entitled "Notice of Motion (Governmental)" and form FL-684 entitled "Request for Order and Supporting Declaration (Governmental)."

17433. In any action in which a judgment or order for support was

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entered after the entry of the default of the defendant under Section 17430, the court shall relieve the defendant from that judgment or order if the defendant establishes that he or she was mistakenly identified in the order or in any subsequent documents or proceedings as the person having an obligation to provide support. The defendant shall also be entitled to the remedies specified in subdivisions (d) and (e) of Section 17530 with respect to any actions taken to enforce that judgment or order. This section is only intended to apply where an order has been entered against a person who is not the support obligor named in the judgment or order.

17434. (a) The department shall publish a booklet describing the proper procedures and processes for the collection and payment of child and spousal support. The booklet shall be written in language understandable to the lay person and shall direct the reader to obtain the assistance of the local child support agency, the **family** law facilitator, or legal counsel where appropriate. The department may contract on a competitive basis with an organization or individual to write the booklet.

(b) The department shall have primary responsibility for the design and development of the contents of the booklet. The department shall solicit comment regarding the content of the booklet from the Director of the Administrative Office of the Courts. The department shall verify the appropriateness and accuracy of the contents of the booklet with at least one representative of each of the following organizations:

- (1) A local child support agency.
- (2) The State Attorney General's office.
- (3) The California **Family** Support Council.
- (4) A community organization that advocates for the rights of custodial parents.
- (5) A community organization that advocates for the rights of supporting parents.

(c) Upon receipt of booklets on support collection, each county welfare department shall provide a copy to each head of household whose application for public assistance under Division 9 (commencing with Section 10000) of the Welfare and **Institutions Code** has been approved and for whom support rights have been assigned pursuant to Section 11477 of the Welfare and **Institutions Code**. The department shall provide copies of the booklet to local child support agencies for distribution, and to any person upon request. The department shall also distribute the booklets to all superior courts. Upon receipt of those booklets, each clerk of the court shall provide two copies of the booklet to the petitioner or plaintiff in any action involving the support of a minor child. The moving party shall serve a copy of the booklet on the responding party.

(d) The department shall expand the information provided under its toll-free information hotline in response to inquiries regarding the process and procedures for collection and payment of child and spousal support. This toll-free number shall be advertised as providing information on child and spousal support. The hotline personnel shall not provide legal consultation or advice, but shall provide only referral services.

(e) The department shall maintain a file of referral sources to provide callers to the telephone hotline with the following information specific to the county in which the caller resides:

- (1) The location and telephone number of the local child support

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agency, the county welfare office, the **family** law facilitator, and any other government agency that handles child and spousal support matters.

(2) The telephone number of the local bar association for referral to attorneys in **family** law practice.

(3) The name and telephone number of at least one organization that advocates the payment of child and spousal support or the name and telephone number of at least one organization that advocates the rights of supporting parents, if these organizations exist in the county.

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