

ANALYSIS OF ORIGINAL BILL

Author: Alquist Analyst: Gloria Mcconnell Bill Number: AB 1666

Related Bills: See Legislative History Telephone: 845-4336 Introduced Date: 01/13/98

Attorney: Janet Ballou Sponsor:

SUBJECT: Child Support Compliance Act of 1998

SUMMARY

Under this bill, the Franchise Tax Board (FTB) and other state agencies that contract for services would have to require vendors to disclose the names and addresses of their employees who are subject to earnings assignment orders, and the vendors would have to acknowledge their compliance with such orders. Also, the vendors would have to make their payroll records available to the Department of Social Service (DSS), Department of Justice (DOJ), FTB or other agencies for the purpose of child support enforcement. Additionally under this bill, FTB would have the authority to receive data from all state entities about their employees, licensees, contractors and vendors for purposes of administering FTB's child support collection programs.

EFFECTIVE DATE

This bill would be effective and operative on January 1, 1999.

LEGISLATIVE HISTORY

AB 573 (Stats. 97, Ch. 599), AB 1395 (Stats. 97, Ch. 614).

PROGRAM HISTORY/BACKGROUND

Federal law requires each state to have a single agency responsible for enforcing child support, which for California purposes is DSS. The county district attorneys (DAs) are delegated responsibility for establishing paternity and enforcing child support, which includes collecting current payments and delinquencies. Once a court order is obtained, DAs can serve by mail an earnings assignment order for current support and may include an additional amount for arrears that have accrued as of the date of the order. Once an ordered amount becomes delinquent, DAs search for assets of the obligor and take collection actions as necessary to collect the delinquent account and may refer the delinquency to FTB for collection.

DEPARTMENTS THAT MAY BE AFFECTED:

STATE MANDATE

GOVERNOR'S APPOINTMENT

Department Director Position:
 S O
 SA OUA
 N NP
 NA NAR
 X PENDING

Agency Secretary Position:
 S O
 SA OUA
 N NP
 NA NAR
 DEFER TO _____

GOVERNOR'S OFFICE USE

Position Approved
 Position Disapproved
 Position Noted

Department Director
Gerald H. Goldberg 2/23/98

Agency Secretary Date

By: Date:

In 1993 (Speier, AB 3589; Stats. 92, Ch. 1223), FTB began collecting delinquent child support through a pilot project in which DAs in six counties could voluntarily refer their delinquent child support accounts to FTB for collection as though they were delinquent personal income taxes. In 1995, the program was expanded to include voluntary referral from all counties (Speier, AB 923; Stats. 94, Ch. 906). This year, effective on January 1, 1998, DAs are required to refer child support obligations that are 91 days delinquent and may voluntarily refer those less than 91 days delinquent to Franchise Tax Board (FTB) for collection as though they are delinquent personal income taxes (AB 1395, Escutia; Stats. 97, Ch. 614).

Additionally, DAs are authorized to refer current child support orders to FTB for collection, in which case FTB could issue wage assignment orders (AB 573, Kuehl; Stats. 97, Ch. 599).

As federally mandated, the California Parent Locator Service (CPLS) is established in the DOJ to assist in the location of absent parents and enforce child support. Under California and federal law, governmental agencies are required to share information with the CPLS for this purpose. When a DA requests asset information, CPLS generally sends the request on a weekly basis for a basic search that includes EDD, FTB and DMV records. FTB, for child support collection purposes, requests from the CPLS only that information that is not available to it for tax purposes or information that is otherwise more readily available from other sources.

SPECIFIC FINDINGS

Currently, FTB contracts for various services, in accordance with requirements outlined in the State Administrative Manual and rules of General Service.

Currently, employers are required to report the names and wages of their employees to Employment Development Department (EDD) for the administration of, among other programs, child support enforcement. In addition, federal law requires each state to establish a new employee registry to which the state's employers must report their new hires within 20 days. The EDD maintains California's new employee registry. This information is available to FTB for child support collection purposes.

Currently, DAs serve by mail earnings assignment orders for current support and effective January 1, 1998, FTB may also issue earnings assignment orders to collect current support. Upon receipt of an order, generally, the employer must begin to withhold from the employee's earnings no later than 10 days after service. The order continues in effect unless a termination notice is served. If an employer fails to withhold and remit earnings in response to an earnings assignment order, the employer is liable, through a civil action, for the amount not withheld or otherwise not paid.

Under this bill, FTB and other state agencies that contract for services would have to require the vendors to disclose the names and addresses of their employees who are subject to earnings assignment orders, and the vendors would have to acknowledge their compliance with such orders. The vendors would have to make their payroll records available to DSS, the DOJ, FTB or any other agencies for child support enforcement purposes.

Currently, for both tax and child support enforcement purposes, FTB can get information about a debtor from most third-parties, unless expressly prohibited. FTB is authorized to examine employer records that may be relevant to the purpose of tax and child support collection. Additionally, FTB is expressly authorized to get licensee information from the various state licensing boards and employer information from EDD.

Under this bill, FTB would have express authority to receive data from all state entities about their employees, licensees, contractors and vendors for purposes of administering its child support collection programs.

Implementation Considerations

The following provisions are unclear, and according to the author's staff amendments will be considered. FTB staff is available to assist in drafting the amendments:

- It is unclear as to which employees are "subject" to earnings assignment orders and for what period of time the acknowledgment would be made. From discussion with the author's office, the intent is to require disclosure only of earning assignment orders that exist at the time of the bid.
- It is unclear how the names and addresses of employees actually would be disclosed, e.g., whether they would be included as part of the contract and available on magnetic media. In discussion with the author's office, the exact method of disclosure is undecided, but the concept is to have the information about these employees (names, addresses and payroll records) available to DSS or other child support enforcement organizations in the event the information is needed.
- It is unclear whether the contracts of state agencies as provided under Section 7110 of the Public Contract Code, as added by this bill, must expressly authorize the disclosure as required under Section 11478.5 of the Welfare and Institutions Code in order to allow the state agencies to disclose this contract information about these employees.
- It is unclear as to whether a contract is voidable by FTB due to an incorrect disclosure or a vendor not in compliance with the assignment orders as acknowledged. According to the author's office, the intent is to make vendor's aware of their obligation and to allow DSS and others enforcing child support another information source for determining whether an employer is in compliance with assignment orders.
- Most enforcement activities are conducted by a match of the social security number. Because this provision is for enforcement purposes, the inclusion of the social security number as a item of disclosure would be beneficial.

As to the requirement for sharing of data by state agencies, staff does not anticipate significant implementation problems. Staff would work with CPLS or DSS to incorporate, as needed, its contract information into the

applicable record system and incorporate this information source into FTB's existing enforcement procedures.

FISCAL IMPACT

Departmental Costs

This bill is not anticipated to significantly increase the department's administrative costs.

Tax Revenue Estimate

Because there is certain employee information sources currently available for purposes of child support collections, it is estimated that the compliance enhancements provided by bill would not significantly improve child support collections.

The contracts at issue under this bill may be for services related to the administration of the personal income or bank and corporation income tax laws. It is estimated, however, that the requirement of this bill would not impact tax collection or revenues.

This analysis does not consider the possible changes in employment, personal income or gross state product that could result from this bill.

BOARD POSITION

Pending.