

ANALYSIS OF AMENDED BILL

Author: Burton/Schiff Analyst: Gloria McConnell Bill Number: SB 542

Related Bills: See Legislative History Telephone: 845-4336 Amended Date: 05/06/99

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Child Support Enforcement/Establishes Department of Child Support Enforcement

SUMMARY OF BILL

This bill, in general, would create a separate and independent Department of Child Support Enforcement (DCSE) to replace the Department of Social Services (DSS) as the single organizational unit (Title IV-D agency) to administer the state plan for securing child and spousal support, medical support and determining paternity. DCSE would administer all services and perform all functions necessary to establish, collect and distribute child support. Additionally, under this bill, local child support agencies would perform the child support functions presently performed by the county district attorneys.

Further, this bill repeals and renumbers (recasts), but does not amend, various existing laws, some of which pertain to Franchise Tax Board's (FTB) child support enforcement program.

SUMMARY OF AMENDMENT

The May 6, 1999, amendments are to the local child support agency and DCSE provisions. The March 10, 1999, amendments relate to the responsibilities of the director of the DCSE. The bill as introduced, generally is described above. FTB did not complete a previous analysis of this bill.

EFFECTIVE DATE

This bill would be effective January 1, 2000.

LEGISLATIVE HISTORY

AB 196 (Kuehl; 1999) would establish: a FTB pilot project to collect and enforce current support for six counties; the Department of Child Support Services (DCSS) to replace DSS as the Title IV-D agency; an Undersecretary to oversee and manage "the state's child support enforcement program" until the DCSS transitions into place; and within Employment Development Department (EDD), a registry for independent contractors for purposes of child support enforcement.

SB 240 (Speier; 1999) would establish a FTB two-year pilot project with Los Angeles County to assess the feasibility, risks and benefits of referring to the FTB all child support obligations presently being enforced by DAs; and within EDD a registry for independent contractors for purposes of child support enforcement.

PROGRAM HISTORY/BACKGROUND

In 1993, FTB began a child support delinquency enforcement pilot project with six counties (AB 3589; Speier; Stats. 92, Ch. 1223).

Board Position:	Department Director	Date
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	Gerald Goldberg	6/22/1999

In 1995, FTB's child support delinquency program was expanded to include all counties (AB 923; Speier; Stats. 94, Ch. 906). Beginning January 1, 1998, under California law, for those support orders that the county district attorneys (DAs) are responsible for enforcing, the DA:

- may voluntarily refer current child support obligations to FTB for issuance of a wage assignment and collection of the resulting payments (AB 573; Kuehl; Stats. 97, Ch. 599).
- may voluntarily refer cases that are more than 30 but less than 91 days past due to FTB for enforcement as though they are delinquent final personal income taxes (AB 1395; Escutia; Stats. 97, Ch. 614).
- is required, unless specifically excepted by DSS, to refer cases that are 91 days delinquent to FTB for enforcement as though they are delinquent final personal income taxes (AB 1395; Escutia; Stats. 97, Ch. 614).

SPECIFIC FINDINGS

Currently Title IV-D of the federal Social Security Act requires each state to have a plan that provides for a "single and separate organizational unit" to administer its child support plan. Under California law, DSS, which is within Health and Human Services Agency, is designated California's single organizational unit to administer the state plan for securing child support, and its director is generally required to set forth the related policies (Welfare & Institutions Code (W&IC) 11475). The DAs by law are delegated responsibility for establishment, enforcement and collection activities, which include the establishment of paternity (W&IC 11475.1) and securing a wage assignment by court order or other legal means (support orders).

For purposes of Title IV-D child support activities in California, **this bill** would create the DCSE to replace DSS as California's Title IV-D agency. Local child support agencies would replace the DAs.

Under state current law:

- the DA is required to refer all delinquencies to, to enforce child support obligations by using, and to use the services of the FTB pursuant to Section 19271 of the Revenue and Taxation Code (W&IC Section 11475.1. (a), (g) and (i)), and
- the DA is authorized to refer current child support obligations to the FTB for enforcement and to delegate their authority to administer wage withholding for this purpose (W&IC Section 11475.15).

This bill recasts the W&IC sections referenced above as Sections 17400 (a) and (i) and 17500 of the Family Code, respectively.

Implementation Considerations

Article 5 of Chapter 5 of Part 10.2 of the Revenue and Taxation Code (Sections 19271, et seq.) is the authority for DAs to refer child support delinquencies or current obligations to FTB for enforcement and sets forth FTB's responsibilities and authorities for enforcing the delinquencies or obligations after referral by the DAs. These sections also make reference to guidelines prescribed by DSS. According to the author's staff, FTB's responsibilities and authorities are not intended to change under this bill.

Therefore, considering the bill generally replaces the DAs and DSS with local child support agencies and DCSE, respectively, the author's consultant has agreed to make the appropriate substitutions in Article 5 of Chapter 5 of Part 10.2 of the Revenue and Taxation Code, commencing with Section 19271.

FISCAL IMPACT

With the understanding this bill is not intended to affect FTB's existing child support enforcement program and appropriate amendments will be made, this bill would not affect FTB's departmental costs or FTB's collection of child support.

BOARD POSITION

Pending.